

ANNEX I
SCHEDULE OF AUSTRALIA

Introductory Note for the Schedule of Australia

Australia reserves the right to maintain and to add to this Schedule any non-conforming measure at the regional level of government that existed at 1 January 2005, but was not listed in this Schedule at the date of entry into force of this Agreement against the following obligations:

- (a) Article 7.2 (National Treatment – Cross-Border Trade in Services) or 11.3 (National Treatment – Investment);
- (b) Article 7.3 (Most-Favoured-Nation Treatment – Cross-Border Trade in Services) or 11.4 (Most-Favoured-Nation Treatment – Investment);
- (c) Article 7.5 (Local Presence – Cross-Border Trade in Services);
- (d) Article 11.9 (Performance Requirements – Investment); or
- (e) Article 11.10 (Senior Management and Boards of Directors – Investment).

Sector:	All Sectors
Obligations Concerned:	National Treatment (Article 11.3) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Central and Regional
Source of Measure:	Australia's foreign investment policy, which includes the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth) (FATA); <i>Foreign Acquisitions and Takeovers Regulations 1989</i> (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements. <i>Land Act 1994</i> (Qld) <i>Foreign Ownership of Land Register Act 1988</i> (Qld)
Description:	<u>Investment</u> <u>Commonwealth</u> A. The following investments may be subject to objections by the Australian Government and may also require notification to the Government ¹ : (a) investments by foreign persons ² of five per cent or more in the media sector, regardless of the value of the investment; (b) investments by foreign persons in existing ³ Australian businesses, or prescribed corporations, ⁴ the value of

¹ *Foreign Acquisitions and Takeovers Act 1975* (FATA). "Investments" means activities covered by Part II of FATA or, where applicable, ministerial statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

² A "foreign person" means, as defined in section 5 of the FATA:

- (a) a natural person not ordinarily resident in Australia;
- (b) a corporation in which a natural person not ordinarily resident in Australia or a foreign corporation holds a controlling interest;
- (c) a corporation in which two or more persons, each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate controlling interest;
- (d) the trustee of a trust estate in which a natural person not ordinarily resident in Australia or a foreign corporation holds a substantial interest; or
- (e) the trustee of a trust estate in which two or more persons, each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate substantial interest.

³ For the purposes of this entry, "existing" means in existence at the time the investment is proposed or made.

⁴ For the purposes of this entry, "prescribed corporation" means:

whose assets exceeds \$A248 million[#] in the following sectors:

- (i) the telecommunications sector;
- (ii) the transport sector, including airports, port facilities, rail infrastructure, international and domestic aviation and shipping services provided either within, or to and from, Australia;
- (iii) the supply of training or human resources, or the manufacture or supply of military goods, equipment, or technology, to the Australian or other defence forces;
- (iv) the manufacture or supply of goods, equipment or technologies able to be used for a military purpose;
- (v) the development, manufacture or supply of, or provision of services relating to, encryption and security technologies and communication systems; and

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- (a) a trading corporation;
 - (b) a financial corporation;
 - (c) a corporation incorporated in a Territory under the law in force in that Territory relating to companies;
 - (d) a foreign corporation that, on its last accounting date, held assets the sum of the values of which exceeded \$A 248 million (for item (b) of the entry) or \$A1078 million (for item (c) of the entry), being assets consisting of all or any of the following:
 - (i) land situated in Australia (including legal and equitable interests in such land);
 - (ii) mineral rights;
 - (iii) shares in a corporation incorporated in Australia;
 - (e) a foreign corporation that was, on its last accounting date, a holding corporation of an Australian corporation or Australian corporations, where the sum of the values on that date of the assets of the Australian corporation or Australian corporations exceeded \$A248 million (for item (b) of the entry) or \$A1078 million (for item (c) of the entry);
 - (f) a corporation that was, on its last accounting date, a holding corporation of an foreign corporation referred to in paragraph (d) or (e) of this footnote;
 - (g) a foreign corporation that, on its last accounting date, held assets of a kind or kinds referred to in paragraph (d) of this footnote, where the sum of the values on that date of those assets was not less than one-half of the sum of the values on that date of the assets of the foreign corporation and of all the subsidiaries of that corporation; or
 - (h) a foreign corporation that was, on its last accounting date, a holding corporation of an Australian corporation or Australian corporations, where the sum of the values on that date of the assets of that Australian corporation or those Australian corporations was not less than one-half of the sum of the values on that date of the assets of the foreign corporation and of all the subsidiaries of that corporation.

[#] This is the figure as at 1 January 2013. To be indexed on 1 January each year to the GDP implicit price deflator in the Australian National Accounts for the previous financial year. If the Agreement has not entered into force by 1 January 2014, this figure will be indexed on entry into force.

- (vi) the extraction of (or rights to extract) uranium or plutonium, or the operation of nuclear facilities;
- (c) investments by foreign persons in existing Australian businesses, or prescribed corporations, in all other sectors, excluding financial sector companies⁵, the value of whose total assets exceeds \$A1078 million[#];
- (d) acquisitions by foreign persons of developed non-residential commercial real estate valued at more than \$A1078 million[#];
- (e) direct investments by foreign government investors, irrespective of size;

Notified investments may be refused, subject to interim orders, and/or approved subject to compliance with certain conditions. Investments referred to in (a) through (e) for which no notification is required or received may be subject to orders under Sections 18 through 21 and 21A of the FATA.

B. The acquisition of a stake in an existing financial sector company by a foreign investor, or entry into an arrangement by a foreign investor, that would lead to an unacceptable shareholding situation or to practical control⁶ of an existing financial sector company, may be refused, or be subject to certain conditions⁷.

C. In addition to the measures identified in this entry, other entries in Annex I or Annex II set out additional non-conforming measures imposing specific limits on, or requirements relating to, foreign investment in the following areas:

- (a) Telstra;
- (b) Commonwealth Serum Laboratories;

⁵ A “financial sector company” means, as defined in section 3 of the *Financial Sector (Shareholdings) Act 1998*:

- (a) an authorised deposit-taking institution;
- (b) an authorised insurance company; or
- (c) a holding company of a company covered by paragraph (a) or (b) of this footnote.

[#] This is the figure as at 1 January 2013. To be indexed on 1 January each year to the GDP implicit price deflator in the Australian National Accounts for the previous financial year. If the Agreement has not entered into force by 1 January 2014, this figure will be indexed on entry into force.

⁶ “Unacceptable shareholding situation” and “practical control” as defined in the *Financial Sector (Shareholdings) Act 1998*.

⁷ Ministerial statements on foreign investment policy including the Treasurer’s Press Release No. 28 of 9 April 1997.

- (c) Qantas Airways Ltd.;
- (d) Australian international airlines, other than Qantas;
- (e) urban land;
- (f) federal leased airports;
- (g) agricultural land;
- (h) agribusiness; and
- (i) shipping.

Queensland

Certain leases (obtained at ballot), and other leases at the discretion of the Minister, may be subject to a condition that the lessee personally lives on the lease for the first seven years of its term.

While all changes to ownership of land must be registered, there is an additional duty on foreign land holders to disclose, through a prescribed notification, present interests in and acquisitions of land, disposal of interests in land and notification on ceasing to be or becoming a foreign person.

Failure to provide the information causes a breach of the Act that may result in prosecution, the imposition of financial penalties and/or forfeiture of the interest in the land to the Crown.

Sector:	All Sectors
Obligations Concerned:	Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Central
Source of Measure:	<i>Corporations Act 2001</i> (Cth) <i>Corporations Regulations 2001</i> (Cth)
Description:	<p><u>Investment</u></p> <p>At least one director of a private company must be ordinarily resident in Australia.</p> <p>At least two directors of a public company must be ordinarily resident in Australia.</p>

Sector:	All Sectors
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Local Presence (Article 7.5) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Regional
Source of Measure:	<i>Associations Act</i> (NT) <i>Associations Incorporations Act 1991</i> (ACT) <i>Associations Incorporations Act 1981</i> (Qld) <i>Associations Incorporation Act 1985</i> (SA) <i>Associations Incorporation Act 1964</i> (Tas) <i>The Associations Incorporation Reform Act 2012</i> (Vic)
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p><u>Northern Territory</u></p> <p>An application for the incorporation of an association⁸ must be made by a person who is a resident of the Northern Territory.</p> <p>The public officer of an incorporated association must be a person who is a resident of the Northern Territory.</p> <p><u>Australian Capital Territory</u></p> <p>An application for incorporation of an association must be made by a person who is a resident of the Australian Capital Territory.</p> <p>The public officer of an incorporated association must be a person who is a resident of the Australian Capital Territory.</p> <p><u>Queensland</u></p> <p>The office of secretary shall become vacant if the person holding that office ceases to be a resident in Queensland, or in another State but not more than 65km from the Queensland border.</p> <p>The management committee of an incorporated association must ensure the secretary is an individual residing in Queensland, or in another State but not more than 65km from the Queensland border.</p> <p>The members of the management committee of an incorporated association must ensure that the association has an address</p>

⁸ “Association” includes a trading association.

nominated for the service of documents on the association. The nominated address must be a place in the State where a document can be served personally on a person. A post office box is not a place that can be shown as a nominated address.

South Australia

The public officer of an incorporated association must be a person who is a resident of South Australia.

Tasmania

A person is not eligible to be appointed as a public officer of an incorporated association unless the person is resident in Tasmania.

Victoria

A person applying for the incorporation of an association must be an Australian resident.

The first secretary and secretary of an incorporated association must be Australian residents and the first secretary of an association applying for incorporation must be an Australian resident.

The first secretary of an amalgamated association must be an Australian citizen.

Sector:	All Sectors
Obligations Concerned:	Local Presence (Article 7.5) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Regional

Source of Measure: *Cooperatives Act 2002 (ACT)*
Co-operatives (Adoption of National Law) Act 2012 (NSW)
Co-operatives Act (NT)
Cooperatives Act 1997 (Qld)
Co-operatives Act 1997 (SA)
Cooperatives Act 1999 (Tas)
Co-operatives National Law Application Act 2013 (Vic)
Co-operatives Act 2009 (WA)

Description: Cross-Border Trade in Services and Investment

All Australian States and Territories

Except for South Australia, a cooperative must have a registered office in each state or territory in which it operates. In South Australia registers must be kept at an office in South Australia.

The secretary of a cooperative must be a person ordinarily resident in Australia.

A foreign cooperative must appoint a person who will act as agent of the cooperative in each state or territory in which it operates.

A foreign cooperative must appoint a person resident in each state or territory in which it operates as a person on whom all notices and legal process may be served on behalf of the cooperative.

At least two of the directors of a cooperative must be Australian residents.

Sector:	All Sectors
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Regional
Source of Measure:	<i>Partnership Act 1963 (ACT)</i> <i>Partnership Act 1892 (NSW)</i> <i>Partnership Act 1997 (NT)</i> <i>Partnership Act 1891 (Qld)</i> <i>Partnership Act 1891 (SA)</i> <i>Partnership Act 1891 (Tas)</i> <i>Partnership Act 1958 (Vic)</i>
Description:	<u>Cross-Border Trade in Services</u> <u>Australian Capital Territory, New South Wales, Northern Territory, Queensland, South Australia, Tasmania and Victoria</u> A limited partnership or an incorporated limited partnership established in a State or Territory must have an office, principal office or registered office in that State or Territory.

Sector: Security Services

**Obligations
Concerned:** National Treatment (Articles 7.2 and 11.3)

**Level of
Government:** Regional

**Source of
Measure:** *Security Industry Act 1997* (NSW)

Description: Cross-Border Trade in Services and Investment

A person must be an Australian citizen or an Australian permanent resident to obtain a licence to carry on a security activity in New South Wales.

Sector:	All Sectors
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Regional
Source of Measure:	<i>Consumer Affairs and Fair Trading Act (NT)</i> <i>Consumer Affairs and Fair Trading (Trading Stamps) Regulations (NT)</i>
Description:	<u>Cross-Border Trade in Services</u> A promoter of a third party trading scheme ⁹ must maintain an office in Australia.

⁹ “Third party trading scheme” means a scheme or arrangement under which the acquisition of goods or services by a consumer from a supplier is a condition, which gives rise, or apparently gives rise, to an entitlement to a benefit from a third party in the form of goods or services or some discount, concession or advantage in connection with the acquisition of goods or services.

Sector: Professional Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)

Level of Government: Regional

Source of Measure: *Legal Practitioners Act 1981 (SA)*

Description: Cross-Border Trade in Services and Investment

A company that is a subsidiary of a foreign law firm is not permitted to obtain a practising certificate and is not permitted to share profits with any other company or firm.

Foreign natural persons practising foreign law may only join a local law firm as a consultant and may not enter into partnership with or employ local lawyers in South Australia.

(A person is not taken to be practising the profession of the law if he or she is only providing legal advice or services relating to the law of a place outside Australia.)

Sector:	Professional Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Central
Source of Measure:	<i>Patents Act 1990</i> (Cth) <i>Patent Regulations 1991</i> (Cth)
Description:	<u>Cross-Border Trade in Services</u>

In order to register to practise in Australia, patent attorneys must be ordinarily resident in Australia¹⁰.

¹⁰ For the purposes of this entry, a person is taken to be “ordinarily resident” in Australia if the person has his or her home in Australia or Australia is the country of his or her permanent abode even though he or she is temporarily absent from Australia. However, the person is taken not to be ordinarily resident in Australia if he or she resides in Australia for a special or temporary purpose only.

Sector:	Professional Services
Obligations Concerned:	Local Presence (Article 7.5) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Regional
Source of Measure:	<i>Trustee Companies Act 1947</i> (ACT) <i>Trustee Companies Act 1964</i> (NSW) <i>Companies (Trustees and Personal Representatives) Act 1981</i> (NT) <i>Trustee Companies Act 1968</i> (Qld) <i>Trustee Companies Act 1988</i> (SA) <i>Trustee Companies Act 1953</i> (Tas) <i>Trustee Companies Act 1984</i> (Vic) <i>Trustee Companies Act 1987</i> (WA)
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p><u>Northern Territory</u></p> <p>A body corporate may not obtain a grant of probate or act as an executor of a will or trustee of an estate of a deceased person unless it is a “licensed trustee company” as defined in section 601RAA of the <i>Corporations Act 2001</i> (Cth), or a body corporate authorised by a law of the Northern Territory to obtain a grant of probate and so act.</p> <p><u>Western Australia</u></p> <p>A company can only act as a trustee company in Western Australia if it is a “licensed trustee company” as defined in section 601RAA of the <i>Corporations Act 2001</i> (Cth).</p> <p><u>All other Australian states and territories</u></p> <p>A body corporate may not obtain a grant of probate or act as an executor of a will and any codicil unless it is a “licensed trustee company” within the meaning of Chapter 5D of the <i>Corporations Act 2001</i> (Cth).</p>

Sector:	Professional Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Central and Regional
Source of Measure:	<i>Corporations Act 2001</i> (Cth) <i>Co-operative Housing and Starr-Bowkett Societies Act 1998</i> (NSW) <i>Legal Practitioners Act 1981</i> (SA) <i>Legal Practitioners Regulations 2009</i> (SA) <i>Estate Agents Act 1980</i> (Vic)
Description:	<p><u>Cross-Border Trade in Services</u></p> <p><u>Commonwealth</u></p> <p>A person who is not ordinarily resident in Australia may be refused registration as a company auditor or liquidator. At least one partner in a firm providing auditing services must be a registered company auditor who is ordinarily resident in Australia.</p> <p><u>New South Wales</u></p> <p>A person must be ordinarily resident in New South Wales in order to be an auditor of specified kinds of societies and associations.</p> <p><u>South Australia</u></p> <p>Persons who provide auditing services for legal practitioners' trust accounts must be public accountants engaged as a principal in practice in South Australia.</p> <p><u>Victoria</u></p> <p>A firm of auditors cannot audit an estate agent's accounts unless at least one member of the firm of auditors is an Australian resident.</p>

Sector: Professional Services

**Obligations
Concerned:** Local Presence (Article 7.5)

**Level of
Government:** Regional

**Source of
Measure:** *Architects Act* (NT)

Description: Cross-Border Trade in Services

To qualify for registration as an architectural partnership or company, the partnership/company must have a place of business or be carrying on business within the Northern Territory.

Sector: Professional Services

**Obligations
Concerned:** National Treatment (Article 7.2)
Most-Favoured-Nation Treatment (Article 7.3)

**Level of
Government:** Central

**Source of
Measure:** *Migration Act 1958* (Cth)

Description: Cross-Border Trade in Services

To practise as a migration agent in Australia, a person must be an Australian citizen or permanent resident or a citizen of New Zealand with a special category visa.

Sector: Professional Services

**Obligations
Concerned:** Local Presence (Article 7.5)

**Level of
Government:** Central

**Source of
Measure:** *Customs Act 1901* (Cth)

Description: Cross-Border Trade in Services

To act as a customs broker in Australia, service suppliers must provide the service in and from Australia.

Sector: Research and Development Services

Obligations Concerned: National Treatment (Articles 7.2 and 11.3)

Level of Government: Regional

Source of Measure: *Biodiscovery Act 2004* (Qld)

Description: Cross-Border Trade in Services and Investment

Benefit sharing agreements require sublicences for use of samples or derivatives to conduct biodiscovery research and commercialisation to be offered first to Queensland-based entities, then to Australian-based entities, and then to overseas-based entities. Any entity with a benefit sharing agreement must obtain consent before granting a sublicense to an overseas-based entity.

Sector:	Real Estate and Distribution Services
Obligations Concerned:	National Treatment (Articles 7.2 and Article 11.3) Local Presence (Article 7.5)
Level of Government:	Regional
Source of Measure:	<i>Community Land Management Act 1989 (NSW)</i> <i>Strata Schemes Management Act 1996 (NSW)</i> <i>Property, Stock and Business Agents Act 2002 (NSW)</i> <i>Agents Licensing Act (NT)</i> <i>Agents Act 2003 (ACT)</i> <i>Property Agents and Motor Dealers Act 2000 (Qld)</i> <i>Estate Agents Act 1980 (Vic)</i> <i>Conveyancers Act 2006 (Vic)</i> <i>Real Estate and Business Agents Act 1978 (WA)</i> <i>Real Estate and Business Agents (General) Regulations 1979 (WA)</i> <i>Settlement Agents Act 1981 (WA)</i> <i>Settlement Agents Regulations 1982 (WA)</i>
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p><u>New South Wales</u></p> <p>A person cannot be appointed as an agent (for a proprietor of a development lot, neighbourhood lot or strata lot) if they are not an Australian resident. A person cannot be appointed as an agent (for an owner of a lot, for dealings with the owner's corporation) if they are not an Australian resident. To be licensed as a property, stock, business, strata managing or community managing agent in New South Wales, licensees must have a registered office in New South Wales.</p> <p><u>Northern Territory</u></p> <p>A licensed agent¹¹ must maintain an office in Australia at or from which the conduct of business under the licence is to occur.</p> <p><u>Australian Capital Territory</u></p> <p>An estate agent must have their principal place of business in the Australian Capital Territory.</p> <p><u>Queensland</u></p>

¹¹ A "licensed agent" includes a real estate agent, business agent or conveyancing agent.

In order to operate as a real estate agent, auctioneer, motor dealer or commercial agent, a person must have a business address in Queensland. This must be a physical address and not a post box.

Victoria

A person cannot be licensed as an estate agent unless they have a registered office in Victoria and they must maintain a principal office in Victoria. An agent's representative must have a registered address in Victoria to which documents can be sent.

A person cannot be licensed as a conveyancer or carry on a conveyancing business in Victoria unless they maintain a principal place of business in Victoria.

Western Australia

A person seeking to carry on business as a real estate or business agent in Western Australia must establish and maintain a registered office in the State.

A person seeking to carry on business as a settlement agent (conveyancer) in Western Australia must ordinarily reside in the State.

A licensed settlement agent must establish and maintain a registered office in the State.

Sector:	Fishing and Pearling
Obligations Concerned:	Local Presence (Article 7.5) National Treatment (Articles 7.2 and 11.3) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Central and Regional
Source of Measure:	<i>Fisheries Management Act 1991</i> (Cth) <i>Foreign Fishing Licences Levy Act 1991</i> (Cth) <i>Fisheries Management Act 1994</i> (NSW) <i>Fisheries Act 1995</i> (Vic) <i>Fish Resources Management Act 1994</i> (WA) <i>Pearling Act 1990</i> (WA) Ministerial Policy Guideline No. 17 of August 2001 (WA)
Description:	<p><u>Cross Border Trade in Services and Investment</u></p> <p><u>Commonwealth</u></p> <p>Foreign fishing vessels¹² seeking to undertake fishing activity in the Australian Fishing Zone must be authorised.</p> <p>Where foreign fishing vessels are authorised to undertake such fishing activity, they may be subject to a levy¹³.</p> <p><u>New South Wales</u></p> <p>A foreign person or a foreign-owned body is not permitted to hold shares in a share management fishery.</p> <p><u>Victoria</u></p> <p>A fishery access licence or aquaculture licence can only be issued to a natural person who is an Australian resident, or to a single corporation that has a registered office in Australia.</p> <p><u>Western Australia</u></p> <p>Only an individual who is an Australian citizen or permanent resident may be a licensee within the Western Australian pearling</p>

¹² For the purposes of this reservation, a “foreign fishing vessel” is one that does not meet the definition of an Australian boat under the *Fisheries Management Act 1991* (Cth), that is, an Australian-flagged boat (not owned by a foreign resident) or a boat owned by an Australian resident or corporation and built, and whose operations are based, in Australia.

¹³ The levy charged will be in accordance with the *Foreign Fishing Licences Levy Act 1991* or any amendments thereto.

industry.

In the case of corporations, partnerships or trusts holding licenses, these must be Australian owned and/or controlled (at least 51 per cent of the issued share capital, partnership interest or trust property must be owned by Australians; the chairman, majority of the board of directors and all the company officers must be Australians and must be nominated by, and represent, Australian interests).

Sector: Mining and Related Services

Obligations Concerned: Performance Requirements (Article 11.9)

Level of Government: Regional

Source of Measure: *Mount Isa Mines Limited Agreement Act 1985 (Qld)*

Description: Investment

The operator of Mount Isa Mines shall, so far as is reasonably and economically practicable:

- (a) use the services of professional consultants resident and available within Queensland;
- (b) use labour available within Queensland;
- (c) when preparing specifications, calling for tenders and letting contracts for works, materials, plant, equipment and supplies ensure that Queensland suppliers, manufacturers, and contractors are given reasonable opportunity to tender or quote; and
- (d) give proper consideration and where possible preference to Queensland suppliers, manufacturers and contractors when letting contracts or placing orders for works, materials, plant, equipment and supplies where price, quality, delivery and service are equal to or better than that obtainable elsewhere.

Sector:	Distribution Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3)
Level of Government:	Regional
Source of Measure:	<i>Rice Marketing Act 1983</i> (NSW) <i>Marketing of Potatoes Act 1946</i> (WA)
Description:	<u>Cross-Border Trade in Services and Investment</u> New South Wales retains marketing board arrangements for rice and Western Australia retains marketing board arrangements for potatoes.

Sector:	Other Business Services
Obligations Concerned:	Local Presence (Article 7.5) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Regional
Source of Measure:	<i>Prostitution Regulation Act</i> (NT)
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>To be eligible for the grant of an operator's licence or a manager's licence in respect of an escort agency business, an individual must be resident in the Northern Territory.</p> <p>For a body corporate to be granted an operator's licence, its officers must also meet the residency requirement.</p>

Sector:	Communication Services
Obligations Concerned:	National Treatment (Article 11.3) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Central
Source of Measure:	<i>Telstra Corporation Act 1991</i> (Cth)
Description:	<p><u>Investment</u></p> <p>Aggregate foreign equity is restricted to no more than 35 per cent of shares of Telstra. Individual or associated group foreign investment is restricted to no more than five per cent of shares.</p> <p>The chairperson and a majority of directors of Telstra must be Australian citizens and Telstra is required to maintain its head office, main base of operations and place of incorporation in Australia.</p>

Sector:	Distribution Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Regional
Source of Measure:	<i>Firearms Act</i> (NT)
Description:	<u>Cross-Border Trade in Services</u>

Grant of a firearms licence¹⁴ requires residency in the Northern Territory. Licences and permits expire three months after the holder ceases to reside permanently in the Northern Territory.

¹⁴ Firearms licences include, but are not limited to, firearms dealer's licence, armourer's licence, firearms museum licence, firearms collector's licence, firearms employee licence and paintball operator's licence.

Sector:	Distribution Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Regional
Source of Measure:	<i>Liquor Act</i> (NT) and policy and practice <i>Kava Management Act</i> (NT) <i>Tobacco Control Act</i> (NT) and policy and practice
Description:	<u>Cross-Border Trade in Services</u>

The Northern Territory Licensing Commission may require a liquor licensee where the licensee is an individual, or at least one of the licensees where the licence is held by a partnership, or the licence nominee where the licence is held by a corporation, to ordinarily reside within the general locality of the premises to which the licence relates.

The holder of a tobacco retail licence may only sell tobacco products from the premises specified in the licence.

A tobacco retail licence in relation to liquor licensed premises may only be granted to the liquor licensee of those premises.

An applicant for a retail licence for kava must ordinarily reside or carry on business in the relevant licence area in the Northern Territory.

Sector: Distribution Services

**Obligations
Concerned:** Performance Requirements (Article 11.9)

**Level of
Government:** Regional

**Source of
Measure:** *Wine Industry Act 1994 (Qld)*

Description: Investment

In order to obtain a wine merchant's licence to sell wine, the business conducted by a person under the licence must contribute to the Queensland wine industry in a substantial way. In order to obtain a wine producer's licence to sell wine, a person must be selling wine made from fruit grown by the person on the premises to which the licence relates, or selling wine made by the person on the premises to which the licence relates.

Sector:	Health Services
Obligations Concerned:	National Treatment (Article 11.3) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Central
Source of Measure:	<i>Commonwealth Serum Laboratories Act 1961</i> (Cth)
Description:	<u>Investment</u>

The votes attached to significant foreign shareholdings¹⁵ may not be counted in respect of the appointment, replacement or removal of more than one-third of the directors of Commonwealth Serum Laboratories (CSL) who hold office at a particular time. The head office, principal facilities used by CSL and any CSL subsidiaries used to produce products derived from human plasma collected from blood or plasma donated by individuals in Australia must remain in Australia. Two-thirds of the directors of the board of CSL and the chairperson of any meeting must be Australian citizens. CSL must not seek incorporation outside of Australia.

¹⁵ For the purposes of this entry, “significant foreign shareholding” means a holding of voting shares in CSL in which a foreign person has a relevant interest, if the foreign person has relevant interests in at least five per cent of the voting shares in CSL.

Sector: Tourism and Travel-related Services

**Obligations
Concerned:** Local Presence (Article 7.5)

**Level of
Government:** Regional

**Source of
Measure:** *Travel Agents Act 1988* (Qld)
Travel Agents Act 1985 (WA)
Travel Agents Regulations 1986 (WA)

Description: Cross-Border Trade in Services

Queensland

In order to obtain a licence to operate as a travel agent, a person must have a business address in Queensland.

Western Australia

To carry on business in Western Australia as a travel agent, a person must have a principal place of business in the state.

Sector:	Recreational, Cultural and Sporting Services
Obligations Concerned:	Local Presence (Article 7.5)
Level of Government:	Regional
Source of Measure:	<i>Nature Conservation Act 1992 (Qld)</i> <i>Nature Conservation (Wildlife Management) Regulation 2006 (Qld)</i> <i>Nature Conservation (Administration) Regulation 2006 (Qld)</i> <i>Nature Conservation (Protected Plants) Conservation Plan 2000 (Qld)</i>
Description:	<p><u>Cross-Border Trade in Services</u></p> <p>The Chief Executive of the Queensland Department of Environment and Heritage Protection may grant a wildlife authority,¹⁶ other than a wildlife movement permit, to a corporation only if the corporation has an office in the State.</p> <p>The Chief Executive may approve a person to be an authorised cultivator or propagator for protected plants only if:</p> <ul style="list-style-type: none"> (a) in the case of a natural person, the person is a resident of the State; or (b) if the person is a corporation, the corporation has premises in the State at which the plants are to be cultivated or propagated. <p>An individual or corporation is only taken to be a “person aggrieved” by a decision, failure to make a decision or conduct under the Act if the individual is an Australian citizen or ordinarily resident in Australia or, if a corporation, established in Australia.</p>

¹⁶ This term is defined in Schedule 7 of the *Nature Conservation (Administration) Regulation 2006 (Qld)*.

Sector:	Transport Services
Obligations Concerned:	National Treatment (Articles 7.2 and 11.3) Local Presence (Article 7.5)
Level of Government:	Central
Source of Measure:	<i>Competition and Consumer Act 2010</i> (Cth)
Description:	<p><u>Cross-Border Trade in Services and Investment</u></p> <p>Every ocean carrier who provides international liner cargo shipping services to or from Australia must, at all times, be represented by a natural person who is resident in Australia.</p> <p>Only a person¹⁷ affected by a registered conference agreement or by a registered non-conference ocean carrier with substantial market power may apply to the Australian Competition and Consumer Commission to examine whether conference members, and non-conference operators with substantial market power, are hindering other shipping operators from engaging efficiently in the provision of outward liner cargo services to an extent that is reasonable. For greater certainty, matters which are relevant to the determination of ‘reasonable’ include Australia’s national interest and the interests of Australian shippers.</p>

¹⁷ For the purposes of this entry, section 10.48 and 10.58 of Part X of the *Competition and Consumer Act 2010* list the categories of persons to whom this reservation will apply.

Sector:	Transport Services
Obligations Concerned:	National Treatment (Article 11.3) Senior Management and Boards of Directors (Article 11.10)
Level of Government:	Central
Source of Measure:	<i>Air Navigation Act 1920</i> (Cth) Ministerial Statements
Description:	<u>Investment</u>

Total foreign ownership of individual Australian international airlines (other than Qantas) is restricted to a maximum of 49 per cent.

Furthermore, it is required that:

- (a) at least two-thirds of the board members must be Australian citizens;
- (b) the chairperson of the board must be an Australian citizen;
- (c) the airline's head office must be in Australia; and
- (d) the airline's operational base must be in Australia.

Sector: Transport Services

**Obligations
Concerned:** National Treatment (Article 11.3)
Senior Management and Boards of Directors (11.10)

**Level of
Government:** Central

**Source of
Measure:** *Qantas Sale Act 1992* (Cth)

Description: Investment

Total foreign ownership of Qantas Airways Ltd is restricted to a maximum of 49 per cent in aggregate, with individual foreign holdings limited to 25 per cent and aggregate holdings by foreign airlines to 35 per cent. In addition:

- (a) the head office of Qantas must always be located in Australia;
- (b) the majority of Qantas' operational facilities must be located in Australia;
- (c) at all times, at least two-thirds of the directors of Qantas must be Australian citizens;
- (d) at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen; and
- (e) Qantas is prohibited from taking any action to become incorporated outside Australia.

Sector:	Transport Services
Obligations Concerned:	Local Presence (Article 7.5) National Treatment (Article 7.2)
Level of Government:	Regional
Source of Measure:	<i>Commercial Passenger (Road Transport) Act</i> (NT) <i>Road Transport (Public Passenger Services) Regulations 2002</i> (ACT)
Description:	<p><u>Cross-Border Trade in Services</u></p> <p><u>Northern Territory</u></p> <p>A taxi licence will be cancelled where the holder, being an individual, has not been ordinarily resident in the Northern Territory for more than six months or, being a body corporate, has ceased for more than six months to have its principal place of business in the Northern Territory.</p> <p><u>Australian Capital Territory</u></p> <p>An application for accreditation to run a public transport service must be made by an Australian citizen or permanent resident of Australia.</p>