

The
Australia–US
Free Trade Agreement
An Assessment

Dr Philippa Dee
APSEG, Australian National University

*Paper prepared for the Senate Select Committee on the Free Trade Agreement
between Australia and the United States of America*

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AUSFTA — An Assessment

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The first section of this paper identifies which chapters of the Australia-United States Free Trade Agreement are substantive, in the sense of offering more than the status quo. The second section describes further some of the likely economic effects of the substantive chapters. The third section comments on the DFAT/CIE modelling assessment of the agreement. The final section compares the provisions of this agreement with the provisions of several other bilateral trade agreements — the Australia-Singapore agreement, the United States-Singapore agreement and the United States-Chile agreement.

1 Form versus substance

Many parts of the agreement codify the status quo. This need not be as trivial as it sounds, since in many places the agreement also binds the status quo — each party makes a legally binding promise that circumstances will not be made less advantageous for the other Party in the future.

However, in some cases, even the bindings are not new — Australia has already made the same promise under a relevant WTO agreement to all other WTO Members, not just to the United States.

Table 1 lists all the articles of the AUSFTA agreement and notes, for each article, whether it codifies the status quo, and whether Australia has already made the same promise in a WTO forum.

On the basis of this assessment, the substantive chapters in the agreement are the following.

- **2 National Treatment and Market Access for Goods.** In particular, Annex 2B specifies the reductions in tariffs and expansions in tariff rate quotas for each Party, Annex 2A specifies exceptions to the promises of national treatment (ie non-discrimination relative to domestic suppliers) and limitations on the use of import and export restrictions, while Annex 2C sets up a review

mechanism in instances when an application for a drug to be added to the PBS is rejected.

- **3 Agriculture.** In particular, article 3.4 and annex 3A detail the safeguard measures that will apply bilaterally for certain agricultural commodities.
- **4 Textiles and apparel.** In particular, article 4.1 details the safeguard measures that will apply bilaterally for textiles and clothing, while article 4.2 and annex 4A specify the rules of origin for textiles and apparel.
- **5 Rules of origin.** Articles 5.2, 5.4 and annex 5A specify the rules of origin for all other goods, while the remaining articles specify how they will apply.
- **9 Safeguards.** Articles 9.1. and 9.2 specify the safeguard measures that will apply bilaterally to all other goods.
- **10 Cross border trade in services.** Because the bilateral promises of national treatment and market access are made on a negative list basis in AUSFTA (ie all services are covered unless they are explicitly excluded), while both parties' WTO commitments are made on a positive list basis (ie only those services that are listed are covered), this chapter has the potential to be offering more than the status quo, particularly for those sectors that were not listed by one or both parties under the WTO. While in principle the same argument applies to chapter 13 on financial services, in practice it is primarily a status quo chapter. More on these points later.
- **11 Investment.** Because the bilateral promise of national treatment is made on a negative list basis in AUSFTA (ie investment in all goods and services is covered unless it is explicitly excluded), while both parties' WTO commitments are made only for services and only on a positive list basis, this chapter has the potential to be offering more than the status quo, particularly for those sectors that were not listed by one or both parties under the WTO. More on this later.
- **15 Government procurement.** Article 15.2 establishes the basic promise of non-discrimination relative to domestic or third party suppliers (national treatment and most favoured nation treatment, respectively). Other articles specify tendering procedures and processes.
- **17 Intellectual property rights.** Articles 17.2, 17.4, 17.6, 17.10 and 17.11 clearly require changes to Australian legislation. Other articles may also require changes, eg 17.1.
- **21 Institutional arrangements and dispute settlement.** Articles 21.11 and 21.12 define the trade remedies available.

As expected, there is a strong correlation between the chapters identified above as being substantive, and the chapters identified in Article 21.2 as being actionable under dispute settlement on the grounds that

a benefit that the Party could reasonably expect to accrue to it has been nullified or impaired as a result of a measure that is not inconsistent with the Agreement.

Dispute settlement is always available in the event of direct breaches, such as failing to carry out an obligation, or instituting a proscribed measure. Article 21.2 also allows for action when a benefit accorded by chapter 2, 3, 5, 10, 15, and 17 has been indirectly nullified or reduced. This presupposes a benefit to start with. The chapters subject to such dispute settlement appear in the above list of substantive chapters. So too do chapters that specify trade remedies, in the form of safeguards (chapters 4 and 9) or dispute settlement (chapter 21).

Significant elements of substantial chapters

Market opening

As noted above, chapter 2 defines the extent of market opening for goods, while chapters 10 and 11 define the extent of market opening for services and investment.

In the case of goods, the extent of market opening is reasonably easy to determine. It is defined by the scheduled tariff reductions and changes to tariff rate quota arrangements in each country, as specified in Annex 2A and 2B.

Both Australia and the United States will eliminate most non-agricultural tariffs from day one, while tariffs on textiles and clothing, some footwear, and a few other items (including passenger motor vehicles in Australia's case) to be phased out by 2015. Australia's tariffs are generally 5 per cent currently, with peaks of 15 per cent for textiles, 25 per cent for clothing, and 15 per cent for passenger motor vehicles. US tariffs are more variable. They are generally 5 per cent or less (with a significant portion being already duty free), but there are peaks throughout, up to 37.5 per cent or more on some textile, clothing and footwear items.

In agriculture, the United States has agreed to phase out all tariffs, with the exceptions of tariffs on sugar and sugar products and the over-quota tariffs on dairy products. The United States has also agreed to expand Australia's quotas for beef, dairy, tobacco, cotton, peanuts and avocados.

In the case of services and investment, the extent of market opening is more difficult to establish. This is because the bilateral promises are made on a negative list basis (ie all services or investments are covered unless they are explicitly excluded), but both parties have already made promises in the WTO on a positive list basis (ie only those services that are listed are covered). To determine what is new and different in the bilateral agreement on services and investment, the two lists need to be compared.

This is done in tables 2 and 3. The jargon in the tables is WTO jargon that defines the way WTO promises are made. It is explained in more detail in Box 1. For those readers who do not want to understand the jargon, the bottom line of AUSFTA is shown in bold in tables 2 and 3 — the bold sections define the promises that appear to be made in AUSFTA that are not already made in the WTO. The bottom line is also summarised below.

In both tables, there are many instances of liberalisation offers in AUSFTA that have already been made on a multilateral basis in the WTO. This includes engineering services, computer consultancy services, rental and leasing of equipment other than ships and aircraft, market research and management consulting, value-added telecommunications services, some environmental services, tourism services, and some recreational services.

There are also many instances where reservations that were made under the WTO have been retained in AUSFTA. The United States has claimed a blanket exemption for all existing trade restricting measures maintained at a regional level. Such measures are prevalent in the United States in legal and accounting services, real estate, and financial services. Australia has claimed a similar exemption. Both parties have also retained major reservations in financial services, education and health, maritime and air services.

There are a small but significant number of instances where AUSFTA has gone beyond the GATS in promising that there will be no barriers to trade.

Box 1 **Understanding market opening for services and investment**

For the masochists, the relevant WTO agreement is the General Agreement on Trade in Services (GATS). This agreement covers both cross-border trade in services (comparable to the coverage of chapter 10), and investment in services (comparable to the foreign direct investment component of chapter 11, but only for services). Specifically, the GATS recognises four modes of services delivery:

- mode 1 — from the territory of one party to the territory of the other (what the GATS, but not AUSFTA, calls *cross-border trade*);
- mode 2 — in the territory of one party by a person of that party to a person of the other party (what the GATS calls *consumption abroad*);
- mode 3 — by a foreign affiliate of one party established in the territory of another (what the GATS calls *commercial presence*); and
- mode 4 — by a national of one party in the territory of another (what the GATS calls the *movement of natural persons*, as distinct from the movement of corporations or other legal entities).

GATS modes 1, 2 and 4 are what is covered by AUSFTA chapter 10 on cross-border trade, while GATS mode 3 is a component of what is covered by chapter 11 on investment. Chapter 11 also covers both portfolio investment and foreign direct investment in sectors other than services.

Under the GATS agreement, both parties have already made a general promise about one form of non-discrimination. The most favoured nation (MFN in tables 2 and 3) obligation says that service suppliers (including those supplying through commercial presence) will not be discriminated against, relative to third parties. But the preferences within any agreement such as AUSFTA violate this promise, which is why there is also a blanket exemption for all existing preferences under FTAs, and for new preferences in the areas of aviation, fisheries or maritime matters. This means that if either party grants new preference to third parties outside of these areas in the future, the additional preferences must be incorporated into AUSFTA.

Under the GATS, both parties have made a conditional promise about another form of non-discrimination. National treatment (NT in tables 2 and 3) says that service suppliers (including those supplying through commercial presence) will not be discriminated against, relative domestic suppliers. This promise has been made only for those services that each party has listed in its GATS schedule, and only if there are no limitations on national treatment noted in those schedules — either by listing the particular non-conforming measure that is to be retained, or by noting that the promise is 'unbound', ie not made.

Continued

Box 1 Continued

Finally, under the GATS, both parties have made a conditional promise that certain non-discriminatory barriers to market access (MA in tables 2 and 3) are not to be used. The promise has been made only for those services they have listed in their GATS schedules, and only if there are no limitations on market access noted in those schedules — either by listing the particular non-conforming measure that is to be retained, or by noting that the promise is ‘unbound’, ie not made.

The particular barriers to market access that are banned under the GATS include those banned in Article 10.4 of AUSFTA — limitations on the number of service suppliers, the total value of services transactions, the total number of service operations, or the total number of natural persons that may be employed, and restrictions on the types of legal entity or joint venture through which a service may be supplied.

Under the GATS, there is one additional barrier to market access that is proscribed (on the same conditional basis), which is not mentioned explicitly in chapter 10 (cross-border trade). This is limitations on the participation of foreign capital in terms of maximum percentage limits on foreign shareholding or the total value of individual or aggregate foreign investment. However, chapter 11 promises national treatment for investment, including portfolio investment. Presumably limitations on foreign equity participation are proscribed under that provision.

In order to put the negative list of AUSFTA and the positive list of GATS together, the first column of tables 2 and 3 lists all the possible services that could have been listed under GATS, using the Central Product Classification (CPC) that was chosen for the purpose. Table 2 then specifies the actual market access commitments and table 3 specifies the national treatment commitments of each party under the GATS. The tables note whether the service was in fact listed by Australia (second column) or the United States (fourth column), and if so, what the extent of the commitment was. For example, a listing of ‘1,2,3,4 None’ means there are no limitations on market access (table 2) or national treatment (table 3) for any of the four modes of delivery of that service. This is the most liberalising commitment that can be made. As another example, a listing of ‘1,2,3 None, 4 Unbound’ means that there are no limitations on market access (Table 2) or national treatment (table 3) for the first three modes of service delivery, but there are no promises made at all for services delivered via the movement of natural persons.

Finally, the third and fifth columns of tables 2 and 3 show the non-conforming measures that each party has chosen to retain under AUSFTA. Where a non-conforming measure has not been claimed, these columns show what the corresponding promise of liberalisation is, but only if that promise has not already been made under the GATS. These columns therefore show the overall extent of market opening for services and investment.

Source: Based on GATS schedules and the text of AUSFTA.

Further, Australia appears to have made more such promises than the United States, for two main reasons:

- the US offers under GATS were more extensive to start with — with more sectors listed, and fewer restrictions retained — and this is the main reason why Australia makes more new promises of national treatment in table 3 than the United States;
- the United States has taken out a blanket exemption for all existing and new restrictions on market access affecting all modes of delivery, while Australia has taken out a blanket exemption for all existing and new restrictions on market access only where they affect services delivered via the movement of natural persons, and this asymmetry is an additional reason why Australia makes more new promises of market access in table 2 than the United States.

What are the important new promises? Leaving aside infeasible modes of delivery and residual categories, the new promises can be summarised as follows.

- *Australia* makes new promises to avoid using certain types of barriers to *market access* against US suppliers for services delivered via cross-border trade (mode 1), consumption abroad (mode 2), or commercial presence (mode 3) in the following areas: landscape architecture, database services, R&D in natural sciences, interdisciplinary R&D, arbitration and conciliation services, technical testing and analysis services (other than those supplied by the Commonwealth Serum Laboratories), services incidental to manufacturing, maintenance and repair of equipment, packaging services, postal services (other than the delivery of the standard letter), courier services, on-line information or data processing, motion picture and video tape production and distribution services (with reservations on co-production arrangements), motion picture projection services, sound recording, those parts of adult education not covered by the exemption for public education and public training and the regional exemption, entertainment services, libraries, archives, museums and other cultural services, maintenance and repair of vessels, maritime pushing and towing services, supporting services for maritime transport, space transport, rail transport services, urban bus services, all road freight and incidental road services, cargo handling services, and all those services not adequately captured in the Central Product Classification, such as environmental and energy services. In addition, there appears to be a promise to remove a few regulatory restrictions on US insurers and banking institutions.
- The *United States* may have made a few new promises to avoid using particular *market access* barriers against Australian suppliers, but only because the relevant market access barriers that it reserved under the GATS may not fall

under the definition of measures for which it claimed a blanket exemption under AUSFTA. It is not clear, for example, whether the market access exemption applies to the US requirement that a single company not be permitted to own a combination of newspaper, radio or TV in the same local market, for Consat's exclusive right to link with Intelsat and Inmarsat, and for the limitations on owning a common carrier licence (see box 1 for the AUSFTA definition of market access measures).

- *Australia* makes new promises to afford *national treatment* to (ie not discriminate against) US suppliers for services delivered via all modes in the same areas as above: landscape architects, database services, R&D in natural sciences, interdisciplinary R&D, arbitration and conciliation services, technical testing and analysis services (other than those supplied by the Commonwealth Serum Laboratories), services incidental to manufacturing, maintenance and repair of equipment, packaging services, postal services (other than delivery of the standard letter), courier services, on-line information or data processing, motion picture and video tape production and distribution services (with reservations on co-production arrangements), motion picture projection services, sound recording, those parts of adult education not covered by the exemption for public education and public training and the regional exemption, entertainment services, libraries, archives, museums and other cultural services, maintenance and repair of vessels, maritime pushing and towing services, supporting services for maritime transport, space transport, rail transport services, urban bus services, all road freight and incidental road services, cargo handling services, and all those services not adequately captured in the Central Product Classification, such as environmental and energy services. There is also a new promise of national treatment in the provision of insurance intermediation services via modes other than commercial presence.
- The *United States* makes new promises to afford *national treatment* to (ie not discriminate against) Australian suppliers for services delivered via all modes in the following areas: veterinary services, all R&D, technical testing and analysis services, some services incidental to agriculture, some services incidental to manufacturing, postal services (other than the delivery of the standard letter), those parts of primary, secondary and higher education not covered by the exemption for public education and public training or by the exemption for State measures, sporting services, space transportation, some rail services, some road transport services, cargo handling services, storage and warehousing services, freight transport agency services, and all those services not adequately captured in the Central Product Classification, such as environmental and energy services. There is also a new promise of national

treatment in the provision of financial information via modes other than commercial presence, and for all insurance via the movement of natural persons. There also appears to be a promise that Australians will be accorded national treatment when trading money market instruments and participating in securities issues through the movement of natural persons.

The above promises to abstain from trade barriers do not necessarily imply that there are significant barriers present in these areas to start with. In most cases, there would not be. This is consistent with the Government's claim that the major achievements for Australia in the chapters on investment and cross-border trade are the promises by the United States not to initiate new discriminatory measures, rather than to roll back any existing measures.

Accordingly, the promises will not cost either party commercially. For this reason, they could be easily multilateralised — generalised to all countries, not just to the AUSFTA trading partner. But tables 2 and 3 clarify just how limited those new bindings are, particularly on the part of the United States.

Chapter 11 also makes market opening commitments for investment in areas outside services, where there has not been any progress yet through the WTO. All the promises in this area are new promises, subject to the limitations noted at the end of tables 2 and 3. The most significant new promise is the Australian promise to relax the FIRB screening thresholds significantly for US investments that are not in sensitive areas. The United States has retained its limitations on production and/or transportation of 'nuclear utilisation or production facilities', and on exporting defence-related products (which has, for example, affected the availability of encryption software to ensure security of e-commerce). It is not clear that there has been a concession from the United States in this area similar to Australia's relaxation of FIRB screening.

Annex 10A makes provision for a professional services working group to facilitate the development of standards for licensing and certification and provide recommendations on mutual recognition. While progress in this area could potentially lead to market opening in the future, such opening would be subject to existing immigration laws. There is no chapter in the agreement designed to free up the temporary movement of professionals or business people, which would seem to be a necessary complement to market opening in professional services. Similarly, the market opening would be subject to existing State-level citizenship or residency requirements, which are prevalent in many professions in the United States (see tables 2 and 3).

Finally, the government procurement chapter achieves market opening by removing the discrimination against Australia in the US government procurement market. The market opening applies to US Federal contracts in areas other than defence, R&D, foreign aid, procurement between governments, and offshore procurement. It also applies to State procurement for those States listed in Annex 15C. To date the list excludes major states such as California. The Australian non-defence procurement market is already non-discriminatory, but Australian governments will need to amend some of their procurement practices to comply.

Restrictions on market opening

Other chapters of the agreement circumscribe the extent of market opening.

If market opening is defined to mean that producers are subjected to greater competition for the benefit of consumers, then the chapter on intellectual property rights can be described as a chapter that restricts market opening. This is because it contains provisions to tighten up the protections afforded the producers and/or performers of protected work, with the consequence that there is less access by users, or at a greater cost. This argument is developed further in the next section. Further, some of the patent provisions have the potential to delay the introduction in generic drugs into the Australian market, which would increase drug prices in Australia.

Chapters 4 and 5 set out the rules of origin, which specify how much combined Australian and US content a product has to have in order to be eligible for concessional tariff treatment under AUSFTA. This also limits market opening. The rules are tailor-made, tariff line item by tariff line item, but generally require 'significant transformation'. This is defined to mean that if a product has been imported from a third party, it must undergo enough processing so that it falls under a different tariff heading or subheading from its original form.

For a significant minority of products, there is an additional requirement that the percentage of total value derived from Australia and the United States be at least 35 per cent or 45 percent, depending on the method of calculation. For some footwear products, the relevant percentage is 55 per cent. For a very few products, a regional value content rule can be applied instead of the change of tariff classification rule. For autos, a simple regional value content rule of 50 per cent applies. For textiles and clothing, the change of tariff classification rules mean that everything from 'yarn forward' must originate in the United States or Australia, except that articles made from cotton or man-made fibres must be 'fibre forward'.

The safeguard provisions of the agreement can also circumscribe the extent of market opening.

- For beef, there is a quantity-based trigger which operates during the 18 year tariff elimination period, and a price-based trigger that applies thereafter. Once the trigger event occurs, the tariff on Australian beef into the US market can be temporarily increased.
- There is a similar price-based safeguard measure that can apply to Australian exports of certain horticultural products during the 18 year tariff elimination period.
- Tariffs can be temporarily raised on textile and clothing products if a surge in imports causes, or threatens to cause, damage to the domestic industry producing like products. Such action can be imposed or maintained up to ten years after the tariff has been eliminated under the agreement. Action can not be taken where changes in technology or consumer preferences are the cause of the damage.
- Tariffs can be temporarily raised on any other product if a surge in imports causes, or threatens to cause, damage to the domestic industry producing like products. Such action can be imposed or maintained during the transition period. Unlike the WTO agreement on safeguards, AUSFTA does not require that there be a causal link between the surge in imports and the injury (ie Article 4.2(b) of the WTO agreement on safeguards has not been incorporated into AUSFTA).

Finally, the chapter on dispute settlement makes provision for trade remedies in the event that a direct breach in the agreement has occurred, or, for some chapters, where a benefit that could reasonably expect to accrue has been nullified or impaired. Trade compensation can be provided to the other party elsewhere in the agreement by accelerating a reduction in other tariffs, or by the other party suspending a tariff reduction under the agreement. The agreement also makes provision for payment of a monetary assessment instead of a trade remedy. This is significant, since many would argue that such trade remedies are typically very blunt and poorly-targeted ways of correcting particular breaches.

Requirement for additional consultation or administration

Many of the substantive chapters establish new consultation mechanisms or require additional administrative measures. The last column of table 1 notes which provisions of the agreement fall into this category.

Some of the consultative mechanisms are designed to oversee the market opening elements of the agreement. In this vein, there is a Committee on Trade in Goods to oversee market opening, rules of origin and customs administration, a mechanism for consultation on tariff rate quota administration, provision for a review of the dairy market access commitments, provision for consultation and modification of the rules of origin, provision for consultation in the event that express delivery services become less open, provision to meet annually on issues of mutual interest in investment and cross-border trade in services, a working group to pursue mutual recognition in professional services, provision to consult on investor-State dispute settlement if circumstances change, and provision to review the government procurement chapter every two years.

Other mechanisms are designed to facilitate enforcement of customs and other regulations. In this vein there are very prescriptive provisions for customs cooperation in enforcing the rules of origin, both for textiles and apparel (Article 4.3), and more generally (Article 5.13).

There are mechanisms to aid transparency. Since barriers to trade in services are mostly regulatory, and hence not very transparent, there is provision in the services chapter for exchanges to aid regulatory transparency. Here the language of AUSFTA is a little stronger than it is in the GATS. AUSFTA requires the opportunity for interested persons (and the other party) to comment on proposed regulations, not just to respond to requests for specific information.

There are other mechanisms to aid transparency, but because they are in areas where US ambitions appear to have been thwarted, there is concern that they will become forums for ongoing pressure on existing Australian policies. Falling into this category is the additional review mechanism in instances when an application for a drug to be added to the PBS is rejected, and the establishment of a Medicines Working Group.

Precedent setting

Finally, there are aspects of the substantive chapters that establish precedents, which may affect Australia's options in subsequent bilateral or multilateral forums.

It is precedent setting for Australia to accept an AUSFTA agreement on agriculture in which sugar is a major omission, when Australia rejected the joint EU/US proposal on agriculture in Cancun as not good enough. The EU/US proposal could potentially have been of much greater benefit to Australia, because

it involved 'significant reductions' in domestic support, which is not touched by AUSFTA. This argument is elaborated in section 4.

AUSFTA is the first preferential trade agreement in which Australia has accepted tailor-made rules of origin based on changes in tariff classification. Hitherto, all Australia's rules of origin were based on a relatively simple regional value content rule. The tailor-made rules have been criticised as being the result of protectionist lobbying by producer interests. Australia may now be seen to be condoning such rules. In addition, it will be a significant undertaking for Australian Customs to take the new rules on board.

It is similarly precedent-setting for Australia to accept such widespread safeguard provisions, particularly those in beef and textiles and apparel that extend beyond the transition period, and those for other products that do not require causality and hence seem to be a step backwards from WTO practice.

On the other hand, the development of a dispute settlement mechanism that allows for monetary compensation instead of trade remedies may be seen as a positive precedent.

The intellectual property (IP) rights chapter is precedent setting in many respects.

First, chapter 17 commits Australia to ratifying the World Intellectual Property Organisation (WIPO) Copyright Treaty 1996 and the WIPO Performances and Phonograms Treaty 1996. Jointly, these treaties are known as the 'internet treaties', and create copyright protection for material published over the internet. It has been an issue of international debate whether the US Digital Millennium Copyright Act (DMCA) is the appropriate model of compliance with these WIPO treaties.

It could be argued that Australia's Digital Agenda Act already meets many of the obligations of the WIPO Copyright Treaty, such as creating a 'right of communication to the public' which is then protected, and protecting against the circumvention of 'effective technological measures', ie measures which control access to a protected work.

But in regard to effective technological measures, AUSFTA seems to require Australia to go further, by taking a much more expansive definition of 'controlling access' than embodied in Australia's legislation. This is despite the fact that a recent review of Australia's legislation recommended the opposite. Further, litigation is still taking place through the Australian courts to decide whether 'regional playback control' measures on DVDs are an 'effective technological

measure'. If the final decision is that it does, then the more stringent provisions in AUSFTA could effectively reintroduce restrictions on parallel importing of DVDs through the back door, only a few years after Australia has relaxed these restrictions. The ACCC has more general concerns about the anti-competitive consequences of effective technological measures.

Similarly, AUSFTA requires a much more prescriptive regime than Australia has currently for creating 'safe harbours' (ie limited liability) for internet service providers. The recent review of Australia's Digital Agenda Act also recommended changes to Australia's procedures, but nothing as prescriptive as AUSFTA.

AUSFTA requires Australia to allow copyright holders to transfer such right by contract. The US Trade Advisory Group sees this as meaning that contracts will prevail over exceptions such as 'fair use'. While it is debatable whether the clause achieves this, it would contradict a recommendation of the Commonwealth Law Reform Commission that parties should not be allowed to contract out of exceptions.

AUSFTA requires Australia to go further than currently in recognising the rights of performers and producers of phonograms. Consistent with the US view, the agreement requires Australia to recognise broader rights (Article 17.6), subject to them not taking precedence over the rights of authors (Article 17.4.3). However, there is no recognition of moral rights, nor of traditional knowledge.

AUSFTA also requires Australia to extend the term of copyright protection by an additional 20 years, bringing Australia into closer conformity with the United States. This is despite a recommendation by the Australian Intellectual Property and Competition Review Committee that any extension of the copyright term should only occur after a public inquiry.

And this listing is illustrative rather than exhaustive.

But AUSFTA has been selective in how it has required Australia to bring its IP legislation into conformity with the United States. The US has a much more generous definition of 'fair use' than Australia, affecting access by libraries and researchers, but Australia has not been required to adopt the US definition. Similarly, the US has a much higher standard of originality for copyright protection than Australia, requiring 'creative spark', not just 'skill and labour'. Australia has not been required to adopt the US standard.

Thus Australia has been required to adopt US standards, but only when it broadens rather than narrows the scope of IP protection. The asymmetric adoption of US

standards of IP protection in a way that overrides domestic law reform processes has set another important precedent.

Significant elements of non-substantial chapters

Although the other chapters may not be substantive, in the sense of offering something more than the status quo, they can be significant in other respects.

Requiring additional consultation or administration

In common with most of the substantive chapters, many of the non-substantive chapters establish new consultation mechanisms or require additional administrative measures.

The chapter on Sanitary and Phytosanitary measures (ie quarantine measures) establishes particularly extensive consultation between the Parties, covering how risk assessments are made (although the WTO requires these to be science-based) and the specific quarantine measures to be adopted. This is an area where US ambitions appear to have been thwarted, and such consultation, which may bring ongoing pressure on Australian policies, goes well beyond that required by the WTO. However, it is stated that the work plans of the Standing Working Group on quarantine are to cover topics that balance the needs of both parties.

The WTO already encourages its Members to consider mutual recognition of technical regulations or conformity assessment procedures. The AUSFTA chapter on standards and technical regulation appears to expand slightly the subject matter of the information exchanges, and makes provision for ad hoc working groups if required.

There is provision for annual consultations on telecommunications and financial services. There is also provision for each party to comment on proposed financial regulations.

There are a number of mechanisms established in the chapter on competition-related matters to encourage cooperation in the cross-border enforcement of each party's domestic laws on anti-competitive business conduct and consumer protection, as well as forums for ongoing consultation.

In the e-commerce chapter, there is provision to negotiate an agreement on mutual recognition of digital certificates by central governments.

In the chapters on labour and the environment, sub-committees on these topics are established, and there is provision for cooperation and consultation.

In addition, specific transparency measures — notification, the opportunity to comment in advance, and the right of review and appeal — are repeated in the general chapter on transparency.

And in addition to all the above, a Joint Committee will be established to supervise implementation of the agreement, and to provide interpretations where necessary.

Precedent setting

Similarly, there are aspects of the non-substantive chapters that establish precedents, which may affect Australia's options in subsequent bilateral or multilateral forums.

In the e-commerce chapter, Australia has accepted a US definition that is still the subject of vigorous debate in the WTO. The Doha Declaration reiterated that members would maintain their current practice of not imposing customs duties on 'electronic transmissions' until the Fifth Session. AUSFTA goes further by promising that there will be no customs duties on 'digital products'. These are defined to include the content, but not the medium, of digitised material. Hence music on a CD must be free of customs duties, even when shipped as a physical commodity. This is much broader than the concept of electronic transmission favoured by the Europeans.

It is precedent-setting for Australia to accept an agreement that contains chapters on labour and the environment. Even though those chapters recognise the right of each party to determine their own labour and environmental laws, the non-enforcement of those laws becomes a matter for dispute settlement. The argument against this is the one cited above, namely, that trade sanctions are particularly poorly targeted instruments for dealing with labour and environmental problems, and further, that there are alternative international forums for dealing with such problems. Article 21.12 of the dispute settlement chapter addresses one of these arguments, by ensuring that the remedies under dispute settlement on environmental and labour matters would be in the form of monetary compensation rather than through trade measures. Nevertheless, the argument remains that alternative forums exist.

2 An assessment of economic impacts

Economic effects of market opening — goods trade

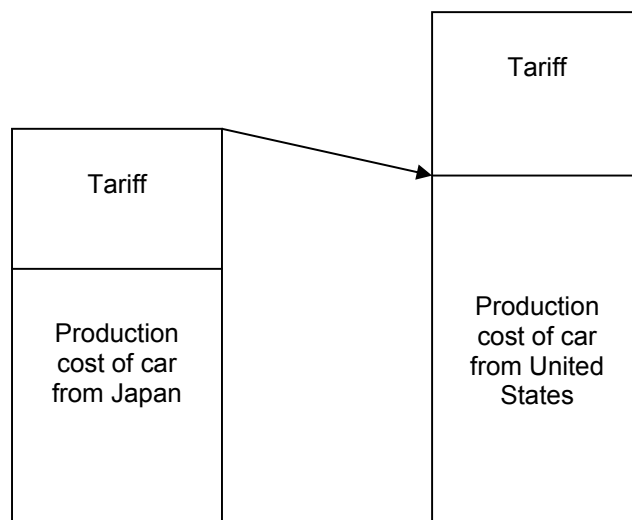
From a producer perspective, import competition imposes a cost — lower priced imports squeeze profits. But from a consumer perspective, import competition creates a benefit — lower priced imports make the family budget go further. So whether the opening up of the home market is seen as a plus or a minus depends on whether a consumer or a producer perspective is taken.

Informed public policy making should take both perspectives into account. And economic theory suggests that normally, the benefits to consumer would outweigh the costs to producers, so the country as a whole should benefit from the opening up of the home market. This is the basis on which Australia has lowered its tariffs unilaterally on a wide range of goods over the last few decades.

However, there is one important reason why lowering tariffs on a preferential basis for one trading partner, as opposed to on a unilateral basis for all trading partners, may not yield the same benefit. The reason is shown in figure 1. As it is drawn, when tariffs are levied on comparable cars from both Japan and the United States (think of Honda Civics, which are made in both places), Australians would source from Japan because the total tariff-inclusive price is cheaper. If US cars became tariff-free, Australians would switch their source to the United States. Australian consumers would get slightly cheaper cars, as shown by the arrow. The car price would not fall by the full extent of the tariff, because US production costs are greater. But Australia would lose all its tariff revenue on cars.

Normally, under unilateral tariff cuts, this loss of tariff revenue would not matter — what the government lost, consumers would gain in full measure, in the form of cheaper cars. But under preferential tariff cuts, most of the tariff revenue goes, not to Australian consumers, but to US producers, to make up for their higher production costs. For this reason, preferential trade deals made with trading partners who are not world-best producers are as much about redistributing tariff revenue as they are about getting the benefits of lower cost imports. And the greater the tariff initially, the more scope there is for this trade diversion.

Figure 1 **Illustrating trade diversion — Australia's sourcing of (comparable) cars**



First, Australia may end up importing more cars from the United States than it did from Japan. This additional trade can generate small net gains, because it displaces less efficient local production. Economists call these ‘allocative efficiency gains’ from trade creation. They also occur when tariffs are cut unilaterally. But in preferential trade deals, the allocative efficiency gains per unit of trade created will typically be much smaller than the uncompensated loss of tariff revenue per unit of trade that is diverted. So the overall effect is likely to be negative. Strictly speaking, the net gains or losses cannot be determined just from measuring the volumes of trade that are created or diverted, although trade volumes are often used as a proxy measure.

Second, Australia will also gain from the market opening in the United States.

While trade diversion is a problem in principle, is it likely to be a problem in practice under AUSFTA? As noted, trade diversion will only occur for products where the United States is not the world’s best producer — otherwise Australia will be sourcing its imports from the United States already, and there will be no trade to divert.

So one indication of potential problems for Australia is the proportion of tariff line items where a third party is currently our major import source of comparable

product. Looking at import sourcing at relatively high levels of product disaggregation is more likely to ensure that products from different sources are comparable.

There are 1213 different product categories at the 4 digit level of the Harmonised System of product classification. In 2001, the United States was Australia's primary import source for 317 of these categories, which included cigars, pharmaceuticals, beauty products, many categories of machinery and equipment, calculators, electric motors, telephone equipment, tractors, medical instruments, orthopaedic appliances, bombs, grenades and torpedos, toilet sprays and original engravings. For the remaining 896 product categories, the United States is not currently Australia's major import supplier. Some of these categories include primary products such as coffee, or minerals such as diamonds, which the United States would not be able to supply in quantity, regardless of the tariff. But many are also in the product areas where Australia's tariff peaks occur — textiles and clothing, where Australia's principal source of supply tends to be China, Hong Kong, Taiwan, or another East Asian country, and 'Motor cars and other motor vehicles', where the United States is fifth in line behind Japan, Germany, Korea and Great Britain. The devil is in the detail, and the relevant level of detail is well below that which can be captured in conventional economic models.

For the United States, the situation is worse. In 2001, Australia was its principal source of supply for just 14 of the 1213 product categories at the 4 digit level. These included beef, sheep meat, lead ores, uranium ores, titanium, aluminium oxides, manganese oxides and wool, some of which are already duty free. The scope for trade diversion in the United States is correspondingly greater (subject to Australian manufacturers being able to meet the rules of origin). But the proportion of US trade affected will be significantly smaller than in Australia's case, just because of the differences in size of the two economies.

The issue of quantifying the effects of trade creation and trade diversion is discussed in more detail in the section that reviews the DFAT/CIE modelling assessment of the effects of AUSFTA.

Economic effects of market opening — services and investment

If trade diversion is a problem for goods trade, is there a comparable problem for services and investment? The answer is 'sometimes', depending on the nature of the trade barrier. Typically, the barriers to services and investment do not generate tariff revenue. But some of them can be tariff-like, in the sense of creating

artificial restrictions on the quantities of services or investment, and artificial profits (sometimes call ‘rents’) for service providers or investors. Empirical research suggests that the regulatory restrictions in banking and telecommunications, and some of the barriers in the professions, tend to be of this form (Barth, Caprio and Levine 2002, Kalirajan et al. 2000, Boylaud and Nicoletti 2000, Warren 2000, Nguyen-Hong 2000). When barriers are lifted preferentially, these artificial profits or rents can be redistributed between countries in the same way as tariff revenue, leading to a comparable problem of trade diversion.

Alternatively, some barriers to services or investment do not create artificial profits. They do the opposite, by increasing the real resource cost of delivering the service or making the investment. Again, empirical research suggests that the regulatory restrictions in distribution services, electricity supply, maritime, and some of the barriers in the professions, tend to be of this form (Kalirajan 2000, Steiner 2000, Clark, Dollar and Micco 2001, Nguyen-Hong 2000). When barriers are lifted preferentially, real resource costs fall, with an unambiguous gain.

As noted earlier, the services and investment chapters are AUSFTA are primarily standstill chapters. But Australia has agreed to relax FIRB screening limits. And the processes designed to facilitate mutual recognition in the professions may generate market opening in the future, subject to existing immigration laws and State regulatory restrictions. Will these measures cause trade diversion?

FIRB screening is clearly a barrier that adds to the real resource cost of investing, since applicants have to incur the costs of lodging a notification or application, and the Australian Treasury needs to employ people to process the applications. Preferentially lifting the screening limits will save real resources, which can be redeployed elsewhere. It will not cause trade diversion.

Nguyen-Hong (2000) gives evidence that the professional licensing requirements that would be the subject of a mutual recognition agreement are of the sort to artificially restrict service quantity and to create artificial profits. Preferentially relaxing these restrictions through mutual recognition has the potential to redistribute these profits and cause trade diversion, especially in those professions where the United States is not the world’s best producer.

The issue of quantifying the effects of trade creation and trade diversion in services and investment is discussed in more detail in the section that reviews the DFAT/CIE modelling assessment of the effects of AUSFTA.

Economic effects of market opening — government procurement

The chapter on government procurement creates commercial opportunities. The benefits will depend on whether Australian businesses are able to take advantage of the opportunities.

The DFAT/CIE study of the economic effects of the agreement considers this issue and length, and judges that Australia might be able to achieve 30 per cent as much market penetration as Canadian businesses as a result of this market opening (\$200 million per year for Australia, compared with \$650 million for Canada). This is doubtful. Empirical research has shown that Canada tends to trade significantly more than normal with the United States on all fronts, not just on government procurement, because of their adjacency and the prevalence of north-south rather than east-west land transport links on the North American continent. Wall (2000) notes that the United States trades as much with Canada as it does with all 15 countries of the European Union combined, and that its trade with Ontario exceeds its trade with Japan. This is not surprising, given that nearly 90 per cent of the Canadian population lives within 160 kilometres of the US border, a border that stretches over 6400 kilometres.

There is a long history of econometric work that has quantified the effects of distance on the volumes of trade between countries. Such models, which are based on an analogy with the law of gravity in physics, show how trade volumes tend to increase with the size of the importing and exporting countries, and decrease with the distance between them. The Canadian economy is about 70 per cent larger than the Australian economy. And the Australian economy is almost 30 times further from the United States (using the standard gravity model measure of the distance between largest cities). Even using a relatively conservative estimate of the effect of distance, such as the recent one from Anderson and Wincoop (2003), Australia's trade with the United States could be expected to be 4 per cent as large as that of Canada, on account of these two factors.¹ This is a more appropriate basis for estimating Australia's likely penetration into the US government procurement market.

The effects of market closing — intellectual property rights

The key provision of the agreement that has immediate economic consequences is the requirement to extend the term of copyright protection by an additional 20

¹ This calculation uses Anderson and Wincoop's estimate of -0.8 for the elasticity of trade with respect to distance, and standard elasticities of unity with respect to the sizes of the importing and exporting countries.

years — from the life of the author plus 50 years, to the life of the author plus 70 years. The benefit is that Australians will enjoy additional works created because of the extra incentive to authors. The cost to Australia, as a net importer of copyright material, is the additional royalties that will need to be paid to copyright holders of existing works.

The DFAT/CIE modelling assessment of AUSFTA notes that it is difficult to put a figure on both the costs and the benefits, because of uncertainty about the true economic life of copyright works. Some products, such as computer software, have a very short economic life. For these products, the extension of copyright term will have no effect at all. However, other products do have an economic life that extends more than 50 years after the life of the author — Mickey Mouse being the most famous (and most pertinent) example. For these products, the costs and benefits will be real.

The DFAT/CIE report notes that the benefits in terms of additional works are likely to be small, because at the point when a work is created (say 30 years before the death of the author), the prospect of additional benefits 80 to 100 years in the future has minimal impact. The report makes the assumption that the author receives a constant flow of royalties into the future in order to quantify the benefit today of additional royalties this far in the future. Extending the term of copyright protection would confer additional benefits of 0.33 per cent in net present value terms. The likely impact on the quantity of new works is miniscule.

But the same assumptions can be invoked in order to put an estimate on the costs of extending the term of copyright (see box 2). According to this calculation, Australia's net royalty payments could be up to \$88 million higher per year as a result of extending the term of copyright. And the discounted present value of the cost to Australia of extending the copyright term is about \$700 million. Thus, even the current term of copyright protection is probably too long, from Australia's perspective.

Box 2 The cost to Australia of extending the term of copyright

Assume a constant flow of royalties to each author, and a constant flow of authors, each producing one work 30 years before their death. At any given point in time, 1/80 of the total royalties payable will be being paid to authors whose term of copyright is about to expire. In the first year after the agreement, an extra 1/80 in royalties will need to be paid, in the next year an additional 2/80 in royalties will need to be paid, and so on, until in the 20th and all subsequent years, an additional 20/80 in royalty payments will need to be paid. The present value today of this stream of costs, using the same 7 per cent discount rate as in the DFAT/CIE calculation, is just over double Australia's current net royalty payments. The latest balance of payments statistics from the Australian Bureau of Statistics (Cat. No. 5302.0) show that in 2002-03, Australia's net payments for royalties and license fees were \$1210 million per year. Based on previous years experience (Cat. No. 5363.0), about \$350 million of this would be on copyright material, ie excluding payments for industrial processes and franchise fees (and this would not include payments for products whose economic life was exhausted). Thus Australia's net royalty payments could be up to \$88 million higher per year as a result of extending the term of copyright. And the discounted present value of the stream of costs to Australia of extending the copyright term would be about \$700 million.

Source: Author's calculations.

The effects of market closing — rules of origin

As noted earlier, tight rules of origin can dilute the benefits of goods market opening by disqualifying some goods for preferential tariff treatment.

The DFAT/CIE report suggests that this could be a significant problem for Australia's exports of textiles and clothing. But there are several reasons to believe that the problem is likely to be much more extensive.

First, textiles and clothing are not the only products to have relatively low local value added (the value of local material inputs, as well as returns to capital and labour). The latest Australian input-output tables published by the Australian Bureau of Statistics (Cat. No. 5209.0) are far too aggregated to be really useful, but they suggest that on average, the local value added in a broad category called 'other machinery and equipment' is only fractionally higher than it is in textiles and clothing. And 'other machinery and equipment' production in Australia is almost twice that of textiles and clothing. Some of these products are already duty-free in the United States, but by no means all. It is likely that many Australian products in this category could have difficulty meeting the rules of origin and thus

be eligible for preferential tariff treatment, especially when they were assembled from components sourced in East Asia.

Second, the empirical evidence is that the proportion of trade that takes place at preferential tariff rates in preferential agreements is typically remarkably low. The proportion Australia's exports to New Zealand that take place at the preferential rate under CER around 30 per cent (PC 2003a, p. 20). The comparable figure within the ASEAN Free Trade Area is said to be as low as 5 per cent.

There are two contributing factors. One is the difficulty of meeting rules of origin that require 50 per cent regional content (CER) or 40 per cent regional content (AFTA) in a world where production processes are increasingly being fragmented geographically. Another is the high cost of proving compliance with rules of origin, especially for small and medium sized businesses. In some respects, it is easier for businesses to prove a change of tariff classification than to prove that they meet a particular regional value content. This may be one reason why the proportion of trade that takes place at the preferential rate under NAFTA is as high as 64 per cent (Estevadeordal and Suominen 2003). But it is still likely that the transactions costs of meeting rules of origin will reduce the proportion of preferential trade substantially below that assumed by the DFAT/CIE report. For example, in NAFTA, the costs of meeting the rules of origin have been estimated at two per cent of the value of Mexican exports to the US market (Cadot et al. 200). For many products, this would amount to half the margin of preference.

Rules of origin do not just dilute the market opening effects of preferential tariff cuts and impose additional administration and compliance costs. They can also encourage trade diversion in the input sourcing choices of producers in order to meet the rules of origin. They may dampen both trade creation and trade diversion for outputs, because they dilute the market opening effect of tariff cuts on output. But they encourage trade diversion in inputs.

The effects of market closing — the omission of sugar

As a result of sugar not being included in AUSFTA, the government has announced a \$440 million package to the sugar industry. This is not a pure cost to Australia, but a transfer from taxpayers to sugar producers. Nevertheless, the package will need to be funded from additional tax revenue, and raising that revenue will impose a net cost, given the distortionary effects of taxation.

Gabbitas and Eldridge (1998) examine carefully the available estimates of the net welfare cost of taxation in Australia. They correct earlier estimates for changes

that have taken place in marginal income tax rates, and also incorporate the compounding effects of State and Commonwealth taxation. Their best estimate of the current net welfare cost of tax revenue raised from a combination of State and Commonwealth sources is 16 cents in the dollar (table 6.16, p. 107). Using this estimate, the net welfare cost of the payout to sugar producers is \$70 million.

But this is a once-off payment, and should not be compared directly with other costs or benefits that accrue every year. One way of making the once-off cost comparable is to look at its equivalent annuity value. A once-off payment of \$70 million now would be equivalent to a payment of \$5 million a year forever, discounted at 7 per cent. Thus the annual net cost of the payout to sugar producers can be measured as \$5 million per year.

3 The DFAT/CIE modelling assessment

As the above discussion makes clear, there are aspects of AUSFTA that are difficult to assess a priori. In particular, it is difficult to know how severe would be the trade diversion from the agreement, relative to trade creation and the benefits of market opening in the other country. And it is difficult to know how rules of origin would affect the extent of trade diversion for inputs and outputs.

There are two possible ways of assessing trade diversion empirically, neither of them ideal for the current purpose.

The first method is to examine how trade volumes change historically between countries that enter a preferential trade arrangement, as well as with their other trading partners. As noted earlier, there is no direct relationship between the *benefits* of trade creation and diversion on the one hand, and the *volumes* of trade created or diverted in the other. This is because the costs per unit of trade diverted typically exceed the benefits per unit of trade created. What can be said though, is that if more trade is diverted than is created, the net effect is sure to be a loss. If more trade is created than is diverted, there *might be* a net gain

One difficulty with this approach is the need to control for all the other factors that affect the volumes of trade among countries, in addition to some of them signing a free trade agreement. The gravity model approach, already mentioned above, is the standard way of correcting for these other factors, which include the relative sizes of the economies, and the distance between them.

One recent gravity model study, which controlled for many more factors than any previous studies, found that among 18 recent agreements, 12 had diverted more trade from non-members than they had created among members (Adams et al.

2003). What is more, some apparently quite liberal agreements had failed to create additional trade among members, relative to the average trade changes registered among countries in the sample.

However, the gravity model approach can only look at agreements after the event, once there are some post-agreement trade patterns to examine. It is not clear whether the above conclusion would generalise to AUSFTA.

The second way of assessing the possible trade effects of the agreement is to build a structural economic model of each country's production and trade patterns, and to use the model to project what would happen if just tariffs, and nothing else, changed between the countries. Such models are tools for doing controlled experiments, in the absence of being able to organise them in real life.

Such models can be empirically based on real world data. They can incorporate current data on production and trade patterns. They can also incorporate *behavioural parameters*, which describe how the behaviour of producers or consumers would change in response to changes in prices or incomes, that are themselves estimated from real world data. And good models, if properly constructed, will trace through all the indirect, flow-on effects of the tariff change, not just the direct effects.

The two models used in the DFAT/CIE study both fall into this latter category. They are structural models of production and trade that incorporate real world data on production and trade patterns and empirically estimated values of the behavioural parameters.

The CIE has stated that of the results of the models are to be criticised, they should be criticised on one of three grounds:

- Are the inputs into the model appropriate?
- Is the model structure appropriate?
- Are the values of the behavioural parameters appropriate?

To the first criteria, an additional question should be added.

- Have the inputs been entered in the right place?

The following assessment of the DFAT/CIE modelling goes through each of the major elements of the AUSFTA agreement, and assesses its modelling treatment against these four criteria. The section concludes with an alternative modelling assessment of AUSFTA.

Model inputs

Tariffs and rules of origin

A modelling assessment of preferential tariff cuts ideally needs to be undertaken at a very high level of commodity disaggregation. Only at this level can the tariff peaks and the product-by-product variation in import sourcing be captured. As noted above, it is the interaction of these two factors that determines the extent of trade diversion.

What happens in models that operate at a highly aggregated level is that tariff peaks get averaged away. So too do product-by-product variations in import sourcing. The extent of this problem can be seen by comparing the highest tariffs from the Australian and US tariff schedules with the highest average tariffs in the two models used in the DFAT/CIE study.

The G-cubed model has just two aggregate manufacturing sectors — durable and non-durable manufacturing. Table 3.3 of the DFAT/CIE study shows that the highest average tariffs in G-cubed are just 5.7 per cent for non-durable manufacturing in the United States, and 4.9 per cent for non-durable manufacturing in Australia. This compares with known tariff peaks of 25 per cent in the Australian schedule and 37.5 per cent in the US schedule. The G-cubed model is simply too aggregated to be an appropriate tool for quantifying the trade effects of preferential trade agreements.²

The GTAP model is more disaggregated, with 57 sectors in total, 24 being in manufacturing. Table 3.3 of the DFAT/CIE study shows that the highest average tariffs (excluding sugar) in GTAP are 19.1 per cent for wearing apparel in Australia, 7.6 per cent for motor vehicles and parts in Australia, 10.7 per cent for wearing apparel in the United States, and 9.1 per cent for leather products in the United States.³ Thus the two known tariff peaks in Australia — 25 per cent on clothing and 15 per cent in motor vehicles — are better captured in GTAP, though still not adequately. The known tariff peaks in the United States are still not

² The aggregation problem in G-Cubed is more severe than it needs to be. The DFAT/CIE study states that tariffs were averaged from the GTAP to the G-Cubed level using import weights. This weighting scheme also puts an inappropriately low weight on tariff peaks. Had the production weights available from the GTAP database been used instead, the aggregation problem would have been less severe, though likely still severe enough to render G-Cubed inappropriate.

³ Table 5.2 of the DFAT/CIE study states that the reduction in US tariffs on wearing apparel under AUSFTA will be only 0.9 per cent, rather than 10.7 per cent. This reflects the assumed impact of rules of origin. Similarly, the tariff reduction on textiles in table 5.2 is lower than the initial level in table 3.3.

adequately captured, primarily because they are so scattered throughout the US schedule.

The trade effects of preferential trade agreements are also affected by rules of origin. The DFAT/CIE study has assessed that only 8.8 per cent of Australian exports of textiles and clothing will meet the yarn forward rule. The study has not reflected the experience of other preferential trade agreements, which is that as a result of the rules themselves and the transactions costs of proving compliance, the proportion of total trade that takes place at preferential rates can be much less than 50 per cent across the board.

Nor has the modelling captured the way that some larger producers will have an incentive to switch their sourcing of inputs in order to ensure that their output meets the rules of origin, thus adding to trade diversion.

Agricultural protection

Because it was developed by agricultural economists, GTAP has a relatively detailed commodity coverage of agriculture. Furthermore, the DFAT/CIE study has undertaken extensive work to quantify the tariff-equivalents of the specific tariffs and non-tariff barriers prevalent in agriculture. Finally, the study has examined the likelihood of the safeguard measures affecting beef and horticulture being triggered. The one omission is that the possible effects of the non-agricultural safeguards were not similarly assessed.

Services trade barriers

The DFAT/CIE study quantifies the effects of establishing mutual recognition in the professions by drawing on a study that quantifies the direct, first round impact of licensing restrictions in engineering (Nguyen-Hong 2000). This first-round impact is akin to the tax equivalent of the licensing restriction, and the models are used to trace through the indirect effects, and the overall impact on the economy as a whole of relaxing those restrictions. Two comments can be made.

First, one of the shares that was supposedly drawn from the Nguyen-Hong report in order to quantify the model inputs bears no relation to figures appearing in the Nguyen-Hong report. It is claimed on page 141 of the DFAT/CIE report that restrictions on licensing of foreign professionals makes up 18 per cent of the total barrier faced by foreigners. Yet table 2.3 of the Nguyen-Hong report shows that licensing and accreditation of foreign professionals makes up at most 10 per cent

of the maximum possible foreign restrictiveness index. And table 4.4 of the Nguyen-Hong report shows that the licensing of foreign professionals makes up zero per cent of the total price impact of foreign barriers to establishment in Australia.

Second, and more importantly, the DFAT/CIE report recognises the distinction between services trade barriers that create artificial profits or rents, and those that add to real resource costs. It treats the licensing restrictions on professionals as being half each. Yet the Nguyen-Hong report provides evidence that such licensing restrictions are of the sort to create artificial profits, and hence raise prices rather than costs.

This means that the projected benefits of services trade reform are overstated in the DFAT/CIE report, for two reasons. First, barriers that raise real resource costs have a bigger bang-for-the-buck than barriers that create artificial profits. This is because removing rent-creating barriers causes a large transfer of from producers to consumers, and a small net gain to the economy as a whole, while removing barriers that raise resource costs creates benefits for both consumers and producers, for a large net gain. Second, in a preferential context, barriers that create rents can lead to trade diversion, while those that raise costs cannot. So, by treating licensing restrictions as being 50/50, rather than as being all rent-creating, the DFAT/CIE report as underestimated the possibility of trade diversion.

Investment

The DFAT/CIE report treats FIRB screening as something that has added to investor uncertainty. They therefore claim that the relaxation of FIRB screening can be modelled as a reduction in the equity risk premium in Australia.

It is by no means clear that this is the appropriate way to model FIRB screening. The equity risk premium is a concept that captures the effects of events that happen ex post, after an investment is made, that reduce or eliminate the expected returns on that investment, and hence affect the stock market valuation of the company making the investment. FIRB screening is an event that happens ex ante, before the investment is made. A negative ruling does not put at risk the entire amount that would have been invested. The potential investor still has their uninvested capital that they can put elsewhere. The only thing that is lost by FIRB screening is the cost of lodging a notification or application, and this is lost whether or not the application is successful.

The only possible additional adverse effect that FIRB screening could have is if the proposed investment in Australia was absolutely unique, so that the investor had no other alternative places to put their money if their application here was unsuccessful. In most industries, particular outside of sensitive sectors, that is highly unlikely. US investors make investments all over the world, and so are well placed to diversify away many sorts of investment risks, including the risk of rejection in Australia but not elsewhere (since Australia is not the only country to have investment screening). The equity risk premium is a concept that is relevant to risks that cannot be diversified away.

There is no doubt that events that affect a country's equity risk premium can have a powerful effect on investment inflows, and hence on output and consumption levels in a country. The DFAT/CIE report rightly notes that the re-evaluations of country risk that took place during the Asian financial crisis were powerful enough to explain the large dips in output and consumption in those countries. A key factor likely to account for Australia's apparent equity risk premium is that we have a commodity-driven currency, so that the repatriated value of an investment in Australian manufacturing can be greatly affected 'after the event' by the price Australia gets for its wheat or coal. Because Australia is such a major wheat and coal exporter, fluctuations in wheat and coal prices are something that both foreign investors and all Australians have trouble diversifying away. But it is highly doubtful that *ex ante* FIRB screening has any general effect at all on Australia's risk premium.

So what effect does FIRB screening have? As noted in the DFAT/CIE report, it is a source of transactions costs. But most of the cost savings from relaxed screening will accrue to US investors overseas — Australia will still need to employ Treasury officials to continue screening of non-US investors and in sensitive sectors. And FIRB screening has an unknowable, but probably small, deterrent effect on a few particular investments, but nothing like the number of investments that would be affected by a generalised change in the risk premium.

Government procurement

The DFAT/CIE study assesses that Australia could achieve 30 per cent as much market penetration as Canada as a result of the government procurement provisions of the agreement. As noted earlier, empirical studies that correct for country size and the distance between countries suggest that the figure is more likely to be 4 per cent.

Administration and consultation

The DFAT/CIE report notes that the administration costs of the government procurement provisions will be minor. But as noted earlier, the government procurement chapter is only one of many places in the agreement where Australia will need to incur additional costs of administration and consultation. The last column of table 1 shows all such other provisions. The cumulative effect of all of this is likely to be noticeable. Since it took a team of at least 20 high-level officials to negotiate the agreement, it is not unreasonable to assume that it will take similar resources to administer it. At a cost of \$100,000 each in salaries and on-costs, administration could add \$2 million a year to the cost of the agreement.

Intellectual property rights

The DFAT/CIE report made some simplifying assumptions in order to quantify the benefits of extending the term of copyright protection. While the report was not able to make the same assumptions to quantify the costs, this has been done in Box 2. The net effect is that Australia could eventually pay 25 per cent more per year in net royalty payments, not just to US copyright holders, but to all copyright holders, since this provision is not preferential. This could amount to up to \$88 million per year, or up to \$700 million in net present value terms. And this is a pure transfer overseas, and hence pure cost to Australia.

Dynamic gains from tariff cuts

The DFAT/CIE study draws on empirical work that shows that, in addition to having so-called static effects on allocative efficiency, tariff cuts can also have a so-called dynamic effect on sectoral productivity. The study quantifies these dynamic effects by assuming them to be proportional to the size of the tariff cuts.

The studies that the DFAT/CIE study draws on examine productivity levels in Australian manufacturing during a period of substantial unilateral tariff cuts. AUSFTA does not cut tariffs unilaterally, but preferentially. As figure 1 shows, this means that the reductions in price on any given import can be substantially less than the size of the preferential tariff cut. However, the GTAP model keeps track of imports by source, and the DFAT/CIE study ‘dilutes’ the dynamic productivity gain by the US share of total imports. This alternative adjustment has a similar effect.

Nevertheless, the existence of such cold-shower' effects of tariff cuts on productivity has been hotly debated. Conservative evaluations might note their possible existence, but do not include them in the quantitative analysis (eg PC 2002, 2003b).

Model structures

Both models used in the DFAT/CIE study are well-known and well-structured. G-cubed has the advantage of a fully integrated financial sector, which allows it to account for the way in which trade policies will affect saving and investment behaviour, with eventual impacts on the capital stock and hence the productivity capacity of the economy. This is another source of dynamic gains from trade policy that has been identified in the literature. But as noted, the level of sectoral detail in G-cubed is simply inadequate to capture the trade effects of preferential trade deals.

The standard GTAP model does not have these dynamic mechanisms. But the version of GTAP used in the DFAT/CIE study, while still not fully dynamic, has been enhanced by the inclusion of mechanisms to explain how investment and savings, and hence eventually capital stocks, respond. Further, the investment and capital responses have been calibrated so that they are the same as in G-Cubed. It is not clear why the savings response has been calibrated in an arbitrary manner to equal the investment response, rather than also being calibrated directly from G-Cubed. Varying this would not affect the size of the capital response, but it would affect how much of it has to be financed by foreigners, and therefore how much additional profits have to be repatriated to foreigners.

Trade parameters

The projected trade effects of preferential trade agreements also depend on the values assumed for the behavioural parameters, since these determine the price-responsiveness of demand. As noted, both models draw their parameter values from studies that have estimated them from real world data. However, those empirical studies suffer from the same problem as gravity model studies — they need to correct for all the other factors that might be affecting economic behaviour in the sample, besides price changes. And it is especially difficult to control for factors that are typically very large relative to price changes, the things of interest. This means that such studies, even though based on real world data, tend to underestimate the price responsiveness of demand. The best illustration of this is that models such as GTAP cannot successfully 'backcast', ie reproduce historical changes in trade patterns, unless they use values for the trade parameters that are

about twice the size of the values from empirical studies (Gehlhar 1997, Hillberry et al. 2001).

The CIE has confirmed that the DFAT/CIE study has used the values of the GTAP trade parameters that reproduce history for all sectors except motor vehicles. The rationale given for a lower value for motor vehicles is that Australian and US passenger motor vehicles are poor substitutes in the eyes of Australian consumers, so it would take a large change in the relative price to induce consumers to switch. This argument ignores that vehicles are made in the United States that are comparable with Australia's current imports, for example, Honda Civics, and it is at this margin that substitution is likely to occur.

Model results

In addition to presenting core model results, the DFAT/CIE study undertakes very extensive sensitivity analysis, not just varying the key model parameters, but also varying the assumptions about the size of the model inputs. While this is helpful for understanding the full range of possible results, it is not helpful for identifying how the results would change, given a *specific set* of alternative assumptions about parameter values and model inputs. So this comparison process has to be done much more crudely in table 4.

The first half of table 4 reproduces the DFAT/CIE report's assessment of the effects on Australia's national income of the AUSFTA agreement, using the GTAP model (from table 7.1 of that study). The table separates out some of the sources of gain or loss identified above. These include:

- the allocative efficiency effects of trade creation and trade diversion;
- the allocative efficiency effects of having to raise other taxes to replace the lost tariff revenue;
- the technical efficiency gains from treating trade barriers in professional services as being half cost-escalating;
- the dynamic gains from greater capital accumulation induced by the agreement;
- the corresponding offset in terms of greater repatriation of interest and profit to foreigners.

It also shows gains and losses accruing through terms of trade effects — changes in the prices of Australia's exports relative to its imports. Such terms of trade effects have often been criticised as being inconsistent with the notion that Australia is a small country by world standards, unable to influence world prices.

But they are consistent with the idea, captured in models such as GTAP, that Australian firms sell differentiated products into niche markets — greater sales may require a lower price for the Australian firm's product, even if all other overseas prices are unaffected. And if Australians face a reduction in the prices of things they produce (exports) relative to the things they use (imports), they can be worse off on this score, even if activity levels have risen in the process.

The second half of table 4 gives an alternative assessment of the effects of AUSFTA on Australia's national income. This has involved amending the DFAT/CIE assessment in the following ways.

DFAT has made available the results of an alternative simulation showing the effects of merchandise trade liberalisation under trade parameters that reproduce history for all sectors, including motor vehicles. The results from this simulation have then been reduced by one third, reflecting that the rules of origin are likely to have much more pervasive effects than assumed in the DFAT/CIE study. That study had already corrected for the effects of rules of origin on Australia's exports of textiles and clothing. Reducing the overall effects of merchandise trade liberalisation further by one third was judged to be more likely, based on evidence that the costs of complying with rules of origin in NAFTA amounted to 2 per cent of the value of Mexico's exports. This adjustment does not capture a further cost that rules of origin impose, namely, in encouraging trade diversion in inputs.

The effects of services trade liberalisation have been adjusted by eliminating the gain in technical efficiency. As noted, this gain came from inappropriately treating trade barriers in the professions as being half cost escalating. In addition, the prospect of gains from services trade liberalisation is further qualified by the retention of existing immigration practices and State-based residency and citizenship requirements.

The effects of government procurement have been reduced by a factor of 4/30, based on the evidence from gravity models that Australia's trade with the United States is likely to be 4 per cent of Canada's, not 30 per cent, as a result of differences in size and distance.

An annual cost of \$88 million has been added to reflect the cost to Australia of extending the term of copyright. This is equivalent to a pure terms of trade loss.

An annual cost of \$2 million has been added to reflect the cost of administering the agreement, and an annual cost of \$5 million has been added to reflect the net cost of the package to sugar growers.

No further benefits have been added to reflect the relaxation of FIRB screening. The primary benefit, a reduction in transactions costs, will be felt in the United States. Australia will still need to maintain bureaucratic resources to screen investments from non-US sources and in sensitive areas.

No further benefits have been added to reflect the dynamic cold-shower effects of tariff cuts on productivity. Although the G-cubed model showed them to be relatively small, their existence has been hotly debated, and conservative evaluations omit them.

Based on the alternative assessment, the annual gains to Australia from AUSFTA are a mere \$53 million. This is a tiny harvest from a major political and bureaucratic endeavour. And the figure does not reflect further unquantifiable costs, such as associated with safeguards on manufactured goods and the additional tightening of intellectual property rights.

4 A comparison with other agreements

Bilateral opportunism

If the DFAT/CIE modelling assessment of the Free Trade Area of the Americas (FTAA) is accurate (though it too is likely to be overstated), the meagre gains to Australia from AUSFTA would disappear completely once the FTAA was formed. And FTAA is only one of the many additional agreements that the United States is contemplating.

But Australia will suffer from US bilateral opportunism irrespective of whether it signs AUSFTA. One possible defence could be to use AUSFTA to take action against the United States on ‘nullification and impairment’ grounds as Australia’s advantages are eroded by future US bilaterals. There are precedents for such action.⁴ However, nullification and impairment action is regarded as a last resort. Further, it is doubtful that an Australian action would meet the requirement that the future US bilateral agreements could not have been reasonably anticipated by Australia at the time AUSFTA was negotiated.

One sure protection against US bilateral opportunism would be if the United States *and* its bilateral partners were required to extend their reciprocal concessions on a multilateral basis to all third parties (Bagwell and Staiger 2004). Thus far, there

⁴ The United States has complained about tariff preferences negotiated by the EU on citrus products from certain Mediterranean countries, and the EU has complained about aspects of the bilateral agreement between the US and Japan concerning trade in semiconductor products.

has been no pressure on either the United States or its new bilateral partners to multilateralise their bilateral concessions, and this is the fatal flaw in the US strategy of ‘competitive liberalisation’.⁵ One option open to Australia would be to institute such pressure, by offering to multilateralise its own concessions under AUSFTA and requiring the United States to do the same.

Retaliation

Multilateralising our concessions under AUSFTA would also protect Australia from potential retaliation from third parties aggrieved by those concessions.

But how real is the threat of such retaliation? Tables 5 to 8 examine this issue, by comparing the AUSFTA agreement with three other agreements — the Australia-Singapore Agreement, the US-Singapore Agreement and the US-Chile Agreement. Table 5 compares the overall structure of the agreements, while tables 6, 7 and 8 compare the reservations made in services and investment across agreements for the three players in turn — Australia, the United States, and Singapore. In each table, significant differences across agreements are highlighted in bold.

The first thing to note from table 5 is the remarkable similarity in the agreements. In the case of US bilaterals, this is because they all follow the same NAFTA template, article by article. But even the Australia-Singapore agreement, with its different architecture, also covers much of the same ground, albeit often in much less prescriptive language.

Differences exist, but where they do, they often follow the principle of reciprocity — one country may have offered less to one of its trading partners than to the other, but only because it received less in return. Where reciprocity is the reason for differences, retaliation is less likely.

Is it nevertheless instructive to look at where the major differences occur.

First, both Singapore and Chile will eventually achieve elimination of their sugar quota into the United States. Neither country is a competitive producer, and the anticipated quantities prior to phasing out are tiny — 22 metric tons for Singapore and 3,258 metric tons for Chile. But under the recently signed Central American

⁵ The ‘ratchet mechanism’ built into NAFTA-style agreements (including AUSFTA) requires the United States to multilateralise any new services and investment concessions to old bilateral partners, but it does not bind the new bilateral partners to do the same, it does not apply to non-partners, and it does not apply to concessions outside of services and investment. The hub-and-spoke nature of US bilaterals makes this a poor antidote to US bilateral opportunism.

Free Trade Agreement, five more competitive sugar producers⁶ also achieved eventual elimination of their quota, with quantities building to 138,340 metric tons prior to phase-out. Australia achieved no additional access for sugar.

Second, under the Australia-Singapore Agreement, there are no pernicious provisions in the intellectual property chapter, nor are there chapters on labour and the environment.

Third, AUSFTA is the only agreement that fails to qualify the definition of digital products to those transmitted electronically.

These differences do not appear to be subject to obvious reciprocity elsewhere. But other major differences are.

- All the agreements to which Australia is not a party have provisions for investor-State dispute settlement. But all those agreements also have a chapter facilitating the temporary movement of business persons.
- In addition to general provisions on the professions, Chile received agreement from the United States that both parties would work to achieve common licensing throughout their territories for legal consultants and engineers, thus providing some leverage within the United States on the diverse requirements at the State level. But Chile also faces a heavy burden in implementing the provisions relating to customs administration and technical barriers to trade, and these chapters are subject to dispute settlement on the grounds of nullification and impairment.
- In the Australia-Singapore Agreement, there are no safeguard provisions of any kind. But there is provision for extensive cooperation on education (other than through commercial presence).
- Under the US-Singapore agreement, Singapore received a concession on the application of the rules of origin for apparel for up to 9 years. But Singapore is also subject to some very prescriptive provisions to prevent circumvention of the rules of origin, which among other things require it to register all clothing producers and to send regular reports to the United States about the activities of those producers.

Some differences are understandable for other reasons. There is no provision for a committee on sanitary and phytosanitary measures in the US-Singapore Agreement, because agriculture is unimportant in the Singapore economy. Chile received special treatment for debt restructuring and restrictions on short-term

⁶ The five producers are Costa Rica, El Salvador, Guatemala, Honduras and Nicaragua.

capital flows, and has made more limited concessions on market access in the banking sector, both related to its history of macroeconomic instability. Only AUSFTA has provisions relating to cross-border consumer protection and cross-border enforcement of competition policy, because Australia is a world leader in this area.

Other differences do not matter. The Australia-Singapore Agreement places fewer demands on Singapore in the competition policy area (in both the telecommunications and competition policy chapters) than does the US-Singapore Agreement. But most of the relevant provisions in the US-Singapore agreement are not preferential, so Australia is likely to gain anyway. And it is likely to make little difference to Australia whether the onus rests with the importer or exporter to claim preferential treatment, so long as its customs procedures are primarily paperless.

In one notable way, the Australia-Singapore Agreement is less liberalising than the NAFTA-style agreements, in that it does not contain a ratchet mechanism for services and investment. This mechanism does provide some limited protection against future bilateral opportunism in these areas.

The Australia-Singapore Agreement is also less liberalising than the NAFTA-style agreements in a few minor areas — the rules of origin do not allow for accumulation (the issue is dealt with another way), the regional value content requirement is slightly less generous, there are fewer concessions in telecommunications (dialling parity, leased circuits), and there are no provisions to liberalise the makeup of senior management.

In one way, the Australia-Singapore Agreement is more liberalising than the NAFTA-style agreements, because it contains no sectoral exclusions from the government procurement chapter.

Tables 6 through 8 show the extent of differences in the reservations that each country has made in its services and investment chapters in its various agreements.

The United States has the least variation in reservations. This confirms the impression gained from table 5 that in its bilateral negotiations, the United States is essentially offering the NAFTA template on a take-it-or-leave-it basis. Using this strategy, it is achieving accession to the precedent-setting provisions for which it has yet to achieve multilateral agreement. To the extent that the United States has varied its reservations, it has been more generous to Singapore (in financial services) and Chile (in cable TV) than to Australia.

Australia also has relatively little variation in its reservations on services and investment. And most of the differences have a clear reciprocity logic. Australia did not take out a reservation on regional measures with Singapore, but did with the United States because the US took one. Australia did not have a reservation on measures for betting and gambling with the United States, but did with Singapore because Singapore took one. Australia granted the United States more in legal and accounting services, education (via commercial presence), financial services and air services than it did Singapore, but Singapore was relatively illiberal on these services with Australia in return. However, there is no obvious reciprocity logic to Australia's concession to relax FIRB screening for the United States.

Singapore has the biggest differences in services and investment reservations across trading partners. It has almost invariably been more generous to the United States than to Australia. But this generosity is not limited to legal and accounting services, education (via commercial presence), financial services and air services — areas where Australia was less generous to Singapore in return. Singapore was also more generous to the United States in technical consulting, construction, hotels and restaurants, recreational and sporting services, maritime support services, and road and rail freight. Arguably, this is because Singapore had little to offer by way of tariff cuts. But by the same logic, it could have extended these same services concessions to Australia.

To summarise, if Australia were to sign AUSFTA, a previous bilateral trading partner such as Singapore might feel aggrieved in not having received a relaxation of FIRB screening. But Australia would have possibly more reasons to feel aggrieved, in not achieving an expansion of sugar quotas, and not achieving the same market access as the United States did with the old partner in the services area.

Preferential agreements versus multilateralism

It is often claimed that preferential trade agreements can achieve faster progress than multilateral negotiation in the difficult areas. This appears not to be the case with AUSFTA. On a strict cost-benefit calculation, the agreement is of marginal benefit to Australia, and possibly of negative benefit given some of the pernicious but unquantifiable elements in the intellectual property chapter. Australia will continue to be subject to US bilateral opportunism, whether or not it signs AUSFTA, unless it can persuade the United States *and* all its future bilateral partners to multilateralise all future concessions, not just those in services and

investment. And while Australia need not fear major retaliation from third parties if it were to sign AUSFTA, this is only because Australia has failed to achieve as much as some of our other trading partners have in their bilateral negotiations with the United States. In particular, Australia has achieved less than others in the difficult area of agriculture.

In some ways, the US stance is understandable. It is reserving its major sugar concessions, if any, to less developed countries in its more immediate geopolitical neighbourhood. If Australia is to make better headway on agriculture, it will be in a multilateral forum. As noted earlier, the joint US/EU proposal tabled in Cancun did not make explicit promises about tariff-rate quotas such as those affecting sugar, although it implied that they would be increased in cases where countries made use of the flexibilities under the tariff reduction formula to maintain particularly high tariffs or to implement minimum reductions for import sensitive products (Matthews 2004). This would not be of benefit to Australia, and would tend to target the concessions on tariff rate quotas to developing countries. But the US/EU proposal did offer an end date for export subsidies and a 'significant reduction' in domestic support payments. These measures matter more to Australia than quotas, since they encourage inefficient production and exports and depress the prices that Australia gets for all its current agricultural exports. And all the modelling of agricultural liberalisation shows that the bulk of Australia's gains come from the terms of trade improvements that follow the elimination of export subsidies and domestic support.

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Table 1 **Assessment of the AUSFTA text**

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consuln?</i>
2	National Treatment and Market Access for Goods (including PBS)			
2.2	National Treatment		Yes	
2.3	Elimination of duties			
2.4	Customs valuation		Yes	
2.5	Temporary admission	Yes		
2.6	Goods re-entering after repair or alteration	Yes		
2.7	Commercial samples of negligible value or printed advertising material	Yes		
2.8	Waiver of customs duties - no new waivers to be granted that are subject to specified performance criteria		?	
2.9	Import and export restrictions - will be WTO consistent		Yes	
2.10	Administrative fees and formalities - will be WTO consistent		Yes	
2.11	Export taxes - only when also on domestic consumption ie essentially banned		Yes	
2.12	Merchandise processing fee - banned (confirms 2.10)		Yes	
2.13	Committee on Trade in Goods (for chapters 2, 5, 6)			Yes
Annex 2A	Exemptions from 2.2 and 2.9 for: Australia - exports of logs and woodchips, imports of second hand vehicles, and marketing arrangements for wheat, barley, rice, sugar, and export arrangements for horticulture and livestock, actions authorised by WTO Dispute Settlement Body US - exports of logs, imports of foreign vessels and other measures under the Jones Act, actions authorised by WTO Dispute Settlement Body			
Annex 2B	Schedule of reductions (including agriculture)			
Annex 2C and side letters	Pharmaceuticals - additions to PBS (plus review mechanism), Medicines Working Group, cooperation between TGA and FDA.			Yes
Side letters on Bourbon & Tennessee whisky	Essentially, recognition of these as a geographical indication		Yes	
3	Agriculture			
3.1	Multilateral cooperation	Yes		
3.2	Committee on Agriculture			Yes
3.3	Export subsidies - banned bilaterally	Yes (but US uses them elsewhere)		
3.4	Safeguards: US - horticulture price-based safeguard, quantity-based beef safeguard, price-based beef safeguard			
3.5	Tariff rate quota administration - consultation on trade diversion			Yes
3.6	Review of dairy market access commitments			Yes
Annex 3A	Agricultural safeguard measures - details			
Side letter on BSE	Cooperation in international standards setting bodies	Yes		

Continued

Table 1 Continued

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consultn?</i>
4	Textiles and Apparel			
4.1	Safeguard mechanism - return of tariff to MFN level (generally mirrors WTO form)			
4.2	Specific ROOs for textiles and apparel - generally 'yarn forward', except that cotton and man-made fibres must follow 'triple transformation'. De minimis is 7% by weight, with some exceptions.			
4.3	Customs cooperation - very prescriptive			Yes
Annex 4A	Textile-specific rules of origin			
5	Rules of origin			
5.1	Originating goods - definition			
5.2	De minimis limits - 10 per cent by value, with some exceptions			
5.3	Accumulation - allowed			
5.4	Regional value content - normally RVC of 35% (build up method) or 45% (build down method) is in addition to change of tariff classification, some footwear is 55% (build down method), autos are 50% (net cost method)			Yes - incorporating new ROO form
5.5	Valuation of materials - should generally be WTO consistent			
5.6	Essential tools and spare parts - do not have to pass the ROO			
5.7	Fungible goods and materials - tracked, or managed using inventory management			
5.8	Packing materials and containers for resale - disregarded for change of classification, but counted for RVC.			
5.9	Packing materials and containers for shipment - disregarded			
5.10	Indirect material - counted as originating			
5.11	Third country transport - no production allowed			
5.12	Claims for preferential treatment - onus rests with importer (different from CER and Aust-Singapore)			
5.13	Obligations relating to importations similar to 4.3, but less prescriptive			Yes
5.14	Record keeping requirement - importers to keep for up to 5 years			
5.15	Verification - specifies methods for verifying origination - prescriptive			
5.16	Consultation and modifications			Yes
5.17	Application and interpretation - Harmonised System goods classification, plus accounting rules of the Party			
5.18	Definitions			
Annex 5A	General notes and product-specific rules of origin			
6	Customs administration			
6.1	Publication and notification - publication and an enquiry point	Yes		
6.2	Administration - uniform, impartial, reasonable	Yes		
6.3	Advance rulings - shall be provided	Yes		
6.4	Review and (judicial) appeal - shall be provided	Yes		
6.5	Cooperation - advance notice, plus cooperation on suspicion of breach - very prescriptive	Yes		Yes
6.6	Confidentiality - shall be provided according to chapter 22	Yes		
6.7	Penalties - both civil and criminal	Yes		
6.8	Release of goods - prompt (48 hours norm), without undue security	Yes		
6.9	Risk assessment - shall be used	Yes		
6.10	Express shipments - shall be expedited procedures (6 hours)	Essentially yes		
6.11	Definitions			

Continued

Table 1 Continued

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consultn?</i>
7	Sanitary and phytosanitary measures			
7.1	Objectives		Same	
7.2	Scope and coverage - all SPS measures covered		Same	
7.3	General provisions - existing rights and obligations maintained, no dispute settlement		Yes	
7.4	Committee on SPS matters - review, consult			Yes
7.5	Definitions			
Annex 7A	Standing Working Group on animal and plant health - can consider specific measures, will establish work plans to conduct technical and scientific exchanges on topics that balance the needs of both parties, including on risk assessments			Yes
8	Standards and technical regulations			
8.1	Scope and coverage - applies to central government measures only (many technical barriers to trade (TBTs) in both countries administered by the States)			
8.2	Affirmation of WTO TBT agreement		Yes	
8.3	Regional governments - information to be provided to them to encourage their adherence (cf WTO language which says take reasonable measures to ensure compliance)		WTO stronger	
8.4	International standards - these to be used, to the maximum extent possible (cf WTO, which says try to persuade non-govt bodies to do this)		WTO stronger	
8.5	Technical regulations - give positive consideration to mutual recognition, give reasons for not accepting (WTO just says inform and discuss if it has a significant effect on trade with partner), plus further engagement, including through ad hoc Working Group, but no dispute settlement		Yes	Possibly
8.6	Conformity assessment procedures - exchange information on mechanisms to facilitate acceptance, including through NT in accreditation of conformity assessment bodies (WTO plus), reasons for refusal need to be given (cf WTO, only if there is a significant effect on trade), plus possible engagement through ad hoc working group		Yes	Possibly
8.7	Transparency - allow persons of other party to participate in development of standards (cf WTO, only if a significant effect on trade), puts 60 day minimum on WTO notification process		Slightly stronger than WTO	
8.8	Trade facilitation - cooperate, and when asked, encourage non-govt bodies to cooperate	Yes (APEC)		
8.9	Chapter coordinators - plus ad hoc working groups if required		Yes	Possibly
8.10	Information exchange - should be prompt, can be electronic			
8.11	Definitions			
Annex 8A	Names the chapter coordinators			
9	Safeguards			
9.1	Imposition - allowed during transition period, tariff to return to MFN rate (last seasonal rate for horticulture and other seasonal goods)			
9.2	Conditions and limitations - according to Articles 3, 4.2(a) and 4.2(c) of WTO agreement. Note that 4.2(b) not incorporated - doesn't require causal link between surge in imports and injury. Time periods same as in WTO agreement (up to 4 years).		Less stringent than WTO	
9.3	Provisional safeguard measures - essentially same as in WTO. Only for 200 days.		Same	
9.4	Compensation - same as in WTO.		Same	
9.5	Global safeguard measures - each Party to consider excluding the other from global action if the other is not a substantial cause of injury.			
9.6	Definitions			

Continued

Table 1 Continued

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consultn?</i>
10	Cross-border trade in services			
10.1	Scope and coverage - covers GATS modes 1, 2 and 4 and all levels of government (though see exemptions). Excludes financial services, govt procurement, air services, subsidies or grants, govt services. Market access (10.4), domestic regulation (10.7) and transparency (10.8) also apply to mode 3. Does not apply to persons seeking employment.		Same coverage	
10.2	National treatment - negative list (cf WTO positive list)		Slightly WTO plus (see table 2 and 3)	
10.3	Most favoured nation - negative list (same as WTO)		Yes	
10.4	Market access - makes same prohibitions as WTO, but on negative list basis. Though see exclusions. Note that limits on foreign equity participation not mentioned, but these presumably covered by NT commitment in chapter 11.		Slightly WTO plus (see table 2 and 3)	
10.5	Local presence - cannot require representative office for cross-border trade	???	WTO plus	
10.6	Nonconforming measures	Mostly		
10.7	Domestic regulation - same criteria to apply as in WTO		Yes	
10.8	Transparency - a bit stronger than in GATS, in that parties must let interested persons (and the other Party) comment, not just respond to requests for specific information. It is in common with language in WTO agreement on accountancy		Yes	Yes
10.9	Recognition - same as GATS		Yes	
10.10	Transfers and payments - same as in GATS. Also applies to financial services (13.1)		Yes	
10.11	Denial of benefits - similar to GATS, but with provision to prevent trade deflection. Also applies to financial services (13.1)			
10.12	Express delivery services - confirmation of WTO commitment on monopolies regarding postal services, provision for consultation if express delivery becomes less open			Possibly
10.13	Implementation - meet annually on issues of mutual interest.			Yes
10.14	Definitions			
Annex 10A	Professional services - professional services working group to facilitate development of standards for licensing and certification and provide recommendations on MR. Can examine equivalence across a broader range of matters than in the WTO accountancy paper, ie also includes conduct and ethics. Objectives given in 10.9.4 - same as GATS.		More proactive	Yes
11	Investment			
11.1	Scope and coverage - GATS mode 3.			
11.2	Relation to other chapters - other chapters take precedence (eg for financial services)			
11.3	National treatment - negative list (cf WTO positive list)		WTO plus (expansion of FIRB limits)	
11.4	Most favoured nation - negative list (same as WTO)		Yes	
11.5	Minimum standard of treatment - defined by customary international law, with Annex 11A clarifying that this means the general and consistent practice of States, plus fair treatment of aliens.	Yes		
11.6	Treatment in case of strife - NT and MFN to apply regardless of exemptions specified in annexes.			
11.7	Expropriation and compensation - only in limited circumstances, and only if compensated. Also applies to financial services (13.1)	Yes (annex 11B)		

Continued

Table 1 Continued

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consultn?</i>
11.8	Transfers - more prescriptive than GATS, in that it specifies what kind of payments need to be allowed. Also applies to financial services (13.1)		Similar	
11.9	Performance requirements - similar to TRIMS agreement. It prohibits some specific types of performance requirements not mentioned in TRIMS, but TRIMS list is illustrative, not exhaustive. Note that this provision is not preferential in AUSFTA.		Yes. Exemption for existing IT outsourcing	
11.10	Senior management and board of directors - can't specify particular nationalities for individuals, but can for a majority of directors.	???		
11.11	Investment and environment - provisions do not prevent environmental measures. Also applies to financial services (13.1)			
11.12	Denial of benefits - similar to GATS, but with provision to prevent investment deflection. Also applies to financial services (13.1)			
11.13	Non-conforming measures	Mostly status quo		
11.14	Special formalities and information requirements - can place these on investors, so long as they do not materially impair the provisions of this chapter, and meet privacy requirements. Also applies to financial services (13.1)			
11.15	Implementation - meet annually on issues of mutual interest			Yes
11.16	Consultations on investor-State dispute settlement - can set these up if there is a change in circumstances. No investor-state dispute mechanism established to date.	Yes		Possibly
11.17	Definitions			
Annex 11A	Customary international law - clarifies meaning			
Annex 11B	Expropriation - clarifies when this occurs.			
12	Telecommunications			
12.1	Scope and coverage - telecommunications, but not broadcast or cable distribution			
12.2	Access and use - affirms WTO commitments to allow access to and use of public telecommunications networks		Yes	
12.3	Interconnection - to be provided to telecommunications suppliers of the other party - similar to GATS		Yes	
12.4	Number portability - only for fixed telecommunications services, and not necessarily to US local rural exchange carriers	Yes		
12.5	Dialling parity	Yes		
12.6	Submarine cable systems - access required	Yes		
12.7	Treatment by major suppliers - note that 12.7 to 12.14 apply to major suppliers of fixed line services, not to US rural telephone companies and not necessarily to US rural local exchange carriers. Major suppliers must provide NT regarding availability of services or interfaces for interconnections	Yes	Telecom reference paper	
12.8	Competitive safeguards - to prevent major suppliers from being anti-competitive		Reference paper	
12.9	Resale - should be offered	Yes		
12.10	Unbundling of network elements		Reference paper	
12.11	Interconnection - at any technically feasible point (a bit stronger than the Telecom reference paper). Also provisions to make publicly available a reference interconnection offer, and ensure that procedures for interconnection negotiations with major suppliers are publicly available.		Reference paper	
12.12	Provisioning and pricing of leased circuits services - should be made available by major suppliers	Yes		
12.13	Co-location - should be available	Yes		
12.14	Access to poles, ducts, conduits and rights of way - should be offered	Yes		

Continued

Table 1 Continued

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consultn?</i>
12.15	Flexibility in choice of technology - should be allowed	Yes		
12.16	Conditions of provision of value-added services - shall be exempt from the interconnection and other obligations applied to basic telecommunications services, other than obligations under general competition law	Yes		
12.17	Independent regulatory bodies and divestment - divestment required to remain impartial		Reference paper	
12.18	Universal service		Reference paper	
12.19	Regulatory procedures - shall be transparent		Reference paper	
12.20	Allocation and use of scarce resources - shall be transparent		Reference paper	
12.21	Enforcement - shall maintain current methods	Yes		
12.22	Resolution of domestic telecommunications disputes and appeal processes - shall maintain current methods	Yes		
12.23	Forbearance - shall forbear from unnecessary regulation, where necessity is to be judged by the domestic regulatory body	Yes		
12.24	Relationship with other chapters - this chapter takes precedence			
12.25	Definitions			
Sideletter on consultation	Annual			Yes
13	Financial services			
13.1	Scope of coverage - applies to all modes of delivery. Does not cover public super funds or social security.			
13.2	National treatment - negative list, but not for cross-border trade (cf WTO positive list)		Very slightly WTO plus	
13.3	Most favoured nation treatment - negative list (same as WTO)		Yes	
13.4	Market access for financial institutions - makes same prohibitions as WTO, except for limits on participation of foreign capital, but on negative list basis.		Essentially no action	
13.5	Cross-border trade - national treatment for services specified in Annex 13A. Each Party may allow consumers to buy any cross-border service, but does not require either Party to allow suppliers to do business or to solicit. Either Party may require registration of cross-border suppliers, and other prudential regulation.		Very slightly WTO plus	
13.6	New financial services - if allowed at home, then must be allowed to supply cross-border.		WTO plus	
13.7	Treatment of certain information - confidentiality clause	Yes		
13.8	Senior management and board of directors - may not require more than a minority of a board to be nationals (tougher than for investment generally). US has waiver of this provision.	????		
13.9	Non-conforming measures	Mostly status quo		
13.10	Exceptions - prudential carve-out		Same as WTO	
13.11	Regulatory transparency - requires publication, plus opportunity for comment		WTO plus	Yes
13.12	Self-regulatory organisations - also bound by NT and MFN		WTO plus (Understanding just says NT)	

Continued

Table 1 Continued

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consultn?</i>
13.13	Payment and clearing systems - NT in access to clearing systems		Already granted (Understanding)	
13.14	Expedited availability of insurance services	Yes		
13.15	Recognition - provisions for mutual recognition of prudential regulation		Yes	
13.16	Financial Services Committee - meet annually			Yes
13.17	Consultations - can request these			Yes
13.18	Dispute settlement - general provisions to apply, but panelists must have financial expertise.			
13.19	Definitions			
Annex 13A	Services for which NT in cross-border trade is to apply			
Annex 13B	Specific commitments - essentially expands the scope of cross-border trade			
Annex 13C	Specifies membership of Financial Services Committee			
14	Competition related matters			
14.1	Objectives - commitment to competition policy			
14.2	Competition law and anti-competitive business conduct - GATS requires consultation, this requires the establishment of domestic measures and authority. It also requires NT in enforcement of national law. Commits parties to additional cooperation in enforcement, establishes working group on this.	Yes	WTO plus - applies outside of services	Yes
14.3	Designated monopolies - provisions only apply to new private monopolies, existing government monopolies (narrower than GATS, which applies to all monopolies supplying a service). Commitments to abide by non-discrimination and not to abuse monopoly position in related markets (same as GATS). Also requirement to act in a purely commercial manner. Obligations do not affect Australia's single desk marketing arrangements.	Yes	Roughly consistent - covers non-services, but exempts existing private monopolies	
14.4	State enterprises and related matters - Australia committed to competitive neutrality. US also committed to status quo (its State enterprises often immune from antitrust law).	Yes		
14.5	Differences in pricing - clarifies that price discrimination on commercial grounds is not a violation of this agreement.	Yes		
14.6	Cross-border consumer protection - cooperation in enforcement of their domestic laws, and identifying and fixing impediments to cooperation.			Yes
14.7	Recognition and enforcement of monetary judgements - other Party should not disqualify judgements in relation to fraud as penal or revenue in nature or based on other foreign public law. Not binding on the courts. Shall also work for greater recognition of foreign court judgements.	Status quo plus		Yes
14.8	Transparency - make information available to other Party on request concerning matters in this chapter			Yes
14.9	Cooperation - cooperate to promote policies that are pro-competitive			
14.10	Consultations - can request these			Yes?
14.11	No dispute settlement on business conduct, competitive neutrality, consumer protection, recognition and enforcement of monetary judgements, cooperation, consultation			
14.12	Definitions			

Continued

Table 1 Continued

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consultn?</i>
15	Government procurement			
15.1	Scope and coverage - defence procurement not covered, nor is R&D, foreign aid, between governments, offshore procurement. Also subject to exclusions in annexes. Note that Australia has exempted motor vehicles and US has exempted some basic telecommunications services.			
15.2	General principles - NT in procurement, a presumption in favour of open tendering, same ROOs as elsewhere in this agreement, no offsets (subject to exclusions)	No offsets will require modification to Australian policies and procedures, also more open tendering		
15.3	Publication of procurement information - laws, policies, guidelines, and judicial decisions	Yes		
15.4	Publication of notice of intended procurement			
15.5	Time limits - 30 days for tendering process, 25 days if posted on internet, 10 days in some circumstances (eg commercial goods or services).			
15.6	Information on intended procurement - full publication of criteria, technical specifications etc. Very prescriptive.			
15.7	Tendering procedures - limitations on use of multi-lists and selective tendering			
15.8	Limited tendering - only in specific circumstances			
15.9	Treatment of tenders and awarding of contracts - proper processes, can be lowest price or best value, publication of award information (including description and contract value), keep records for 3 years			
15.10	Ensuring integrity of procurement practices - penalties for bribery	Yes		
15.11	Domestic review of supplier challenges - establishes minimum procedures, challenges can occur where procuring entity does not follow procedures put in place by government (cannot challenge the procedures themselves)			
15.12	Exceptions - chapter does not prevent TRIPS, SPS measures etc			
15.13	Modifications and rectifications to coverage - changes can be made, compensation required if necessary			
15.14	Cooperation - review every 2 years			Yes
15.15	Definitions			
Annexes 15A	Specifies what is covered to H			
Side letters	Blood plasma - procurement of fractionation services excluded			
16	Ecommerce			
16.1	General - recognise importance of avoiding barriers to use			
16.2	Electronic supply of services - covered by GATS, not GATT (critical for cross-border trade in banking)		Consistent with the EU view	
16.3	Customs duties - not be applied to digital products. Definition of digital products covers content but not the medium of digitised material, not just electronic transmission (hence broader than Doha).	Yes, but precedent set for future WTO discussions		
16.4	Non-discriminatory treatment of digital products - NT and MFN to digital products, except where listed elsewhere in 10.6, 11.13 and 13.9 as non-conforming measures. IP chapter takes precedence. Excludes subsidies and grants. Also excludes reservations on audio visual and broadcasting.	Yes		

Continued

Table 1 Continued

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consultn?</i>
16.5	Authentication and digital certificates - need to maintain a domestic regime. Will negotiate an agreement for MR of digital certificates by central governments			Yes
16.6	Online consumer protection - there should be some.	Yes		
16.7	Paperless trading - will endeavour to accept documents submitted electronically	Yes		
16.8	Definitions			
17	Intellectual property rights			
17.1	General provisions - affirms existing international agreements, need to ratify or accede to WIPO Copyright Treaty 1996 and WIPO Performances and Phonograms Treaty 1996 (the 'internet' treaties) by entry into force of this agreement. Best efforts to comply with Hague Agreement on Industrial Designs 1999 and Patent Law Treaty 2000. Requires NT (same as TRIPS). Applies to existing protected material only (no retrospection). Transparency.	Some debate about whether our current legislation already complies with the WIPO treaties.		
17.2	Some minor legislative changes in relation to cancellation procedures and grounds for refusing an application for a geographical indication to codify current practice	Mostly	TRIPS	
17.3	Domain names on the internet - provide procedures for disputes, and maintain database of registrants	Yes		
17.4	Copyright - need to extend coverage by another 20 years. Also need to introduce criminal procedures against those who circumvent effective technological measures against misuse. Other measures are primarily the status quo or the same as in TRIPS.			
17.5	Obligations pertaining specifically to copyright works - authors can authorise or prohibit use.	Yes		
17.6	Obligations pertaining specifically to performers and producers of phonograms - those of other Party can authorise or prohibit use.	Stronger than currently		
17.7	Protection of encrypted program-carrying satellite signals - need to introduce criminal procedures against those who decode these signals.			
17.8	Designs - need to maintain system, and work to reduce differences in laws and practice and participate in international forums.	Yes		
17.9	Patents - provisions generally reflect TRIPS or current practice.		Scope to delay introduction of generic drugs?	
17.10	Measured related to certain regulated products - protection of test data for new pharmaceutical products (reflects current practice). Protection of test data for new agricultural products will require changes (but these changes already being considered). Need legislative changes to prevent a person from entering the market with a generic product before a patent has expired, and notification of intention to market a generic product of the patent is viewed as invalid.			
18	Labour			
18.1	Statement of shared commitment - affirms membership of ILO, and right to establish own domestic labour standards and laws.	Yes		
18.2	Application and enforcement of labour laws - enforcement required, and non-enforcement subject to dispute settlement	Yes - except that trade sanctions now allowed for non-enforcement, albeit in form of a fine		

Continued

Table 1 Continued

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consultn?</i>
18.3	Procedural guarantees and public awareness - tribunals required, awareness to be promoted	Yes		
18.4	Institutional arrangements - subcommittee on Labour Affairs may be created.			Possibly
18.5	Cooperation - parties to establish a consultative mechanism for cooperation on labour matters			Possibly
18.6	Labour consultations - may be requested. Provides for general dispute settlement for non-enforcement (panelists to have labour expertise). Penalties are a fine, the proceeds of which are to be spent on labour initiatives.			Possibly
18.7	Internationally recognised labour principles and rights - defines the subject matter of labour laws to which this chapter applies (eg right of association)			
18.8	Scope - Federal in the case of the US, Federal and State in the case of Australia			
19	Environment			
19.1	Levels of protection - recognises right to establish own domestic levels	Yes		
19.2	Application and enforcement of environmental laws - enforcement required, and non-enforcement subject to dispute settlement	Yes - except that trade sanctions now allowed for non-enforcement, albeit in form of a fine		
19.3	Procedural guarantees and public awareness - tribunals required, awareness to be promoted	Yes		
19.4	Measures to enhance environmental performance - encouragement of flexible, voluntary and market-based mechanisms.	Yes		
19.5	Institutional arrangements - subcommittee on Environmental Affairs may be created.			Possibly
19.6	Cooperation - parties to negotiate a joint statement on this			Possibly
19.7	Environmental consultations - may be requested. Provides for general dispute settlement for non-enforcement (panelists to have environmental expertise). Penalties are a fine, the proceeds of which are to be spent on environmental initiatives.			Possibly
19.8	Relationship to environmental agreements - will seek to enhance mutual supportiveness of environmental and trade agreements			
19.9	Definitions - defines scope of measures to which this chapter applies. Scope is Federal in the case of the US, Federal and State in the case of Australia			
20	Transparency			
20.1	Contact points - shall be established		Yes	
20.2	Publication - laws and regulations to be published (same as GATS). Where possible, provide the other Party the opportunity to comment (GATS plus).		GATS plus	Yes
20.3	Notification and provision of information - regarding any measure which might affect operation of the agreement			Possibly
20.4	Administrative agency processes - individuals and companies have rights to natural justice and due process			Yes
20.5	Review and appeal - against bureaucratic decisions			Yes
20.6	Definitions			

Continued

Table 1 Continued

<i>Article</i>	<i>Description</i>	<i>Status quo?</i>	<i>Already granted in WTO?</i>	<i>New admin or consultn?</i>
21	Institutional arrangements and dispute settlement			
21.1	Joint Committee - to supervise implementation, may issue interpretations			Yes
21.2	Scope of application of dispute settlement - nullification and impairment only actionable under chapters 2, 3, 5, 10, 15, 17.			
21.3	Administration of dispute settlement proceedings - primarily about panelists			
21.4	Choice of forum - to be made by complaining party			
21.5	Consultations - can be requested.			
21.6	Referral of matters to Joint Committee - where consultations fail.			
21.7	Establishment of panel - involves strict timelines, and contingent list of panelists.		WTO plus	
21.8	Rules of procedure - requires openness and transparency			
21.9	Panel report - consistent with allowing two governments to resolve disputes, the panel may only make recommendations for resolution if asked by the two governments.			
21.10	Implementation of final report - normally shall take place. Breach of agreement shall normally be corrected.			
21.11	Non-implementation - specifies follow-up procedures and time lines. Breach can be corrected by compensating trade measure, or by payment of a monetary assessment.			
21.12	Non-implementation of certain disputes - specifies follow-up procedures and time lines for labour and environment disputes. Allows only for payment of fine (no trade sanctions).			
21.13	Compliance review - penalties withdrawn if breach rectified.			
21.14	Five-year review - Joint Committee to review penalty clauses in 5 years or after 5 actions.			
21.15	Private rights - no right of action through domestic law for breach of agreement.			
Annex 21A	Formula for inflation adjustment			
22	General provisions and exceptions			
22.1	General exceptions - same as for GATT and GATS		Same	
22.2	Essential security - safeguarded.			
22.3	Taxation - exempt			
22.4	Disclosure of information - privacy protected			
22.5	Anti-corruption - cooperate on this issue			
23	Final provisions			
23.1	Accession - other parties can accede if both Parties agree			
23.2	Annexes - incorporated			
23.3	Amendments - can occur			
23.4	Entry into force and determination - 60 days after internal processes completed. Can be terminated by notification in writing, with effect 6 months after notification.			

Source: AUSFTA and WTO texts.

Table 1 **Market access commitments for services and investment**

<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
		There is blanket exemption of MA for Mode 4, indigenous preferences and for regional governments (all modes) (annex II exemptions). There is a blanket MFN exemption for all existing preferences under FTAs etc, and for new preferences in the areas of aviation, fisheries or maritime matters (annex II exemption)		There is blanket exemption of all market access measures (annex II). There is a blanket exemption of all existing State measures (annex I only). There is a blanket exemption for measures according rights to socially or economically disadvantaged minorities (Annex II).
1. BUSINESS SERVICES				
A Professional services				
a Legal	1,2 None, 4 Unbound, 3 Natural persons practicing foreign law may only join local law firm	Natural persons practicing foreign law not required to join local law firm	<i>For practice as or through a qualified lawyer:</i> For all modes, services must be provided by natural person. For 1,2,4 an in-state office required in some States. For 3, Partnerships limited to licensed lawyers. For 3,4, US citizenship required to practice before US Patent and Trademark Office. <i>For consultancy services:</i> commitments are State-specific. Some are 1,2,3, None, 4 Unbound. A few are 1,2 None, 3 In-State office required, 4 Unbound. Most are 1,2 None, 3,4 unbound.	MA exemption (annex II) and State exemption (annex I). US citizenship required to practice before US Patent and Trademark Office (annex I exemption)
b Accounting	1,2 None, 4 unbound, 3 Only natural persons can be auditors or liquidators	Auditors or liquidators not required to be natural persons.	1,2 None. For 3, Sole proprietorships or partnerships mostly limited to licensed accountants. For 4, unbound. Instate offices required in some States. US citizenship required in one State.	MA exemption (annex II) and State exemption (annex I)
c Taxation	1,2,3, None, 4 Unbound		1,2,3, None, 4 Unbound	
d Architectural	1,2,3, None, 4 Unbound		1,2, None, 3 requirement for in-State I) licensing in Michigan, 4 unbound.	State exemption (annex I)
e Engineering	1,2,3, None, 4 Unbound		1,2,3, None, 4 Unbound. US citizenship required in DC.	State exemption (annex I)

Continued

Table 2 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
f Integrated engineering	1,2,3, None, 4 Unbound			1,2,3, None, 4 Unbound. State exemption (annex I) in DC.	
g Urban planning and landscape architecture	1,2,3, None, 4 Unbound, all for urban planning only	MA for modes 1,2 and 3 for landscape architecture		1,2, None, 3 requirement for in-State licensing in Michigan, 4 unbound.	State exemption (annex I)
h Medical and dental	1,2,3, None, 4 Unbound, all for dental only		MA for modes 1,2 and 3 for medical (if not government provided). Annex II exemption for MA and NT for health and child care maintained for public purpose.	Not listed	Annex II exemption for MA and NT for health and child care maintained for public purpose.
i Veterinary	1,2,3, None, 4 Unbound			Not listed	MA exemption (annex II)
j Paramedical	Not listed		MA for modes 1,2 and 3 for paramedical (if not government provided). Annex II exemption for MA and NT for health and child care maintained for public purpose.	Not listed	Annex II exemption for MA and NT for health and child care maintained for public purpose.
k Other	Not listed		MA for modes 1,2 and 3 for other. Citizenship/residency requirement for migration agents stay (annex I exemption). Customers brokers must be in and from Australia (annex I exemption). Annex II exemption for MA and NT for health and child care maintained for public purpose.	Not listed	Annex II exemption for MA and NT for health and child care maintained for public purpose.
B. Computer related services					
a Consultancy - hardware	1,2,3, None, 4 Unbound			1,2,3, None, 4 Unbound. Airline reservation systems not included.	
b Consultancy - software	1,2,3, None, 4 Unbound			1,2,3, None, 4 Unbound. Airline reservation systems not included.	
c Data processing	1,2,3, None, 4 Unbound			1,2,3, None, 4 Unbound. Airline reservation systems not included.	
d Database services	Not listed		MA for modes 1,2 and 3 for database services	1,2,3, None, 4 Unbound. Airline reservation systems not included.	

Continued

Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
C Research and development services					
a In natural sciences	Not listed		MA for modes 1,2 and 3 for R&D in natural sciences	Not listed	MA exemption (annex II)
b In social sciences and humanities	1,2,3, None, 4 Unbound.			Not listed	MA exemption (annex II)
c Interdisciplinary	Not listed		MA for modes 1,2 and 3 for interdisciplinary R&D	Not listed	MA exemption (annex II)
D Real estate services					
a Involving own or leased property	CP required, 4 unbound	CP no longer required		1,2,3, None, 4 Unbound. State exemption (annex I) in 2 States.	US citizenship required
b On fee or contract basis	CP required, 4 unbound	CP no longer required		1,2,3, None, 4 Unbound. State exemption (annex I) in 2 States.	US citizenship required
E Rental/leasing services					
a Ships	1,2,3, None, 4 Unbound.			Not listed	MA exemption (annex II)
b Aircraft	1,2,3, None, 4 Unbound.			Not listed	MA exemption (annex II)
c Other transport equip	1,2,3, None, 4 Unbound.			1,2,3, None, 4 Unbound	
d Other mach and equip	1,2,3, None, 4 Unbound.			1,2,3, None, 4 Unbound	
e Other	Not listed		MA for modes 1,2 and 3 for other	1,2,3, None, 4 Unbound	
F Other business services					
a Advertising	1,2,3, None, 4 Unbound. Does not include production or broadcast of ads for radio, TV or cinema	Local content requirements for advertising on free-to-air and digital TV remain (annex I exemption). Also for multichannelled free-to-air commercial TV (annex II exemption)		1,2,3, None, 4 Unbound. Not for aerial advertising	
b Market research	1,2,3, None, 4 Unbound.			1,2,3, None, 4 Unbound	
c Management consulting	1,2,3, None, 4 Unbound.			1,2,3, None, 4 Unbound	
d Services related to man. consulting	1,2,3, None, 4 Unbound. Arbitration and conciliation services excluded	MA for modes 1,2 and 3 for arbitration and conciliation services		1,2,3, None, 4 Unbound	
e Technical testing and analysis serv	Not listed		MA for modes 1,2 and 3 for technical testing and analysis serv - subject to exemption of Commonwealth Serum Laboratories	Not listed	MA exemption (annex II)
f Services incidental to agriculture, hunting and forestry	1,2,3, None, 4 Unbound. NB Some exclusions.			1,2,3, None, 4 Unbound. Not for ag machinery and harvesting services, labour contractors or aerial fire fighting.	MA exemption (annex II) for ag machinery and harvesting services, labour contractors or aerial fire fighting.

Continued

Table 4 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
g Services incidental to fishing	1,2,3, None, 4 Unbound.	Foreign fishing vessels seeking to undertake fishing in Australian fishing zone must be authorised, and may be subject to levy.	1,2,3, None, 4 Unbound		
h Services incidental to mining	1,2,3, None, 4 Unbound.			1,2,3, None, 4 Unbound	
i Services incidental to manufacturing	Not listed		MA for modes 1,2 and 3 for services incidental to manufacturing	Not listed.	MA exemption (annex II)
j Services incidental to energy distribution	1,2,3, None, 4 Unbound.			1,2,3, None, 4 Unbound	
k Placement and supply services of Personnel	1 Unbound, 2,3 none, 4 unbound		MA for mode 1 for placement and supply services of Personnel	1,2 None, 3 US citizenship required for ownership or licensure in Arkansas, 4 unbound.	State exemption (annex I)
l Investigation and security	1,2,3, None, 4 Unbound.				
m Related scientific and technical consulting services	1,2,3, None, 4 Unbound. NB some exclusions.			1,2 None, 3 PR or citizenship required in Maine and NY, 4 unbound.	State exemption (annex I)
n Maintenance and repair of equipment	Not listed		MA for modes 1,2 and 3 for maintenance and repair of equipment	1,2,3, None, 4 Unbound	
o Building-cleaning services	1 Unbound (infeasible), 2,3 none, 4 unbound			1 Unbound (infeasible), 2,3 none, 4 unbound	
p Photographic services	1,2,3, None, 4 Unbound.			1,2,3, None, 4 Unbound	
q Packaging services	Not listed		MA for modes 1,2 and 3 for packaging services	1,2,3, None, 4 Unbound	
r Printing, publishing	Not listed		Investment in existing businesses in media sector still subject to review. Existing limits on equity holdings in newspapers maintained (annex I exemption).	1,2 None, single company not permitted to own a combination of newspaper, radio or TV in same local market, 4 unbound	Is MA exemption applicable (annex II)??
s Convention services	1,2,3, None, 4 Unbound. NB some exclusions.			1,2,3, None, 4 Unbound	
t Other	1,2,3, None, 4 Unbound. NB some exclusions.			Not listed.	MA exemption (annex II)
2 COMMUNICATION SERVICES					
A Postal	Not listed		MA for modes 1,2 and 3 for postal (except delivery of standard letter, which is seen as govt service)	Not listed	MA exemption (annex II)
B Courier	Not listed		MA for modes 1,2 and 3 for courier	1,2,3, None, 4 Unbound	

Continued

Table 5 Continued

<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
C Telecommunications			Excluding one-way satellite transmission of TV and digital audio	Exemption for MA and NT for one-way satellite transmission of TV and digital audio (annex II).
a Voice telephone services	1,2 None, 4 Unbound. An entity holding a new carrier licence must be a public body or corporation. Foreign equity limits on Telstra. Limits on the share of equity in Optus that any individual foreign shareholder may hold. Majority Australian ownership of Vodaphone.	Foreign equity limits on Telstra remain. Chair and majority of directors of Telstra must be citizens and Telstra required to remain Australian based (annex I exemption).	1,2 None, 4 Unbound. Consat has exclusive rights to links with Intelsat and Inmarsat. Ownership of common carrier license limited to US citizens or US corporations with less than 20% equity held by a foreign government.	Is MA exemption applicable (annex II)??
b Packet-switched data transmission services	1,2 None, 4 Unbound. 3 same as for voice services	See above.	1,2 None, 4 Unbound. 3 same as for voice services	
c Circuit-switched data transmission services	1,2 None, 4 Unbound. 3 same as for voice services	See above.	1,2 None, 4 Unbound. 3 same as for voice services	
d Telex services	1,2 None, 4 Unbound. 3 same as for voice services	See above.	1,2 None, 4 Unbound. 3 same as for voice services	
e Telegraph services	1,2 None, 4 Unbound. 3 same as for voice services	See above.	1,2 None, 4 Unbound. 3 same as for voice services	
f Facsimile services	1,2 None, 4 Unbound. 3 same as for voice services	See above.	1,2 None, 4 Unbound. 3 same as for voice services	
g Private leased circuit services	1,2 None, 4 Unbound. 3 same as for voice services	See above.	1,2 None, 4 Unbound. 3 same as for voice services	
h Electronic mail	1,2,3, None, 4 Unbound.		1,2,3, None, 4 Unbound	
i Voice mail	1,2,3, None, 4 Unbound.		1,2,3, None, 4 Unbound	
j On-line information and data base retrieval	1,2,3, None, 4 Unbound.		1,2,3, None, 4 Unbound	
k electronic data interchange (EDI)	1,2,3, None, 4 Unbound.		1,2,3, None, 4 Unbound	
l Enhanced/value-added facsimile services, incl. store and forward, store and retrieve	1,2,3, None, 4 Unbound.		1,2,3, None, 4 Unbound	
m Code and protocol conversion	1,2,3, None, 4 Unbound.		1,2,3, None, 4 Unbound	
n On-line information and/or data processing (incl.transaction processing)	Not listed	MA for modes 1,2 and 3 for data processing	1,2,3, None, 4 Unbound	
o Other (includes mobile, paging)	1,2 None, 4 Unbound. 3 same as for voice services	See above.	1,2 None, 4 Unbound. 3 same as for voice services	

Continued

Table 6 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
D Audiovisual services					
a Motion picture and video tape production and distribution services	Not listed		MA for modes 1,2 and 3 for motion picture production and distribution services. Australia reserves right to maintain preferential co-production arrangements for film and television production (annex II exemption)	1,2,3, None, 4 Unbound	
b Motion picture projection service	Not listed		MA for modes 1,2 and 3 for motion picture projection service	1,2,3, None, 4 Unbound	
c Radio and television services	Not listed		Local content requirements for commercial analogue and digital TV remain (annex I exemption). Also for multichannelled free-to-air commercial TV broadcasts, subscription TV broadcasts, free-to-air radio broadcasts (annex II exemptions), plus measures to ensure Australian content not unreasonably denied on interactive audio or video, spectrum management (MA only), tax concessions (annex II exemptions). Australia reserves right to maintain preferential co-production arrangements for film and television production (annex II exemption)	1,2,3, None, 4 Unbound	
d Radio and television transmission services	Not listed		Investment in existing businesses in media sector still subject to review. Existing limits on equity holdings in TV licences maintained (annex I exemption).	1,2 None, 3 single company not permitted to own a combination of newspaper, radio or TV in same local market. Restrictions on foreign control of radio and TV licences. NB These listed as MA not NT restrictions!	US reserves right to restrict ownership of radio licences (incl foreign participation) (annex I)
e Sound recording	Not listed		MA for modes 1,2 and 3 for sound recording	1,2,3, None, 4 Unbound	
f Other	Not listed		MA for modes 1,2 and 3 for other	1,2,3, None, 4 Unbound	
E Other	Not listed		MA for modes 1,2 and 3 for other		

Continued

Table 7 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
3 CONSTRUCTION AND RELATED SERVICES					
A General construction work for buildings	1 Unbound (infeasible), 2, 3 none, 4 unbound			1 Unbound (infeasible), 2, 3 none, 4 unbound. In addition, in-State office required in Michigan.	State exemption (annex I)
B General construction work for civil engineering	1 Unbound (infeasible), 2, 3 none, 4 unbound			1 Unbound (infeasible), 2, 3 none, 4 unbound. In addition, in-State office required in Michigan.	State exemption (annex I)
C Installation and assembly work	1 Unbound (infeasible), 2, 3 none, 4 unbound			1 Unbound (infeasible), 2, 3 none, 4 unbound. In addition, in-State office required in Michigan.	State exemption (annex I)
D Building completion and finishing work	1 Unbound (infeasible), 2, 3 none, 4 unbound			1 Unbound (infeasible), 2, 3 none, 4 unbound. In addition, in-State office required in Michigan.	State exemption (annex I)
E Other	Not listed		MA for modes 1, 2 and 3 for other	1 Unbound (infeasible), 2, 3 none, 4 unbound. In addition, in-State office required in Michigan.	State exemption (annex I)
4 DISTRIBUTION SERVICES					
A Commission agent services	1, 2, 3, None, 4 Unbound.			1, 2, 3, None, 4 Unbound.	
B Wholesale trade	1, 2, 3, None, 4 Unbound.		Australian wheat board powers preserved (annex I exemption). Australia can impose any measure on wholesale or retail of tobacco, alcohol or firearms (annex II exemption).	1, 2, 3, None, 4 Unbound. MA exemption All unbound for alcoholic beverages, firearms and military equipment	State exemption may apply as well.
C Retail trade	1 unbound except for mail order, 2, 3, None, 4 Unbound. Does not cover pharmaceuticals		MA for cross-border trade, other than through mail order (eg e-commerce). Australia can impose any measure on wholesale or retail of tobacco, alcohol or firearms (annex II exemption).	1, 2, 3, None, 4 Unbound. MA exemption All unbound for alcoholic beverages, firearms and military equipment	State exemption may apply as well.
D Franchising	1, 2, 3, None, 4 Unbound.			1, 2, 3, None, 4 Unbound.	
E Other	Not listed		MA for modes 1, 2 and 3 for other	Not listed.	MA exemption (annex II)

Continued

Table 8 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
5 EDUCATION SERVICES					
A Primary	Not listed		Annex II exemption for MA and NT for public education and public training. Blanket exemption for primary education (annex II exemption).	Not listed	Annex II exemption for MA and NT for public education and public training. Note that general MA and State exemptions would also apply.
B Secondary	1,2,3, None, 4 Unbound.		Annex II exemption for MA and NT for public education and public training. General regional exemption would also apply.	Not listed	Annex II exemption for MA and NT for public education and public training. Note that general MA and State exemptions would also apply.
C Higher education	1,2,3, None, 4 Unbound.		Annex II exemption for MA and NT for public education and public training. General regional exemption would also apply.	Not listed	Annex II exemption for MA and NT for public education and public training. Note that general MA and State exemptions would also apply.
D Adult education	Not listed.		Annex II exemption for MA and NT for public education and public training. Liberalisation of private education. General regional exemption would also apply.	1,2, None, 4 Unbound. 3 limits on number of cosmetology schools in Kentucky	State exemption (annex I). Annex II exemption for MA and NT for public education and public training.
E Other	1,2,3, None, 4 Unbound.		Annex II exemption for MA and NT for public education and public training. General regional exemption would also apply.	1,2,3, None, 4 Unbound.	Annex II exemption for MA and NT for public education and public training.
6 ENVIRONMENTAL SERVICES					
A Sewage	1 Unbound (infeasible), 2,3 none, 4 unbound			1,2,3, None, 4 Unbound. NB Some exceptions	
B Refuse disposal	1 Unbound (infeasible), 2,3 none, 4 unbound			1,2,3, None, 4 Unbound. NB Some exceptions	
C Sanitation and similar services	1 Unbound (infeasible), 2,3 none, 4 unbound			1,2,3, None, 4 Unbound. NB Some exceptions	
D Other	Not listed		MA for modes 1,2 and 3 for other	1,2,3, None, 4 Unbound. NB Some exceptions	

Continued

Table 9 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
7 FINANCIAL SERVICES		MA (though Understanding talks about NT) for 1,4 limited to services specified in B.3 of Understanding, eg maritime insurance, provision of financial info. MA for 2 limited to services specified in B.4 of Understanding, eg maritime insurance, all financial services.	NT for 1 for services specified in B.3 of Understanding, eg maritime insurance. NT for mode 1,2 and 4 for insurance intermediation such as brokerage and agency and provision of financial info (Annex 13A).	MA for (though Understanding talks about NT) 1,4 limited to services specified in B.3 of Understanding, eg maritime insurance, provision of financial info. MA for 2 limited to services specified in B.4 of Understanding, eg maritime insurance, all financial services.	NT for 1 for services specified in B.3 of Understanding, eg maritime insurance. NT for 4 for all insurance. NT for 1,2 and 4 for provision of financial information (Annex 13A).
A Insurance and related services		For 3, approval of non-residential life insurers restricted to subsidiaries. Foreign life insurance companies need officer resident in Australia. Non-incorporated entities need Australian resident as agent. Various State monopolies, licensing, controls on premium for CTP motor vehicle insurance, workers compensation, Comcare. Horizontal restrictions on 4.	Blanket exemption of regional measures for financial services (annex III exemption). For 3, approval of non-residential life insurers no longer restricted to subsidiaries. US life insurance companies no longer need officer resident in Australia. Non-incorporated entities no longer need Australian resident as agent.		Blanket MA exemption for insurance (US financial annex I). Blanket regional exemption for insurance (US financial annex I)
a Life, accident and health insurance services	See above.	See above.		2 None, 4 Unbound. 1,3 Govt owned or controlled insurance companies cannot conduct business in certain States. 3 Branches cannot provide surety bonds for US federal gov't contracts. US federal gov't contracts. Some States cannot licence a foreign subsidiary or branch unless it already has a presence in another State. US citizenship required for some or all directors or incorporators in some States. State residency required for organising members of some kinds of insurance companies in some States. Citizenship/residency requirements for organising fraternal benefit societies in some States. Residency requirements for domestic reciprocal insurer in some States.	Blanket regional exemption for insurance (US financial annex I). Foreign branches cannot provide surety bonds for US federal gov't contracts (US financial annex I).

Continued

Table 10 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
b Non-life insurance services	See above.	See above.	See above.	As for life insurance	Blanket regional exemption for insurance (US financial annex I).
c Reinsurance and retrocession	See above.	See above.	See above.	4 unbound. 1,2 Requirements to reinsure within-State for some States. 1,3 Govt owned or controlled insurance companies cannot conduct business in certain States. 3 Some States cannot licence a foreign subsidiary or branch unless it already has a presence in another State.	Blanket regional exemption for insurance (US financial annex I).
d Services auxiliary to insurance (including broking and agency services)	See above.	See above.	See above.	2 None, 4 Unbound. 1,3 Some States cannot licence agents, brokers, adjustors and/or consultants unless they are already licensed in another State. Some States do not issue brokerage licences to non-residents, or only for certain lines of business. All States require in-State residency for surplus lines brokers and agents. Agency licences issued to non-residents for some or all lines of insurance only in some States. Licenses for consultancy, actuarial, risk assessment and claims settlement not granted to non-residents in some States. Citizenship or in-State residency required in other States.	Blanket regional exemption for insurance (US financial annex I).

Continued

Table 11 Continued

<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
B Banking and other financial services	For 1, investment of official reserves requires approval of RB. For 1,3, foreign bank located overseas can offer services to enterprises, but can't raise deposits or undertake business in Australia unless it is an authorised bank. Can raise debt funds in Australia subject to conditions. For 1,3, dealings in foreign exchange must be through dealer authorised by RB (with limits on who can become one). For 3, foreign branches cannot accept 'retail' deposits (must be subsidiary). For 1,3, there are State and Territory central financing authorities which GBEs are obliged to borrow from. For 3, Trust Bank of Tasmania may require a joint venture. For 3, ASX rules favour subsidiaries rather than branches. Applicant must be body corporate. Horizontal restrictions on 4.	For 1,3, foreign bank located overseas can offer services to enterprises, but can't raise deposits or undertake business in Australia unless it is an authorised bank. Can raise debt funds in Australia subject to conditions. (annex III exemption). For 3, foreign branches cannot accept 'retail' deposits (must be subsidiary) and representative offices cannot undertake any business (annex III exemption). Blanket exemption for regional measures in financial services (annex III). For 1, investment of official reserves by US no longer requires approval of RB. For 1,3, dealings in foreign exchange no longer must be through dealer authorised by RB (with limits on who can become one).	NT granted according to foreign bank's home State (ie there are geographical limitations on NT within the States). Also affects MA. Limits of juridical form of juridical person (partnerships and sole proprietorships generally not acceptable). New financial services institutional and juridical requirements.	NT granted according to foreign bank's home State (ie there are geographical limitations on NT within the States). Also affects MA. Limits of juridical form of juridical person (partnerships and sole proprietorships generally not acceptable). (US financial annex II). Blanket regional exemption for banking and other financial services (US financial annex II). Credit unions and thrift institutions cannot be established through branches. Banks accepting small retail deposits must be subsidiaries (branches established before 1991 are grandfathered). There may be limitations on legal entity for cross-state establishment or mergers. Home state of foreign bank will determine NT for purposes of interstate expansion. There may be restrictions on legal entity for foreign banks in some states.
a Acceptance of deposits	See above.	See above.	See above.	
b Lending of all types	See above.	See above.	See above.	
c Financial leasing	See above.	See above.	See above.	
d All payment and money transmission services	See above.	See above.	See above.	
e Guarantees and commitments	See above.	See above.	See above.	
f Trading money market instruments, foreign exchange, derivatives, exchange rate and interest rate instruments, transferable securities, other negotiable instruments and financial assets, incl. bullion	See above.	See above.	4 unbound. 1,2,3 No options and/or futures contracts on onions. Unbound for authority to act as sole trustee of an indenture for a bond offering in the US, unbound for use of simplified registration and reporting for securities issued by small business corporations.	Foreign firms may not use simplified registration and reporting for securities issued by small business corporations (annex I exemption). Authority to act as sole trustee of an indenture for a bond offering in the US subject to a reciprocity test (US financial annex II). 1,2,3 MA exemption (Annex II).

Continued

Table 12 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
g Participation in issues of all kinds of securities, incl. under-writing and placement as agent	See above.	See above.	See above.	1,2 None, 4 unbound. 3 Federal Reserve is primary dealer in US government debt.	Designation as a primary dealer in US government debt is conditioned on reciprocity (lack of NT reservation by other country is a positive factor in a firm's request for designation). (US financial annex II).
h Money broking	See above.	See above.	See above.	See above.	
i Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services	See above.	See above.	See above.	See above.	
j Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments	See above.	See above.	See above.	See above.	
k Advisory and other auxiliary financial	See above.	See above.	See above.	See above.	
l Provision and transfer of financial information, and financial data processing and related software by providers of other financial services	See above.	See above.	See above.	See above.	
C Other	Not listed		MA for 1,2,3.	See above.	
8 HEALTH RELATED AND SOCIAL SERVICES					
A Hospital services	Not listed		Annex II exemption for MA and NT for health and child care maintained for public purpose. Citizenship and foreign equity limits on Commonwealth Serum Laboratories remain (annex I exemption).	1 unbound (infeasible), 2 none, 4 unbound. 3 May be needs-based quantitative limits. Limits on juridical form in NY, State incorporation requirements in 2 States. NB Limited to ownership and operation on a 'for fee' basis.	MA exemption (annex II) and State exemption (annex I). Annex II exemption for MA and NT for health and child care maintained for public purpose.
B Other human health services	1 Unbound, 2,3 unbound. Limited to podiatry and chiropody	None, 4	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Not listed	Annex II exemption for MA and NT for health and child care maintained for public purpose.

Continued

Table 13 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
C Social services	Not listed		Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare	Not listed	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare
D Other	Not listed		Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare	Not listed	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare
9 TOURISM AND TRAVEL RELATED SERVICES					
A Hotels and restaurants		1 Unbound (infeasible), 2,3 none, 4 unbound		1,2,3, None, 4 Unbound.	
B Travel agencies and tour operator services		1 CP required, 2,3 none, 4 unbound	No requirement for CP.	1,2 None, 4 Unbound. 3 ?? Tourism offices with diplomatic or official status not permitted to operate on commercial basis or to act as agents or principles in commercial transactions.	
C Tourist guide services		1,2,3, None, 4 Unbound.		1,2 None, 4 Unbound. 3 MA exemption (Annex Number of concessions II). available for commercial operation in govt facilities is limited.	
D Other	Not listed		MA for 1,2,3.	1,2,3, None, 4 Unbound.	
10 RECREATIONAL CULTURAL AND SPORTING SERVICES					
A Entertainment services	Not listed		MA for 1,2,3.	1,2,3, None, 4 Unbound.	
B News agency services		1,2,3, None, 4 Unbound.		1,2,3, None, 4 Unbound.	
C Libraries, archives, museums and other cultural services	Not listed		MA for 1,2,3.	1,2,3, None, 4 Unbound.	
D Sporting and other recreational services		1,2,3, None, 4 Unbound. NB Some exclusions		1,2 None, 4 Unbound. 3 MA exemption (Annex Number of concessions II). available for commercial operation in govt facilities is limited. NB Sporting not included	
E Other	Not listed		MA for 1,2,3.		

Continued

Table 14 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
11 TRANSPORT SERVICES					
A Maritime					
		Cabotage and offshore transport excluded from a,b,c	Blanket exemption for cabotage and offshore transport services (annex II exemption)		Blanket exemption of maritime services (annex II).
a Passenger transportation		For 1, liner services need agent who is Australian resident. 2 none. 3 Nationality and establishment requirements for Australian flagged vessels. 4 unbound.	Existing limits on foreign ownership of shippers remain (annex I exemption). Liner services still need agent who is Australian resident (annex I exemption). Blanket exemption from NT for registration of Australian vessels (annex II exemption).	Not listed.	Blanket exemption of maritime services (annex II).
b Freight transportation	See above		Existing limits on foreign ownership of shippers remain (annex I exemption). Blanket exemption from NT for registration of Australian vessels (annex II exemption).	Not listed.	Blanket exemption of maritime services (annex II).
c Rental of vessels with crew	1,2,3, None, 4 Unbound.			Not listed.	Blanket exemption of maritime services (annex II).
d Maintenance and repair of vessels	Not listed		MA for 1,2,3.	Not listed.	Blanket exemption of maritime services (annex II).
e Pushing and towing services	Not listed		MA for 1,2,3.	Not listed.	Blanket exemption of maritime services (annex II).
f Supporting services for maritime transport	Not listed		MA for 1,2,3.	Not listed.	Blanket exemption of maritime services (annex II).
B Inland waterways transport					
a Passenger transportation	Not listed		See above.	Not listed.	Blanket exemption of maritime services (annex II).
b Freight transportation	Not listed		See above.	Not listed.	Blanket exemption of maritime services (annex II).
c Rental of vessels with crew	Not listed		MA for 1,2,3.	Not listed.	Blanket exemption of maritime services (annex II).
d Maintenance and repair of vessels	Not listed		MA for 1,2,3.	Not listed.	Blanket exemption of maritime services (annex II).
e Pushing and towing services	Not listed		MA for 1,2,3.	Not listed.	Blanket exemption of maritime services (annex II).
f Supporting services for inland waterways transport	Not listed		MA for 1,2,3.	Not listed.	Blanket exemption of maritime services (annex II).

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Table 15 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
C Air transport services					
a Passenger transportation	Not listed		Not covered by chapter 10.	Not listed.	Not covered by chapter 10.
b Freight transportation	Not listed		Not covered by chapter 10.	Not listed.	Not covered by chapter 10.
c Rental of aircraft with crew	Not listed		Not covered by chapter 10.	Not listed.	Not covered by chapter 10.
d Maintenance and repair of aircraft	1 Unbound (infeasible), 2,3 none, 4 unbound			1 unbound (infeasible), 2,3 none, 4 unbound.	
e Supporting services for air transport	1,2,3, None, 4 Unbound. For computer reservation systems (Strictly speaking, part of telecom value added services)		Not covered by chapter 10.	Not listed.	Not covered by chapter 10.
D Space transport	Not listed		MA for 1,2,3.	Not listed.	MA exemption (annex II)
E Rail transport services					
a Passenger transportation	Not listed		MA for 1,2,3.	1,2 none, 4 unbound, 3 foreign railroads must incorporate in Vermont or an adjacent State	State and MA exemption (annex I and II)
b Freight transportation	Not listed		MA for 1,2,3.	1,2 none, 4 unbound, 3 foreign railroads must incorporate in Vermont or an adjacent State	State and MA exemption (annex I and II)
c Pushing and towing services	Not listed		MA for 1,2,3.	Not listed.	
d Maintenance and repair of rail transport equipment	Not listed		MA for 1,2,3.	1,2,3, None, 4 Unbound.	
e Supporting services for rail transport services	Not listed		MA for 1,2,3.	Not listed.	MA exemption (annex II)
F Road transport					
a Passenger transportation	1 Unbound, 2,3 none, 4 unbound. Does not include regular urban bus services		MA for 2,3 for urban bus services.	1,2,3, None, 4 Unbound. Interurban transport only.	MA exemption (annex II)
b Freight transportation	1 Unbound, 2,3 none, 4 unbound.			1,2,3, None, 4 Unbound. Limited to international transportation.	MA exemption (annex II)
c Rental of commercial vehicles with operator	Not listed		MA for 1,2,3.	Not listed.	MA exemption (annex II)
d Maintenance and repair of road transport equipment	Not listed		MA for 1,2,3.	1 unbound (infeasible), 2,3 none, 4 unbound.	
e Supporting services for road transport services	Not listed		MA for 1,2,3.	Not listed.	MA exemption (annex II)

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Table 16 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
G Pipeline transport					
a	Transportation of fuels	1,2,3, None, 4 Unbound.		Not listed.	MA exemption (annex II)
b	Transportation of other goods	1,2,3, None, 4 Unbound.		Not listed.	MA exemption (annex II)
H Services auxiliary to all modes of transport					
a	Cargo-handling services	Not listed	MA for 1,2,3.	Not listed.	MA exemption (annex II)
b	Storage and warehouse services	1 Unbound (infeasible), 2,3 none, 4 unbound		Not listed.	MA exemption (annex II)
c	Freight transport agency services	1,2,3, None, 4 Unbound.		Not listed.	MA exemption (annex II)
d	Other	1,2,3, None, 4 Unbound.	Customers brokers must be in and from Australia (annex I exemption)	1 unbound (infeasible), 2, none, 4 unbound. 3 customs house brokers licence only issued to US citizens. Must form corporation, association or partnership.	Customs house brokers licence only issued to US citizens. Must form corporation, association or partnership (Annex I exemption)
I Other transport services					
		Not listed	MA for 1,2,3.	Not listed.	MA exemption (annex II)
12 OTHER SERVICES NEC					
		Not listed	MA for 1,2,3.	Not listed.	MA exemption (annex II)

Source: AUSFTA text and GATS commitments.

Table 3 National treatment commitments for services and investment

CPC	Australia's GATS commitments	Australia's AUSFTA commitments	US GATS commitments	US AUSFTA commitments
		There is a blanket exemption of all existing regional measures (annex I). There is blanket exemption of NT for indigenous preferences (annex II exemptions). There is a blanket MFN exemption for all existing preferences under FTAs etc, (hence ratchet mechanism) and for new preferences in the areas of aviation, fisheries or maritime matters (annex II exemption).		There is blanket exemption of all market access measures (annex II). There is a blanket exemption of all existing State measures (annex I). There is a blanket exemption for measures according rights to socially or economically disadvantaged minorities (Annex II). There is a blanket MFN exemption for all existing preferences under FTAs etc, (hence ratchet mechanism) and for new preferences in the areas of aviation, fisheries or maritime matters (annex II exemption).
1. BUSINESS SERVICES				
A Professional services				
a Legal	1,2 None, 3 at least one equity partner in firm practising foreign law must be PR (NSW, Vic) or resident for 180 days per year (Qld), 4 unbound	Restrictions stay (annex I regional exemption). Residency requirement for patent attorneys stay (annex I exemption).	<i>For practice as or through a qualified lawyer:</i> For 1,2 4, in-state required in some States. <i>For consultancy services:</i> commitments are State-specific. Most are 1,2,3,4 None. A few are 1,2 None, 3,4 In-State office required. Some have restrictions on whether the person can practice host-country law or other law.	State measures exemption (annex I)
b Accounting	1,2 None, 3 at least one equity partner must be PR	Exemption for residency requirements for auditors (persons or companies).	1,2,3, None. 4 in-State residency required in some States.	State measures exemption (annex I)
c Taxation	1,2,3, None, 4 Unbound		1,2,3,4 none.	
d Architectural	1,2,3, None, 4 Unbound		1,2,3,4 none.	
e Engineering	1,2,3, None, 4 Unbound		1,2,3 None. In-State residency required for licensure in some States	State measures exemption (annex I)
f Integrated engineering	1,2,3, None, 4 Unbound		1,2,3 None. In-State residency required for licensure in some States	State measures exemption (annex I)
g Urban planning and landscape architecture	1,2,3, None, 4 Unbound, only	NT for all modes for landscape architects.	1,2,3,4 none.	

Continued

Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
h Medical and dental	1,2,3, None, 4 Unbound for dental only		NT for all modes for medical (if not government provided). Annex II exemption for MA and NT for health and child care maintained for public purpose.	Not listed	Annex II exemption for MA and NT for health and child care maintained for public purpose.
i Veterinary	1,2,3, None, 4 Unbound			Not listed	NT for all modes
j Paramedical	Not listed		NT for all modes for medical (if not government provided). Annex II exemption for MA and NT for health and child care maintained for public purpose.	Not listed	Annex II exemption for MA and NT for health and child care maintained for public purpose.
k Other	Not listed		NT for modes 1,2 and 3 for other. Citizenship/residency requirement for migration agents stay (annex I exemption). Customers brokers must be in and from Australia (annex I exemption). Annex II exemption for MA and NT for health and child care maintained for public purpose.	Not listed	Annex II exemption for MA and NT for health and child care maintained for public purpose.
B. Computer related services					
a Consultancy - hardware	1,2,3, None, 4 Unbound			1,2,3,4 none.	
b Consultancy - software	1,2,3, None, 4 Unbound			1,2,3,4 none.	
c Data processing	1,2,3, None, 4 Unbound			1,2,3,4 none.	
d Database services	Not listed		NT for all modes for database services.	1,2,3,4 none.	
e Other	1,2,3, None, 4 Unbound			1,2,3,4 none.	
C Research and development services					
a In natural sciences	Not listed		NT for all modes for R&D in natural sciences.	Not listed	Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I). NT for all modes
b In social sciences and humanities	1,2,3, None, 4 Unbound. PR requirement for psychologists (WA)		Restrictions stay (annex I regional exemption)	Not listed	NT for all modes
c Interdisciplinary	Not listed		NT for all modes for interdisciplinary R&D.	Not listed	NT for all modes

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Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
D Real estate services					
a Involving own or leased property	1,2,3, None, 4 Unbound			1, in-State requirement in Florida, 2,3 none, Residency or citizenship requirement for licensure in Sth Dakota	State measures exemption (annex I)
b On fee or contract basis	1,2,3, None, 4 Unbound			1, in-State requirement in Florida, 2,3 none, Residency or citizenship requirement for licensure in Sth Dakota	State measures exemption (annex I)
E Rental/leasing services					
a Ships	1,2,3, None, 4 Unbound.			Not listed	NT for all modes - subject to other exemptions for maritime
b Aircraft	1,2,3, None, 4 Unbound.			Not listed	NT for all modes - subject to other exemptions for air services
c Other transport equip	1,2,3, None, 4 Unbound.			1,2,3,4 none.	
d Other mach and equip	1,2,3, None, 4 Unbound.			1,2,3,4 none.	
e Other	Not listed		NT for all modes for other.	1,2,3,4 none.	
F Other business services					
a Advertising	1,2,3, None, 4 Unbound. Does not include production or broadcast of ads for radio, TV or cinema		Local content requirements for advertising on free-to-air and digital TV remain (annex I exemption). Also for multichannelled free-to-air commercial TV (annex II exemption)	1,2,3,4 none. Not for aerial advertising and skywriting	NT for all modes for aerial advertising and skywriting
b Market research	1,2,3, None, 4 Unbound.			1,2,3,4 none.	
c Management consulting	1,2,3, None, 4 Unbound.			1,2,3,4 none.	
d Services related to man. consulting	1,2,3, None, 4 Unbound. Arbitration and conciliation services excluded		NT for all modes for arbitration and conciliation services.	1,2,3,4 none.	
e Technical testing and analysis serv	Not listed		NT for all modes for technical testing and analysis serv. - subject to exemption of Commonwealth Serum Laboratories	Not listed	NT for all modes
f Services incidental to agriculture, hunting and forestry	1,2,3, None, 4 Unbound. NB Some exclusions.			1,2,3,4 none. Not for ag machinery and harvesting services, labour contractors or aerial fire fighting.	NT for all modes ag machinery and harvesting services, labour contractors and aerial fire fighting.

Continued

Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
g Services incidental to fishing	1,2,3, None, 4 Unbound.	Foreign fishing vessels seeking to undertake fishing in Australian fishing zone must be authorised, and may be subject to levy.	1,2,3,4 none.		
h Services incidental to mining	1,2,3, None, 4 Unbound.		1,2,3,4 none.		Foreigners may not acquire interests in certain minerals on on-shore federal lands (annex I exemption)
i Services incidental to manufacturing	Not listed	NT for all modes for services incidental to manufacturing.	Not listed		NT for all modes - subject to exemptions related to use of nuclear material and restricted technologies.
j Services incidental to energy distribution	1,2,3, None, 4 Unbound.		1,2,3,4 none.		
k Placement and supply services of Personnel	1 Unbound, 2,3 none, 4 unbound	NT for mode 1 for placement and supply services of Personnel	1,2,3,4 none.		
l Investigation and security	1,2,3, None, 4 Unbound.		1,2,3 none, in-State residency required for PIs in Michigan.		State measures exemption (annex I)
m Related scientific and technical consulting services	1,2,3, None, 4 Unbound. NB some exclusions.		1,2,3,4 none.		
n Maintenance and repair of equipment	Not listed	NT for all modes for maintenance and repair of equipment.	1,2,3,4 none.		
o Building-cleaning services	1 Unbound (infeasible), 2,3 none, 4 unbound		1 Unbound (infeasible), 2,3,4 none		
p Photographic services	1,2,3, None, 4 Unbound.		1,2,3,4 none.		
q Packaging services	Not listed	NT for all modes for packaging services.	1,2,3,4 none.		
r Printing, publishing	Not listed	Investment in existing businesses in media sector still subject to review. Existing limits on equity holdings in newspapers maintained (annex I exemption).	1,2,3,4 none.		
s Convention services	1,2,3, None, 4 Unbound. NB some exclusions.		1,3,4 none, 2 unbound with respect to tax deductions.		
t Other	1,2,3, None, 4 Unbound. NB some exclusions.		Not listed		NT for all modes
2 COMMUNICATION SERVICES					
A Postal	Not listed	NT for all modes (except delivery of standard letter, which is seen as govt service).	Not listed		NT for all modes (except delivery of standard letter, which is seen as govt service)
B Courier	Not listed	NT for all modes.	1,2,3,4 none.		

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Table 3 Continued

<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
C Telecommunications			Excluding one-way satellite transmission of TV and digital audio	Exemption for MA and NT for one-way satellite transmission of TV and digital audio (annex II).
a Voice telephone services	1,2 None. 4 unbound. Chairman and directors of Optus (other than appointed by 2 current foreign investors) must be Australian Citizens	Foreign equity limits on Telstra remain. Chair and majority of directors of Telstra must be citizens and Telstra required to remain Australian based (annex I exemption).	1,2,3, None, 4 Unbound.	NT for mode 4 (infeasible)
b Packet-switched data transmission services	1,2 None, 4 Unbound. same as for voice services	3 See above.	1,2,3, None, 4 Unbound.	NT for mode 4 (infeasible)
c Circuit-switched data transmission services	1,2 None, 4 Unbound. same as for voice services	3 See above.	1,2,3, None, 4 Unbound.	NT for mode 4 (infeasible)
d Telex services	1,2 None, 4 Unbound. same as for voice services	3 See above.	1,2,3, None, 4 Unbound.	NT for mode 4 (infeasible)
e Telegraph services	1,2 None, 4 Unbound. same as for voice services	3 See above.	1,2,3, None, 4 Unbound.	NT for mode 4 (infeasible)
f Facsimile services	1,2 None, 4 Unbound. same as for voice services	3 See above.	1,2,3, None, 4 Unbound.	NT for mode 4 (infeasible)
g Private leased circuit services	1,2 None, 4 Unbound. same as for voice services	3 See above.	1,2,3, None, 4 Unbound.	NT for mode 4 (infeasible)
h Electronic mail	1,2,3, None, 4 Unbound.		1,2,3,4 none.	
i Voice mail	1,2,3, None, 4 Unbound.		1,2,3,4 none.	
j On-line information and data base retrieval	1,2,3, None, 4 Unbound.		1,2,3,4 none.	
k electronic data interchange (EDI)	1,2,3, None, 4 Unbound.		1,2,3,4 none.	
l Enhanced/value-added facsimile services, incl. store and forward, store and retrieve	1,2,3, None, 4 Unbound.		1,2,3,4 none.	
m Code and protocol conversion	1,2,3, None, 4 Unbound.		1,2,3,4 none.	
n On-line information and/or data processing (incl.transaction processing)	Not listed	NT for all modes.	1,2,3,4 none.	
o Other (includes mobile, paging)	1,2 None, 4 Unbound. same as for voice services	3 See above.	1,2,3, None, 4 Unbound.	NT for mode 4 (infeasible)

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Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
D Audiovisual services					
a Motion picture and video tape production and distribution services	Not listed		NT for all modes. Australia reserves right to maintain preferential co-production arrangements for film and television production (annex II exemption)	1,3 grants from National Endowment for the Arts are exempt from NT (Article 10.1) only to US citizens or PRs and non-profit companies, 2,4 None.	
b Motion picture projection service	Not listed		NT for all modes.	1,2,3,4 none.	
c Radio and television services	Not listed		Local content requirements for commercial analogue and digital TV remain (annex I exemption). Also for multichannelled free-to-air commercial TV broadcasts, subscription TV broadcasts, free-to-air radio broadcasts (annex II exemptions), plus measures to ensure Australian content not unreasonably denied on interactive audio or video, spectrum management (MA only), tax concessions (annex II exemptions). Australia reserves right to maintain preferential co-production arrangements for film and television production (annex II exemption)	1,2,3,4 none.	
d Radio and television transmission services	Not listed		Investment in existing businesses in media sector still subject to review. Existing limits on equity holdings in TV licences maintained (annex I exemption).	1,2,3,4 none - though see MA.	US reserves right to restrict ownership of radio licences (incl foreign participation) (annex I), exemption of NT for sharing of radio spectrum (annex II), NT exemption for imposing retaliatory restrictions on foreign ownership of cable TV systems (annex II).
e Sound recording	Not listed		NT for all modes.	1,2,3,4 none.	
f Other	Not listed		NT for all modes.	1,2,3,4 none.	
E Other	Not listed		NT for all modes.	Not listed	NT for all modes

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Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
3 CONSTRUCTION AND RELATED SERVICES					
A General construction work for buildings	1 Unbound (infeasible), 2, 3 none, 4 unbound			1 unbound (infeasible), 2, 3, 4 none.	
B General construction work for civil engineering	1 Unbound (infeasible), 2, 3 none, 4 unbound			1 unbound (infeasible), 2, 3, 4 none.	
C Installation and assembly work	1 Unbound (infeasible), 2, 3 none, 4 unbound			1 unbound (infeasible), 2, 3, 4 none.	
D Building completion and finishing work	1 Unbound (infeasible), 2, 3 none, 4 unbound			1 unbound (infeasible), 2, 3, 4 none.	
E Other	Not listed		NT for all modes	1 unbound (infeasible), 2, 3, 4 none.	
4 DISTRIBUTION SERVICES					
A Commission agent services	1, 2, 3, None, 4 Unbound.			1, 2, 3, 4 none.	
B Wholesale trade	1, 2, 3, None, 4 Unbound.		Australian wheat board powers preserved (annex I exemption). Australia can impose any measure on wholesale or retail of tobacco, alcohol or firearms (annex II exemption).	1, 2, 3, 4 none.	
C Retail trade	1, 2, 3, None, 4 Unbound.		Australia can impose any measure on wholesale or retail of tobacco, alcohol or firearms (annex II exemption).	1, 2, 3, 4 none.	
D Franchising	1, 2, 3, None, 4 Unbound.			1, 2, 3, 4 none.	
E Other	Not listed		NT for all modes	Not listed	NT for all modes
5 EDUCATION SERVICES					
A Primary	Not listed		Annex II exemption for MA and NT for public education and public training. Blanket exemption for primary education (annex II exemption).	Not listed	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.
B Secondary	1, 2, None, 3, 4 Unbound.		Annex II exemption for MA and NT for public education and public training. General regional exemption would also apply.	Not listed	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.

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Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
C Higher education	1,2 None, 3,4 Unbound.		Annex II exemption for MA and NT for public education and public training. General regional exemption would also apply.	Not listed	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.
D Adult education	Not listed.		Annex II exemption for MA and NT for public education and public training. Liberalisation of private education. General regional exemption would also apply.	1,2,3 Scholarships and grants limited to US citizens or residents, and sometimes may only be used in certain states or institutions	Annex II exemption for MA and NT for public education and public training.
E Other	1,2 None, 3,4 Unbound.		Annex II exemption for MA and NT for public education and public training. General regional exemption would also apply.	1,2,3 Scholarships and grants limited to US citizens or residents, and sometimes may only be used in certain states or institutions	Annex II exemption for MA and NT for public education and public training.
6 ENVIRONMENTAL SERVICES					
A Sewage	1 Unbound (infeasible),2,3 none, 4 unbound			1,2,3,4 none. NB Some exceptions	
B Refuse disposal	1 Unbound (infeasible),2,3 none, 4 unbound			1,2,3,4 none. NB Some exceptions	
C Sanitation and similar services	1 Unbound (infeasible),2,3 none, 4 unbound			1,2,3,4 none. NB Some exceptions	
D Other	Not listed		NT for all modes	1,2,3,4 none. NB Some exceptions	

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Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
7 FINANCIAL SERVICES		NT for access to payment systems, NT by self-regulatory bodies (in accordance with Understanding). MA (though Understanding says NT) for 1,4 limited to services specified in B.3 of Understanding, eg maritime insurance, provision of financial info. MA for 2 limited to services specified in B.4 of Understanding, eg maritime insurance, all financial services.	At least 2 directors of a public company must be resident in Australia (Corporations Act) (annex III exemption for financial services). NT for 1 for services specified in B.3 of Understanding, eg maritime insurance. NT for mode 1,2 and 4 for insurance intermediation such as brokerage and agency and provision of financial info (Annex 13A).	NT for access to payment systems, NT by self-regulatory bodies (in accordance with Understanding). MA (though Understanding says NT) for 1,4 limited to services specified in B.3 of Understanding, eg maritime insurance, provision of financial info. MA for 2 limited to services specified in B.4 of Understanding, eg maritime insurance, all financial services.	NT for 1 for services specified in B.3 of Understanding, eg maritime insurance. NT for 4 for all insurance. NT for 1,2 and 4 for provision of financial information (Annex 13A).
A Insurance and related services		Sub-national guarantees are provided to some State and Territory Insurance Offices	Blanket exemption for regional measures in financial services (annex III).	NT granted according to State of domicile.	NT granted according to State of domicile (US financial Annex 1). Blanket regional exemption for insurance (US financial annex I)
a Life, accident and health insurance services	See above.	See above.	See above.	2,3 none, 4 Unbound. 1 Taxes on premiums covering US risks that are paid to companies not incorporated under US law. Limits on foreign companies insuring vessels built under federally guaranteed mortgage funds.	Existing non-conforming tax measures are exempt (Article 22.3.4(d)). Limits on foreign companies insuring vessels built under federally guaranteed mortgage funds are exempt (US financial annex I).
b Non-life insurance services	See above.	See above.	See above.	As for life insurance	As for life insurance
c Reinsurance and retrocession	See above.	See above.	See above.	2,3 none, 4 Unbound. 1 Taxes on premiums covering US risks that are paid to companies not incorporated under US law. In Texas, no reinsurance of mutual life insurance with foreign companies.	Existing non-conforming tax measures are exempt (Article 22.3.4(d)). State measures exemption (US financial annex I).
d Services auxiliary to insurance (including broking and agency services)	See above.	See above.	See above.	2 None, 4 unbound. 1,3 Higher license fees for non-resident brokers or agents in some States.	State measures exemption (US financial annex I)

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Table 3 Continued

<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
B Banking and other financial services	For 3, Commonwealth entities guaranteed by C'wealth Govt. Some Guarantees to CBA and AIDC. For 1,3, some State entities guaranteed by State Govts. For 3, Majority of directors of Trust Bank of Tasmania must be Tasmanian. For 3, a majority of directors of stockbrokers must be Australian residents.	Commonwealth entities guaranteed by C'wealth Govt (annex IV exemption). Some Guarantees to CBA and AIDC are exempt (annex III exemption). Blanket exemption for regional measures in financial services (annex III).	NT granted according to foreign bank's home State (ie there are geographical limitations on NT within the States). Limits of juridical form of juridical person (partnerships and sole proprietorships generally not acceptable). New financial services subject to relevant institutional and juridical requirements.	NT granted according to foreign bank's home State (ie there are geographical limitations on NT within the States). Limits of juridical form of juridical person (partnerships and sole proprietorships generally not acceptable). (US financial annex II) Blanket regional exemption for banking and other financial services (US financial annex II). All directors of national bank must be US citizens (can be waived for a minority). Foreign ownership of Edge corporations limited to foreign banks or US subsidiaries. Foreign banks (excl subsidiaries) required to register as investment advisers. Foreign banks (excl subsidiaries) cannot be members of the Federal Reserve system. There may be restrictions on legal entity for foreign banks in some states. MFN reservation for broker-dealers with Canadian principal place of business. Advantages may be granted to named Government-sponsored financial enterprises.(US financial annex II).
a Acceptance of deposits	See above.	See above.	See above.	See above.
b Lending of all types	See above.	See above.	See above.	See above.
c Financial leasing	See above.	See above.	See above.	See above.
d All payment and money transmission services	NT under Understanding on Financial services(?)		NT under Understanding on Financial services(?)	
e Guarantees and commitments	See above.	See above.	See above.	See above.

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Table 3 Continued

<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
f Trading money market instruments, foreign exchange, derivatives, exchange rate and interest rate instruments, transferable securities, other negotiable instruments and financial assets, incl. bullion	See above.	See above.	1,2,3, None, 4 Unbound. NT for mode 4.	
g Participation in issues of all kinds of securities, incl. under-writing and placement as agent	See above.	See above.	1,2,3, None, 4 Unbound. NT for mode 4.	
h Money broking	See above.	See above.	See above.	See above.
i Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services	See above.	See above.	See above.	See above.
j Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments	See above.	See above.	See above.	See above.
k Advisory and other auxiliary financial	See above.	See above.	See above.	See above.
l Provision and transfer of financial information, and financial data processing and related software by providers of other financial services	See above.	See above.	See above.	See above.
C Other	Not listed	NT for all modes	Not listed	NT for all modes

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Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
8 HEALTH RELATED AND SOCIAL SERVICES					Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I).
A Hospital services	Not listed		Annex II exemption for MA and NT for health and child care maintained for public purpose. Citizenship and foreign equity limits on Commonwealth Serum Laboratories remain (annex I exemption).	1 unbound (infeasible), 3,4 none. 2 Federal or State reimbursement of medical expenses limited to licensed certified facilities in the US or in a specific State.	Annex II exemption for MA and NT for health and child care maintained for public purpose.
B Other human health services	1 Unbound, 2,3 unbound. Limited to podiatry and chiropody. PR requirements (SA and WA)	None, 4	Annex II exemption for MA and NT for health and child care maintained for public purpose. PR requirements stay (annex I regional exemption).	Not listed	Annex II exemption for MA and NT for health and child care maintained for public purpose.
C Social services	Not listed		Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare	Not listed	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare
D Other	Not listed		Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare	Not listed	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare
9 TOURISM AND TRAVEL RELATED SERVICES					
A Hotels and restaurants	1 Unbound (infeasible), 2,3 unbound			1,2,3,4 none.	
B Travel agencies and tour operator services	1,2,3, 4 Unbound.			1,2,3,4 none.	
C Tourist guide services	1,2,3, 4 Unbound.			1,2,3,4 none.	
D Other	Not listed		NT for all modes	1,2,3,4 none.	

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Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
10 RECREATIONAL CULTURAL AND SPORTING SERVICES					
A Entertainment services	Not listed		NT for all modes	1,2,3,4 none.	
B News agency services	1,2,3, None, 4 Unbound.			1,2,3,4 none.	
C Libraries, archives, museums and other cultural services	Not listed		NT for all modes	1,2,3,4 none.	
D Sporting and other recreational services	1,2,3, None, 4 Unbound.			1,2,3,4 none. Sporting services excluded.	NT for all modes for sport.
E Other	Not listed		NT for all modes		
11 TRANSPORT SERVICES					
A Maritime	Cabotage and offshore transport excluded from a,b,c		Blanket exemption for cabotage and offshore transport services (annex II exemption)		Blanket exemption of maritime services (annex II).
a Passenger transportation	For 1, only Australian flag operators can ask TPC whether conferences and others are hindering their operations, 2 none, 3 unbound for Australian flag vessels. 4 Unbound		Existing limits on foreign ownership of shippers remain (annex I exemption). Only Australian flag operators can ask ACCC whether conferences and others are hindering their operations (annex I exemption). Blanket exemption from NT for registration of Australian vessels (annex II exemption)	Not listed.	Blanket exemption of maritime services (annex II).
b Freight transportation	See above.		Existing limits on foreign ownership of shippers remain (annex I exemption). Blanket exemption from NT for registration of Australian vessels (annex II exemption)	Not listed.	Blanket exemption of maritime services (annex II).
c Rental of vessels with crew	1,2,3, None, 4 Unbound.			Not listed.	Blanket exemption of maritime services (annex II).
d Maintenance and repair of vessels	Not listed		NT for all modes	Not listed.	Blanket exemption of maritime services (annex II).
e Pushing and towing services	Not listed		NT for all modes	Not listed.	Blanket exemption of maritime services (annex II).
f Supporting services for maritime transport	Not listed		NT for all modes	Not listed.	Blanket exemption of maritime services (annex II).

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Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
B Inland waterways transport					
a Passenger transportation	Not listed		See above.	Not listed.	Blanket exemption of maritime services (annex II).
b Freight transportation	Not listed		See above.	Not listed.	Blanket exemption of maritime services (annex II).
c Rental of vessels with crew	Not listed		NT for all modes	Not listed.	Blanket exemption of maritime services (annex II).
d Maintenance and repair of vessels	Not listed		NT for all modes	Not listed.	Blanket exemption of maritime services (annex II).
e Pushing and towing services	Not listed		NT for all modes	Not listed.	Blanket exemption of maritime services (annex II).
f Supporting services for inland waterways transport	Not listed		NT for all modes	Not listed.	Blanket exemption of maritime services (annex II).
C Air transport services					
a Passenger transportation	Not listed		Existing limits on foreign ownership of Qantas, other Australian airlines (Annex I exemptions) and Federal leased airports (annex II exemption) remain.	Not listed.	Only air carriers that are 'citizens of the US' may operate domestic air services (cabotage) and provide international services as US air carriers (annex I exemption). Authorisation required for provision of specialty air services. 'Foreign civil aircraft' require authorisation from DoT to undertake these services, and in practice the air carrier has to be under the control of US citizens (annex I exemption).
b Freight transportation	Not listed		Existing limits on foreign ownership of Qantas, other Australian airlines (Annex I exemptions) and Federal leased airports (annex II exemption) remain.	Not listed.	See above
c Rental of aircraft with crew	Not listed		Existing limits on foreign ownership of Qantas, other Australian airlines (Annex I exemptions) and Federal leased airports (annex II exemption) remain.	Not listed.	See above

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Table 3 Continued

<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
d Maintenance and repair of aircraft	1 Unbound (infeasible), 2,3 none, 4 unbound		1 unbound (infeasible), 2,3,4 none.	
e Supporting services for air transport	1,2,3, None, 4 Unbound. For computer reservation systems (Strictly speaking, part of telecom value added services)	NT for all modes for other than computer reservation systems. Existing limits on foreign ownership of Qantas, other Australian airlines and Federal leased airports remain.	Not listed.	See above
D Space transport	Not listed	NT for all modes	Not listed.	NT for all modes
E Rail transport services				
a Passenger transportation	Not listed	NT for all modes	1,2,3,4 none.	
b Freight transportation	Not listed	NT for all modes	1,2,3,4 none.	
c Pushing and towing services	Not listed	NT for all modes	Not listed.	NT for all modes
d Maintenance and repair of rail transport equipment	Not listed	NT for all modes	1,2,3,4 none.	
e Supporting services for rail transport services	Not listed	NT for all modes	Not listed.	NT for all modes
F Road transport				
a Passenger transportation	1 Unbound, 2,3 none, 4 unbound. Does not include regular urban bus services	NT for 2,3 for urban bus services.	1,2,3,4 none. Interurban transport only.	NT for all modes for urban services.
b Freight transportation	1 Unbound, 2,3 none, 4 unbound.		1,2,3,4 none. Limited to international transportation.	NT for all modes for domestic transport.
c Rental of commercial vehicles with operator	Not listed	NT for all modes	Not listed	NT for all modes
d Maintenance and repair of road transport equipment	Not listed	NT for all modes	1 unbound (infeasible), 2,3,4 none.	
e Supporting services for road transport services	Not listed	NT for all modes	Not listed	NT for all modes
G Pipeline transport				
a Transportation of fuels	1,2,3, None, 4 Unbound.		Not listed.	Foreigners may not acquire rights of way for oil and gas pipelines across federal land (annex I exemption)
b Transportation of other goods	1,2,3, None, 4 Unbound.		Not listed.	NT for all modes

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Table 3 Continued

	<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
H Services auxiliary to all modes of transport					
a Cargo-handling services	Not listed		NT for all modes	Not listed.	NT for all modes
b Storage and warehouse services	1 Unbound (infeasible), 2, 3 none, 4 unbound			Not listed.	NT for all modes
c Freight transport agency services	1, 2, 3, None, 4 Unbound.			Not listed.	NT for all modes
d Other	1, 2, 3, None, 4 Unbound.	Customers brokers must be in and from Australia (annex I exemption)	1 unbound (infeasible), 2, none, 4 unbound. 3 customs house brokers licence only issued to US citizens. Must form corporation, association or partnership (this actually listed under MA).		Customs house brokers licence only issued to US citizens. Must form corporation, association or partnership (Annex I exemption)
I Other transport services	Not listed		NT for all modes	Not listed.	NT for all modes
12 OTHER SERVICES NEC	Not listed		NT for all modes	Not listed.	NT for all modes
		Investment subject to \$50 million screening limit: investment in existing businesses in telecommunications, transport, to supply Australian or other defence forces or for goods and services for military purpose, encryption and security technologies and communication systems, extraction of plutonium or operation of nuclear facilities.			Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I).
		Investment subject to \$800 million screening limit: investments in all other sectors except finance, non-residential commercial real estate, takeovers of companies with more than \$800 million in assets			There is an exemption for the non-availability to foreigners of 'certificates of review' for export conduct, which limit liability under federal and state anti-trust laws - granted only when the conduct deemed to be not anticompetitive (annex I exemption)

Continued

Table 3 Continued

<i>CPC</i>	<i>Australia's GATS commitments</i>	<i>Australia's AUSFTA commitments</i>	<i>US GATS commitments</i>	<i>US AUSFTA commitments</i>
		Other screening - other large takeovers, investments by companies with large foreign government holding.		There is an exemption for the requirement of a license to export commodities, software and technology subject to Export Administration Regulations (eg defence-related) (annex I exemption)
		No foreign control of existing financial sector companies.		Overseas Private Investment Corporation insurance and loan guarantees not available to foreigners (annex I exemption)
		Existing restrictions on urban land remain (annex II exemption).		
		Export performance requirements for existing contracts under Government IT Outsourcing program remain		

Source: AUSFTA text and GATS schedules.

Table 4 An alternative assessment of AUSFTA
Effects on national income in \$ million per year

<i>Sources of economic impact</i>	<i>Allocative efficiency from:</i>			<i>Terms of trade</i>	<i>Tech efficiency</i>	<i>Capital accumulation</i>	<i>Foreign income flows</i>	<i>Total</i>
	<i>Trade creation</i>	<i>Trade diversion</i>	<i>Reduction in taxes</i>					
DFAT/CIE study								
Merchandise trade lib by:								
Australia	96	-141	-2	-258	0	104	-29	-231
United States	3	20	41	333	0	51	-17	431
Services trade lib by:								
Australia	0	0	9	1	112	11	-4	131
United States	0	0	0	1	0	0	0	1
Government procurement								
Access to US	0	1	2	22	0	3	-1	28
Total	100	-119	49	99	112	170	-51	359
Alternative view								
Merchandise trade lib by								
Australia	83	-127	-1	-187	0	72	-20	-180
United States	3	17	27	235	0	38	-13	307
Services trade lib by:								
Australia	0	0	9	1	0	11	-4	17
United States	0	0	0	1	0	0	0	1
Government procurement								
Access to US	0	0	0	3	0	0	0	3
Intellectual property								
Extending copyright				-88				-88
Other								
Admin and consultn					-2			-2
Sugar package			-5					-5
Total	86	-110	30	-35	-2	121	-37	53

Source: Author's calculations.

Table 5 Comparison of trade agreements

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
2	National Treatment and Market Access for Goods (including PBS)			
2.2	National Treatment	Same 2.2	Same 2.1	Same 3.2
2.3	Elimination of duties - to be phased in by 2015. Australia to get expanded quota for beef, dairy, peanuts, tobacco, cotton, avocados (all but dairy eliminated after year 18).	2.3 says all reductions immediate	2.2 says Singapore reductions immediate, US reductions phased for up to 10 years . Singapore also gets expanded quota for beef, dairy, peanuts, sugar , cotton, tobacco (all eliminated after 10 years).	3.3 says some US tariffs to be reduced under GSP. Chile's tariffs mostly 6%. Reductions to be phased for up to 12 years . Chile to maintain quota on beef, chicken and turkey, and to variable limit on the quantities of US sugar products eligible for preferential treatment. US to expand quota for beef (eliminated after year 3), dairy (eliminated after 12 years), sugar (eliminated after 12 years), tobacco, avocados, poultry, tires, copper, hotel or restaurant chinaware (all eliminated in 2 to 10 years). A ratchet mechanism to apply to both parties for wine (currently 12 year phasing).
2.4	Customs valuation - according to Customs Valuation Agreement	Same 2.4	Same 2.3	3.5 According to domestic law. Valuation of carrier media bearing content to be based on cost of carrier media alone.
2.5	Temporary admission		Similar 2.5	3.7 Same
2.6	Goods re-entering after repair or alteration		Same 2.6	3.9 Same
2.7	Commercial samples of negligible value or printed advertising material			3.10 Same
2.8	Waiver of customs duties - no new waivers to be granted that are subject to specified performance criteria			3.6 Same - though does not apply to drawback and duty deferral programs
2.9	Import and export restrictions - will be WTO consistent	2.6 says NTMs	Same 2.7. 2.9 says Singapore to harmonise its excise taxes on imported and domestic distilled spirits.	3.11 Same
2.10	Administrative fees and formalities - will be WTO consistent			3.12 Same
2.11	Export taxes - only when also on domestic consumption ie essentially banned	2.5 No taxes on goods in annex I	2.4 No export taxes.	3.13 Same
2.12	Merchandise processing fee - banned (confirms 2.10)		2.8 No merchandise processing fee for originating goods	3.12 US to eliminate its merchandise processing fee on originating goods of Chile

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
2.13	Committee on Trade in Goods (for chapters 2, 5, 6)			3.23 Same
Annex 2A	Exemptions from 2.2 and 2.9 for: Australia - exports of logs and woodchips, imports of second hand vehicles, and marketing arrangements for wheat, barley, rice, sugar, and export arrangements for horticulture and livestock, actions authorised by WTO DSB US - exports of logs, imports of foreign vessels and other measures under the Jones Act, actions authorised by WTO DSB	2.12 General exemptions Gold or silver, national treasures, export restrictions to support domestic price stabilisation plan, for conservation, and for public morals etc. 2.13 Security exemptions	Annex 2A - Exemptions from 2.1, 2.2 and 2.7 for US - exports of logs, imports of foreign vessels and other measures under the Jones Act, actions authorised by WTO DSB	Annex 3.2 exemptions for: Chile - imports of used vehicles, actions authorised by WTO DSB US - exports of logs, imports of foreign vessels and other measures under the Jones Act, actions authorised by WTO DSB, actions authorised by ATC
Annex 2B	Schedule of reductions (including agriculture)			
Annex 2C and side letters	Pharmaceuticals - additions to PBS (plus review mechanism), Medicines Working Group, cooperation between TGA and FDA.		Establish Medical Products Working Group (annex 6A) to ensure regulatory procedures for review of applications for marketing authorisation for new medical products are transparent, non-discriminatory	
	Side letters on Bourbon and Tennessee whisky - Essentially, recognition of these as a geographical indication			3.15 Chile to recognise Bourbon and Tennessee Whisky as GI. US to recognise Pisco Chileno, Pajarete, and Vino Asoleado as GI.
			2.10 Neither party to maintain an import ban on broadcasting apparatus, including satellite dishes. 2.11 Singapore to allow the import of chewing gum with therapeutic value 2.12 US to allow the preferential treatment to non-originating cotton and man-made fibre apparel goods in limited quantities for up to 9 years	3.4 Used goods - Chile to cease applying the 50% surcharge.

Continued

Table 5 Continued

<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
			3.8 Drawback and duty deferral - eventually to be phased out. In the meantime, not to be applied except where goods enter under bond, do not change condition, duty-free goods, ships stores, goods for use in joint undertakings, refunds for failure to meet specifications, or where the good is to be subsequently exported to the other party (ie not to be used as a vehicle for trade deflection)
			3.14 Chile to eliminate its Luxury Tax
3	Agriculture		
3.1	Multilateral cooperation		
3.2	Committee on Agriculture		3.17 Establishes a Working Group on agricultural trade - to review operation of agricultural grade and quality standards.
3.3	Export subsidies - banned bilaterally	2.7 No export subsidies on all goods (incl agric). Subsidies and CV to be WTO consistent.	3.16 Same
3.4	Safeguards US - horticulture price-based safeguard, quantity-based beef safeguard, price-based beef safeguard	2.9 No safeguards on any goods	3.18 Safeguards US - price-based safeguard for a range of horticultural products Chile - price-based safeguard on some meat, eggs, rice and wheat products
3.5	Tariff rate quota administration - consultation on trade diversion		
3.6	Review of dairy market access commitments		
Annex 3A	Agricultural safeguard measures - details		
Side letter on BSE	Cooperation in international standards setting bodies		3.17 Agricultural Marketing and Grading Standards - to be applied without discrimination to the other party. MR of grading programs for beef.

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
4	Textiles and Apparel			
4.1	Safeguard mechanism - return of tariff to MFN level (generally mirrors WTO form)		5.9 Allowed during transition period. Otherwise provisions similar.	3.19 Similar - action may be taken up to 8 years after tariffs eliminated (cf 10 years for AUSFTA), and may be maintained for 3 years (cf 2 years in AUSFTA)
4.2	Specific ROOs for textiles and apparel - generally 'yarn forward', except that cotton and man-made fibres must follow 'triple transformation'. De minimis is 7% by weight, with some exceptions.			3.20 Same de minimis. Treatment of cotton and man-made fibres appears to be more generous, but subject to annual quota.
4.3	Customs cooperation - very prescriptive			3.21 Similar
Annex 4A	Textile-specific rules of origin		<p>5.1 Scope - Singapore's obligations cover conduct of enterprises in Singapore</p> <p>5.2 Anti-circumvention - parties to prevent this</p> <p>5.3 Monitoring - Singapore to monitor textile and apparel activities, register all producers, verify that only registered producers export to US, retain records (including time sheets of workers) - very prescriptive.</p> <p>5.4 Cooperation - to include site visits, gathering facts</p> <p>5.5 Enforcement - Singapore to provide reports with prescribed contents about possible violations to the US, to take effective enforcement action.</p> <p>5.6 Information sharing - Singapore to provide register to US quarterly with details of registered enterprises.</p> <p>5.7 Confidentiality</p> <p>5.8 Consultation - may be requested regarding circumvention. US can retaliate if consultation not successful</p> <p>5.10 Effective date - Once necessary laws are in place.</p>	

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
5	Rules of origin			
5.1	Originating goods - definition	3.1 - definitions. Either 30% or 50%. No change of tariff classification.	3.1 Definitions. Mostly change of tariff classification, plus particular processes for TCF, and 30% RVC (build up method) for cars. Also a priori agreement about sourcing of certain goods (mainly chapter 8 and 9) set out in Annex 3B.	4.1 Definitions - Mostly change of tariff classification, plus particular processes for TCF, sometimes also with 35% (BU method) or 45% (BD method) RVC, or also with 30% (BU method) or 50% (BD method) for cars.
5.2	De minimis limits - 10 per cent by value, with some exceptions		3.3 same.	4.7 Same
5.3	Accumulation - allowed	No accumulation.	3.4 same	4.6 Same
5.4	Regional value content - normally RVC of 35% (build up method) or 45% (build down method) is in addition to change of tariff classification, some footwear is 55% (build down method), autos are 50% (net cost method)	3.3 Either 30% (annex 2D) or 50% (otherwise), and for goods in annex 2C, last stage of manufacture must be in the other Party, 3.4, 3.7, 3.8, 3.9 defines costs	3.5 RVC defined	4.2 RVC defined
5.5	Valuation of materials - should generally be WTO consistent		3.6 Same	4.3 Same
5.6	Essential tools and spare parts - do not have to pass the ROO		3.7 Same	4.4 Similar
5.7	Fungible goods and materials - tracked, or managed using inventory management		3.8 Same	4.5 Same
5.8	Packing materials and containers for retail sale - disregarded for change of classification, but counted for RVC.	3.5 and 3.6 Counted for total value, and for allowable costs	3.9 Same	4.9 Same
5.9	Packing materials and containers for shipment - disregarded	3.5 and 3.6 Counted for total value, and for allowable costs	3.10 Same	4.10 Same
5.10	Indirect material - counted as originating	3.5 Same	3.11 Same	4.8 Same
5.11	Third country transport - no production allowed	3.10 Minimal operations allowed	3.12 Same	4.11 Same
5.12	Claims for preferential treatment - onus rests with importer (different from CER and Aust-Singapore)	3.11 Exporter can apply for certificate of origin meeting terms of annex 2A	3.13 Same	4.12 Stronger burden of proof
5.13	Obligations relating to importations similar to 4.3, but less prescriptive	3.12 Obligations on importing party	3.14 Essentially same	4.14 Prescribes content for certificate of origin
5.14	Record keeping requirement - importers to keep for up to 5 years	3.13 Same.	3.15 Same	4.14 Same
5.15	Verification - specifies methods for verifying origination - prescriptive	3.14 Similar	3.16 Same	4.16 Similar, with requirement for trade sanctions against repeated violations
5.16	Consultation and modifications	3.15 denial of benefits, 3.16 review and appeal, 3.17 Consultation and modifications	3.18 More extensive consultation on ROOs for TCF goods.	
5.17	Application and interpretation - Harmonised System goods classification, plus accounting rules of the Party	3.2 Same	3.20 Same	

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
5.18	Definitions		3.19 Definitions	4.18 Definitions
Annex 5A	General notes and product-specific rules of origin		3.17 US to waive ROOs on certain apparel goods if the fabric is deemed not to be available in commercial quantities in a timely manner in the US.	4.13 Certificates of origin - prescriptive obligations about their form 4.15 Obligations relating to exportations - exporters also have to keep records for 5 years, and advise if info is incorrect 4.17 Parties to establish common guidelines for administration of chapter
6	Customs administration			
6.1	Publication and notification - publication and an enquiry point		4.1 Same	5.1 Same
6.2	Administration - uniform, impartial, reasonable	4.3 Shall be WTO consistent	4.2 Same	
6.3	Advance rulings - shall be provided		4.3 Same	5.10 Similar - more prescriptive about what covered
6.4	Review and (judicial) appeal - shall be provided	4.3 Review only	4.4 Same	5.8 Same
6.5	Cooperation - advance notice, plus cooperation on suspicion of breach - very prescriptive	4.3 Exchange information	4.5 Essentially same	5.5 Similar, plus mutual assistance agreement to be concluded within 6 months
6.6	Confidentiality - shall be provided according to chapter 22		4.6 Shall be provided	5.6 More elaborated
6.7	Penalties - both civil and criminal		4.7 Same	5.9 Same
6.8	Release of goods - prompt (48 hours norm), without undue security		4.8 Same	5.2 Similar on release, no provisions re security
6.9	Risk assessment - shall be used	4.5 Same	4.9 Same	5.4 Endeavour to use
6.10	Express shipments - shall be expedited procedures (6 hours)	4.4 Paperless trading according to APEC and WTO principles, share info on best practice	4.10 Measures to be adopted. Details similar.	5.7 Same
6.11	Definitions	4.1 definitions, 4.2 scope	4.11 Definitions	5.3 Automation - endeavour to use 5.11 Time limits for Chile to implement some provisions on transparency, express shipments and advance rulings.

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
7	Sanitary and phytosanitary measures			
7.1	Objectives	5.1 Purposes and definitions		Same
7.2	Scope and coverage - all SPS measures covered	5.2 Applies to sectoral annexes only, 5.3 generally regardless of origin		6.1 Same
7.3	General provisions - existing rights and obligations maintained, no dispute settlement	5.2 Existing rights and obligations maintained, 5.4 work towards harmonisation using international standards and guidelines.		6.2 Same
7.4	Committee on SPS matters - review, consult	5.6 Endeavour to develop work program and mechanisms for cooperation on SPS issues.	No committee on SPS	6.3 Same
7.5	Definitions			6.4 Same
Annex 7A	Standing Working Group on animal and plant health - can consider specific measures, will establish work plans to conduct technical and scientific exchanges on topics that balance the needs of both parties, including on risk assessments			
8	Standards and technical regulations			
8.1	Scope and coverage - applies to central government measures only (many TBTs in both countries administered by the States)	5.1 Purposes and definitions, 5.2 Applies to sectoral annexes only, 5.3 generally regardless of origin	6.1 Applies to all regulations as defined in WTO TBT agreement	7.1 Same
8.2	Affirmation of WTO TBT agreement	5.2 Existing rights and obligations maintained		7.2 Same
8.3	Regional governments - information to be provided to them to encourage their adherence (cf WTO language which says take reasonable measures to ensure compliance)			
8.4	International standards - these to be used, to the maximum extent possible (cf WTO, which says try to persuade non-govt bodies to do this)	5.4 work towards harmonisation using international standards and guidelines.		7.3 Same
8.5	Technical regulations - give positive consideration to mutual recognition, give reasons for not accepting (WTO just says inform and discuss if it has a significant effect on trade with partner), plus further engagement, including through ad hoc Working Group, but no dispute settlement	5.5 Give positive consideration to accepting equivalence of each other's mandatory requirements		7.5 Similar - dispute settlement not ruled out

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
8.6	Conformity assessment procedures - exchange information on mechanisms to facilitate acceptance, including through NT in accreditation of conformity assessment bodies (WTO plus), reasons for refusal need to be given (cf WTO, only if there is a significant effect on trade), plus possible engagement through ad hoc working group	5.7 Use Joint Committee of MRA on Conformity assessment to further this	6.3 Each party to implement APEC MRA for Conformity Assessment of Telecommunications equipment with respect to the other party. General cooperation on conformity assessments, including in APEC forums.	7.6 Same
8.7	Transparency - allow persons of other party to participate in development of standards (cf WTO, only if a significant effect on trade), puts 60 day minimum on WTO notification process			7.7 Same
8.8	Trade facilitation - cooperate, and when asked, encourage non-govt bodies to cooperate			7.4 Same
8.9	Chapter coordinators - plus ad hoc working groups if required	5.8 Establish contact points to broaden exchange of information, develop work program	6.2 Enhanced cooperation and chapter coordinator	7.8 Committee on technical barriers to trade - similar functions, plus assistance in implementing the WTO TBT agreement
8.10	Information exchange - should be prompt, can be electronic	5.9 Confidentiality		7.9 Same
8.11	Definitions			7.10 Same
Annex 8A	Names the chapter coordinators	Sectoral annexes defining coverage not finalised		Annex 7.8 Same
9	Safeguards			
9.1	Imposition - allowed during transition period, tariff to return to MFN rate (last seasonal rate for horticulture and other seasonal goods)	2.9 No safeguards on any goods	7.1 Same	8.1 Same
9.2	Conditions and limitations - according to Articles 3, 4.2(a) and 4.2(c) of WTO agreement. Note that 4.2(b) not incorporated - doesn't require causal link between surge in imports and injury. Time periods same as in WTO agreement (up to 4 years).		7.2 Same, but also incorporates 4.2(b) of WTO agreement	8.2, 8.3 and 8.4 Similar - can be applied for up to 3 years (cf 2 in AUSFTA) , plus cannot be applied to goods already subject to general WTO safeguard action
9.3	Provisional safeguard measures - essentially same as in WTO. Only for 200 days.		7.3 Same	
9.4	Compensation - same as in WTO.		7.4 Similar	8.4 Same
9.5	Global safeguard measures - each Party to consider excluding the other from global action if the other is not a substantial cause of injury.		7.5 Same	8.6 Similar - no requirement to consider excluding the other from global action if the other is not a substantial cause of injury.
9.6	Definitions		7.6 Definitions	8.7 Similar 8.8 Antidumping and Countervailing Duties - parties retain rights and obligations under WTO

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
10	Cross-border trade in services			
10.1	Scope and coverage - covers GATS modes 1, 2 and 4 and all levels of government (though see exemptions). Excludes financial services, govt procurement, air services, subsidies or grants, govt services. Market access (10.4), domestic regulation (10.7) and transparency (10.8) also apply to mode 3. Does not apply to persons seeking employment.	7.2 Covers all GATS modes, incl commercial presence. Excludes subsidies or grants, govt services, persons seeking employment, immigration measures. 9.1 Covers financial services.	8.2 Same. This chapter not subject to investor-state dispute settlement as spelt out in chapter 15.	11.1 Same
10.2	National treatment - negative list (cf WTO positive list)	7.4 National treatment - negative list	8.3 Same	11.2 same
10.3	Most favoured nation - negative list (same as WTO)		8.4 Same	11.3 Same
10.4	Market access - makes same prohibitions as WTO, but on negative list basis. Though see exclusions. Note that limits of foreign equity participation not mentioned, but these presumably covered by NT commitment in chapter 11.	7.3 Market access - makes same prohibitions as WTO, but on negative list basis. Though see exclusions. Limits on foreign equity participation are prohibited.	8.5 Same	11.4 Same
10.5	Local presence - cannot require representative office for cross-border trade		8.6 Same	11.5 Same
10.6	Nonconforming measures	7.5 General local exemption. Carveouts for measures and sectors. 7.6 Regional exemption until first review, after which regional exceptions need to be listed. 7.8 Additional commitments. 7.22 Carveout for air services - same as GATS.	8.7 Listed in annexes	11.6 Spelt out in annex I and annex II
10.7	Domestic regulation - same criteria to apply as in WTO, plus promise to incorporate any new disciplines negotiated under Article VI.4 of GATS.	7.11 Domestic regulation - same criteria as GATS, plus promise to incorporate any new disciplines negotiated under Article VI.4 of GATS. In the meantime, shall not apply regulations that nullify or impair (taking into account relevant international standards), plus transparency measures.	8.8 Same	11.8 Same
10.8	Transparency - a bit stronger than in GATS, in that parties must let interested persons (and the other Party) comment, not just respond to requests for specific information. It is in common with language in WTO agreement on accountancy	7.9 Transparency - same as GATS	8.12 Same	11.7 Same

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
10.9	Recognition - same as GATS	7.23 Some (but not all) of GATS. No language about not using recognition as a disguised restriction on trade in services.	8.9 Same	11.9 Same
10.10	Transfers and payments - same as on GATS. Also applies to financial services (13.1)	7.14 Same as GATS, subject to balance of payments reservation 7.15 can adopt restrictions on trade in services and on payments to preserve balance of payments - same as GATS	8.10 Same	See chapter on investment.
10.11	Denial of benefits - similar to GATS, but with provision to prevent trade deflection. Also applies to financial services (13.1)	7.17 Similar to GATS, but with provision to prevent trade deflection.	8.11 Same	11.11 Same
10.12	Express delivery services - confirmation of WTO commitment on monopolies regarding postal services, provision for consultation if express delivery becomes less open	7.12 Monopoly suppliers - general provisions, same as GATS, extended to exclusive suppliers (where more than one).		Annex 11.6 Similar
10.13	Implementation - meet annually on issues of mutual interest.	7.6 Review regional exceptions. 7.7 Review of all non-conforming measures 7.20 Provision for ratcheting of other FTAs and unilateral liberalisation. Provision to modify if a service is no longer provided by govt. 7.21 Review of subsidies in light of international developments. 7.22 Review of air services similarly.	8.13 Same	11.10 Similar, with specific mention of consultations to remove remaining citizenship and PR requirements for licensing and certification of each other's suppliers.
10.14	Definitions	7.1 Definitions		11.12 Definitions
Annex 10A	Professional services - professional services working group to facilitate development of standards for licensing and certification and provide recommendations on MR. Can examine equivalence across a broader range of matters than in the WTO accountancy paper, ie also includes conduct and ethics. Objectives given in 10.9.4 - same as GATS.		Annex 8C - Same, but without Working Group to oversee implementation. Joint Committee to review every 3 years	Annex 11.9 - Same, but without working group on professional services

Continued

Table 5 Continued

<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
			<p>Annex 11.9 - A similar annex on foreign legal consultants, with each party to establish a work program to develop common procedures throughout its territory for the authorisation of foreign legal consultants, and to assess implementation after one year.</p> <p>Annex 11.19 - A similar annex on temporary licensing of engineers (civil engineers in the case of Chile), assessing implementation after 2 years.</p>
	<p>7.10 Disclosure of confidential information - not required</p> <p>7.13 No safeguard action on services.</p>		
	<p>Education cooperation</p> <p>15.1 Scope and purpose - to cooperate in education</p> <p>15.2 Fields of cooperation - quality assurance, online and distance education, all levels of education, teacher training and development.</p> <p>15.3 Facilitation of cooperation - contacts to be encouraged, a wide range of forms of cooperation mentioned.</p> <p>15.4 Student mobility and scholarship arrangements - mobility encouraged, scholarships tenable in universities of other party</p> <p>15.5 Cooperation subject to availability of funds. Cooperative activities to be funded as mutually determined.</p>		

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
11	Investment			
11.1	Scope and coverage - GATS mode 3.	8.2 GATS mode 3. Excludes subsidies and grants, citizens of other party, tax measures. 8.17 Excludes govt procurement. 9.1 covers financial services.	15.2 Same	10.1 Same
11.2	Relation to other chapters - other chapters take precedence (eg for financial services)		15.3 Same	10.1 Same
11.3	National treatment - negative list (cf WTO positive list)	8.3 National treatment - negative list	15.4 Same	10.2 Same
11.4	Most favoured nation - negative list (same as WTO)		15.4 Same	10.3 Same
11.5	Minimum standard of treatment - defined by customary international law, with Annex 11A clarifying that this means the general and consistent practice of States, plus fair treatment of aliens.		15.5 Same	10.4 Same
11.6	Treatment in case of strife - NT and MFN to apply regardless of exemptions specified in annexes.	8.10 Treatment in case of strife - NT and MFN	15.5 Same, in more general terms	10.4 Same
11.7	Expropriation and compensation - only in limited circumstances, and only if compensated. Also applies to financial services (13.1)	8.9 Expropriation and compensation - only in limited circumstances, and only if compensated.	15.6 Same	10.9 Same
11.8	Transfers - more prescriptive than GATS, in that it specifies what kind of payments need to be allowed. Also applies to financial services (13.1)	8.11 Transfers - more prescriptive than GATS, in that it specifies what kind of payments need to be allowed. 8.12 can adopt restrictions on transfers to preserve balance of payments - same as GATS	15.7 Same	10.8 Similar
11.9	Performance requirements - similar to TRIMS agreement. It prohibits some specific types of performance requirements not mentioned in TRIMS, but TRIMS list is illustrative, not exhaustive. Note that this provision is not preferential in AUSFTA.		15.8 Same, subject to annex 15B - performance requirements may be agreed between private parties, which include designated monopolies and govt enterprises (when not exercising delegated govt authority), and annex 15 C - ban on requirements for technology transfer does not apply to sale of investment of non-party in Singapore.	10.5 Same
11.10	Senior management and board of directors - can't specify particular nationalities for individuals, but can for a majority of directors.	No such requirement.	15.9 Same	10.6 Same

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
11.11	Investment and environment - provisions do not prevent environmental measures. Also applies to financial services (13.1)		15.10 Same	10.12 Same
11.12	Denial of benefits - similar to GATS, but with provision to prevent investment deflection. Also applies to financial services (13.1)	8.18 Denial of benefits - similar to GATS, but with provision to prevent investment deflection.	15.11 Same	10.11 Same
11.13	Non-conforming measures	8.5 General local exemption. Carveouts for measures and sectors. Privatisation measures to be noted. 8.6 Regional exemption until first review, after which regional exceptions need to be listed. 8.8 Additional commitments	15.12 Spelt out in annex 8A, 8B	10.7 Spelt out in annex I and II
11.14	Special formalities and information requirements - can place these on investors, so long as they do not materially impair the provisions of this chapter, and meet privacy requirements. Also applies to financial services (13.1)		15.13 Same	10.10 Same
11.15	Implementation - meet annually on issues of mutual interest	8.6 Review regional exceptions. 8.7 Review of all non-conforming measures for ratcheting of other FTAs and unilateral liberalisation. 8.16 Review of subsidies in light of international developments.		10.13 Same
11.16	Consultations on investor-State dispute settlement - can set these up if there is a change in circumstances. No investor-state dispute mechanism established to date.	8.14 Investor-State dispute settlement mechanism spelt out.	15.14 to 15.27 spells out investor-State dispute settlement regime - under ICSID, UNCITRAL or other agreed arbitration rules, awards can be monetary damages, restitution of property, costs, but no punitive damages. Annex 15A extends the minimum elapsed time before claiming from 6 months to 12 months for some breaches other than MA and NT. Exchange of letters notes that investor-state dispute settlement can be invoked against land expropriation by Singapore. Exchange of letters confirms that bilateral appellate body may be established to review awards.	10.14 to 10.26 - Essentially the same as 15.14 to 15.27 of the US-Singapore Agreement

Continued

Table 5 Continued

<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
11.17 Definitions	8.1 Definitions	15.1 Definitions	10.27 Definitions
Annex 11A Customary international law - clarifies meaning		Exchange of letters - clarifies meaning	Annex 10 A - clarifies meaning
Annex 11B Expropriation - clarifies when this occurs.		Exchange of letters - clarifies when this occurs	Annex 10D - clarifies when this occurs.
	8.4 Transparency		
	8.13 Subrogation - shall be recognised		
	8.21 Disclosure of confidential information - not required.		
			Annex 10B - Rescheduling of debt by Chile not subject to provisions of Section A other than NT and MFN. Presumably it is subject to section B - investor-State dispute resolution
			Annex 10C - Special dispute settlement provisions - certain types of claims may only be made after one year, apparently to give Chile room to impose temporary restrictions on short-term capital flows.
			Annex 10E - Submission of claim to arbitration - US investors cannot invoke section B if they have already initiated proceedings before a court or administrative tribunal of Chile.
			Annex 10F - Ensures investors the better of treatment under this chapter and under contracts pursuant to Chilean decree DL600, and clarifies grounds for investor-State dispute when DL600 also applies.
			Annex 10G - Addresses for service of documents under Section B
			Annex 10 H - Possibility of Appellate body to review awards

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
12	Telecommunications			
12.1	Scope and coverage - telecommunications, but not broadcast or cable distribution	10.2 Telecommunications, but not broadcast or audio visual services	9.1 Same	13.1 Similar
12.2	Access and use - affirms WTO commitments to allow access to and use of public telecommunications networks		9.2 Essentially same.	13.2 Essentially same
12.3	Interconnection - to be provided to telecommunications suppliers of the other party - similar to GATS	10.3 Clarifies that this covers leased circuits, for access to information (subject to privacy), no restrictions other than to preserve USO and protect technical integrity, subject to requirements for interoperability.	9.3 Same	13.3 Same
12.4	Number portability - only for fixed telecommunications services, and not necessarily to US local rural exchange carriers	10.10 Shall be provided	9.4 Same	13.4 Same
12.5	Dialling parity	No provision	No provision	13.4 Same
12.6	Submarine cable systems - access required	No provision	9.5 Similar, but with technical qualifications	13.5 Same
12.7	Treatment by major suppliers - note that 12.7 to 12.14 apply to major suppliers of fixed line services, not to US rural telephone companies and not necessarily to US rural local exchange carriers. Major suppliers must provide NT regarding availability of services or interfaces for interconnections	10.9 NT regarding availability of services or interfaces for interconnections.	9.4 Same	13.4 Same
12.8	Competitive safeguards - to prevent major suppliers from being anti-competitive	10.7 Competitive safeguards - to prevent major suppliers from being anti-competitive 10.9 additional disciplines on major suppliers.	9.4 Same	13.4 Same
12.9	Resale - should be offered	10.9 Resale - should be offered	9.4 Same	13.4 Same
12.10	Unbundling of network elements	10.9 Should be offered.	9.4 Same, with some guidance about what the regulatory body should consider in deciding which network elements should be made available.	13.4 Same, with some guidance about what the regulatory body should consider in deciding which network elements should be made available.

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
12.11	Interconnection - at any technically feasible point (a bit stronger than the Telecom reference paper). Also provisions to make publicly available a reference interconnection offer, and ensure that procedures for interconnection negotiations with major suppliers are publicly available.	10.9 At any technically feasible point. Also provisions to make publicly available a reference interconnection offer, and ensure that procedures for interconnection negotiations with major suppliers are publicly available.	9.4 Similar, but need to file all interconnection agreements (not just have a reference offer), and requirement for recourse to regulatory body to resolve disputes.	13.4 Essentially same
12.12	Provisioning and pricing of leased circuits services - should be made available by major suppliers	No provision	9.4 Similar	13.4 Similar
12.13	Co-location - should be available	10.9 Co-location - should be available	9.4 Same	13.4 Similar
12.14	Access to poles, ducts, conduits and rights of way - should be offered	10.11 Access to buildings	9.4 Same	
12.15	Flexibility in choice of technology - should be allowed	No provision	9.13 Same	13.14 Same
12.16	Conditions of provision of value-added services - shall be exempt from the interconnection and other obligations applied to basic telecommunications services, other than obligations under general competition law	No provision	No provision	13.6 Same
12.17	Independent regulatory bodies and divestment - divestment required to remain impartial	10.5 Independent regulator	9.6 Same	13.7 Same
12.18	Universal service	No provision	9.7 Same	13.8 Same
12.19	Regulatory procedures - shall be transparent	No provision	9.8 and 9.12 Same	13.9 Same
12.20	Allocation and use of scarce resources - shall be transparent	10.12 Allocation and use of scarce resources - shall be transparent	9.9 Similar, but without the clarification that spectrum allocation is a legitimate regulatory measure.	13.10 Similar, but without commitment to rely on market-based approaches.
12.21	Enforcement - shall maintain current methods	10.14 Shall maintain mechanisms.	9.10 Same	13.11 Same
12.22	Resolution of domestic telecommunications disputes and appeal processes - shall maintain current methods	10.6 Dispute settlement and appeal shall be through regulator, plus appeal to independent judicial or admin authority. 10.9 Regulator shall resolve interconnection disputes.	9.11 Similar	13.12 Similar
12.23	Forbearance - shall forbear from unnecessary regulation, where necessity is to be judged by the domestic regulatory body	No provision	9.14 Same	13.15 Same
12.24	Relationship with other chapters - this chapter takes precedence		9.15 Same	13.16 Same
12.25	Definitions	10.1 Definitions	9.16 Definitions	13.17 Definitions

Continued

Table 5 Continued

<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
Sideletter on consular	10.4 Transparency - regulators must operate in transparent manner	9.12 Transparency - regulators must operate in transparent manner	
	10.8 Connectivity required, if necessary by requiring facilities based operators to connect with one another.		
	10.13 Shall encourage industry participation in settings regulations and standards		13.13 Transparency - make available measures relating to access and use of public telecommunication services
13 Financial services			
13.1 Scope of coverage - applies to all modes of delivery. Does not cover public super funds or social security.	9.1 this chapter takes precedence over chapters 7 and 8, to extent of inconsistency.	10.1 Similar, but does not apply to govt procurement of financial services, and investor-state dispute provisions apply.	12.1 Similar, and investor-state dispute provisions apply.
13.2 National treatment - negative list, but not for cross-border trade (cf WTO positive list)	7.4, 8.3 apply	10.2 Same	12.2 Same
13.3 Most favoured nation treatment - negative list (same as WTO)		10.3 Same	12.3 Same
13.4 Market access for financial institutions - 7.3 applies makes same prohibitions as WTO, except for limits on participation of foreign capital, but on negative list basis.		10.4 Same	12.4 Same. Annex 12.9 severely limits the commitment for banking and other financial services (excluding insurance)
13.5 Cross-border trade - national treatment for services specified in Annex 13A. Each Party may allow consumers to buy any cross-border service, but does not require either Party to allow suppliers to do business or to solicit. Either Party may require registration of cross-border suppliers, and other prudential regulation.		10.5 National treatment for services specified in 10A. Each Party may allow consumers to buy any cross-border service, but does not require either Party to allow suppliers to do business or to solicit.	12.5 Same
13.6 New financial services - if allowed at home, then must be allowed to supply cross-border.	9.2 New financial services - if allowed at home, then must be allowed to supply through commercial presence	10.6 Same	12.6 Similar

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
13.7	Treatment of certain information - confidentiality clause	7.10, 8.21 apply. 9.4 Transfers of information and info processing not to be prevented, when normal part of business.	10.7 Same	12.7 Same
13.8	Senior management and board of directors - may not require more than a minority of a board to be nationals (tougher than for investment generally)	No provision	10.8 Similar, but simple majority.	12.8 Same
13.9	Non-conforming measures	Spelt out in annex to services chapter	10.9 Spelt out in annex 10B.	12.9 Spelt out in annex III
13.10	Exceptions - prudential carveout	9.3 Prudential carveout	10.10 Same	12.10 Same
13.11	Regulatory transparency - requires publication, plus opportunity for comment		10.11 Similar, plus Financial Services Committee shall consult on transparency	12.11 Similar
13.12	Self-regulatory organisations - also bound by NT and MFN		10.12 Same	12.12 Same
13.13	Payment and clearing systems - NT in access to clearing systems		10.13 Same	12.13 Same
13.14	Expedited availability of insurance services		10.15 Same, plus consultation	12.14 Same
13.15	Recognition - provisions for mutual recognition of prudential regulation		10.3 Same	12.3 Same
13.16	Financial Services Committee - meet annually		10.16 Same, plus participate in investor dispute settlement	12.15 Same, plus participate in investor dispute settlement
13.17	Consultations - can request these		10.17 Same	12.16 Similar
13.18	Dispute settlement - general provisions to apply, but panelists must have financial expertise.	9.6 General provisions to apply, but panelists must have financial expertise.	10.18 Essentially same.	12.17 Broadly similar
13.19	Definitions	9.1 Definitions	10.20 Definitions	12.19 Definitions
Annex 13A	Services for which NT in cross-border trade is to apply		Annex 10A	
Annex 13B	Specific commitments - essentially expands the scope of cross-border trade			
Annex 13C	Specifies membership of Financial Services Committee		10.14 Domestic regulation - except with respect to non-conforming measures, domestic regulation must be objective, impartial 10.19 Investment disputes in financial services - go first to Financial Services Committee, then into general dispute settlement.	12.18 Same as 10.19 of US-Singapore Agreement

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
14	Competition related matters			
14.1	Objectives - commitment to competition policy	12.1 Commitment to competition policy	12.1 Same	
14.2	Competition law and anti-competitive business conduct - GATS requires consultation, this requires the establishment of domestic measures and authority. It also requires NT in enforcement of national law. Commits parties to additional cooperation in enforcement, establishes working group on this.	12.2 Address anti-competitive practices in own territory using measures deemed appropriate. May include (but does not require) implementation of competition and regulatory practices. 12.3 All businesses must be subject to existing competition laws. Enforcement must be transparent, fair.	12.2 Anti-competitive business conduct - GATS requires consultation, this requires the establishment of domestic measures and authority. It also requires NT in enforcement of national law.	16.1 Anti-competitive business conduct - GATS requires consultation, this requires the establishment of domestic measures and authority. It also requires NT in enforcement of national law. It also requires due process and independent review.
14.3	Designated monopolies - provisions only apply to new private monopolies, existing government monopolies (narrower than GATS, which applies to all monopolies supplying a service). Commitments to abide by non-discrimination and not to abuse monopoly position in related markets (same as GATS). Also requirement to act in a purely commercial manner. Obligations do not affect Australia's single desk marketing arrangements.	No provision	12.3 Designated monopolies and govt enterprises - if new private monopoly designated, must endeavour to minimise nullification or impairment of benefits. Commitments to abide by non-discrimination and not to abuse monopoly position in related markets (same as GATS). Also requirement to act in a purely commercial manner.	16.3 Same as 12.3 of US-Singapore Agreement
14.4	State enterprises and related matters - Australia committed to competitive neutrality. US also committed to status quo (its State enterprises often immune from antitrust law).	6.10 Competitive neutrality and competition policy applies to procurement. 12.4 Competitive neutrality applies to government-owned businesses.	12.3 Designated monopolies and govt enterprises - Same obligations on US State enterprises to abide by agreement and be non-discriminatory. More prescriptive provisions on Singapore, including a commitment to reduce aggregate govt ownership, and to provide detailed annual reports on ownership.	16.4 General obligations to abide by agreement and be non-discriminatory.
14.5	Differences in pricing - clarifies that price discrimination on commercial grounds is not a violation of this agreement.	No provision	12.3 Same	16.5 Same
14.6	Cross-border consumer protection - cooperation in enforcement of their domestic laws, and identifying and fixing impediments to cooperation.	No provision	No provision	No provision

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Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
14.7	Recognition and enforcement of monetary judgements - other Party should not disqualify judgements in relation to fraud as penal or revenue in nature or based on other foreign public law. Not binding on the courts. Shall also work for greater recognition of foreign court judgements.	No provision	No provision	No provision
14.8	Transparency - make information available to other Party on request concerning matters in this chapter	12.7 Make available laws addressing fair competition.	12.5 Same	16.6 Same
14.9	Cooperation - cooperate to promote policies that are pro-competitive		12.4 Similar	16.2 Similar
14.10	Consultations - can request these	12.6 Consultations to eliminate particular anti-competitive practices. Review within 6 months of generic competition law coming into effect in Singapore. At that time, review possibilities for cooperation in enforcement. Info for consultations shall be confidential.	12.6 Same, plus provisions for Singapore to provide information about enforcement of restrictions on govt enterprises.	16.7 Same
14.11	No dispute settlement on business conduct, competitive neutrality, consumer protection, recognition and enforcement of monetary judgements, cooperation, consultation	12.8 No dispute settlement on competition chapter.	12.7 No dispute settlement on anticompetitive business conduct, cooperation or consultation	16.8 Same as 12.7 of US-Singapore Agreement
14.12	Definitions	12.5 Measures or sectors can be exempt	12.8 Definitions	16.9 Definitions
15	Government procurement			
15.1	Scope and coverage - defence procurement not covered, nor is R&D, foreign aid, between governments, offshore procurement. Also subject to exclusions in annexes. Note that Australia has exempted motor vehicles and US has exempted some basic telecommunications services.	6.2 Scope and coverage - does not cover foreign aid, between governments, offshore procurement. No sectoral exclusions.	13.2 Scope and coverage - does not cover govt assistance, does cover digital products that are transmitted electronically, but not to broadcasting services. annexes specify basically the same coverage as in each party's WTO schedule. For the US, includes basic telecommunications, excludes defence.	9.1 Main exceptions are the same. US has excluded Federal highway projects and Chile has excluded transport services incidental to contract.
15.2	General principles - NT in procurement, a presumption in favour of open tendering, same ROOs as elsewhere in this agreement, no offsets (subject to exclusions)	6.3 NT in procurement, 6.4 same rules of origin as elsewhere in agreement	13.2 Incorporates article III of GPA on national treatment and non-discrimination, article IV:1 on same ROOs, article VII which gives presumption in favour of open tendering, XVI on no offsets.	9.2 Similar - determination of origin to be on non-preferential basis.

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Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
15.3	Publication of procurement information - laws, policies, guidelines, and judicial decisions	6.13 Transparency	13.3 Incorporates article XIX:1 of GPA which requires prompt publication of laws etc	9.3 Similar
15.4	Publication of notice of intended procurement	6.6 Publication of invitation to tender	13.3 Incorporates article IX of GPA agreement, which has very prescriptive requirements for notices of intended procurement which vary, depending on whether tender open or limited, and article XII, which specifies what should be in tender documentation	9.4 Similar - no exceptions in the event that multi-lists are used, no requirement to publish notice of planned procurement in advance.
15.5	Time limits - 30 days for tendering process, 25 days if posted on internet, 10 days in some circumstances (eg commercial goods or services).	6.6 Dealines to be advised. 6.11 Promote e-procurement.	13.3 Incorporates article XI of GPA which is very prescriptive about time limits, but sets a benchmark of 40 days	9.5 Similar - 30 days for tendering process, 10 days in some circumstances
15.6	Information on intended procurement - full publication of criteria, technical specifications etc. Very prescriptive.	6.5 Technical specifications not be a trade barrier - same. 6.6 Onformation provision to be non-discriminatory.	13.3 Incorporates article IX of GPA which specifies what the notice of procurement should contain, plus article VI which sets out same requirements on technical specifications	9.6 and 9.7 Same
15.7	Tendering procedures - limitations on use of multi-lists and selective tendering	7.7 Multi-lists to be open and administered on non-discriminatory basis.	13.3 Incorporates article VII, VIII and X of GPA which have broadly similar provisions on the qualifications of suppliers, the use of multi-lists and selective tendering	9.8 Conditions for participation similar - less prescriptive about use of multilists and selective tendering
15.8	Limited tendering - only in specific circumstances	6.6 No limitations on use of limited tendering.	13.3 Incorporates article XV of GPA which has the same restrictions on limited tendering	9.9 Similar - does not mention exceptionally advantageous circumstances or in the case of winners of contests
15.9	Treatment of tenders and awarding of contracts - proper processes, can be lowest price or best value, publication of award information after 60 days (including description and contract value), keep records for 3 years	6.6 Non-discriminatory assessment, value for money, provide reasons to unsuccessful candidates. 6.8 Protection of confidential information. 6.9 Protection of IP.	13.3 Incorporates article XIII of GPA which is even more prescriptive about treatment of tenders, same about award of contracts, and article XVIII, which contains provisions about publication of award information (though after 72 days), provision of information to other party.	9.10 and 9.11 Same, except no mention of providing information to the other party on request
15.10	Ensuring integrity of procurement practices - penalties for bribery	No provision	No provision	9.12 Same

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Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
15.11	Domestic review of supplier challenges - establishes minimum procedures, challenges can occur where procuring entity does not follow procedures put in place by government (cannot challenge the procedures themselves)	6.12 Similar.	13.3 Incorporates article XX of GPA which sets out challenge procedures	9.13 Same
15.12	Exceptions - chapter does not prevent TRIPS, SPS measures etc	6.10 Competitive neutrality and competition policy applies to procurement. 6.14 Similar 6.15 Can promote indigenous people, can promote small and medium businesses.	13.4 Same	9.16 Same
15.13	Modifications and rectifications to coverage - changes can be made, compensation required if necessary	6.17 No dispute settlement for one-off violations	13.5 Same	9.14 Same
15.14	Cooperation - review every 2 years	6.18 Review annexes every 2 years. Give consideration to ratchet mechanism.		
15.15	Definitions Annexe Specifies what is covered s 15A to H Side letters Blood plasma - procurement of fractionation services excluded	6.1 Definitions	13.6 Definitions Annex 13 A - specifies what is covered. 13.1 Reaffirms rights and obligations under WTO Govt Procurement Agreement, affirms cooperation in APEC, determination to apply APEC non-binding principles to all procurement that is outside the scope of this chapter and the GPA. 13.3 Incorporates article II of GPA on valuation of contracts 13.3 Incorporates article XIV of GPA which allows for negotiations, to identify strengths and weaknesses in tenders.	9.20 Definitions Annexes 9.1 A to H - specifies what is covered 9.15 Nondisclosure of information - confidentiality

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Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
				9.17 Public information - procuring entities to make electronic databases about procurement available to suppliers of the other party. Notices of intended procurement to be published through a single point of entry. 9.18 Committee on Procurement 9.19 Further negotiation on request (with view to ratchet mechanism)
16	Ecommerce			
16.1	General - recognise importance of avoiding barriers to use	14.1 Purpose and definitions - promote use	14.1 Same	15.1 Similar, but chapter does not prevent imposition of internal taxes on digital products
16.2	Electronic supply of services - covered by GATS, not GATT (critical for cross-border trade in banking)		14.2 Same	15.2 Same
16.3	Customs duties - not be applied to digital products (as in Doha Declaration). Definition of digital products covers content but not the medium of digitised material, not just electronic transmission (hence broader than Doha).	14.3 Maintain current practice of not imposing customs duties on electronic transmissions (same as Doha).	14.3 Customs duties not applied to trade in digital products by electronic transmission.	15.3 Customs duties not to be applied to digital products, where these are defined to be transmitted electronically
16.4	Non-discriminatory treatment of digital products - NT and MFN to digital products, except where listed elsewhere in 10.6, 11.13 and 13.9 as non-conforming measures. IP chapter takes precedence. Excludes subsidies and grants. Also excludes reservations on audio visual and broadcasting.		14.3 NT and MFN to digital products, except where listed elsewhere as non-conforming measures. Does not apply to broadcasting.	15.4 NT and MFN to digital products, except where listed elsewhere as non-conforming measures.
16.5	Authentication and digital certificates - need to maintain a domestic regime. Will negotiate an agreement for MR of digital certificates by central governments	14.5 Need to maintain a domestic regime. Will work towards MR of digital certificates by central governments. Shall encourage interoperability of digital certificates by business.	No provision	No provision
16.6	Online consumer protection - there should be some.	14.6 There shall be some.	No provision	No provision
16.7	Paperless trading - will endeavour to accept documents submitted electronically	14.8 Accept paperless versions of trade administration documents where appropriate.	No provision	No provision
16.8	Definitions			15.6 Definitions

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Table 5 Continued

<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
	<p>14.2 Transparency - publication and exchange of information</p> <p>14.4 Maintain legal frameworks governing e-commerce transactions based on UNCITRAL model law, minimise regulatory burden.</p> <p>14.7 Online personal data protection - there shall be some, taking into account international standards</p> <p>14.10 Dispute settlement shall not apply to articles 4,5,6,7.</p>		15.5 Cooperation - including to overcome obstacles to SME use of e-commerce
17 Intellectual property rights			
17.1 General provisions - affirms existing international agreements, need to ratify or accede to WIPO Copyright Treaty 1996 and WIPO Performances and Phonograms Treaty 1996 (the 'internet' treaties) by entry into force of this agreement. Best efforts to comply with Hague Agreement on Industrial Designs 1999 and Patent Law Treaty 2000. Requires NT (same as TRIPS). Applies to existing protected material only (no retrospection). Transparency.	13.1 Purpose and definitions. 13.2 Affirms commitment to TRIPS. Need to ratify or accede to WIPO Copyright Treaty 1996 and WIPO Performances and Phonograms Treaty 1996 (the 'internet' treaties) by within 4 years of entry into force of this agreement. Agree to comply with Hague Agreement on Industrial Designs 1999.	16.1 - need to ratify or accede to treaties. Requires NT. No retrospection.	17.1 - need to ratify or accede to treaties. Requires NT. No retrospection. Cooperation on educational projects and exchange of information.
17.2 Some minor legislative changes in relation to cancellation procedures and grounds for refusing an application for a geographical indication to codify current practice		16.2 Same, but without (i) prescriptive section on registration of marks, (ii) requirement to reduce differences in law and practice , and (iii) procedural section on requirements for applying for and challenging marks.	17.2 Same, but without requirement to reduce differences in law and practice , and (ii) procedural section on requirements for applying for and challenging marks, and with (i) requirement to cancel marks similar to well-known trademarks, and (ii) encouragement to classify goods and services according to the Nice Agreement (1979).
17.3 Domain names on the internet - provide procedures for disputes, and maintain database of registrants	13.7 Support for international efforts to resolve disputes.	16.3 Same, plus requirement for dispute resolution	17.3 Same

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Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
17.4	Copyright - need to extend coverage by another 20 years. Also need to introduce criminal procedures against those who circumvent effective technological measures against misuse. Other measures are primarily the status quo or the same as in TRIPS.	13.3 Right of reproduction to apply to electronic copies (for works, sound recordings, films), subject to domestic limitations and exceptions. No extension of copyright term.	16.4 Essentially the same.	17.5, 17.6, 17.7 same
17.5	Obligations pertaining specifically to copyright works - authors can authorise or prohibit use.	No provision		17.5, 17.6, 17.7 same
17.6	Obligations pertaining specifically to performers and producers of phonograms - those of other Party can authorise or prohibit use.	No provision	16.5 Same, but without requirement to give performers and producers the right to authorise or prohibit the broadcasting and communication to the public	17.5, 17.6, 17.7 same
17.7	Protection of encrypted program-carrying satellite signals - need to introduce criminal procedures against those who decode these signals.	No provision	16.6 Same	17.8 Same
17.8	Designs - need to maintain system, and work to reduce differences in laws and practice and participate in international fora.	No provision	No provision	No provision
17.9	Patents - provisions generally reflect TRIPS or current practice.	No provision	16.7 Similar. US-Singapore agreement requires right to transfer a patent, to conclude licensing contracts, and to redress wrongful procurement of patented pharmaceutical product. Also provides for extension of patent where it is based on examination of invention in another country, and the other country has extended the term because of delay. AUSFTA has requirement to reduce differences in law and practice , plus procedural requirements in patent applications.	17.9 Similar. Chile required to provide patent protection for plant varieties. Does not have the requirement to reduce differences in law and practice , nor procedural requirements in patent applications.

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Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
17.10	Measured related to certain regulated products - protection of test data for new pharmaceutical products (reflects current practice). Protection of test data for new agricultural products will require changes (but these changes already being considered). Need legislative changes to prevent a person from entering the market with a generic product before a patent has expired, and notification of intention to market a generic product of the patent is viewed as invalid.	No provision	16.8 Similar. AUSFTA also limits third party production where new information is required in the patent process.	17.10 Similar - AUSFTA also limits third party production where new information is required in the patent process.
17.11	Enforcement - general obligation to enforce is the same as in TRIPS. Will need to institute criminal penalties for (a) presumptions in relation to copyright (b) wilful trade in copyright and trademark infringements on a commercial scale, (c) ability to seize infringing goods and forfeiture of assets. Also need legislative changes to implement provisions relating to ISP liability for infringements on their networks.	13.4 On complaint, each party shall take measures to prevent export of goods that infringe copyright or trademarks. 13.5 Cooperation on enforcement., 13.6 Cooperation on education, exchange of information on protection, management and exploitation of IPRs.	16.9 Similar. Minor variations include provision in US-Singapore agreement that decisions about distribution of enforcement resources will not excuse a party from complying with the chapter. ISP liability provisions the same.	17.11 Similar. Minor variations include provision in US-Singapore agreement that decisions about distribution of enforcement resources will not excuse a party from complying with the chapter. ISP liability provisions the same.
17.12	Transitional provisions - Australia has 2 years to implement provisions regarding circumvention of effective technological measures		16.10 Similar.	17.12 Similar, with longer time periods for implementing enforcement measures and effective technological measures. 17.4 Geographical indications - Chile to protect GIs of US persons, including for wines and spirits. US to protect GIs of Chilean persons, including for wines and spirits. Plus procedural provisions.

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
18	Labour			
18.1	Statement of shared commitment - affirms membership of ILO, and right to establish own domestic labour standards and laws.	No provision	17.1 Same	18.1 Same
18.2	Application and enforcement of labour laws - enforcement required, and non-enforcement subject to dispute settlement	No provision	17.2 Same	18.2 Same
18.3	Procedural guarantees and public awareness - tribunals required, awareness to be promoted	No provision	17.3 Same	18.3 Same
18.4	Institutional arrangements - subcommittee on Labour Affairs may be created.	No provision	17.4 Similar	18.4 Similar
18.5	Cooperation - parties to establish a consultative mechanism for cooperation on labour matters	No provision	17.5 Same	18.5 Same
18.6	Labour consultations - may be requested. Provides for general dispute settlement for non-enforcement (panelists to have labour expertise). Penalties are a fine, the proceeds of which are to be spent on labour initiatives.	No provision	17.6 Same	18.7 Same
18.7	Internationally recognised labour principles and rights - defines the subject matter of labour laws to which this chapter applies (eg right of association)	No provision	17.7 Same	
18.8	Scope - Federal in the case of the US, Federal and State in the case of Australia	No provision		
			Annex 17A US-Singapore Labour Cooperation Mechanism - spells out content of consultations	Annex 18.5 - Labour Cooperation Mechanism - spells out content of consultations 18.7 Labour Roster - Parties to establish roster of 12 panelists with expertise to serve in dispute settlement cases

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
19	Environment			
19.1	Levels of protection - recognises right to establish own domestic levels	No provision	18.1 Same	19.1 Same
19.2	Application and enforcement of environmental laws - enforcement required, and non-enforcement subject to dispute settlement	No provision	18.2 Same	19.2 Same
19.3	Procedural guarantees and public awareness - tribunals required, awareness to be promoted	No provision	18.3 More prescriptive.	19.8 More prescriptive, and without the promotion of public awareness
19.4	Measures to enhance environmental performance - encouragement of flexible, voluntary and market-based mechanisms.	No provision		
19.5	Institutional arrangements - subcommittee on Environmental Affairs may be created.	No provision	18.4 Same	19.3 Similar
19.6	Cooperation - parties to negotiate a joint statement on this	No provision	18.6 Similar	19.5 Similar - an extensive list of cooperative projects outlined in annex 19.3
19.7	Environmental consultations - may be requested. Provides for general dispute settlement for non-enforcement (panelists to have environmental expertise). Penalties are a fine, the proceeds of which are to be spent on environmental initiatives.	No provision	18.7 Same	19.6 Same
19.8	Relationship to environmental agreements - will seek to enhance mutual supportiveness of environmental and trade agreements	No provision	18.8 Similar	19.9 Similar
19.9	Definitions - defines scope of measures to which this chapter applies. Scope is Federal in the case of the US, Federal and State in the case of Australia	No provision	18.10 Definitions.	19.11 Definitions
			18.5 Opportunities for public participation - more prescriptive than AUSFTA	19.4 Opportunities for public participation - more prescriptive than AUSFTA
			18.9 Principles of corporate stewardship - to be encouraged.	19.10 Principles of corporate stewardship - to be encouraged.
				19.7 Environmental roster - Parties to establish roster of 12 panelists with expertise to serve in dispute settlement cases

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
20	Transparency	2.10 WTO article X incorporated		
20.1	Contact points - shall be established		19.2 Same	20.1 Same
20.2	Publication - laws and regulations to be published (same as GATS). Where possible, provide the other Party the opportunity to comment (GATS plus).		19.3 Same	20.2 Same
20.3	Notification and provision of information - regarding any measure which might affect operation of the agreement		19.4 Same	20.3 Same
20.4	Administrative agency processes - individuals and companies have rights to natural justice and due process		19.5 Same	20.4 Same
20.5	Review and appeal - against bureaucratic decisions		19.6 Same	20.5 Same
20.6	Definitions		19.1 Definitions	20.6 Definitions
21	Institutional arrangements and dispute settlement			
21.1	Joint Committee - to supervise implementation, may issue interpretations	17.2 Contact point established.	20.1 Same	21.1 Free Trade Commission - similar
21.2	Scope of application of dispute settlement - nullification and impairment only actionable under chapters 2, 3, 5, 10, 15, 17.	16.1 Scope and coverage - covers actions by regional or local govts.	20.4 Similar, except govt procurement not subject to nullification and impairment action	22.2 Similar - technical barriers to trade and customs administration also subject to nullification and impairment action
21.3	Administration of dispute settlement proceedings - primarily about panelists		20.2 Same	21.2 Similar
21.4	Choice of forum - to be made by complaining party		20.4 Same	22.3 Same
21.5	Consultations - can be requested.	16.2 Consultations can be requested. Time limits set. 16.3 Good offices, conciliation or mediation can be used.	20.3 Same	22.4 Same
21.6	Referral of matters to Joint Committee - where consultations fail.		20.4 Same	22.5 Similar
21.7	Establishment of panel - involves strict timelines, and contingent list of 10 panelists.	16.3 Appointment of tribunals. 16.4 Composition of tribunals. 16.6 Functions of tribunals. Strict time lines set.	20.4 Same	22.6, 22.7, 22.8 and 22.9 - Similar, with list of 20 panelists, 6 of whom are non-party nationals
21.8	Rules of procedure - requires openness and transparency	16.7 Proceedings of tribunals. 16.8 Suspension and termination of proceedings.	20.4 Same	22.10 and 22.11 - more prescriptive about terms of reference
21.9	Panel report - consistent with allowing two governments to resolve disputes, the panel may only make recommendations for resolution if asked by the two governments.	16.9 Implementation of panel report - recommendations to be implemented within reasonable time.	20.4 Same	22.12 Similar

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
21.10	Implementation of final report - normally shall take place. Breach of agreement shall normally be corrected.		20.5 Same	22.13 and 22.14 Similar
21.11	Non-implementation - specifies follow-up procedures and time lines. Breach can be corrected by compensating trade measure, or by payment of a monetary assessment.	16.10 Compensation and suspension of benefits. No provision for fine	20.6 Same	22.15 Same
21.12	Non-implementation of certain disputes - specifies follow-up procedures and time lines for labour and environment disputes. Allows only for payment of fine (no trade sanctions).	No provision	20.7 Same	22.16 Same
21.13	Compliance review - penalties withdrawn if breach rectified.		20.8 Same	22.17 Same
21.14	Five-year review - Joint Committee to review penalty clauses in 5 years or after 5 actions..		20.9 Same	22.18 Same
21.15	Private rights - no right of action through domestic law for breach of agreement.		20.10 Same	22.20 Same
Annex 21A	Formula for inflation adjustment		Annex 20A - same	
		16.11 Expenses - each party to bear own costs.		22.1 Cooperation - at all times to find resolution 22.19 Referral of matters from judicial or administrative proceedings - Commission can provide interpretations to domestic judicial or administrative proceedings 22.21 Alternative dispute resolution - to be encouraged for settlement of disputes between private parties.
22	General provisions and exceptions			
22.1	General exceptions - same as for GATT and GATS	7.18 General exceptions for services - public morals etc - same as GATS. 8.19 General exceptions for investment. 9.5 For financial services. 10.15 For telecoms. 14.9 for ecommerce.	21.1 Same	23.1 Same

Continued

Table 5 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
22.2	Essential security - safeguarded.	7.19 Security exception for services. 8.20 Security exception for investment. 9.5 For financial services. 10.15 For telecoms. 14.9 for ecommerce.	21.2 Same	23.2 Same
22.3	Taxation - exempt	No provision	21.3 Same	23.3 - Chile also reserves right to impose excise tax on insurance premiums in the same way as US
22.4	Disclosure of information - privacy protected		21.4 Similar	23.5 Similar
22.5	Anti-corruption - cooperate on this issue		21.5 Same	23.4 Balance of payments measures on trade in goods - shall be in accordance with WTO, shall not impair benefits
23 Final provisions				
23.1	Accession - other parties can accede if both Parties agree	17.4 Open to accession or association on terms to be agreed.	21.6 Same	No provision
23.2	Annexes - incorporated	17.5 Annexes incorporated.	21.7 Same	24.1 Same
23.3	Amendments - can occur	17.6 Amendments - can occur.	21.8 Same	24.2 and 24.3 Same
23.4	Entry into force and determination - 60 days after internal processes completed. Can be terminated by notification in writing, with effect 6 months after notification.	17.7 Entry into force on date of exchange of letters. Terminate with 6 months notice in writing. 17.1 No general regional carveout, except where noted. 17.3 Review after a year, and biennially thereafter. 17.5 Consult in the event of inconsistency with other agreements.	21.9 Same	24.4 Similar

Continued

Table 5 Continued

<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
No provision	Movement of business persons	Movement of business persons	Temporary Entry for Business Persons
No provision	11.1 Purpose - enhance mobility	11.2 General principles - temporary entry only, subject to security 11.3 General obligation is to apply measures of the party expeditiously to avoid impairing trade in goods or services or investment	14.1 Same as 11.2 of US-Singapore Agreement
No provision	11.2 Scope and definitions	11.1 Definitions	14.9 Definitions
No provision		11.3 General obligations - requiring a visa is not a violation	14.2 Same as 11.3 of US-Singapore Agreement
No provision	11.3 Short-term entry - shall be up to 3 months	11.4 and annex 11A - 90 days for business people in certain sectors, unspecified for traders and investors, intra-company transferees, professionals (subject to other limitations on professionals)	14.3 and Annex 14.3 - Same format as 11.4 and annex 11A of US - Singapore Agreement. No time limit mentioned for any category, and more sectors for business people.
No provision	11.4 Long-term entry - shall be up to 14 years		
No provision	11.5 Provision of information - on requirements	11.6 Provision of information - on requirements after 6 months of entry into force.	14.4 Same as 11.6 of US-Singapore Agreement
No provision	11.6 Dispute settlement - only for pattern of practice, after domestic remedies exhausted.	11.8 Dispute settlement - only for pattern of practice, after domestic remedies exhausted.	14.6 Same as 11.8 of US-Singapore Agreement
No provision	11.7 Immigration measures - can maintain, so long as they do not nullify or impair.	11.9 relation to other chapters - No obligation on immigration measures, except transparency etc	14.7 Same as 11.9 of US-Singapore Agreement
No provision	11.8 Expedient application procedures - esp where there is MR	11.5 Regulatory transparency - about regulations, and expeditious application procedures	14.8 Similar to 11.5 of US-Singapore Agreement, but less stringent
No provision	11.9 Notification of outcome of application - shall occur	11.5 Same	
No provision	11.10 Online lodgement and processing - shall happen asap		
No provision	11.11 Resolution of problems - shall happen within domestic law		
No provision	11.12 Labour market testing - not required for temporary entry	Annex 11 - only prohibits labour certification tests	

Continued

Table 5 Continued

<i>AUSFTA</i>	<i>Australia-Singapore</i>	<i>US-Singapore</i>	<i>US-Chile</i>
No provision	11.13 Immigration formality requirements - Australia to grant MFN for access to ETA, Singapore to waive visa requirements for Australian nationals.		
No provision	11.14 Inclusion of PRs - all benefits except 11.13 to be granted to PRs.		
No provision	11.15 Employment of spouses and dependents - can work as managers executives or specialists, or as office administrators.		
No provision	11.16 Reservations - see annex 4- I and 4-II.		
No provision		11.7 Temporary entry coordinators - to coordinate, exchange information and consult	14.5 Similar to 11.7 of US-Singapore Agreement - but via a Committee on Temporary Entry
No provision		Annex 11A.3 - Sets annual quota of 5400 Singaporean business persons per year into US (not counting spouses or renewals)	

Source: Agreement texts.

Table 6 Comparison of Australia's commitments on services trade

	<i>AUSFTA</i>	<i>Australia-Singapore</i>
	There is blanket exemption of MA for Mode 4 indigenous preferences and for regional governments (all modes) (annex II exemptions). There is a blanket MFN exemption for all existing preferences under FTAs etc, and for new preferences in the areas of aviation, fisheries or maritime matters (annex II exemption)	Blanket exemption on mode 4 supply (annex II), indigenous preferences (annex II), any contracting out or privatisation measure (annex II), measures with respect to gambling and betting (annex II). Annex III - Australia to establish a dedicated help desk to assist Singaporean investors, and application time lines for Singapore investors.
1. BUSINESS SERVICES		
A Professional services		
a Legal	Natural persons practicing foreign law not required to join local law firm. Residency requirement for patent attorneys stay (annex I exemption).	Patent attorneys must be resident in Australia (annex I).
b Accounting	Auditors or liquidators not required to be natural persons. Exemption for residency requirements for auditors (persons or companies).	Auditors or liquidators required to be natural persons. At least one equity partner in an accounting, auditing or bookkeeping firm must be a permanent resident. (annex I)
c Taxation		
d Architectural		
e Engineering		
f Integrated engineering		
g Urban planning and landscape architecture		
h Medical and dental	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health, child care established for public purpose. Doctors with training outside Australia and registered in Australia since December 1996 may only bill Medicare for a patient if they work in a 'district of workforce shortage' (annex I).
i Veterinary		
j Paramedical	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health, child care established for public purpose
k Other	Citizenship/residency requirement for migration agents stay (annex I exemption).	Migration agents must be resident in Australia (annex I)
B. Computer related services		
a Consultancy - hardware		
b Consultancy - software		
c Data processing		
d Database services		
e Other		

Continued

Table 6 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>
C Research and development services		
a	In natural sciences	
b	In social sciences and humanities	
c	Interdisciplinary	
D Real estate services		
a	Involving own or leased property	
b	On fee or contract basis	
E Rental/leasing services		
a	Ships	
b	Aircraft	
c	Other transport equip	
d	Other mach and equip	
e	Other	
F Other business services		
a	Advertising	Local content requirements for advertising on free-to-air and digital TV remain (annex I exemption). Also for multichannelled free-to-air commercial TV (annex II exemption)
b	Market research	
c	Management consulting	
d	Services related to man. consulting	
e	Technical testing and analysis serv	MA for modes 1,2 and 3 for technical testing and analysis serv - subject to exemption of Commonwealth Serum Laboratories
f	Services incidental to agriculture, hunting and forestry	
g	Services incidental to fishing	Foreign fishing vessels seeking to undertake fishing in Australian fishing zone must be authorised, and may be subject to levy.
h	Services incidental to mining	
i	Services incidental to manufacturing	
j	Services incidental to energy distribution	
k	Placement and supply services of Personnel	
l	Investigation and security	
m	Related scientific and technical consulting services	
n	Maintenance and repair of equipment	
o	Building-cleaning services	
p	Photographic services	
q	Packaging services	
		Annex II exemption for local content requirements.
		Citizenship and foreign equity limits on Commonwealth Serum Laboratories remain (annex I).
		Foreign fishing vessels seeking to undertake fishing in Australian fishing zone must be authorised, and may be subject to levy (annex I)

Continued

Table 6 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>
r Printing, publishing	Investment in existing businesses in media sector still subject to review. Existing limits on newspaper equity holdings in newspapers maintained (annex I exemption).	Annex II exemption on foreign ownership in
s Convention services		
t Other		
2 COMMUNICATION SERVICES		
A Postal		
	NT for all modes (except delivery of standard letter, which is seen as govt service).	Australia Post has monopoly on delivery of standard letter (annex I)
B Courier		
C Telecommunications		
a Voice telephone services	Foreign equity limits on Telstra remain. Chair and majority of directors of Telstra must be citizens and Telstra required to remain Australian based (annex I exemption).	Foreign equity restriction of 35 % of the 49.9% of Telstra shares that are not govt owned. Individual holding limited to 5%. The chair and majority directors of Telstra must be Australian citizens and Telstra required to remain Australian based (annex I)
b Packet-switched data transmission services	See above.	
c Circuit-switched data transmission services	See above.	
d Telex services	See above.	
e Telegraph services	See above.	
f Facsimile services	See above.	
g Private leased circuit services	See above.	
h Electronic mail		
i Voice mail		
j On-line information and data base retrieval		
k electronic data interchange (EDI)		
l Enhanced/value-added facsimile services, incl. store and forward, store and retrieve		
m Code and protocol conversion		
n On-line information and/or data processing (incl. transaction processing)		
o Other (includes mobile, paging)	See above.	
D Audiovisual services		
a Motion picture and video tape production and distribution services	Australia reserves right to maintain preferential co-production arrangements for film and television production (annex II exemption)	Annex II exemption for foreign investment in broadcasting, audiovisual services. Annex II exemption for local content requirements.
b Motion picture projection service		

Continued

Table 6 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>
c Radio and television services	Local content requirements for commercial analogue and digital TV remain (annex I exemption). Also for multichannelled free-to-air commercial TV broadcasts, subscription TV broadcasts, free-to-air radio broadcasts (annex II exemptions), plus measures to ensure Australian content not unreasonably denied on interactive audio or video, spectrum management (MA only), tax concessions (annex II exemptions). Australia reserves right to maintain preferential co-production arrangements for film and television production (annex II exemption)	Annex II exemption for foreign investment in broadcasting, audiovisual services. Annex II exemption for local content requirements.
d Radio and television transmission services	Investment in existing businesses in media sector still subject to review. Existing limits on equity holdings in TV licences maintained (annex I exemption).	Annex II exemption for foreign investment in broadcasting, audiovisual services. Annex II exemption for local content requirements.
e Sound recording		
f Other		
E Other		
3 CONSTRUCTION AND RELATED SERVICES		
A General construction work for buildings		
B General construction work for civil engineering		
C Installation and assembly work		
D Building completion and finishing work		
E Other		
4 DISTRIBUTION SERVICES		
A Commission agent services		
B Wholesale trade	Australian wheat board powers preserved (annex I exemption). Australia can impose any measure on wholesale or retail of tobacco, alcohol or firearms (annex II exemption).	A person who trades in therapeutic goods must have the product registered on the ARTG. The person registering must be resident in Australia. A person who trades in chemicals must have a permit. Permit holders must be resident in Australia. (annex I) Local presence required to distribute and sell hazardous substances. Only services suppliers who appoint a local agent can supply medical and health related products defined under the Medicines Act. Annex II exemption for marketing boards. Annex II exemption for wholesale and retail distribution of alcohol and tobacco
C Retail trade	Australia can impose any measure on wholesale or retail of tobacco, alcohol or firearms (annex II exemption).	Annex II exemption for wholesale and retail distribution of alcohol and tobacco
D Franchising		
E Other		

Continued

Table 6 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>
5 EDUCATION SERVICES		
A Primary	Annex II exemption for MA and NT for public education and public training. Blanket exemption for primary education (annex II exemption).	Annex II exemption for MA and NT for primary education
B Secondary	Annex II exemption for MA and NT for public education and public training. General regional exemption would also apply.	Annex II exemption for MA and NT for public education and public training. Annex II exemption for supply via commercial presence
C Higher education	Annex II exemption for MA and NT for public education and public training. General regional exemption would also apply.	Annex II exemption for MA and NT for public education and public training. Annex II exemption for supply via commercial presence
D Adult education	Annex II exemption for MA and NT for public education and public training. Liberalisation of private education. General regional exemption would also apply.	Annex II exemption for MA and NT for public education and public training. Annex II exemption for supply via commercial presence
E Other	Annex II exemption for MA and NT for public education and public training. General regional exemption would also apply.	Annex II exemption for MA and NT for public education and public training. Annex II exemption for supply via commercial presence
6 ENVIRONMENTAL SERVICES		
A Sewage		
B Refuse disposal		
C Sanitation and similar services		
D Other		
7 FINANCIAL SERVICES	At least 2 directors of a public company must be resident in Australia (Corporations Act) (annex III exemption for financial services). NT for 1 for services specified in B.3 of Understanding, eg maritime insurance. NT for mode 1,2 and 4 for insurance intermediation such as brokerage and agency and provision of financial info. (Annex 13A). Australia to allow foreign institutions to offer certain services to collective investment schemes, and to promise expedited availability of insurance services if it ever instituted approval on a product basis (Annex 13 B).	At least 2 directors of a public company must be resident in Australia (annex I). Annex II exemption for cross-border supply of banking services, except for provision of information and financial data processing. Annex II exemption on cross-border supply or consumption abroad of life and non-life insurance, other than for risks related to maritime, aviation, space launching, freight and goods in international transit. Annex II exemption on cross-border supply or consumption abroad of insurance intermediation (brokerage and agency)

Continued

Table 6 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>
A Insurance and related services	Blanket exemption of regional measures for financial services (annex III exemption). For 3, approval of non-residential life insurers no longer restricted to subsidiaries. US life insurance companies no longer need officer resident in Australia. Non-incorporated entities no longer need Australian resident as agent.	Non-resident life insurers must be subsidiaries incorporated under Australian law. Registered foreign life insurers required to have local agent in Australia. If insurance company operating as non-incorporated entity, must have Australian resident as agent. Comcare is monopoly provider of workers compensation insurance to Commonwealth employees. (annex I)
a Life, accident and health insurance services	See above.	See above.
b Non-life insurance services	See above.	See above.
c Reinsurance and retrocession	See above.	See above.
d Services auxiliary to insurance (including broking and agency services)	See above.	See above.
B Banking and other financial services	For 1,3, foreign bank located overseas can offer services to enterprises, but can't raise deposits or undertake business in Australia unless it is an authorised bank. Can raise debt funds in Australia subject to conditions.(annex III exemption). For 3, foreign branches cannot accept 'retail' deposits (must be subsidiary) and representative offices cannot undertake any business (annex III exemption). Blanket exemption for regional measures in financial services (annex III). For 1, investment of official reserves by US no longer requires approval of RB. For 1,3, dealings in foreign exchange no longer must be through dealer authorised by RB (with limits on who can become one). Commonwealth entities guaranteed by C'wealth Govt (annex IV exemption). Some Guarantees to CBA and AIDC are exempt (annex III exemption).	Foreign deposit taking institutions may operate through subsidiaries or branches. Must be authorised by APRA. Foreign branches cannot accept 'retail' deposits (must be subsidiary) and representative offices cannot undertake any business. Can raise debt funds in Australia subject to conditions.(annex I exemption). To obtain an Australian market licence, an applicant must be a body corporate. The govt has monopoly on administration of Commonwealth super schemes. The responsible entity of a registered managed investment scheme must be a public company with an appropriate licence.(annex I) Liabilities of Commonwealth Bank, AIDC covered by transitional guarantee arrangements. (annex I) Annex II exemption of guaranteed to Commonwealth owned entities conducting financial operations.
a Acceptance of deposits		
b Lending of all types		
c Financial leasing		
d All payment and money transmission services		
e Guarantees and commitments		
f Trading money market instruments, foreign exchange, derivatives, exchange rate and interest rate instruments, transferable securities, other negotiable instruments and financial assets, incl. bullion		
g Participation in issues of all kinds of securities, incl. underwriting and placement as agent		
h Money broking		

Continued

Table 6 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>
i Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services		
j Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments		
k Advisory and other auxiliary financial		
l Provision and transfer of financial information, and financial data processing and related software by providers of other financial services		
C Other		
8 HEALTH RELATED AND SOCIAL SERVICES		
A Hospital services	Annex II exemption for MA and NT for health and child care maintained for public purpose. Citizenship and foreign equity limits on Commonwealth Serum Laboratories remain (annex I exemption).	Annex II exemption for MA and NT for health, child care established for public purpose. Citizenship and foreign equity limits on Commonwealth Serum Laboratories remain (annex I).
B Other human health services	Annex II exemption for MA and NT for health and child care maintained for public purpose. PR requirements stay (annex I regional exemption).	Annex II exemption for MA and NT for health, child care established for public purpose
C Social services	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare
D Other	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare
9 TOURISM AND TRAVEL RELATED SERVICES		
A Hotels and restaurants		
B Travel agencies and tour operator services		
C Tourist guide services		
D Other		

Continued

Table 6 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>
10 RECREATIONAL CULTURAL AND SPORTING SERVICES		
A Entertainment services		
B News agency services		
C Libraries, archives, museums and other cultural services		
D Sporting and other recreational services		
E Other		
11 TRANSPORT SERVICES		
A Maritime		
a Passenger transportation	Blanket exemption for cabotage and offshore transport services (annex II exemption) Existing limits on foreign ownership of shippers remain (annex I exemption). Only Australian flag operators can ask ACCC whether conferences and others are hindering their operations (annex I exemption). Liner services still need agent who is Australian resident (annex I exemption). Blanket exemption from NT for registration of Australian vessels (annex II exemption)	Annex II exemption for MA and NT for public utilities and public transport for public purpose Annex II exemption for cabotage and offshore transport services. Only Australian flag operators can ask ACCC whether conferences and others are hindering their operations (annex I exemption). Annex II exemption for cabotage and offshore transport services. Ships registered in Australia must be majority Australian owned. Liner services need agent who is Australian resident (annex I exemption).
b Freight transportation	See above.	See above.
c Rental of vessels with crew		
d Maintenance and repair of vessels		
e Pushing and towing services		
f Supporting services for maritime transport		
B Inland waterways transport		
a Passenger transportation		
b Freight transportation		
c Rental of vessels with crew		
d Maintenance and repair of vessels		
e Pushing and towing services		
f Supporting services for inland waterways transport		
C Air transport services		
a Passenger transportation	Existing limits on foreign ownership of Qantas, other Australian airlines (Annex I exemptions) and Federal leased airports (annex II exemption) remain.	Total foreign ownership of Australian international airlines (other than Qantas) restricted to 49%. Citizenship and location requirements also apply. Total foreign ownership of Qantas restricted to 49%, with limits on individual holdings. Citizenship and location requirements also apply (annex I). Annex II exemption on investment on Federal leased airports. Airservices Australia is monopoly supplier of air traffic and related services.
b Freight transportation	See above.	See above.

Continued

Table 6 Continued

	<i>AUSFTA</i>	<i>Australia-Singapore</i>
c Rental of aircraft with crew		
d Maintenance and repair of aircraft		
e Supporting services for air transport		
D Space transport		
E Rail transport services		
a Passenger transportation		
b Freight transportation		
c Pushing and towing services		
d Maintenance and repair of rail transport equipment		
e Supporting services for rail transport services		
F Road transport		
a Passenger transportation		
b Freight transportation		
c Rental of commercial vehicles with operator		
d Maintenance and repair of road transport equipment		
e Supporting services for road transport services		
G Pipeline transport		
a Transportation of fuels		
b Transportation of other goods		
H Services auxilliary to all modes of transport		
a Cargo-handling services		
b Storage and warehouse services		
c Freight transport agency services		
d Other	Customers brokers must be in and from Australia (annex I exemption)	Customers brokers must be in and from Australia (annex I exemption)
I Other transport services	MA for 1,2,3.	
12 OTHER SERVICES NEC	MA for 1,2,3.	

Continued

Table 6 Continued

<i>AUSFTA</i>	<i>Australia-Singapore</i>
Investment subject to \$50 million screening limit: investment in existing businesses in telecommunications, transport, to supply Australian or other defence forces or for goods and services for military purpose, encryption and security technologies and communications systems, extraction of plutonium or operation of nuclear facilities.	All investment subject to \$50 million screening limit (annex I).
Investment subject to \$800 million screening limit: investments in existing businesses in all other sectors except finance, nonresidential commercial real estate, takeovers of companies with more than \$800 million in assets	At least 2 directors of a public company must be resident in Australia (annex I)
Other screening - other large takeovers, investments by companies with large foreign government holding.	Blanket exemption for screening of foreign purchase of urban land (annex II)
No foreign control of existing financial sector companies.	
Existing restrictions on urban land remain (annex II exemption).	
Export performance requirements for existing contracts under Government IT Outsourcing program remain	

Source: Agreement texts.

Table 7 Comparison of United States' commitments on services trade

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
	There is blanket exemption of all market access measures (annex II). There is a blanket exemption of all existing State measures (annex I). There is a blanket exemption for measures according rights to socially or economically disadvantaged minorities (Annex II). There is a blanket MFN exemption for all existing preferences under FTAs etc, (hence ratchet mechanism) and for new preferences in the areas of aviation, fisheries or maritime matters (annex II exemption).	There is blanket exemption of all existing market access measures (annex I). There is a blanket exemption of all existing State measures (annex I only). There is a blanket exemption for measures according rights to socially or economically disadvantaged minorities (Annex II). There is a blanket MFN exemption for all existing preferences under FTAs etc, (hence ratchet mechanism) and for new preferences in the areas of aviation, fisheries or maritime matters (annex I exemption).	There is blanket exemption of all market access measures (annex II). There is a blanket exemption of all existing State measures (annex I only). There is a blanket exemption for measures according rights to socially or economically disadvantaged minorities (Annex II). There is a blanket MFN exemption for all existing preferences under FTAs etc, (hence ratchet mechanism) and for new preferences in the areas of aviation, fisheries or maritime matters (annex II exemption).
1. BUSINESS SERVICES			
A Professional services			
a Legal	MA exemption (annex II) and State exemption (annex I). US citizenship required to practice before US Patent and Trademark Office (annex I exemption)	US citizenship required to practice before US Patent and Trademark Office (annex I exemption)	US citizenship required to practice before US Patent and Trademark Office (annex I exemption)
b Accounting			
c Taxation			
d Architectural			
e Engineering			
f Integrated engineering			
g Urban planning and landscape architecture			
h Medical and dental	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health and child care maintained for public purpose.
i Veterinary			
j Paramedical	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health and child care maintained for public purpose.
k Other	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health and child care maintained for public purpose.
B. Computer related services			
a Consultancy - hardware			
b Consultancy - software			
c Data processing			
d Database services			
e Other			

Continued

Table 7 **Comparison of United States' commitments on services trade**

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
C Research and development services	Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I).	Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I).	Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I).
a In natural sciences			
b In social sciences and humanities			
c Interdisciplinary			
D Real estate services			
a Involving own or leased property			
b On fee or contract basis			
E Rental/leasing services			
a Ships			
b Aircraft			
c Other transport equip			
d Other mach and equip			
e Other			
F Other business services			
a Advertising			
b Market research			
c Management consulting			
d Services related to man. consulting			
e Technical testing and analysis serv			
f Services incidental to agriculture, hunting and forestry	MA exemption (annex II) for ag machinery and harvesting services, labour contractors or aerial fire fighting.		
g Services incidental to fishing			
h Services incidental to mining	Foreigners may not acquire interests in certain minerals on on-shore federal lands (annex I exemption)		
i Services incidental to manufacturing			
j Services incidental to energy distribution			
k Placement and supply services of Personnel			
l Investigation and security			

Continued

Table 7 Continued

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
m Related scientific and technical consulting services			
n Maintenance and repair of equipment			
o Building-cleaning services			
p Photographic services			
q Packaging services			
r Printing, publishing	Is MA exemption applicable (annex II)??	Is MA exemption applicable (annex I)??	Is MA exemption applicable (annex II)??
s Convention services			
t Other			
2 COMMUNICATION SERVICES			
A Postal	MA exemption (annex II). NT for all modes (except delivery of standard letter, which is seen as govt service)	MA exemption (annex I). NT for all modes (except delivery of standard letter, which is seen as govt service)	MA exemption (annex II). NT for all modes (except delivery of standard letter, which is seen as govt service)
B Courier			
C Telecommunications	Exemption for MA and NT for one-way satellite transmission of TV and digital audio (annex II).	Exemption for MA and NT for one-way satellite transmission of TV and digital audio (annex II).	Exemption for MA and NT for one-way satellite transmission of TV and digital audio (annex II).
a Voice telephone services	Is MA exemption applicable (annex II)??	Is MA exemption applicable (annex II)??	Is MA exemption applicable (annex II)??
b Packet-switched data transmission services			
c Circuit-switched data transmission services			
d Telex services			
e Telegraph services			
f Facsimile services			
g Private leased circuit services			
h Electronic mail			
i Voice mail			
j On-line information and data base retrieval			
k electronic data interchange (EDI)			
l Enhanced/value-added facsimile services, incl. store and forward, store and retrieve			
m Code and protocol conversion			
n On-line information and/or data processing (incl. transaction processing)			
o Other (includes mobile, paging)			

Continued

Table 7 Continued

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
D Audiovisual services			
a Motion picture and video tape production and distribution services			
b Motion picture projection service			
c Radio and television services			
d Radio and television transmission services	US reserves right to restrict ownership of radio licences (incl foreign participation) (annex I), exemption of NT for sharing of radio spectrum (annex II), NT exemption for imposing retaliatory restrictions on foreign ownership of cable TV systems (annex II).	US reserves right to restrict ownership of radio licences (incl foreign participation) (annex I), exemption of NT for sharing of radio spectrum (annex II), NT exemption for imposing retaliatory restrictions on foreign ownership of cable TV systems (annex II).	US reserves right to restrict ownership of radio licences (incl foreign participation) (annex I).
e Sound recording			
f Other			
E Other			
3 CONSTRUCTION AND RELATED SERVICES			
A General construction work for buildings			
B General construction work for civil engineering			
C Installation and assembly work			
D Building completion and finishing work			
E Other			
4 DISTRIBUTION SERVICES			
A Commission agent services			
B Wholesale trade			
C Retail trade			
D Franchising			
E Other			

Continued

Table 7 Continued

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
5 EDUCATION SERVICES			
A Primary	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.
B Secondary	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.
C Higher education	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.	Annex II exemption for MA and NT for public education and public training. State measures exemption also relevant.
D Adult education	Annex II exemption for MA and NT for public education and public training.	Annex II exemption for MA and NT for public education and public training.	Annex II exemption for MA and NT for public education and public training.
E Other	Annex II exemption for MA and NT for public education and public training.	Annex II exemption for MA and NT for public education and public training.	Annex II exemption for MA and NT for public education and public training.
6 ENVIRONMENTAL SERVICES			
A Sewage			
B Refuse disposal			
C Sanitation and similar services			
D Other			
7 FINANCIAL SERVICES			
	NT for 1 for services specified in B.3 of Understanding, eg maritime insurance. NT for 4 for all insurance. NT for 1,2 and 4 for provision of financial information. (Annex 13A) US to allow foreign institutions to offer certain services to collective investment schemes, and to promise expedited availability of insurance services (Annex 13 B).	NT for 1 for services specified in B.3 of Understanding, eg maritime insurance. NT for 4 for all insurance. NT for 1,2 and 4 for provision of financial information. (Annex 10A) US to allow foreign institutions to offer certain services to collective investment schemes, and to promise expedited availability of insurance services except for new financial services from Singapore, and to extend chapter to fiscal agency or depository services, liquidation and management services for regulated financial institutions, and sale and distribution services for govt debt (Annex 10C).	NT for 1 for services specified in B.3 of Understanding, eg maritime insurance. NT for 4 for all insurance. NT for 1,2 and 4 for provision of financial information. (Annex 12.5) US to allow foreign institutions to offer certain services to collective investment schemes, and to promise expedited availability of insurance services (annex 12.5)
A Insurance and related services	Blanket MA exemption for insurance (US financial annex I). Blanket regional exemption for insurance (US financial annex I). NT granted according to State of domicile (US financial Annex 1). Blanket regional exemption for insurance (US financial annex I	Blanket MA exemption for insurance (US financial annex I). Blanket regional exemption for insurance (US financial annex I). NT granted according to State of domicile (US financial Annex 1). Blanket regional exemption for insurance (US financial annex I	Blanket MA exemption for insurance (US financial annex III). Blanket regional exemption for insurance (US financial annex III). NT granted according to State of domicile (US financial Annex 1). Blanket regional exemption for insurance (US financial annex I

Continued

Table 7 Continued

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
a Life, accident and health insurance services	Blanket regional exemption for insurance (US financial annex I). Foreign branches cannot provide surety bonds for US federal govt contracts (US financial annex I). Existing non-conforming tax measures are exempt (Article 22.3.4(d)). Limits on foreign companies insuring vessels built under federally guaranteed mortgage funds are exempt (US financial annex I).	Blanket regional exemption for insurance (US financial annex I). Foreign branches cannot provide surety bonds for US federal govt contracts (US financial annex I). Existing non-conforming tax measures are exempt (Article 22.3.4(d)). Limits on foreign companies insuring vessels built under federally guaranteed mortgage funds are exempt (US financial annex I).	Blanket regional exemption for insurance (US financial annex III). Foreign branches cannot provide surety bonds for US federal govt contracts (US financial annex III). Existing non-conforming tax measures are exempt (Article 22.3.4(d)). Limits on foreign companies insuring vessels built under federally guaranteed mortgage funds are exempt (US financial annex I).
b Non-life insurance services	As for life insurance	As for life insurance	As for life insurance
c Reinsurance and retrocession	Blanket regional exemption for insurance (US financial annex I). Existing non-conforming tax measures are exempt (Article 22.3.4(d)). State measures exemption (US financial annex I).	Blanket regional exemption for insurance (US financial annex I). Existing non-conforming tax measures are exempt (Article 22.3.4(d)). State measures exemption (US financial annex I).	Blanket regional exemption for insurance (US financial annex I). Existing non-conforming tax measures are exempt (Article 22.3.4(d)). State measures exemption (US financial annex I).
d Services auxiliary to insurance (including broking and agency services)	Blanket regional exemption for insurance (US financial annex I). State measures exemption (US financial annex I).	Blanket regional exemption for insurance (US financial annex I). State measures exemption.	Blanket regional exemption for insurance (US financial annex I). State measures exemption.

Continued

Table 7 Continued

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
B Banking and other financial services	<p>NT granted according to foreign bank's home State (ie there are geographical limitations on NT within the States). Also affects MA. Limits of juridical form of juridical person (partnerships and sole proprietorships generally not acceptable). (US financial annex II). Blanket regional exemption for banking and other financial services (US financial annex II). Credit unions and thrift institutions cannot be established through branches. Banks accepting small retail deposits must be subsidiaries (branches established before 1991 are grandfathered). There may be limitations on legal entity for cross-state establishment or mergers. Home state of foreign bank will determine NT for purposes of interstate expansion. There may be restrictions on legal entity for foreign banks in some states. Blanket regional exemption for banking and other financial services (US financial annex II). All directors of national bank must be US citizens (can be waived for a minority). Foreign ownership of Edge corporations limited to foreign banks or US subsidiaries. Foreign banks (excl subsidiaries) required to register as investment advisers. Foreign banks (excl subsidiaries) cannot be members of the Federal Reserve system. There may be restrictions on legal entity for foreign banks in some states. MFN reservation for broker-dealers with Canadian principal place of business. Advantages may be granted to named Government-sponsored financial enterprises.(US financial annex II).</p>	<p>NT granted according to foreign bank's home State (ie there are geographical limitations on NT within the States). Also affects MA. Limits of juridical form of juridical person (partnerships and sole proprietorships generally not acceptable). (US financial annex II). Blanket regional exemption for banking and other financial services (US financial annex II, headnote only). Credit unions and thrift institutions cannot be established through branches. Banks accepting small retail deposits must be subsidiaries (branches established before 1991 are grandfathered). There may be limitations on legal entity for cross-state establishment or mergers. Home state of foreign bank will determine NT for purposes of interstate expansion. There may be restrictions on legal entity for foreign banks in some states. Blanket regional exemption for banking and other financial services (US financial annex II). All directors of national bank must be US citizens (can be waived for a minority). Foreign ownership of Edge corporations limited to foreign banks or US subsidiaries. Foreign banks (excl subsidiaries) required to register as investment advisers. Foreign banks (excl subsidiaries) cannot be members of the Federal Reserve system. There may be restrictions on legal entity for foreign banks in some states. MFN reservation for broker-dealers with Canadian principal place of business. Advantages may be granted to named Government-sponsored financial enterprises.(US financial annex II).</p>	<p>NT granted according to foreign bank's home State (ie there are geographical limitations on NT within the States). Also affects MA. Limits of juridical form of juridical person (partnerships and sole proprietorships generally not acceptable). (US financial annex II). Blanket regional exemption for banking and other financial services (US financial annex III, headnote only). Credit unions and thrift institutions cannot be established through branches. Banks accepting small retail deposits must be subsidiaries (branches established before 1991 are grandfathered). There may be limitations on legal entity for cross-state establishment or mergers. Home state of foreign bank will determine NT for purposes of interstate expansion. There may be restrictions on legal entity for foreign banks in some states. Blanket regional exemption for banking and other financial services (US financial annex II). All directors of national bank must be US citizens (can be waived for a minority). Foreign ownership of Edge corporations limited to foreign banks or US subsidiaries. Foreign banks (excl subsidiaries) required to register as investment advisers. Foreign banks (excl subsidiaries) cannot be members of the Federal Reserve system. There may be restrictions on legal entity for foreign banks in some states. MFN reservation for broker-dealers with Canadian principal place of business. Advantages may be granted to named Government-sponsored financial enterprises.(US financial annex II).</p>

a Acceptance of deposits

b Lending of all types

c Financial leasing

d All payment and money transmission services

e Guarantees and commitments

Continued

Table 7 Continued

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
f Trading money market instruments, foreign exchange, derivatives, exchange rate and interest rate instruments, transferable securities, other negotiable instruments and financial assets, incl. bullion	Foreign firms may not use simplified registration and reporting for securities issued by small business corporations (annex I exemption). Authority to act as sole trustee of an indenture for a bond offering in the US subject to a reciprocity test (US financial annex II). 1,2,3 Options and/or futures contracts on onions allowed.	Foreign firms may not use simplified registration and reporting for securities issued by small business corporations (annex I exemption).	Foreign firms may not use simplified registration and reporting for securities issued by small business corporations (annex I exemption). Authority to act as sole trustee of an indenture for a bond offering in US subject to reciprocity test.
g Participation in issues of all kinds of securities, incl. under-writing and placement as agent	Designation as a primary dealer in US government debt is conditioned on reciprocity (lack of NT reservation by other country is a positive factor in a firm's request for designation). (US financial annex II).		Designation as primary dealer in US govt debt securities conditioned on reciprocity.
h Money broking			
i Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services			
j Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments			
k Advisory and other auxiliary financial			
l Provision and transfer of financial information, and financial data processing and related software by providers of other financial services			
C Other			
8 HEALTH RELATED AND SOCIAL SERVICES	Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I).	Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I).	Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I).
A Hospital services	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health and child care maintained for public purpose.
B Other human health services	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health and child care maintained for public purpose.	Annex II exemption for MA and NT for health and child care maintained for public purpose.

Continued

Table 7 Continued

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
C Social services	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare
D Other	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare	Annex II exemption for MA and NT for law enforcement and correctional services, income security or insurance, social security or insurance, social welfare
9 TOURISM AND TRAVEL RELATED SERVICES			
A Hotels and restaurants			
B Travel agencies and tour operator services			
C Tourist guide services			
D Other			
10 RECREATIONAL CULTURAL AND SPORTING SERVICES			
A Entertainment services			
B News agency services			
C Libraries, archives, museums and other cultural services			
D Sporting and other recreational services			
E Other			
11 TRANSPORT SERVICES			
A Maritime	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
a Passenger transportation	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
b Freight transportation	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
c Rental of vessels with crew	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
d Maintenance and repair of vessels	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
e Pushing and towing services	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).

Continued

Table 7 Continued

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
B Inland waterways transport			
a Passenger transportation	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
b Freight transportation	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
c Rental of vessels with crew	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
d Maintenance and repair of vessels	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
e Pushing and towing services	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
f Supporting services for inland waterways transport	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).	Blanket exemption of maritime services (annex II).
C Air transport services			
a Passenger transportation	Only air carriers that are 'citizens of the US' may operate domestic air services (cabotage) and provide international services as US air carriers (annex I exemption). Authorisation required for provision of specialty air services. 'Foreign civil aircraft' require authorisation from DoT to undertake these services, and in practice the air carrier has to be under the control of US citizens (annex I exemption).	Only air carriers that are 'citizens of the US' may operate domestic air services (cabotage) and provide international services as US air carriers (annex I exemption). Authorisation required for provision of specialty air services. 'Foreign civil aircraft' require authorisation from DoT to undertake these services, and in practice the air carrier has to be under the control of US citizens (annex I exemption).	Only air carriers that are 'citizens of the US' may operate domestic air services (cabotage) and provide international services as US air carriers (annex I exemption). Authorisation required for provision of specialty air services. 'Foreign civil aircraft' require authorisation from DoT to undertake these services, and in practice the air carrier has to be under the control of US citizens (annex I exemption).
b Freight transportation			
c Rental of aircraft with crew			
d Maintenance and repair of aircraft			
e Supporting services for air transport			
D Space transport			
E Rail transport services			
a Passenger transportation			
b Freight transportation			
c Pushing and towing services			
d Maintenance and repair of rail transport equipment			
e Supporting services for rail transport services			

Continued

Table 7 Continued

	<i>AUSFTA</i>	<i>US-Singapore</i>	<i>US-Chile</i>
F Road transport			
a Passenger transportation			
b Freight transportation			
c Rental of commercial vehicles with operator			
d Maintenance and repair of road transport equipment			
e Supporting services for road transport services			
G Pipeline transport			
a Transportation of fuels	Foreigners may not acquire rights of way for oil and gas pipelines across federal land (annex I exemption)	Foreigners may not acquire rights of way for oil and gas pipelines across federal land (annex I exemption)	Foreigners may not acquire rights of way for oil and gas pipelines across federal land (annex I exemption)
b Transportation of other goods			
H Services auxiliary to all modes of transport			
a Cargo-handling services			
b Storage and warehouse services			
c Freight transport agency services			
d Other	Customs house brokers licence only issued to US citizens. Must form corporation, association or partnership (Annex I exemption)	Customs house brokers licence only issued to US citizens. Must form corporation, association or partnership (Annex I exemption)	Customs house brokers licence only issued to US citizens. Must form corporation, association or partnership (Annex I exemption)
I Other transport services			
12 OTHER SERVICES			
NEC	Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I). There is an exemption for the non-availability to foreigners of 'certificates of review' for export conduct, which limit liability under federal and state anti-trust laws - granted only when the conduct deemed to be not anticompetitive (annex I exemption) There is an exemption for the requirement of a license to export commodities, software and technology subject to Export Administration Regulations (eg defence-related) (annex I exemption) Overseas Private Investment Corporation insurance and loan guarantees not available to foreigners (annex I exemption)	Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I). There is an exemption for the non-availability to foreigners of 'certificates of review' for export conduct, which limit liability under federal and state anti-trust laws - granted only when the conduct deemed to be not anticompetitive (annex I exemption) There is an exemption for the requirement of a license to export commodities, software and technology subject to Export Administration Regulations (eg defence-related) (annex I exemption) Overseas Private Investment Corporation insurance and loan guarantees not available to foreigners (annex I exemption)	Licence required for production and/or transport of any 'nuclear utilisation or production facilities'. Licence also required for use in medical therapy or R&D. Licence cannot be held by foreign entity (annex I). There is an exemption for the non-availability to foreigners of 'certificates of review' for export conduct, which limit liability under federal and state anti-trust laws - granted only when the conduct deemed to be not anticompetitive (annex I exemption) There is an exemption for the requirement of a license to export commodities, software and technology subject to Export Administration Regulations (eg defence-related) (annex I exemption) Overseas Private Investment Corporation insurance and loan guarantees not available to foreigners (annex I exemption)

Source: agreement texts.

Table 8 **Comparison of Singapore's commitments on services trade**

<i>Australia-Singapore</i>	<i>US-Singapore</i>
<p>Blanket exemption on mode 4 supply (annex II) Only service suppliers who qualify under the home office schemes can set up businesses in their homes (annex I). Annex II exemption on land zoning, land use and urban planning policies. Annex II exemption on alienation and divestment of real estate owned by the State. Annex II exemption on contracting out or privatisation measures. Annex II exemption on measures affecting administration and operation of national electronic systems such as Tradenet and Marinet which collect proprietary govt information. Annex II exemption on measures affecting arms and explosives. Annex II exemption on creative arts, cultural heritage and other cultural industries (includes indigenous practice and cultural expression). Annex II exemption of measures affecting ownership, sale, purchase, development, and management of real estate (though not real estate agency, auction or valuation services). Annex II exemption of betting and gambling services. Foreign businesses must appoint a local manager. Also residency requirements on directors.</p>	<p>Annex I exemption on NT and MFN in divestment of State land. Only Singapore citizens enterprises allowed to own restricted residential property. Only Singapore citizens allowed to own an apartment developed or owned by the Housing and Development Board. Only the purchase of apartments developed by the HDB may be subsidised. With the exception of small residential properties and properties given conservation status, all developers of land sold by the Govt must incorporate a new company in Singapore to develop the site. Annex II exemption allowing Singapore to retain restrictions on number of service suppliers, monopoly reservations, Senior management, local presence and juridicial form when it devolves a service currently provided in the exercise of govt authority. Annex II restrictions on foreign ownership (49%), individual ownership (5%) and management after devolution. Annex II exemption on land zoning, land use and urban planning policies. Annex II exemption of betting and gambling services. Annex II exemption on measures affecting administration and collection of proprietary govt information. Foreign businesses must appoint a local manager. Also residency requirements on directors. There is a blanket MFN exemption for all existing preferences under FTAs etc, (hence ratchet mechanism) and for new preferences in the areas of aviation, fisheries or maritime matters (annex II exemption)</p>

Continued

Table 8 Continued

	<i>Australia-Singapore</i>	<i>US-Singapore</i>
1. BUSINESS SERVICES		
A Professional services		
a Legal	<p>Patent agents must be resident in Singapore. Annex II exemption of recognition of qualifications for patent agents. Foreign firms cannot practice Singapore law. Restrictions on who they can hire to practice Australian, third country or international law. Foreign lawyers need to register. Can appear in international arbitration, but must appear jointly with Singapore lawyer where the applicable law is Singapore law. (annex I) Annex II exemption on any measure affecting Australian representative offices and Australian lawyers in Singapore, joint ventures or alliances with Singapore firms, the supply of services in Singapore law, the recognition of qualifications to register as a Singapore lawyer, limitations on the number of Singapore lawyers. Annex III clarifies the requirements for recognition of qualifications for both Australia and Singapore. (Singapore requires students to have been in top 30% of class). Annex III also clarifies 4 requirements which Singapore waives for the operation of joint ventures and alliances - minimum number of resident Australian lawyers reduced from 5 to 4, minimum experience an aggregate of 20 years (not 5 years each), minimum relevant experience for each lawyer reduced from 5 to 4 years, experience expanded from banking and finance to any areas in Tier 1 and Tier 2 legal software.</p>	<p>Patent agents must be resident in Singapore. Lawyers must be admitted to Singapore Bar and be registered in Singapore to provide services in Singapore law. US enterprises can practice Singapore law through Joint Venture, the requirements for which are more generous than for others - minimum number of resident US lawyers reduced from 5 to 3, minimum experience an aggregate of 15 years (not 5 years each), minimum relevant experience for each lawyer practicing under Section 130C of the Legal Profession Act reduced from 5 to 3 years, experience expanded from banking and finance to any areas in Tier 1 and Tier 2 legal software, US joint ventures can practice corporate law in addition to banking and finance law. Annex II exemption on any measure affecting the supply of services in Singapore law, the recognition of qualifications to register as a Singapore lawyer.</p>
b Accounting	<p>Auditors must be registered with ICPAS and PAB. At least one partner must be effectively resident. Public accountants need to be resident (or have at least one resident partner). Those practicing tax must register with PAB.</p>	<p>Auditors must be registered with ICPAS and PAB.</p>
c Taxation		
d Architectural	<p>Partnerships or corporations need to be under the control of a director or partner who is a Singapore-registered architect. Chairman and two-thirds of directors need to be Singapore-registered architects or allied professional. Similarly for directors and partners.</p>	<p>Only persons who are registered with Board of Architects and resident in Singapore are allowed to provide architectural services. Partnerships or corporations need to be under the control of a director or partner who is a Singapore-registered architect. Chairman and two-thirds of directors need to be Singapore-registered architects or allied professional. Similarly for directors and partners.</p>
e Engineering	<p>Works requiring govt approval require engineer resident in Singapore for the duration fo the project. Partnerships or corporations need to be under the control of a director or partner who is a Singapore-registered engineer. Chairman and two-thirds of directors need to be Singapore-registered engineers or allied professional. Similarly for directors and partners.</p>	<p>Partnerships or corporations need to be under the control of a director or partner who is a Singapore-registered engineer. 51% of directors need to be Singapore-registered engineers or allied professional. Similarly for directors and partners.</p>

Continued

Table 8 Continued

	<i>Australia-Singapore</i>	<i>US-Singapore</i>
f Integrated engineering	As above	As above
g Urban planning and landscape architecture	Partnerships or corporations need to be under the control of a director or partner who is a Singapore-registered land surveyor. Directors and partners need to be Singapore-registered surveyors or allied professional.	Partnerships or corporations need to be under the control of a director or partner who is a Singapore-registered land surveyor. Directors and partners need to be Singapore-registered surveyors or allied professional. Requirement for 2/3 of shares to be held by Singaporean professional to be phased out by Jan 2004.
h Medical and dental		
i Veterinary		
j Paramedical		
k Other		
B. Computer related services		
a Consultancy - hardware		
b Consultancy - software		
c Data processing		
d Database services		
e Other	Mailing list complication and mailing services subject to reservations in the postal sector	
C Research and development services		
a In natural sciences		
b In social sciences and humanities		
c Interdisciplinary		
D Real estate services		
a Involving own or leased property	Development of Sentosa reserved for the Sentosa Development Corporation	Development of Sentosa reserved for the Sentosa Development Corporation. Private developers can develop specific plots for commercial, residential and recreational purposes.
b On fee or contract basis		
E Rental/leasing services		
a Ships		
b Aircraft		
c Other transport equip	Cross-border rental of cars and other land transport vehicles by Singapore residents for use in Singapore is prohibited.	
d Other mach and equip		
e Other		
F Other business services		
a Advertising		
b Market research		
c Management consulting		
d Services related to man. consulting		

Continued

Table 8 Continued

	<i>Australia-Singapore</i>	<i>US-Singapore</i>
e Technical testing and analysis serv	Need local presence to provide testing on products physically present in Singapore, whether or not intended for import or export. Singapore may expand scope of Animals and Birds Act or Control of Plants Act. Need local presence to test cars.	Need local presence to provide testing on products physically present in Singapore, whether or not intended for import or export.
f Services incidental to agriculture, hunting and forestry		
g Services incidental to fishing		
h Services incidental to mining		
i Services incidental to manufacturing	Annex II exemption on measures affecting goods restricted by the Control of Manufacture Act (air conditioners, beer & stout, cigars, drawn steel products, firecrackers, pig and sponge iron, refrigerators, rolled steel products, steel ingots etc, chewing gum, cds, dvds, cigarettes, matches)	Annex I exemption on measures affecting goods restricted by the Control of Manufacture Act (beer & stout, cigars, drawn steel products, chewing gum, cigarettes, matches)
j Services incidental to energy distribution		
k Placement and supply services of Personnel	Need local presence to set up and place foreign workers (annex I).	
l Investigation and security	Need local presence, citizen and residency requirements to provide unarmed guards for hire. Foreigners cannot work as guards. Restrictions on operations. Need local presence and designation by relevant gov bodies to supply collection agency services. Need local presence to run a royalty collection management entity.	Only Singapore citizens or PRs and Malaysian citizens can work as security guards or as PIs. Unarmed guard services precluded from exporting large cash-in-transit operations. Singapore may limit number of suppliers of credit bureau services, where they get info from Singaporean financial institutions. Suppliers must be established in Singapore and be subject to share ownership and other requirements of Association of Banks in Singapore. (annex I)
m Related scientific and technical consulting services	Annex II exemption of scientific and technical consulting services.	
n Maintenance and repair of equipment		
o Building-cleaning services		
p Photographic services		
q Packaging services		
r Printing, publishing	Annex II exemption on any measure affecting newspapers, not limited to shareholding and management control. MA and NT restrictions shall also apply of the newspaper breaches content standards.	Annex II exemption on any measure affecting printed media.
s Convention services		
t Other		
2 COMMUNICATION SERV		
A Postal	Only Singapore Post can convey letters and postcards. This does not apply to express letters. There are performance requirements and price floors for express letter delivery. Express letter delivery requires local presence.	Only Singapore Post can convey letters and postcards. This does not apply to express letters. There are performance requirements and price floors for express letter delivery. Express letter delivery requires local presence.

Continued

Table 8 Continued

	<i>Australia-Singapore</i>	<i>US-Singapore</i>
B Courier		
C Telecommunications	Facilities and service operators must be locally incorporated. Registrars for the .sg domain name must be locally incorporated. Annex II exemption on foreign ownership in telecommunications.	Facilities and service operators must be locally incorporated. Registrars for the .sg domain name must be locally incorporated. Annex II exemption on foreign ownership on reciprocal basis in mobile and wireless telecommunications.
a Voice telephone services		
b Packet-switched data transmission services		
c Circuit-switched data transmission services		
d Telex services		
e Telegraph services		
f Facsimile services		
g Private leased circuit services		
h Electronic mail		
i Voice mail		
j On-line information and data base retrieval		
k electronic data interchange (EDI)		
l Enhanced/value-added facsimile services, incl. store and forward, store and retrieve		
m Code and protocol conversion		
n On-line information and/or data processing (incl. transaction processing)		
o Other (includes mobile, paging)		
D Audiovisual services		
a Motion picture and video tape production and distribution services		
b Motion picture projection service		
c Radio and television services	Free to air broadcasting, cable and pay TV, direct broadcasting by satellite and teletext not included. Blanket annex II exemption on broadcasting and allocation of spectrum (though does not apply to the sole activity of transmitting licensed broadcasting services to a final consumer). An additional annex II exemption of broadcasting services.	Blanket annex II exemption on broadcasting and allocation of spectrum (though does not apply to the sole activity of transmitting licensed broadcasting services to a final consumer).
d Radio and television transmission services		
e Sound recording		
f Other		
E Other		

Continued

Table 8 Continued

	<i>Australia-Singapore</i>	<i>US-Singapore</i>
3 CONSTRUCTION AND RELATED SERVICES	Works requiring govt approval require engineer resident in Singapore for the duration of the project. Partnerships or corporations need to be under the control of a director or partner who is a Singapore-registered engineer. Chairman and two-thirds of directors need to be Singapore-registered engineers or allied professional. Similarly for directors and partners.	Partnerships or corporations need to be under the control of a director or partner who is a Singapore-registered engineer. 51% of directors need to be Singapore-registered engineers or allied professional. Similarly for directors and partners.
A General construction work for buildings		
B General construction work for civil engineering		
C Installation and assembly work		
D Building completion and finishing work		
E Other		
4 DISTRIBUTION SERVICES	Annex II exemption in distribution of goods subject to import prohibition or non-automatic import licensing, and list can be changed. Annex II exemption in supply of alcohol and tobacco.	Need local presence to distribute and sell hazardous substances. Need local agent to distribute medical and health related products.
A Commission agent services		
B Wholesale trade		
C Retail trade		
D Franchising		
E Other		
5 EDUCATION SERVICES		
A Primary	Annex II exemption on public training. Annex II exemption on primary, general secondary and higher secondary (junior colleges and pre-university centres) education services. Annex II exemption on supply of sports education services at primary, secondary, post-secondary and higher education levels.	Annex II exemption on public training. Annex II exemption on primary, general secondary and higher secondary (junior colleges and pre-university centres) education services.
B Secondary	Annex II exemption on public training. Annex II exemption on primary, general secondary and higher secondary (junior colleges and pre-university centres) education services. Annex II exemption on supply of sports education services at primary, secondary, post-secondary and higher education levels.	Annex II exemption on public training. Annex II exemption on primary, general secondary and higher secondary (junior colleges and pre-university centres) education services.
C Higher education	Only local institutions can train doctors. Annex II exemption on public training. Annex II exemption on recognition of university degrees for registration for professional practice. Annex II exemption on supply of sports education services at primary, secondary, post-secondary and higher education levels.	Only local institutions can train doctors. Annex II exemption on public training.
D Adult education	Annex II exemption on public training.	Annex II exemption on public training.
E Other	Annex II exemption on public training.	Annex II exemption on public training.

Continued

Table 8 Continued

	<i>Australia-Singapore</i>	<i>US-Singapore</i>
6 ENVIRONMENTAL SERVICES		
A Sewage	Annex II exemption on waste water management.	Annex II exemption on hazardous waste management. Annex II exemption on waste water management.
B Refuse disposal		
C Sanitation and similar services		
D Other	Annex II exemption on supply of potable water.	Annex II exemption on supply of potable water.
7 FINANCIAL SERVICES	<p>Singapore \$s need to be swapped or converted into foreign currency before being sent abroad. Singapore \$ should not be lent to non-residents for currency speculation (annex I) See also under NT section. Annex II exemption on measures affecting foreign full banks or in relation to Qualifying Full Bank licences. Annex II exemption on measures affecting Supplementary Retirement Scheme accounts and Central Provident Fund Investment Scheme accounts. Annex II exemption on use of CPF monies for purchase of health insurance schemes and annuities. Conditions apply to the admission of insurers under the Central Provident Fund Investment Scheme (capital, experience). All insurance brokers must be established as Singapore incorporated companies. Direct life insurers and captive insurers must be Singapore incorporated. Reinsurers and non-life insurers can also be branch offices. CTP and Workman's Compensation reserved for registered insurers in Singapore. Annex II exemption on cross-border supply of all services except reinsurance/retrocession and services auxiliary to insurance (actuarial, loss adjustor, average adjustor and consultancy services). Annex II exemption on placement of domestic risks outside Singapore, except those relating to maritime liabilities of shipowners insured by protection and indemnity clubs.</p>	<p>NT for 1 for services specified in B.3 of Understanding, eg maritime insurance, plus services auxiliary to insurance and MAT and reinsurance intermediation. NT for 4 for services auxiliary to insurance. NT for 1,2 and 4 for financial leasing, provision of information, financial data processing, trading in money market instruments, foreign exchange and exchange and interest instruments with financial institutions of Singapore, corporate finance advisory services, advisory and other auxiliary services (Annex 10A) Singapore to extend chapter to sale and distribution services for govt debt, Singapore shall not require product approval for other than certain insurance products, for others to allow expedited availability except where it is a new financial service from the US, Singapore to allow foreign institutions to offer certain services to collective investment schemes, to consider allowing non-bank credit card issuers access to ATM network (Annex 10C). Singapore \$s need to be swapped or converted into foreign currency before being sent abroad. Singapore \$ should not be lent to non-residents for currency speculation (annex I) Annex II exemption on measures affecting foreign full banks (no new to maritime liabilities of shipowners insured by licences) or in relation to Qualifying Full Bank licences (quantitative limits on licences lifted for US banks after 18 months, and US banks to be allowed to establish unlimited customer locations after 2 years (not 1), and to access any ATM network in Singapore after 2.5 years for incorporated banks, after 4 years for others). Annex II exemption on measures affecting Supplementary Retirement Scheme accounts and Central Provident Fund Investment Scheme accounts (only banks with Qualifying Full Bank privileges can provide these). Conditions apply to the admission of insurers under the Central Provident Fund Investment Scheme (capital, experience). All insurance brokers must be established as Singapore incorporated companies. Captive insurers must be Singapore incorporated. CTP and Workman's Compensation reserved for registered insurers in Singapore. Placement of domestic risks outside Singapore, except those relating to maritime liabilities of shipowners insured by protection and indemnity clubs, is subject to approval by the Monetary Authority of Singapore.</p>

Continued

Table 8 Continued

	Australia-Singapore	US-Singapore
A Insurance and related services		
a Life, accident and health insurance services		
b Non-life insurance services		
c Reinsurance and retrocession		
d Services auxiliary to insurance (including broking and agency services)		
B Banking and other financial services	Foreign banks may only establish as Singapore branch offices of a corporation or Singapore incorporated companies. <i>Wholesale banks</i> not allowed to accept retail deposits, offer savings accounts, operate interest bearing \$S current accounts, and there are restrictions on issuing bonds and certificates of deposit. Only 20 new wholesale licences granted between June 2001 and June 2003. (Annex III clarifies that Australian wholesale banks not bound by the number of licences issued after 4 years). <i>Offshore banks</i> not allowed to offer savings accounts, limits on lending, not allowed to accept interest bearing deposits, limits on current accounts, no retail deposits, limits on issuing bonds and certificates of deposit. Merchant banks may only establish as Singapore branch offices of a corporation or Singapore incorporated companies. No more than one office. No foreign control of 'financial holding companies'. Majority of directors of bank incorporated in Singapore must be citizens of PRs. Limits on individual shareholding. Annex II exemption to allow Singapore to differentiate to safeguard the interests of depositors of a Singapore branch in receivership or winding-up procedures. Annex II exemption on foreign ownership of finance companies incorporated in Singapore. Annex II exemption on supply of clearing and settlement services for exchange traded securities, financial futures and interbank transfers.	Wholesale banks not allowed to accept retail deposits, offer savings accounts, operate interest bearing \$S current accounts, and there are restrictions on issuing bonds and certificates of deposit. Only 20 new wholesale licences granted between June 2001 and June 2003. (US wholesale banks not bound by the number of licences issued after 3 years). Offshore banks not allowed to offer savings accounts, limits on lending, not allowed to accept interest bearing deposits, limits on current accounts, no retail deposits, limits on issuing bonds and certificates of deposit. No new finance company licenses issued. Finance companies must incorporate in Singapore, cannot have off-premises ATMS, ATM networking or EFTPOS. Merchant banks may only have one office. No foreign control of 'financial holding companies'. Limits on establishment or operation of securities and futures markets. Notwithstanding other (MA) restrictions, Singapore to offer one new full bank licence and two additional customer service locations for a financial institution of the US (annex 10C) Clearing and settlement services for exchange-traded securities and futures reserved to Central Depository Ltd, Singapore Exchange Derivatives Clearing Ltd, and Banking Computer Services Pty Ltd.
a Acceptance of deposits	Clearing services reserved to clearing houses established under the Banking Act. Authorisation required to operate securities or futures markets, and conditions may apply. Banks and merchant banks must establish subsidiaries to trade financial futures. Conditions apply to the admission of Funds Management Companies under the Central Provident Fund Investment Scheme (capital, experience). Banks and merchant bank membership on securities exchange must be held through a subsidiary. Only Central Depository Pty Ltd can provide custodial services for book-entry securities. Holders of capital market services licence must be Singapore company or branch office. Must be majority Singapore ownership of remittance shops and money changing businesses.	Clearing services reserved to clearing houses established under the Banking Act. Must be majority Singapore ownership of remittance shops and money changing businesses. Currency from Brunei to be exchanged at par without charge. Banks and merchant banks must establish subsidiaries to trade financial futures. Banks and merchant bank membership on securities exchange must be held through a subsidiary. Only Central Depository Pty Ltd can provide custodial services for book-entry securities. Conditions apply to the admission of Funds Management Companies under the Central Provident Fund Investment Scheme (capital, experience).

Continued

Table 8 Continued

	<i>Australia-Singapore</i>	<i>US-Singapore</i>
c Financial leasing		
d All payment and money transmission services		
e Guarantees and commitments		
f Trading money market instruments, foreign exchange, derivatives, exchange rate and interest rate instruments, transferable securities, other negotiable instruments and financial assets, incl. bullion		
g Participation in issues of all kinds of securities, incl. underwriting and placement as agent		
h Money broking		
i Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial depository and trust services		
j Settlement and clearing services for financial assets, incl. securities, derivative products, and other negotiable instruments		
k Advisory and other auxiliary financial		
l Provision and transfer of financial information, and financial data processing and related software by providers of other financial services		
C Other		
8 HEALTH RELATED AND SOCIAL SERVICES	Annex II exemption on recognition of qualifications for registration of health-related professionals, including contact lens practitioners, dentists, doctors, pharmacists, nurses, midwives and traditional Chinese medicine practitioners. Nurses and midwives must be registered with Singapore Nursing Board. Those supplying medical services must be registered with the Singapore Medical Council. Only those registered with the Singapore Pharmacy Board can provide pharmacy services. Only Singapore registered pharmacists can sell products defined under the Medicines Act. Annex II exemption on supply of health services by govt owned or controlled institutions. Annex II exemption on limits to number of doctors or pharmacists practising in Singapore, and conditions for registration..	Annex II exemption on recognition of qualifications for registration of health-related professionals, including contact lens practitioners, dentists, doctors, pharmacists, nurses, midwives and traditional Chinese medicine practitioners. Nurses and midwives must be registered with Singapore Nursing Board. Those supplying medical services must be registered with the Singapore Medical Council. Only those registered with the Singapore Pharmacy Board can provide pharmacy services. Only Singapore registered pharmacists can sell products defined under the Medicines Act. Annex II exemption on supply of health services by govt institutions. Annex II exemption on limits to number of doctors or pharmacists practising in Singapore.
A Hospital services		
B Other human health services	Must be resident in Singapore to supply contact lenses.	Must be resident in Singapore to supply contact lenses.
C Social services		
D Other		

Continued

Table 8 Continued

	<i>Australia-Singapore</i>	<i>US-Singapore</i>
9 TOURISM AND TRAVEL RELATED SERVICES		
A Hotels and restaurants	Only a Singapore citizen or PR can apply for licence to operate food establishment in places such as hawker centres, restaurants and cafes in their personal capacity.	
B Travel agencies and tour operator services		
C Tourist guide services		
D Other		
10 RECREATIONAL CULTURAL AND SPORTING SERVICES		
A Entertainment services	Annex II exemption on measures affecting archive services for govt records specified under the National Heritage Board. Annex II exemption on museum services and preservation of historic sites, monuments and buildings.	
B News agency services		
C Libraries, archives, museums and other cultural services		
D Sporting and other recreational services		
E Other	National park management reserved for National Parks Board.	
11 TRANSPORT SERVICES		
A Maritime	Aggregate foreign shareholdings in PSA Corporation not to exceed 49%. Individual holdings limited to 5%. Annex II exemption on towing and tug assistance, provisioning, fuelling and watering, garbage collection and ballast water disposal, port captains services, navigation aids, emergency repair, anchorage, and other shore-based services essential to ship operations. Annex III clarifies that these services are made available to international maritime operators on reasonable and non-discriminatory terms.	Aggregate foreign shareholdings in PSA Corporation not to exceed 49%. Individual holdings limited to 5%
a Passenger transportation	Singapore flagged vessels must be registered to Singapore citizen or PR. Need a ship manager resident in Singapore. Vessels do not need to be majority Singapore owned if they are of a minimum size and self-propelled. Registered seamen must be Singapore citizens or PRs.	Singapore flagged vessels must be registered to Singapore citizen or PR. Need a ship manager resident in Singapore. Vessels do not need to be majority Singapore owned if they are of a minimum size and self-propelled. Registered seamen must be Singapore citizens or PRs.
b Freight transportation		
c Rental of vessels with crew		
d Maintenance and repair of vessels		
e Pushing and towing services		
f Supporting services for maritime transport	Cargo handling reserved for PSA and Jurang Port. Pilotage and water supply reserved to PSA Marine. Only local services suppliers can operate and manage cruise and ferry terminals (more than 50% owned).	Cargo handling reserved for PSA and Jurang Port. Pilotage and water supply reserved to PSA Marine.

Continued

Table 8 Continued

	<i>Australia-Singapore</i>	<i>US-Singapore</i>
B Inland waterways transport	Annex II exemption on supply of internal waterways transport.	
a Passenger transportation		
b Freight transportation		
c Rental of vessels with crew		
d Maintenance and repair of vessels		
e Pushing and towing services		
f Supporting services for inland waterways transport		
C Air transport services		
a Passenger transportation	Individual shareholding in Singapore airlines limited to 5%. Individual shareholding in Singapore Technologies Engineering limited to 5%. Suppliers of passenger and freight services need to comply with the 'effective control' and 'substantial ownership' requirements of Singapore's air service agreements. This may limit foreign ownership.	Individual shareholding in Singapore airlines limited to 5%. Individual shareholding in Singapore Technologies Engineering limited to 5%. Suppliers of passenger and freight services need to comply with the 'effective control' and 'substantial ownership' requirements of Singapore's air service agreements. This may limit foreign ownership.
b Freight transportation		
c Rental of aircraft with crew		
d Maintenance and repair of aircraft		
e Supporting services for air transport	Ground handling services reserved for Singapore Airport Terminal Services and Changi International Airport Services. Rescue and firefighting services reserved for Civil Aviation Authority of Singapore. Annex II exemption on supply of air traffic, air navigation, etc, rescue and fire fighting, ground operations, terminal operations, flight information management, security, and real estate management of airports and heliports. Annex II exemption on building, ownership and management of airports and heliports.	Ground handling services reserved for Singapore Airport Terminal Services and Changi International Airport Services. Does not apply to services already supplied by US providers under other international agreements. Annex II exemption on measures relating to divestment of the administrator and operator of airports.
D Space transport		
E Rail transport services	Annex II exemption on public transport.	Annex II exemption on public transport.
a Passenger transportation		
b Freight transportation	Annex II exemption on rail and road freight services.	
c Pushing and towing services		
d Maintenance and repair of rail transport equipment		
e Supporting services for rail transport services	Annex II exemption on supporting services for rail and road transport.	
F Road transport	Annex II exemption on public transport.	Annex II exemption on public transport.
a Passenger transportation		
b Freight transportation	Annex II exemption on rail and road freight services.	
c Rental of commercial vehicles with operator		
d Maintenance and repair of road transport equipment	Local presence required to maintain and repair motor vehicles.	
e Supporting services for road transport services	Annex II exemption on supporting services for rail and road transport.	

Continued

Table 8 Continued

	<i>Australia-Singapore</i>	<i>US-Singapore</i>
G Pipeline transport		
a Transportation of fuels	Distribution of gas reserved to City Gas and Power Gas. Local presence required for supply of chemicals and petroleum via pipeline.	Distribution of natural gas reserved to Power Gas.
b Transportation of other goods		
H Services auxiliary to all modes of transport		
	Annex II exemption on storage and warehousing, freight forwarding, inland trucking, container station and depot services.	Annex II exemption on storage and warehousing, freight forwarding, inland trucking, container station and depot services. Does not extend to express delivery services (part of postal services).
a Cargo-handling services	Need local presence to apply for import/export permit, certificate of origin or other trade document.	Need local presence to apply for import/export permit, certificate of origin or other trade document.
b Storage and warehouse services		
c Freight transport agency services		
d Other		
I Other transport services		
12 OTHER SERVICES NEC		
	Annex II exemption on services provided by cooperative societies and trade unions.	Only suppliers with local presence can be registered under the Cooperative Societies Act or provide trade union services. Generally only Singapore citizens can hold office or be a manager in coops. Office bearers of trade union must be Singapore citizens.
	Individual shareholding in Singapore Power, Power Grid, Power Supply, Power Gas limited to 5% Power suppliers must sell through Singapore wholesale market, not directly to consumers. There are limits on the amount of power supplied. Only Power Supply Ltd can sell to retail customers. Only Power Grid can be the transmission licensee, and the sole owner and operator of the transmission and distribution network.	Individual shareholding in Singapore Power, Power Grid, Power Supply, Power Gas limited to 5% Power suppliers must sell through Singapore wholesale market, not directly to consumers. There are limits on the amount of power supplied. Only Power Supply Ltd can sell to retail customers. Retail competition to be phased in, fully open by 2003. Only Power Grid can be the transmission licensee, and the sole owner and operator of the transmission and distribution network.
	Annex II exemption over government ownership of Singapore Technologies Engineering (defence-related).	Annex II exemption over government ownership of Singapore Technologies Engineering (defence-related). As part of the Asset Enhancement Scheme, the Govt of Singapore may limit to Singaporean citizens sales of shares in enterprises that it owns. But shares freely transferable thereafter.

Source: Agreement texts.