

**DISCLAIMER:** *The Commission and Australia are publishing the texts of the Agreement following the announcement of conclusion of the negotiations on 24 March 2026. The texts are published in view of the public interest in the Agreement, for information purposes only and they may undergo further minor modifications, including as a result of the process of legal and linguistic revision. These texts are without prejudice to the final outcome of the Agreement between the EU and Australia. The texts will be final upon signature. The Agreement will become binding on the Parties under international law only after completion by each Party of its applicable legal requirements and procedures necessary for the entry into force of the Agreement.*

## CHAPTER 9

### SERVICES AND INVESTMENT

#### SECTION A

#### GENERAL PROVISIONS

#### ARTICLE 1.1

##### Scope

1. This Title shall apply to measures of a Party affecting trade in services, the establishment or operation to perform economic activities by investors, covered enterprises, and for performance requirements “any enterprise”, or the temporary entry of a natural person for business purposes.

2. This Title shall not apply to:

- (a) air services or related services in support of air services<sup>1</sup>, other than:
  - (i) aircraft repair and maintenance services when undertaken on an aircraft while it is withdrawn from service;
  - (ii) the following services provided using a manned aircraft: aerial fire-fighting, flight training, spraying, surveying, mapping, photography, and other airborne agricultural, industrial and inspection services<sup>2</sup>
  - (iii) computer reservation system services;

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<sup>1</sup> For greater certainty, air services or related services in support of air services include, but are not limited to, the following services: air transportation; services provided by using an aircraft whose primary purpose is not the transportation of goods or passengers, such as aerial fire-fighting flight training, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, helicopter-lift for logging and construction, and other airborne agricultural, industrial and inspection services; rental of aircraft with crew and airport operation services.

<sup>2</sup> Subject to compliance with the Parties’ respective laws and regulations governing the admission of aircrafts to, departure from and operation within, their territory.

- (iv) ground handling services; and
- (v) the selling and marketing of air transport services.

- (b) audio-visual services;
- (c) national maritime cabotage<sup>3</sup>;
- (d) government procurement; and
- (e) activities performed in the exercise of governmental authority.

3. In the context of a review of this Agreement, [conducted in accordance with Article X (Review) of Chapter X (Final Provisions)], the Parties may assess whether it is in their mutual interest to add other air transport services to the list in paragraph 2(a) in order to include them within the scope of the agreement.

4. This Title, except for Article 3.X (Performance Requirements), shall not apply to subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance.

## ARTICLE 1.2

### Definitions

For the purposes of this Title:

- (a) "activities performed in the exercise of governmental authority" means activities which are performed, including services which are supplied, neither on a commercial basis nor in competition with one or more economic operators;

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<sup>3</sup> Without prejudice to the scope of activities which may be considered as cabotage under the relevant national legislation, national maritime cabotage under this Title covers, for the European Union, transportation of passengers or goods between a port or point located in a Member State of the European Union and another port or point located in that same Member State of the European Union, including on its continental shelf, as provided for in the United Nations Convention on the Law of the Sea, and traffic originating and terminating in the same port or point located in a Member State of the European Union. For greater certainty, feeder services, as defined in Section F International Maritime Transport, and repositioning of empty containers, shall not be considered as national maritime cabotage for the purpose of this Title.

For Australia, national maritime cabotage under this Title includes maritime cabotage services and offshore transport services. For the purposes of this footnote, "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, and "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.

- (b) "aircraft repair and maintenance services" means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service and does not include so-called line maintenance;
- (c) "computer reservation system services" means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;
- (d) "covered enterprise" means an enterprise in the territory of a Party established in accordance with subparagraph (h), directly or indirectly, by an investor of the other Party, in accordance with the applicable law, existing on the date of entry into force of this Agreement or established thereafter;
- (e) "cross-border trade in services" means the supply of a service:
  - (i) from the territory of a Party into the territory of the other Party; or
  - (ii) in the territory of a Party to the service consumer of the other Party;but does not include the supply of a service in the territory of a Party by an investor of the other Party or a covered enterprise;
- (f) "economic activity" means any activity of an industrial, commercial or professional character or activities of craftsmen, including the supply of services;
- (g) "enterprise" means a juridical person or a branch or a representative office of a juridical person;
- (h) "establishment" means the setting up of or the capital participation in a juridical person, or the creation of a branch or representative office, in the territory of a Party, with a view to creating or maintaining lasting economic links;
- (i) "existing" means in effect on the date of entry into force of this Agreement;
- (j) "ground handling services" means the supply at an airport, on a fee or contract basis, of the following services: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering except the preparation of food; air cargo and mail handling; fuelling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning. Ground handling services do not include: self-handling; security; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure, such as de-icing facilities, fuel distribution systems, baggage handling systems and fixed intra airport transport systems;
- (k) "investor of a Party" means a natural or juridical person of a Party that seeks to establish, is establishing or has established an enterprise in accordance with subparagraph (h), in the territory of the other Party;
- (l) "juridical person" means any legal entity duly constituted or otherwise organised under the applicable law, whether for profit or otherwise, and whether privately-owned or

governmentally-owned, including any corporation, trust, partnership, joint venture, sole proprietorship or association;

(m) "juridical person of a Party" means:

(i) for the European Union: a juridical person constituted or organised under the law of the European Union or of at least one of its Member States and engaged in substantive business operations<sup>4</sup> in the territory of the European Union; and

(ii) for Australia: a juridical person constituted or organised under the law of Australia and engaged in substantive business operations in the territory of Australia.

(n) "natural person of a Party" means:

(i) for the European Union, a national of one of the Member States of the European Union according to its law<sup>5</sup>; and

(ii) for Australia, an Australian citizen or a permanent resident of Australia under the law of Australia

(o) "operation" means the conduct, management, maintenance, use, enjoyment, or sale or other form of disposal of an enterprise;

(p) "selling and marketing of air transport services" means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution, but not including the pricing of air transport services nor the applicable conditions;

(q) "service supplier" means any natural or juridical person that seeks to supply or supplies a service;

(r) "service supplier of a Party" means a natural or juridical person of a Party that seeks to supply or supplies a service;

(s) "service consumer of a Party" means a natural or juridical person of a Party that receives or uses a service;

### ARTICLE 1.3

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<sup>4</sup> In line with its notification of the Treaty establishing the European Community to the WTO (WT/REG39/1), the European Union understands that the concept of "effective and continuous link" with the economy of a Member State of the European Union enshrined in Article 54 of the TFEU is equivalent to the concept of "substantive business operations".

<sup>5</sup> The definition of natural person also includes persons permanently residing in the Republic of Latvia who are not citizens of the Republic of Latvia or any other state but who are entitled, under the law of the Republic of Latvia, to receive a non-citizen's passport.

## Denial of benefits

A Party may deny the benefits of this Title to an investor or service supplier of the other Party, or to a covered enterprise if:

- (a) the denying Party adopts or maintains measures<sup>6</sup> related to the maintenance of international peace and security, including the protection of human rights<sup>7</sup>, which:
  - (i) prohibit transactions with that investor, service supplier or covered enterprise, or
  - (ii) would be violated or circumvented if the benefits of this Chapter were accorded to that investor, service supplier or covered enterprise, including where the measures prohibit transactions with a natural or juridical person who owns or controls any of them.

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<sup>6</sup> The Parties understand that “measures” referred to in this paragraph may be measures adopted by a Party pursuant to its autonomous sanctions regime.

<sup>7</sup> For greater certainty, such measures can be, inter alia, aimed at protecting the democratic process and the rule of law.