

## ANNEX II

### SCHEDULE OF AUSTRALIA

#### INTRODUCTORY NOTES

1. For the avoidance of doubt, in relation to education services, nothing in Chapter 8 (Cross-Border Trade in Services) or Chapter 13 (Investment) shall interfere with:
  - (a) the ability of individual education and training institutions to maintain autonomy in admissions policies (including in relation to considerations of equal opportunity for students and recognition of credits and degrees), in setting tuition rates and in the development of curricula or course content;
  - (b) non-discriminatory accreditation and quality assurance procedures for education and training institutions and their programmes, including the standards that must be met;
  - (c) government funding, subsidies or grants, such as land grants, preferential tax treatment, and other public benefits, provided to education and training institutions; or
  - (d) the need for education and training institutions to comply with non-discriminatory requirements related to the establishment and operation of a facility in a particular jurisdiction.
3. For greater certainty, where Australia has more than one entry in its Schedule to Annex II that could apply to a measure, each entry is to be read independently, and is without prejudice to the application of any other entry to the measure.
4. All dollar figures are in Australian dollars unless specified otherwise.

1	Sector	All
	Obligations concerned	Market Access (Cross-Border Trade in Services)
	Description	Australia reserves the right to adopt or maintain any measure with respect to the supply of a service by the presence of natural persons, subject to the provisions of Chapter 11 (Temporary Entry for Business Persons), that is not inconsistent with Australia's obligations under Article XVI of GATS.
	Existing measures	

2	Sector	All
	Obligations concerned	National Treatment (Cross-Border Trade in Services and Investment) Market Access (Cross-Border Trade in Services and Investment) Local Presence Performance Requirements Senior Management and Boards of Directors
	Description	Australia reserves the right to adopt or maintain any measure that accords preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation.  For the purpose of this reservation, an Indigenous person means a person of the Aboriginal and Torres Strait Islander peoples.
	Existing measures	Legislation and ministerial statements at all levels of government including Australia's foreign investment framework, and the <i>Native Title Act 1993</i> (Cth).

3	Sector	All
	Obligations concerned	National Treatment (Investment) Market Access (Investment) Performance Requirements
	Description	Australia reserves the right to adopt or maintain any measure with respect to a proposed acquisition by a foreign person <sup>1,2</sup> of an interest in Australian land, <sup>3</sup> other than developed commercial land or land that is used wholly and exclusively for a primary production business.
	Existing measures	Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth); <i>Foreign Acquisitions and Takeovers Regulation 2015</i> (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Act 2015</i> (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements.

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<sup>1</sup> The terms in this entry shall be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.

<sup>2</sup> The term "foreign person" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>3</sup> The terms "Australian land" and "interest in Australian land" have the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

4	Sector	All
	Obligations concerned	National Treatment (Investment) Most-Favoured-Nation Treatment (Investment) Market Access (Investment) Performance Requirements Senior Management and Boards of Directors
	Description	<p>Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person<sup>4,5</sup> of an interest in agricultural land<sup>6</sup> where the cumulative value of the agricultural land owned by the foreign person alone or together with associates, including the proposed acquisition, is above \$15 million.</p> <p>Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person of an interest in an agribusiness<sup>7</sup> where the cumulative value of the interest held by the foreign person in that agribusiness, alone or together with associates, including the proposed acquisition, is above \$61 million.</p>
	Existing measures	Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth); <i>Foreign Acquisitions and Takeovers Regulation 2015</i> (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Act 2015</i> (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Regulations 2020</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements.

<sup>4</sup> The terms in this entry shall be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.

<sup>5</sup> The term "foreign person" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>6</sup> The term "agricultural land" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>7</sup> The term "agribusiness" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and the *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

5	Sector	All
	Obligations concerned	National Treatment (Investment and Cross-Border Trade in Services) Market Access (Investment and Cross-Border Trade in Services) Performance Requirements Senior Management and Boards of Directors
	Description	<p>Australia reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"> <li>(a) the devolution to the private sector of activities performed in the exercise of governmental authority at the date of entry into force of this Agreement; and</li> <li>(b) the privatisation of government owned entities or assets.</li> </ul> <p>For the purposes of this entry, any measure adopted after the date of entry into force of this Agreement in relation to subparagraph (a) or (b) shall be deemed an existing non-conforming measure subject to paragraph 1 of Article 13.13 (Non-Conforming Measures – Investment) and paragraph 1 of Article 8.7 (Non-Conforming Measures – Cross-Border Trade in Services).</p>
	Existing measures	

6	Sector	All
	Obligations concerned	National Treatment (Investment and Cross-Border Trade in Services) Most-Favoured-Nation Treatment (Investment and Cross-Border Trade in Services) Market Access (Investment and Cross-Border Trade in Services) Local Presence Performance Requirements Senior Management and Boards of Directors
	Description	Australia reserves the right to adopt or maintain any measure <sup>8</sup> with respect to the provision of law enforcement and correctional services, and the following services <sup>9</sup> to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, <sup>10</sup> child care, public utilities, <sup>11</sup> public transport, and public housing.
	Existing measures	

<sup>8</sup> For greater certainty, measures adopted or maintained with respect to the provision of services covered by this entry include measures for the protection of personal information relating to health and children.

<sup>9</sup> This includes any measure with respect to: the collection of blood and its components; the distribution of blood and blood-related products, including plasma derived products; plasma fractionation services; and the procurement of blood and blood-related products and services.

<sup>10</sup> For greater certainty, the subsidies programmes under Australia's Pharmaceutical Benefits Scheme and Medicare Benefits Scheme, or successor programmes, are not subject to Article 13.4 (Market Access – Investment), Article 13.5 (National Treatment – Investment), Article 13.6 (Most-Favoured-Nation Treatment – Investment), and Article 13.12 (Senior Management and Boards of Directors – Investment), in accordance with Article 13.13(6)(b) (Non-Conforming Measures – Investment); or Chapter 8 (Cross-Border Trade in Services) in accordance with Article 8.2(3)(d) (Scope – Cross-Border Trade in Services).

<sup>11</sup> With respect to the central level of government, applies only with respect to Article 13.4 (Market Access – Investment), Article 13.11 (Performance Requirements – Investment), Article 13.12 (Senior Management and Board of Directors – Investment), and Article 8.5 (Market Access – Cross-Border Trade in Services).

7	Sector	Broadcasting and Audio-visual Services, Advertising Services, Live Performance <sup>12</sup>
	Obligations concerned	National Treatment (Investment and Cross-Border Trade in Services) Most-Favoured-Nation Treatment (Investment and Cross-Border Trade in Services) <sup>13</sup> Market Access (Investment and Cross-Border Trade in Services) Local Presence <sup>14</sup> Performance Requirements Senior Management and Boards of Directors
	Description	Australia reserves the right to adopt or maintain any measure <sup>15</sup> with respect to: <ul style="list-style-type: none"> <li>(a) transmission quotas for local content on free-to-air commercial television broadcasting services;</li> <li>(b) non-discriminatory expenditure requirements for Australian production on subscription television broadcasting services;</li> <li>(c) transmission quotas for local content on free-to-air radio broadcasting services;</li> <li>(d) other audio-visual services transmitted electronically, in order to make Australian audio-visual content reasonably available to Australian consumers;<sup>16</sup></li> <li>(e) spectrum management and licensing of broadcasting services;<sup>17</sup> and</li> <li>(f) subsidies or grants for investment in Australian cultural activity.</li> </ul>

<sup>12</sup> With respect to “live performance” this entry applies only in respect of subparagraph (f).

<sup>13</sup> Applies only to the treatment as local content of New Zealand programmes or productions.

<sup>14</sup> Applies only in respect of subparagraph (e) and in respect of the licensing of services covered by subparagraph (d).

<sup>15</sup> For greater certainty, this includes the right to adopt or maintain measures under subparagraphs (a) through (f) with respect to the services supplied by the Australian Broadcasting Corporation and the Special Broadcasting Service Corporation.

<sup>16</sup> Any such measure will be implemented in a manner that is consistent with Australia’s commitments under Article XVI and Article XVII of GATS.

<sup>17</sup> In respect of subparagraph (e), Australia’s reservation applies only in respect of Article 13.4 (Market Access – Investment), Article 13.11 (Performance Requirements – Investment), Article 8.5 (Market Access – Cross-Border Trade in Services), and Article 8.6 (Local Presence – Cross-Border Trade in Services).



		This entry does not apply to foreign investment restrictions in the broadcasting and audio-visual services sector.
	Existing measures	<i>Broadcasting Services Act 1992 (Cth)</i> <i>Radiocommunications Act 1992 (Cth)</i> <i>Income Tax Assessment Act 1936 (Cth)</i> <i>Income Tax Assessment Act 1997 (Cth)</i> <i>Screen Australia Act 2008 (Cth)</i> Broadcasting Services (Australian Content and Children's Television) Standards 2020 Broadcasting Services (Australian Content in Advertising) Standard 2018 Broadcasting Services (Events) Notice (No. 1) 2010 Commercial Radio Codes of Practice and Guidelines Community Radio Broadcasting Codes of Practice

8	Sector	Broadcasting and Audio-visual Services
	Obligations concerned	Most-Favoured-Nation Treatment (Investment and Cross-Border Trade in Services) Market Access (Investment) Performance Requirements
	Description	Australia reserves the right to adopt or maintain, under the International Co-production Program, preferential co-production arrangements for film and television productions. Official co-production status, which may be granted to a co-production produced under these co-production arrangements, confers national treatment on works covered by these arrangements.
	Existing measures	International Co-production Program

9	Sector	Recreational, Cultural and Sporting Services (other than audio-visual services)
	Obligations concerned	National Treatment (Investment and Cross-Border Trade in Services) Most-Favoured-Nation Treatment (Investment and Cross-Border Trade in Services) Market Access (Investment and Cross-Border Trade in Services) Local Presence Performance Requirements Senior Management and Boards of Directors
	Description	Australia reserves the right to adopt or maintain any measure with respect to the creative arts, <sup>18,19</sup> Indigenous traditional cultural expressions, and other cultural heritage. <sup>20</sup>
	Existing measures	

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<sup>18</sup> For the purposes of this entry, “creative arts” means: the performing arts (including live theatre, dance and music); visual arts and craft; literature (other than literary works transmitted electronically); and hybrid art works, including those which use new technologies to transcend discrete art form divisions. For live performances of the “creative arts”, as defined, this entry does not extend beyond subsidies and grants for investment in Australian cultural activity.

<sup>19</sup> Notwithstanding this, such measures shall be implemented in a manner that is consistent with Australia’s commitments under Article XVI and Article XVII of GATS, as applicable.

<sup>20</sup> For the purposes of this entry, “cultural heritage” means: ethnological, archaeological, historical, literary, artistic, scientific, or technological moveable or built heritage, including the collections which are documented, preserved and exhibited by museums, galleries, libraries, archives, and other heritage collecting institutions.

10	Sector	Education services
	Obligations concerned	National Treatment (Investment and Cross-Border Trade in Services) Most-Favoured-Nation Treatment (Investment and Cross-Border Trade in Services) Market Access (Investment and Cross-Border Trade in Services) Local Presence Performance Requirements Senior Management and Boards of Directors
	Description	Australia reserves the right to adopt or maintain any measure with respect to primary education.
	Existing measures	

11	Sector	Distribution services
	Obligations concerned	Market Access (Investment and Cross-Border Trade in Services)
	Description	Australia reserves the right to adopt or maintain any measure with respect to wholesale and retail trade services of tobacco products, alcoholic beverages, or firearms.
	Existing measures	

12	Sector	All
	Obligations concerned	Most-Favoured-Nation Treatment (Investment and Cross-Border Trade in Services)
	Description	<p>Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.<sup>21</sup></p> <p>Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor taken as part of a process of economic integration or trade liberalisation between the parties to the <i>Australia-New Zealand Closer Economic Relations Trade Agreement</i> done at Canberra on 28 March 1983.<sup>22</sup></p> <p>Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to any service supplier or investor of a Pacific Island Forum member state under any international agreement in force or signed after the date of entry into force of this Agreement.</p> <p>Australia reserves the right to adopt or maintain any measure that accords more favourable treatment to the service suppliers or investors of non-Parties under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:</p> <ul style="list-style-type: none"> <li>(a) aviation;</li> <li>(b) fisheries; or</li> <li>(c) maritime matters, including salvage.</li> </ul>
	Existing measures	

<sup>21</sup> For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement.

<sup>22</sup> For greater certainty, this includes measures adopted or maintained under any existing or future protocol to that agreement.

13	Sector	Gambling and betting
	Obligations concerned	National Treatment (Investment and Cross-Border Trade in Services) Market Access (Investment and Cross-Border Trade in Services) Local Presence Performance Requirements Senior Management and Boards of Directors
	Description	Australia reserves the right to adopt or maintain any measure with respect to gambling and betting.
	Existing measures	<i>Interactive Gambling Act 2001</i> (Cth) and Ministerial Statements

14	Sector	Maritime transport
	Obligations concerned	National Treatment (Investment and Cross-Border Trade in Services) Market Access (Investment and Cross-Border Trade in Services) Local Presence Performance Requirements Senior Management and Boards of Directors
	Description	Australia reserves the right to adopt or maintain any measure with respect to maritime cabotage services and offshore transport services. <sup>23</sup>
	Existing measures	<i>Customs Act 1901 (Cth)</i> <i>Fair Work Act 2009 (Cth)</i> <i>Seafarers' Rehabilitation and Compensation Act 1992 (Cth)</i> <i>Occupational Health and Safety (Maritime Industry) Act 1993 (Cth)</i> <i>Income Tax Assessment Act 1936 (Cth)</i> <i>Coastal Trading (Revitalising Australian Shipping) Act 2012 (Cth)</i> <i>Coastal Trading (Revitalising Australian Shipping) (Consequential Amendments and Transitional Provisions) Act 2012 (Cth)</i> <i>Shipping Reform (Tax Incentives) Act 2012 (Cth)</i> <i>Shipping Registration Act 1981 (Cth)</i> <i>Shipping Registration Regulations 2019 (Cth)</i>

<sup>23</sup> For the purposes of this entry, “cabotage” is defined as the transportation of passengers or goods between a port located in Australia and another port located in Australia and traffic originating and terminating in the same port located in Australia. “Offshore transport” refers to shipping services involving the transportation of passengers or goods between a port located in Australia and any location associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of Australia, the seabed of the Australian coastal sea and the subsoil of that seabed.



15	Sector	Transport services
	Obligations concerned	National Treatment (Investment) Market Access (Investment) Performance Requirements Senior Management and Boards of Directors
	Description	Australia reserves the right to adopt or maintain any measure with respect to investment in federal leased airports.
	Existing measures	<i>Airports Act 1996 (Cth)</i> <i>Airports (Ownership-Interests in Shares) Regulations 1996 (Cth)</i> <i>Airports Regulations 1997 (Cth)</i>

16	Sector	Fishing; services incidental to fishing
	Obligations concerned	Market Access (Investment)
	Description	Australia reserves the right to adopt or maintain any measure with respect to access to and use of the biological resources and fishing grounds situated in the Australian Fishing Zone or waters under the jurisdiction of a state or territory.
	Existing measures	

17	Sector	All, except Financial Services
	Obligations concerned	Senior Management and Boards of Directors
	Description	<p>Australia reserves the right to adopt or maintain any measure with respect to:</p> <ul style="list-style-type: none"> <li>(a) requirements that senior managers be resident in Australia;</li> <li>(b) requirements that less than a majority of the board of directors, or any committee thereof, be of a particular nationality, or resident in Australia, where that requirement would not materially impair the ability of the investor to exercise control over its investment,</li> </ul> <p>except in relation to the measures which are described in Annex I and reserved against Article 13.12 (Senior Management and Boards of Directors – Investment).</p>
	Existing measures	

18	Sector	Nuclear Industry
	Obligations concerned	Market Access (Investment)
	Description	<p>Australia reserves the right to adopt or maintain any measure with respect to nuclear activities.</p> <p>Australia reserves the right to adopt or maintain any measure with respect to nuclear facilities, including:</p> <ul style="list-style-type: none"> <li>(a) nuclear fuel fabrication plants;</li> <li>(b) nuclear power plants;</li> <li>(c) enrichment plants; and</li> <li>(d) reprocessing facilities.</li> </ul> <p>For the purposes of this entry “nuclear activities” means any procedure or operation involved in the prospecting for, mining, milling, treatment, processing, conversion, enrichment, fabrication, use, reprocessing, or disposal of nuclear material.</p>
	Existing measures	

19	Sector	Electricity
	Obligations concerned	Market Access (Investment)
	Description	Australia reserves the right to adopt or maintain any measure with respect to the production, collection, storage, and distribution of electricity.
	Existing measures	

20	Sector	All
	Obligations concerned	Market Access (Investment)
	Description	Australia reserves the right to adopt or maintain any measure with respect to water, including for domestic, industrial, commercial, agricultural, environmental, cultural, or other uses.
	Existing measures	

21	Sector	Mining and related activities
	Obligations concerned	Market Access (Investment)
	Description	Australia reserves the right to adopt or maintain any measure with respect to hydraulic fracturing and exploration and mining of coal seam gas.
	Existing measures	

22	Sector	Forestry
	Obligations concerned	Market Access (Investment)
	Description	<u>Australian Capital Territory</u> Australia reserves the right to adopt or maintain any measure with respect to plantation forestry and commercial harvesting of native timber in the Australian Capital Territory.
	Existing measures	<i>Planning and Development Act 2007 (ACT)</i> <i>Territory Plan 2008 (ACT)</i>



23	Sector	Transport
	Sub-sector	Commercial passenger transport
	Obligations concerned	Market Access (Investment)
	Description	<u>Northern Territory</u>  Australia reserves the right to limit the number of licences in force for any class of commercial passenger vehicle in the Northern Territory.
	Existing measures	<i>Commercial Passenger (Road) Transport Act 1991 (NT)</i>

24	Sector	Transport
	Sub-sector	Ports
	Obligations concerned	Market Access (Investment)
	Description	<u>Northern Territory</u>  Australia reserves the right to adopt or maintain any measure with respect to the operation or ownership of ports in the Northern Territory.
	Existing measures	

25	Sector	Transport
	Obligations concerned	Market Access (Investment)
	Description	<u>Queensland</u>  Australia reserves the right to impose market entry restrictions on a public passenger service in Queensland, which includes taxis, hire cars, and limousines.
	Existing measures	<i>Transport Operations (Passenger Transport) Act 1994 (Qld)</i> <i>Transport Operations (Passenger Transport) Regulation 2018 (Qld)</i>

26	Sector	Agriculture
	Sub-sector	Genetically modified crops
	Obligations concerned	Market Access (Investment)
	Description	<u>Victoria</u>  Australia reserves the right to adopt or maintain any measure with respect to the cultivation, or any other dealing with, genetically modified crops in Victoria.
	Existing measures	

27	Sector	All
	Obligations concerned	Market Access (Investment and Cross-Border Trade in Services)
	Description	<p><u>Victoria</u></p> <p>In Victoria, the Minister may:</p> <ul style="list-style-type: none"> <li>(a) provide, operate, control, deregulate or direct any vital industry while a vital industry declaration is in force; and</li> <li>(b) employ such persons in such numbers and upon such terms as appear necessary for the carrying into effect of these powers.</li> </ul> <p>Australia reserves the right to adopt or maintain any measure with respect to the activities referred to in subparagraphs (a) and (b) in Victoria.</p>
	Existing measures	<i>Vital State Industries (Works and Services) Act 1999</i> (Vic)

28	Sector	Mining and related activities
	Obligations concerned	Market Access (Investment)
	Description	<u>Western Australia</u>  Australia reserves the right to adopt or maintain any measure with respect to mining in Western Australia.
	Existing measures	

29	Sector	Energy
	Obligations concerned	Market Access (Investment)
	Description	<u>Western Australia</u> Australia reserves the right to adopt or maintain any measure with respect to the production, collection, storage, and distribution of energy in Western Australia.
	Existing measures	

30	Sector	All
	Obligations concerned	Performance Requirements
	Description	<p>Australia reserves the right to adopt or maintain any measure at the regional level of government with respect to the imposition or enforcement of any requirement, or the enforcement of any commitment or undertaking:</p> <p>(a) to locate the regional or world headquarters of an enterprise in its territory; or</p> <p>(b) to achieve a given level or value of research and development in its territory,</p> <p>in connection with the establishment, acquisition, expansion, management, conduct, operation, or sale or other disposition of an investment.</p>
	Existing measures	