

PACIFIC AGREEMENT ON  
CLOSER ECONOMIC  
RELATIONS PLUS

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## PREAMBLE

The Governments of Australia, the Cook Islands, the Federated States of Micronesia, the Independent and Sovereign Republic of Kiribati (Kiribati), the Republic of Nauru (Nauru), New Zealand, Niue, the Republic of Palau (Palau), the Republic of the Marshall Islands, the Independent State of Samoa (Samoa), Solomon Islands, the Kingdom of Tonga (Tonga), Tuvalu, the Republic of Vanuatu (Vanuatu);

**Recognising** the unique and close historical, political, developmental, economic, geographic and cultural links that bind the Parties as well as their shared values and interests;

**Recognising** the significant development relationship among the Parties and seeking to further enhance and complement this relationship with improved trade and investment cooperation;

**Desiring** to further deepen these ties of friendship and cooperation and bind their economies closer together in order to bring further economic and social benefits and improved living standards of all peoples of the Pacific region;

**Recalling** the *Pacific Agreement on Closer Economic Relations (PACER)*, done at Nauru on 18 August 2001;

**Desiring** to act consistently with their respective rights, obligations and undertakings under the *Marrakesh Agreement Establishing the World Trade Organization*, or other multilateral, regional and bilateral agreements to which they are party;

**Confident** that this Agreement will strengthen economic partnerships, support sustainable economic development, and serve as an important building block towards regional economic integration;

**Taking** into account the significant differences in the size of the Parties; the unique and particular vulnerabilities and development challenges of developing country and least-developed country Parties in the region; the need to build their capacities with a view to fostering their enhanced participation in international trade and investment; and that many of the Parties are not Members of the World Trade Organization;

**Affirming** the desire to foster a stable and predictable environment to progressively remove barriers to trade and investment between them, while taking into account the principles of flexibility and special and differential treatment;

**Affirming** that their commitment is to make a significant and sustainable contribution to the economic and social development of the Forum Island Country Parties and to assist their gradual integration into the world economy including, *inter alia*, through the strengthening of their domestic capacity, efficiency and competitiveness;

**Mindful** of the links between economic development, social development and environmental protection and the important role of development and economic cooperation in promoting

sustainable development, the Parties resolve that PACER Plus must be a development tool for the Forum Island Countries to, *inter alia*, increase their production capacity and exports; support their economic and trade diversification, and competitiveness efforts; attract investment to them; and lead to the creation of jobs;

**Cognisant** of the role of technical assistance through trade-related assistance mechanisms and other programmes to strengthen the capacity of the Forum Island Countries to effectively participate in the multilateral trading system and improve trade competitiveness;

**Reaffirming** their commitments to multilateral environmental, labour and sustainable development agreements to which they are a Party;

**Sharing** a common aspiration to promote high standards of environmental and labour protection and, to uphold these in the context of sustainable development;

**Recognising** that it is inappropriate to use environmental and labour standards as a disguised means of trade protectionism, or to weaken or fail to enforce them to encourage trade or investment; and

**Recognising** their right to regulate and their resolve to preserve the flexibility of the Parties to set legislative and regulatory priorities, safeguard public welfare, and protect legitimate public welfare objectives, such as public health, safety, the environment, the conservation of living or non-living exhaustible natural resources, the integrity and stability of the financial system and public morals;

Have agreed as follows:

## CHAPTER 1

### INITIAL PROVISIONS AND GENERAL DEFINITIONS

#### Article 1: Establishment of the PACER Plus Free Trade Area

Consistent with Article XXIV of GATT 1994 and Article V of GATS, the Parties hereby establish a free trade area in accordance with the provisions of this Agreement.

#### Article 2: General Definitions

For the purposes of this Agreement, unless the context otherwise requires:

**administrative ruling of general application** means an administrative ruling or interpretation that applies to all persons and fact situations that fall generally within its ambit, and that establishes a norm of conduct, but shall not include:

- (a) a determination or ruling made in an administrative or quasi-judicial proceeding that applies to a particular person, good or service of the other Party in a specific case; or
- (b) a ruling that adjudicates with respect to a particular act or practice;

**Agreement** means the *Pacific Agreement on Closer Economic Relations Plus* (PACER Plus);

**Agreement on Agriculture** means the *Agreement on Agriculture*, in Annex 1A to the WTO Agreement;

**Agreement on Customs Valuation** means the *Agreement on Implementation of Article VII of the General Agreement on Tariffs and Trade 1994*, in Annex 1A to the WTO Agreement;

**Agreement on Import Licensing Procedures** means the *Agreement on Import Licensing Procedures*, in Annex 1A to the WTO Agreement;

**Agreement on Safeguards** means the *Agreement on Safeguards*, in Annex 1A to the WTO Agreement;

**Agreement on Subsidies and Countervailing Measures** means the *Agreement on Subsidies and Countervailing Measures*, in Annex 1A to the WTO Agreement;

**Anti-Dumping Agreement** means the *Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade 1994*, in Annex 1A to the WTO Agreement;

**commercial samples of negligible value** means commercial samples having a value, individually or in the aggregate as shipped, of not more than the amount specified in a Party's laws, regulations or procedures governing temporary admission, or so marked, torn,

perforated or otherwise treated that they are unsuitable for sale or use except as commercial samples;

**Customs Administration** means the official agencies responsible for implementing the provisions of the Chapter on Rules of Origin and Verification Procedures and the Chapter on Customs Procedures;

**customs duty** means any duty or a charge of any kind, including any tax or surcharge, imposed in connection with the importation of a good, but does not include any:

- (a) charge equivalent to an internal tax imposed consistently with Article III:2 of GATT 1994, in respect of a like domestic product or in respect of an article from which the imported product has been manufactured or produced in whole or in part;
- (b) anti-dumping or countervailing duty applied consistently with the provisions of Article VI of GATT 1994, the WTO Agreement on Implementation of Article VI of the GATT 1994, and the Agreement on Subsidies and Countervailing Measures; or
- (c) fee or any charge commensurate with the cost of services rendered;

**days** means calendar days, including weekends and holidays;

**developed country Party** means any Party that is not a Developing Country Party or a Least Developed Country Party;

**developing country Party** means a Party that designates itself as a developing country, and includes Least Developed Country Parties unless otherwise specified;

**enterprise** means any entity constituted or organised under applicable law, whether or not for profit, and whether privately or governmentally owned or controlled, including any corporation, trust, partnership, sole proprietorship, joint venture, association or similar organisation, and a branch of an enterprise;

**enterprise of a Party means** an enterprise which is either:

- (a) organised or constituted under the law of that Party, or a branch located in the territory of another Party, which is engaged in substantive business operations in the territory of that Party or any other Party; or
- (b) in the case of the supply of a service through commercial presence, owned or controlled by:
  - (i) natural persons of that Party; or
  - (ii) an enterprise of that Party identified under subparagraph (a);

**Forum Island Countries** means the Pacific Island Countries which are Parties to this Agreement and are Members of the Pacific Islands Forum, referred to in this Agreement collectively as the Forum Island Countries and individually as a Forum Island Country;

**GATS** means the *General Agreement on Trade in Services*, in Annex 1B to the WTO Agreement;

**GATT 1994** means the *General Agreement on Tariffs and Trade 1994*, in Annex 1A to the WTO Agreement;

**Harmonized System** or **HS** means the Harmonized Commodity Description and Coding System established by the *International Convention on the Harmonized Description and Coding System* signed at Brussels on 14 June 1983, as amended;

**IMF Articles of Agreement** means the *Articles of Agreement of the International Monetary Fund*;

**import licensing** means an administrative procedure requiring the submission of an application or other documentation (other than that generally required for customs clearance purposes) to the relevant administrative body as a prior condition for importation into the territory of the importing Party;

**Joint Committee** means the PACER Plus Joint Committee established pursuant to Article 1 of Chapter 12 (Institutional Provisions);

**Least Developed Country Party** means any Party that is on the United Nations List of Least Developed Countries;

**measure** means any measure of a Party, whether in the form of a law, regulation, rule, procedure, decision, administrative action or any other form;

**natural person of a Party** means a natural person that possesses the nationality or citizenship of, or right of permanent residence, in that Party in accordance with its laws and regulations;<sup>1</sup>

**Negotiating Parties** means Australia, the Cook Islands, the Federated States of Micronesia, the Independent and Sovereign Republic of Kiribati, the Republic of Nauru, New Zealand, Niue, the Republic of Palau, the Republic of the Marshall Islands, the Independent State of Samoa, Solomon Islands, the Kingdom of Tonga, Tuvalu, the Republic of Vanuatu, referred to in this Agreement collectively as the Negotiating Parties or individually as a Negotiating Party;

**Pacific Islands Forum** means the Pacific Islands Forum, as referred to in the *Agreement Establishing the Pacific Islands Forum Secretariat*;

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<sup>1</sup> For the purposes of this Agreement, for the Cook Islands, nationality means a person belonging to the part of the Polynesian race indigenous to the Cook Islands and includes any person descended from a Cook Islander as recognised by Cook Islands law, or a permanent resident of the Cook Islands pursuant to Cook Islands law; and for Niue, a natural person is a Niuean national or permanent resident as recognised by Niuean law.



**Party** means any State, separate customs territory or self-governing entity for which this Agreement is in force;

**printed advertising materials** means those goods classified in Chapter 49 of the Harmonized System, including brochures, pamphlets, leaflets, trade catalogues, yearbooks published by trade associations, tourist promotional materials and posters, that are used to promote, publicise, or advertise a good or a service, or are essentially intended to advertise a good or a service, and are supplied free of charge;

**regional trade agreement** means an agreement for closer integration between the economies of the constituent parties composed alternatively or jointly of:

- (a) a customs union or free-trade area or agreement for the formation of such a union or area consistent with Article XXIV of GATT 1994, the Understanding on the Interpretation of Article XXIV of GATT 1994 and, in the case of a customs union or free-trade area or agreement for the formation of such a union or area exclusively involving developing countries, the GATT Decision on Differential and More Favourable Treatment, Reciprocity and Fuller Participation of Developing Countries (Decision of 28 November 1979, L/4903);
- (b) an economic integration agreement liberalising trade in services consistent with Article V of GATS;

**SPS Agreement** means the *Agreement on the Application of Sanitary and Phytosanitary Measures*, in Annex 1A to the WTO Agreement;

**TBT Agreement** means the *Agreement on Technical Barriers to Trade*, in Annex 1A of the WTO Agreement;

**WTO** means the World Trade Organization;

**WTO Agreement** means the *Marrakesh Agreement Establishing the World Trade Organization*, done on 15 April 1994; and

**WTO Member** means a state, separate customs territory or self-governing entity that is Party to the *Marrakesh Agreement Establishing the World Trade Organization*, done at Marrakesh on 15 April 1994.

## **CHAPTER 2**

### **TRADE IN GOODS**

#### **Article 1: Objectives**

The objectives of this Chapter are, with respect to measures affecting goods traded between the Parties, to avoid unnecessary barriers to trade, facilitate and liberalise trade and thereby promote integration between the economies of the Parties.

#### **Article 2: Scope**

This Chapter shall apply to all goods traded between the Parties.

#### **Article 3: Commitments on Tariffs**

1. Each Party shall not apply to originating goods:
  - (a) ordinary customs duties that are not specified, or are in excess of levels set forth, in Part I (Commitments on Ordinary Customs Duties) of its Schedule at Annex 2-A; or
  - (b) duties or charges on or in connection with their importation (other than ordinary customs duties applied in conformity with subparagraph (a) or internal taxes or other charges, anti-dumping or countervailing duties or fees or other charges for services rendered applied in conformity with Articles 6, 7 and 10 respectively) that are not specified in, or are not in conformity with, Part II (Commitments on Other Duties or Charges) of its Schedule at Annex 2-A.
2. With respect to the levels of all duties and charges referred to in paragraph 1, any advantage granted to any good of any country or territory, other than in respect of a preference in force under a regional trade agreement on the date referred to in Article 8.1 of Chapter 15 (Final Provisions), shall be accorded immediately and unconditionally to all like goods originating in the territories of all other Parties except where:
  - (a)
    - (i) the advantage granted is accorded pursuant to Decision 36 of Annex F of the WTO Hong Kong Ministerial Declaration of 2005 on Measures in Favour of Least-Developed Countries and related WTO Decisions on duty-free and quota-free access for products originating in Least-Developed Countries; and
    - (ii) the treatment of such goods pursuant to the Decisions referred to in subparagraph (a)(i) is in conformity with those Decisions;

- (b) the advantage granted is in respect of a preference in force pursuant to a regional trade agreement exclusively involving Pacific Island countries and territories;<sup>1</sup> or
- (c) the advantage granted is in respect of a preference in force pursuant to a regional trade agreement<sup>2</sup> exclusively involving developing countries to which at least one Party is a party and other parties are non-Parties, where:
  - (i) each such non-Party accounts for not more than 1 per cent of world merchandise exports; and
  - (ii) all non-Parties that are party to the regional trade agreement together account for not more than 4 per cent of world merchandise exports;

measured as of the date of entry into force of the regional trade agreement for each such Party and as of the date of accession of a new party to it.<sup>3</sup>

3. Paragraph 2 shall not require such advantage to be accorded in respect of a preference in force or implemented after the date referred to in Article 8.1 of Chapter 15 (Final Provisions) by the Federated States of Micronesia, the Republic of the Marshall Islands or Palau which is extended to the United States of America in respect of:

- (a) a regional trade agreement with another non-Party pursuant to the most-favoured-nation clause in such countries' respective Compacts of Free Association or successor agreements, where the regional trade agreement concerned fulfils the requirements of paragraph 2(b) or 2(c); or
- (b) a regional trade agreement established under such countries' respective Compacts of Free Association or successor agreements.

4. Nothing in this Agreement shall preclude the Parties from negotiating and entering into arrangements collectively for the acceleration or improvement of commitments in their Schedules. Such agreements shall be incorporated into this Agreement in accordance with Article 7 of Chapter 15 (Final Provisions). Accelerated or improved commitments thereunder shall be implemented by those Parties and be extended to all Parties.

5. Two or more Parties may consult with a view to reaching an agreement on the acceleration or improvement of commitments in their Schedules. Such agreements shall be incorporated into this Agreement in accordance with Article 7 of Chapter 15 (Final

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<sup>1</sup> For the purposes of subparagraph (b): Pacific Island territories comprise American Samoa, French Polynesia, Guam, New Caledonia, Northern Mariana Islands, Pitcairn Islands, Tokelau, Wallis and Futuna, provided they are separate customs territories; and Pacific Island countries are Forum Island Countries and former Pacific Island territories.

<sup>2</sup> Where a party to a regional trade agreement under subparagraph (c) is a customs union, all parties to it shall be treated as separate countries or customs territories for the purposes of determining whether the criteria under subparagraph (c) are met.

<sup>3</sup> Exemptions from the obligation under paragraph 2 in respect of participation in a regional trade agreement under subparagraph (c) shall be administered in accordance with Annex 2-B.

Provisions). Accelerated or improved commitments thereunder shall be implemented by those Parties and be extended to all Parties.

6. A Party may, at any time, unilaterally accelerate the implementation of commitments in its Schedule. A Party intending to do so shall inform the other Parties in accordance with Article 14.2(a). Such accelerated implementation of commitments shall be extended to all Parties.

#### *Modification or Withdrawal of Concessions*

7. If a developing country Party faces unforeseen difficulties in implementing its tariff commitments:<sup>4</sup>

- (a) That Party may, with the agreement of all other interested Parties, modify or withdraw a concession contained in its Schedule of Commitments on Tariffs in Annex 2-A.
- (b) In order to seek to reach such agreement, the relevant Party shall engage in negotiations with any interested Parties. In such negotiations, the Party proposing to modify or withdraw its concessions shall maintain a level of reciprocal and mutually advantageous concessions no less favourable to the trade of all other interested Parties than that provided for in this Agreement prior to such negotiations.
- (c) A negotiated outcome may include compensatory adjustments with respect to other goods or, where the available scope for compensatory adjustments on goods is insufficient, with respect to services or investment.
- (d) The mutually agreed outcome of the negotiations, including any compensatory adjustments, shall apply to all the Parties and shall be incorporated into this Agreement in accordance with Article 7 of Chapter 15 (Final Provisions).

8. If a mutually agreed outcome under paragraph 7 cannot be reached within 60 days of the request being made, the Party proposing to modify or withdraw the concession or any interested Party may refer the matter to the Joint Committee. The Joint Committee shall, within 30 days of the referral of the matter to it, determine the level of compensation to be provided to interested Parties and then authorise the developing country Party to modify or withdraw its tariff commitments. The provision of compensation and the modification of tariff preferences by the developing country Party shall be effected at the same time.

9. The compensatory adjustments shall apply to all the Parties and shall be incorporated into this Agreement in accordance with Article 7 of Chapter 15 (Final Provisions).

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<sup>4</sup> For greater certainty, nothing in this Chapter shall be construed as preventing a Party from having recourse to paragraphs 7, 8 and 9 after the final reduction of a duty under its Schedule of Commitments on Tariffs.

#### **Article 4: Goods Re-entered after Repair and Alteration**

1. No Party shall apply a customs duty to a good, regardless of its origin, that re-enters its territory after that good has been temporarily exported from its territory to the territory of another Party for repair or alteration, regardless of whether such repair or alteration could be performed in its own territory.
2. Notwithstanding paragraph 1, a Party may, in accordance with its relevant legislation, impose a customs duty on the cost of repair or alteration of the good. The duty imposed shall not exceed the customs duty which would be payable if the good was imported for the first time.
3. No Party shall apply a customs duty to a good, regardless of its origin, admitted temporarily from the territory of another Party for repair or alteration.
4. For the purposes of this Article, repair and alteration does not include an operation or process that:
  - (a) destroys a good's essential characteristics or creates a new or commercially different good; or
  - (b) transforms an unfinished good into a finished good.
5. Nothing in paragraph 3 shall be construed to prevent a Party from specifying in its laws or regulations a limit on the duration of temporary entry beyond which the goods concerned become dutiable.

#### **Article 5: Duty-Free Entry of Commercial Samples of Negligible Value and Printed Advertising Material**

1. With the exception of tobacco products, the Parties shall grant customs duty-free entry to commercial samples of negligible value and to printed advertising materials imported from the territory of another Party, regardless of their origin, but may require that:
  - (a) such samples be imported solely for the solicitation of orders for goods, or services provided from the territory, of another Party or a non-Party; or
  - (b) such advertising materials are imported in packets that each contain no more than one copy of each material and that neither such materials nor packets form part of a larger consignment.
2. Nothing in this Article shall be construed to prevent a Party from requiring under its laws and regulations that a bond be paid on the temporary import of commercial samples that are not of negligible value and that such bond be released upon re-exportation of the commercial samples within a time limit provided for under its legislation.

## **Article 6: Internal Taxation and Regulation**

In respect of internal taxes, other internal charges and laws, regulations and requirements affecting matters within the scope of Article III of GATT 1994, each Party shall accord to the goods of other Parties most-favoured-nation treatment and national treatment in accordance with Articles I and III, including the Interpretative Notes to Article III, of GATT 1994. To these ends, Articles I and III, including the Interpretative Notes to Article III, of GATT 1994 are incorporated into and shall form part of this Agreement, *mutatis mutandis*.

## **Article 7: Trade Remedies**

### *Anti-Dumping and Countervailing Measures*

1. Nothing in this Agreement shall affect the rights and obligations of WTO Members under Articles VI and XVI of GATT 1994, the Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Measures.
2. When applying anti-dumping or countervailing measures, non-WTO Members shall comply with the provisions of Articles VI and XVI of GATT 1994, the Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Measures.
3. Special regard shall be given by developed country Parties to the special situation of developing country Parties when considering and before making a decision on the application of anti-dumping measures under this Article. A developed country Party considering the application of an anti-dumping duty to a product of a developing country Party shall explore possibilities of constructive remedies before applying such anti-dumping duty where it would affect the essential interests of the developing country Party concerned.
4. Upon entry into force of this Agreement, each Party with legislation containing provisions on anti-dumping or countervailing measures shall notify to the other Parties through Contact Points:
  - (a) its laws, regulations and administrative procedures relating to anti-dumping or countervailing measures (including *inter alia* procedures governing the initiation and conduct of investigations by its competent authorities);
  - (b) which of its authorities are competent to initiate and conduct its anti-dumping and countervailing investigations; and
  - (c) its domestic procedures governing the initiation and conduct of such investigations.
5. Upon entry into force of this Agreement, each Party without legislation containing provisions on anti-dumping or countervailing measures shall notify to the other Parties through Contact Points that it does not have anti-dumping or countervailing legislation. Thereafter, where any such Party adopts legislation containing provisions on anti-dumping or countervailing measures, upon the adoption of such legislation it shall notify to the other

Parties through Contact Points the information required to be notified in paragraphs 4(a), 4(b) and 4(c). This information shall be notified prior to such Party initiating an anti-dumping or countervailing investigation with respect to another Party or Parties.

6. Thereafter, each Party with legislation containing provisions on anti-dumping or countervailing measures shall notify to the other Parties through Contact Points:

- (a) any changes in its anti-dumping and countervailing duty laws and regulations and in the administration of such laws and regulations; and
- (b) where anti-dumping or countervailing action concerning the products of any Party has been initiated:
  - (i) any preliminary or final anti-dumping or countervailing determinations;
  - (ii) any acceptance of undertakings;
  - (iii) any terminations of duties or investigations; and
  - (iv) the explanations, findings and conclusions reached in respect of any of the above actions taken.

7. All information notifiable by a Party under paragraphs 5 and 6 shall be published in accordance with Article 13.

#### *Global Safeguard Measures*

8. Nothing in this Agreement shall affect the rights and obligations of WTO Members under Article XIX of GATT 1994 and the Agreement on Safeguards.

9. When applying a global safeguards measure, non-WTO Members shall comply with the provisions of Article XIX of GATT 1994 and the Agreement on Safeguards.

10. Upon entry into force of this Agreement, each Party with legislation containing provisions on global safeguards shall notify to the other Parties through Contact Points:

- (a) its laws, regulations and administrative procedures relating to safeguards measures (including *inter alia* procedures governing the initiation and conduct of investigations by its competent authorities); and
- (b) its competent authorities;

and shall thereafter notify to the other Parties through Contact Points any modifications made to information notified under subparagraphs (a) and (b).

11. Upon entry into force of this Agreement, each Party without legislation containing provisions on global safeguards shall notify to the other Parties through Contact Points that it does not have global safeguards legislation. Thereafter, when any such Party adopts or

subsequently modifies legislation containing provisions on global safeguards, upon adoption or modification of such legislation it shall promptly notify to the other Parties through Contact Points the information required to be notified under paragraph 10.

12. Thereafter, each Party with legislation containing provisions on global safeguards shall immediately notify the other Parties through Contact Points upon:

- (a) initiating any investigatory process relating to serious injury or threat thereof, and the reasons for it;
- (b) making a finding of serious injury or threat thereof caused by increased imports; and
- (c) taking a decision to apply or extend a safeguard measure.

13. If a decision has been taken to apply a provisional safeguard measure, a notification shall be made to the other Parties through Contact Points before that measure is applied.

14. Competent authorities shall publish promptly a report setting forth their findings and reasoned conclusions reached on all pertinent issues of fact and law.

15. All information notifiable by a Party under paragraphs 10 to 13 shall be published in accordance with Article 13.

16. To the extent possible, the developed country Parties shall consider exempting products from the developing country Parties from the application of a safeguard measure under this Article. A Party shall not apply a safeguard measure against a product originating in a developing country that is a WTO Member or a non-WTO Member as long as its share of imports of the product concerned in the importing Party does not exceed three per cent, provided that the developing countries that are a WTO Member or a non-WTO Member with less than three per cent import share collectively account for not more than nine per cent of total imports of the product concerned.

## **Article 8: Transitional Safeguard Measures**

### *Definitions*

1. For the purposes of this Article:

- (a) domestic industry means, with respect to an imported good, the producers as a whole of the like or directly competitive good operating within the territory of a Party, or those producers whose collective production of the like or directly competitive good constitutes a major proportion of the total domestic production of that good;
- (b) transitional safeguard measure means a measure described in paragraphs 2 to 4 (*Imposition of a Transitional Safeguard Measure*);



- (c) serious injury means a significant overall impairment in the position of a domestic industry;
- (d) threat of serious injury means serious injury that, on the basis of facts and not merely on allegation, conjecture or remote possibility, is clearly imminent; and
- (e) transition period means, in relation to a particular good, the three-year period beginning on the date of entry into force of this Agreement, except where the tariff elimination for the good occurs over a longer period of time, in which case the transition period shall be the period of the staged tariff elimination for that good.

#### *Imposition of a Transitional Safeguard Measure*

2. A developing country Party may apply a transitional safeguard measure described in paragraph 3, during the transition period only, if as a result of the staged elimination of a customs duty pursuant to this Agreement:

- (a) an originating good of one other Party is being imported into the Party's territory in such increased quantities, in absolute terms or relative to domestic production, and under such conditions, as to cause or threaten to cause serious injury to the domestic industry that produces a like or directly competitive good; or
- (b) an originating good of two or more Parties, collectively, is being imported into the Party's territory in such increased quantities, in absolute terms or relative to domestic production, and under such conditions, as to cause or threaten to cause serious injury to the domestic industry that produces a like or directly competitive good, provided that the Party applying the transitional safeguard measure demonstrates, with respect to the imports from each such Party against which the transitional safeguard measure is applied, that imports of the originating good from each of those Parties have increased, in absolute terms or relative to domestic production, since the date of entry into force of this Agreement for those Parties.

3. If the conditions in paragraph 2 are met, the Party may, to the extent necessary to prevent or remedy serious injury and facilitate adjustment:

- (a) suspend the further reduction of any rate of customs duty provided for under this Agreement on the good; or
- (b) increase the rate of customs duty on the good to a level not to exceed the lesser of:
  - (i) (A) in the case of a WTO Member, the most-favoured-nation applied rate of customs duty; or
  - (B) in the case of a Party that is not a WTO Member, the general non-preferential applied rate of customs duty;

at the time the measure is applied; and

- (ii) (A) in the case of a WTO Member, the most-favoured-nation applied rate of customs duty; or
- (B) in the case of a Party that is not a WTO Member, the general non-preferential applied rate of customs duty;

in effect on the day immediately preceding the date of entry into force of this Agreement for that Party.

4. No Party shall apply a tariff rate quota or a quantitative restriction as a form of transitional safeguard measure.

#### *Standards for a Transitional Safeguard Measure*

5. A Party shall maintain a transitional safeguard measure only for such period of time as may be necessary to prevent or remedy serious injury and to facilitate adjustment.

6. That period shall not exceed two years, except that the period may be extended by up to three years, if the competent authority of the Party that applies the measure determines, in conformity with the procedures set out in paragraphs 12 and 13, that the transitional safeguard measure continues to be necessary to prevent or remedy serious injury and to facilitate adjustment.

7. No Party shall maintain a transitional safeguard measure beyond the expiration of the transition period.

8. In order to facilitate adjustment in a situation where the expected duration of a transitional safeguard measure is over one year, the Party that applies the measure shall progressively liberalise it at regular intervals during the period of application.

9. On the termination of a transitional safeguard measure, the Party that applied the measure shall apply the rate of customs duty set out in its Schedule of Commitments on Tariffs at Annex 2-A as if that Party had never applied the transitional safeguard measure.

10. The maximum amount of time that transitional safeguard measures can apply cumulatively to the same good is five years.

11. No Party shall apply or maintain at the same time, with respect to the same good, a transitional safeguard measure under this Article and a safeguard measure under Article XIX of GATT 1994 and the Agreement on Safeguards.

#### *Investigation Procedures and Transparency Requirements*

12. A Party shall apply a transitional safeguard measure only following an investigation by the Party's competent authorities in accordance with Article 3 and Article 4.2(c) of the

Agreement on Safeguards. To this end, Article 3 and Article 4.2(c) of the Agreement on Safeguards are incorporated into and made part of this Agreement, *mutatis mutandis*.

13. In the investigation described in paragraph 12, the Party shall comply with the requirements of Article 4.2(a) and Article 4.2(b) of the Agreement on Safeguards; to this end, Article 4.2(a) and Article 4.2(b) of the Agreement on Safeguards are incorporated into and made part of this Agreement, *mutatis mutandis*.

#### *Provisional Measures*

14. (a) In critical circumstances, where delay would cause damage which would be difficult to repair, a Party may take a provisional measure, pursuant to a preliminary determination that there is clear evidence that increased imports of an originating good from another Party or Parties have caused or are threatening to cause serious injury to a domestic industry.
- (b) The duration of such a provisional measure shall not exceed 200 days, during which time the relevant requirements of this Article (Definitions, Imposition of a Transitional Safeguard Measure, Standards for a Transitional Safeguard Measure, Investigation Procedures and Transparency Requirements, and Notification and Consultation) shall be met. The duration of any provisional measure shall be counted as part of the initial period and any extension as referred to under Imposition of a Transitional Safeguard Measure.
- (c) The customs duty imposed as a result of the provisional measure shall be refunded if the subsequent investigation referred to under Investigation Procedures and Transparency Requirements does not determine that increased imports of the originating good have caused or threatened to cause serious injury to a domestic industry.

#### *Notification and Consultation*

15. A Party shall promptly notify the other Parties through Contact Points, in writing, if it:
- (a) initiates a transitional safeguard investigation under this Article;
  - (b) makes a finding of serious injury, or threat of serious injury, caused by increased imports, as set out in paragraph 2;
  - (c) takes a decision to apply or extend a transitional safeguard measure;
  - (d) takes a decision to modify a transitional safeguard measure previously undertaken.
16. A Party shall provide to the other Parties through Contact Points a copy of the public version of the report of its competent authorities that is required under paragraph 12.

17. When a Party makes a notification pursuant to paragraph 15(c) that it is applying or extending a transitional safeguard measure, that Party shall include in that notification:

- (a) evidence of serious injury, or threat of serious injury, caused by increased imports of an originating good of another Party or Parties as a result of the staged elimination of a customs duty pursuant to this Agreement;
- (b) a precise description of the originating good subject to the transitional safeguard measure including its heading or subheading under the Harmonized System, on which the commitments in respect of the duty contained in its Schedule of Commitments on Tariffs at Annex 2-A are based;
- (c) a precise description of the transitional safeguard measure;
- (d) the date of the transitional safeguard measure's introduction, its expected duration and, if applicable, a timetable for progressive liberalisation of the measure; and
- (e) in the case of an extension of the transitional safeguard measure, evidence that the domestic industry concerned is adjusting.

18. On request of a Party whose good is subject to a transitional safeguard proceeding under this Chapter, the Party that conducts that proceeding shall enter into consultations with the requesting Party to review a notification under paragraph 15 or any public notice or report that the competent investigating authority has issued in connection with the proceeding.

#### *Compensation*

19. A Party applying a transitional safeguard measure shall, after consultations with each Party against whose good the transitional safeguard measure is applied, provide mutually agreed trade liberalising compensation in the form of concessions that have substantially equivalent trade effects or equivalent to the value of the additional duties expected to result from the transitional safeguard measure. The Party shall provide an opportunity for those consultations no later than 30 days after the application of the transitional safeguard measure.

20. If the consultations under paragraph 19 do not result in an agreement on trade liberalising compensation within 30 days, any Party against whose good the transitional safeguard measure is applied may seek a determination on the level of compensation under the procedures of Articles 3.8 and 3.9, which shall apply *mutatis mutandis*.

21. The obligation to provide compensation under paragraph 19 or paragraph 20 terminates on the termination of the transitional safeguard measure.

### **Article 9: Industry Development**

Recognising the limited number of industry development opportunities inherent in a regional grouping of countries characterised mostly by low populations, limited arable land

and other natural resources, small isolated economies and high vulnerability to natural disasters; and

Taking into account the high incidence of persistent gaps between Forum Island Countries' respective levels of per capita gross national income and those of the world's developed countries and larger or more advanced developing countries:

1. The Joint Committee may approve a measure known as an Industry Development Measure requested by a Forum Island Country for the purpose of enabling such requesting Party to support:

- (a) the establishment of a new industry or a new branch of production in an existing industry;
- (b) the substantial transformation of an existing industry;
- (c) the substantial expansion of an existing industry supplying a small proportion of the domestic demand; or
- (d) an industry destroyed or substantially damaged as a result of hostilities or natural disaster.

2. An Industry Development Measure:

- (a) shall consist of:
  - (i) a delay in the scheduled reductions in the requesting Party's rate of customs duty for one or more specified goods; or
  - (ii) an increase in its rate of customs duty for one or more specified goods to no more than:
    - (A) in the case of a WTO Member, the most-favoured-nation applied rate of customs duty; or
    - (B) in the case of a non-WTO Member, the general non-preferential applied rate of customs duty;effective at the time of the request;
- (b) can be applied:
  - (i) for an initial period of seven years, which may be extended for a further three years by the Joint Committee; and

- (ii) only during the period of the requesting Party's scheduled reductions in a rate of customs duty on the affected product;<sup>5</sup> and
- (c) shall be eligible for approval if the tariff lines subject to the requested Industry Development Measure(s) and all Industry Development Measures of a Party in force at the time of such request(s) together account for not more than eight per cent of the total exports of the affected Party to the requesting Party<sup>6</sup> and account for not more than three per cent of tariff lines.
3. Upon conclusion of the relevant period under paragraph 2(b), the requesting Party's customs duties shall revert to levels not exceeding the scheduled rates that would have applied but for the Industry Development Measure.
4. The requesting Party shall compensate affected Parties on terms agreed among the interested Parties or otherwise determined under the procedures of Articles 3.8 to 3.9, which shall apply *mutatis mutandis*. Compensation shall be provided three years after the initial application of the Industry Development Measure. The obligation to provide compensation ceases upon the termination of the Industry Development Measure.
5. Except in the case of a new Industry Development Measure applied for the purposes of Article 9.1(d), if a new Industry Development Measure is applied to the same good:
- (a) the total duration of the periods for which the requesting Party was not liable to provide compensation under previous Industry Development Measures on that good shall be counted towards the two years for which the requesting Party is not liable to provide extend compensation under paragraph 4; and
- (b) not less than two years shall elapse from the date of termination of the previous Industry Development Measure to the date of initial application of the new Industry Development Measure.
6. A Party shall not simultaneously apply an Industry Development Measure and a Transitional Safeguard Measure under Article 8 to the same good. Nothing in this Article shall be construed to prevent a Party from having recourse to Articles 3.7 to 3.9 after the expiration of an Industry Development Measure.

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<sup>4</sup> Subparagraph 2(b)(ii) shall apply to all Forum Island Countries except Kiribati. Recognising the unique situation of Kiribati in having all base rates in its Schedule at Annex 2-A at a rate of zero per cent, Kiribati shall have recourse to an Industry Development Measure, subject to approval by the Joint Committee in response to a request from Kiribati, in the event of Kiribati adopting a general non-preferential applied rate of customs duty for the good(s) concerned in excess of the base rate. No such Industry Development Measure approved by the Joint Committee shall be applied later than 25 years from the date on which the Agreement entered into force for Kiribati under Article 8 of Chapter 15 (Final Provisions). The remaining provisions of this Article shall apply, *mutatis mutandis*.

<sup>5</sup> The percentage shall be calculated as the average annual percentage share of the exporting Party's exports falling to those lines in the annual value of its total merchandise exports to the requesting Party in the three calendar years that immediately precede the year in which the Industry Development Measure is requested.

## **Article 10: Fees and Charges Connected with Importation and Exportation**

1. Each Party shall ensure that all fees and charges of whatever character (other than import and export duties, charges equivalent to an internal tax or other internal charges applied consistently with Article III:2 of GATT 1994 and anti-dumping and countervailing duties applied pursuant to Articles VI and XVI of GATT 1994, the Anti-Dumping Agreement and the Agreement on Subsidies and Countervailing Measures) on or in connection with importation or exportation:

- (a) are limited in amount to the approximate cost of services rendered;
- (b) do not represent an indirect protection to domestic products or a taxation on imports or exports for fiscal purposes; and
- (c) are otherwise in conformity with the WTO Agreement, including *inter alia* Articles I and VIII of GATT 1994.

2. In respect of such measures, Articles I and VIII of GATT 1994 are incorporated into and shall form part of this Agreement, *mutatis mutandis*.

## **Article 11: Import Licensing**

1. In respect of import licensing procedures, the Parties, taking into account the particular trade, development and financial needs of developing country Parties:

- (a) recognise the usefulness of automatic import licensing for certain purposes, and shall ensure that such licensing is not used to restrict trade between them and is otherwise in accordance with Articles 1 and 2 of the Agreement on Import Licensing Procedures;
- (b) recognise that import licensing may be employed to administer measures such as those adopted pursuant to the relevant provisions of GATT 1994, and shall ensure that import licensing procedures employed for that purpose are not utilised in a manner contrary to the principles and obligations of GATT 1994 and are otherwise in accordance with Articles 1 and 3 of the Agreement on Import Licensing Procedures and other relevant WTO provisions; and
- (c) recognise that trade could be impeded by the inappropriate use of import licensing procedures and, with a view to avoiding their inappropriate use, shall ensure that:
  - (i) import licensing, particularly non-automatic import licensing, is implemented in a transparent and predictable manner;
  - (ii) non-automatic licensing procedures are no more administratively burdensome than absolutely necessary to administer the relevant measure; and

- (iii) administrative procedures and practices used in international trade are transparent, are as simple as possible and are applied and administered fairly and equitably.

2. To these ends, in respect of import licensing procedures, Articles 1 to 3 of the Agreement on Import Licensing Procedures are incorporated into and shall form part of this Agreement, *mutatis mutandis*.

3. Information related to import licensing procedures under Article 1.4(a) of the Agreement on Import Licensing Procedures shall be published in such a manner as to enable governments and traders to become acquainted with it and be so published no later than the effective date of the requirement concerned. Each Party shall notify the Contact Points of other Parties where such information is found.

4. Information exchanged between the Parties on import licensing procedures shall be otherwise notified, published and kept up-to-date in accordance with Article 14 and be supplied in the format set out at Annex 2-C.

#### **Article 12: Other Non-Tariff Measures**

1. Each Party shall not:

- (a) adopt or maintain any measure within the purview of Article XI of GATT 1994, including its Interpretative Notes, except in accordance with the WTO Agreement and this Agreement; or
- (b) apply to traffic in transit any measure prohibited under, or any allowable measure inconsistently with, Article V of GATT 1994 or other relevant provisions of the WTO Agreement; or
- (c) apply any measure prohibited under Article 4.2 of the Agreement on Agriculture or Article 11.1(b) of the Agreement on Safeguards.

2. To these ends, in respect of the aforementioned measures, GATT 1994 (including relevant Interpretative Notes of GATT 1994), the Agreement on Import Licensing Procedures, Articles 4.2 and 12 of the Agreement on Agriculture and Article 11.1(b) of the Agreement on Safeguards are incorporated into and shall form part of this Agreement, *mutatis mutandis*.

3. Each Party shall not require consular transactions, including related fees, charges, formalities and requirements, in connection with the importation of a good from another Party.



### **Article 13: Publication and Administration of Trade Regulations**

1. Laws, regulations, judicial decisions and administrative rulings of general application, made effective by any Party, pertaining to the classification or the valuation of products for customs purposes, or to rates of duty, taxes or other charges, or to requirements, restrictions or prohibitions on imports or exports or on the transfer of payments therefor, or affecting their sale, distribution, transportation, insurance, warehousing, inspection, exhibition, processing, mixing or other use, shall be published promptly in such a manner as to enable governments and traders to become acquainted with them.
2. Agreements affecting international trade policy which are in force between the government or a governmental agency of any Party and the government or governmental agency of any other country shall also be published.
3. Paragraphs 1 and 2 shall not require any Party to disclose confidential information which would impede law enforcement or otherwise be contrary to the public interest or would prejudice the legitimate commercial interests of particular enterprises, public or private.
4. No measure of general application taken by any Party effecting an advance in a rate of duty or other charge on imports under an established and uniform practice, or imposing a new or more burdensome requirement, restriction or prohibition on imports, or on the transfer of payments for those purposes, shall be enforced before such measure has been officially published.
5. Each Party shall administer in a uniform, impartial and reasonable manner all its laws, regulations, decisions and rulings of the kind described in paragraph 1.
6. To these ends, Article X of GATT 1994 and other provisions of the WTO Agreement relating to the publication and administration of trade regulations are incorporated into and shall form part of this Agreement, *mutatis mutandis*.
7. In accordance with its domestic laws and regulations, each Party shall, to the extent of its capacity, make available online laws, regulations, decisions and rulings in relation to matters within the purview of paragraphs 1, 2 and 4.
8. Each Party shall thereafter, to the extent of its capacity, ensure that all items of information that are publically available pursuant to paragraphs 1, 2, 4 and 7 are kept up-to-date in accordance with those paragraphs.

### **Article 14: Information Exchange in Relation to, and Publication of, Specified Measures**

1. Upon entry into force of this Agreement, each Party shall provide to the other Parties through Contact Points:
  - (a) the existing schedules of non-preferential and preferential applied rates of customs duty that it maintains;

- (b) a list of all existing fees and charges that it imposes on or in connection with importation or exportation; and
  - (c) information on its new or modified import licensing procedures in the form of a completed response to the questionnaire at Annex 2-C.
2. Thereafter, each Party shall ensure that all items of information provided under paragraph 1 are kept up-to-date by transmitting to the other Parties through Contact Points any modifications or additions to them:
- (a) in the case of items under paragraphs 1(a) and 1(b), no later than the date on which they take effect;
  - (b) in the case of information on modified or new import licensing procedures provided through completed responses to the questionnaire at Annex 2-C, to the extent possible 60 days before the modified or new procedure takes effect, but in any case no later than within 60 days of publication.
3. A WTO Member shall be deemed to be in compliance with paragraphs 1(c) and 2(b) upon fulfilment of its obligations under paragraphs 5.1 to 5.3 of the Agreement on Import Licensing Procedures and upon transmitting to the other Parties through Contact Points the relevant notifications made to the WTO.
4. Each Party shall to the extent of its capacity publish the information that it provides to other Parties under paragraphs 1, 2 and 3 online with a view to public availability and ensure that the information available online is kept up-to-date.
5. A Party may fulfil its obligations under paragraphs 1, 2 and 3 by providing to the other Parties through Contact Points the details of such websites where the requisite information is posted and readily accessible to any person.
6. This Article shall not apply to measures covered by the SPS Agreement or the TBT Agreement or to import licensing regimes governing the administration of tariff rate quotas with respect to tariff rate quotas established in the WTO Schedules of Concessions and Commitments on Goods of WTO Members.

### **Article 15: Contact Points and Technical Discussions**

1. Each Party shall provide each other Party with a Contact Point to facilitate the distribution of requests and notifications made in accordance with this Chapter.
2. Each Party shall ensure the information provided under paragraph 1 is kept up-to-date.
3. When a Party considers that any proposed or actual measure of another Party or Parties may materially affect trade in goods between the Parties, that Party may, through Contact Points, request detailed information relating to that measure and, if necessary, request technical discussions with a view to resolving any concerns about the measure. The other

Party or Parties shall respond promptly to such requests for information and technical discussions.

4. Technical discussions held under this Article do not constitute an intention to seek formal consultations under Chapter 14 (Consultations and Dispute Settlement) and are without prejudice to the rights and obligations of the Parties under that Chapter, the WTO Agreement, or any other agreement to which both Parties are party.

#### **Article 16: Meetings on Trade in Goods Matters**

1. The Parties shall, through the Joint Committee or a relevant subsidiary body, consult regularly to consider the implementation of their commitments under this Chapter.

2. The Parties, through the Joint Committee or a relevant subsidiary body, shall commence a review of this Chapter within three years of entry into force of this Agreement and submit a final report to the Joint Committee, including any recommendations, within four years of entry into force of this Agreement.

3. The Parties, through the Joint Committee or a relevant subsidiary body, shall review the operation of Articles 3.2(c) and 3.3 and Annex 2-B two years from the date of initial application of Annex 2-B, and thereafter at ten-year intervals unless otherwise agreed by the Parties, and shall submit a report to the Joint Committee, including any recommendations, within six months of the date of commencement of each review.

#### **Article 17: Amendments to the Harmonized System**

1. When a periodic amendment to the Harmonized System is published, the Parties shall prepare technical revisions to Annex 2-A to implement that version of the Harmonized System, and shall do so in accordance with this Article and the relevant procedures for technical revisions to Annex 2-A as adopted by the Joint Committee under Chapter 12 (Institutional Provisions).

2. The Parties shall mutually decide whether any other technical revisions to Annex 2-A are necessary.

3. The Parties shall ensure that technical revisions to Annex 2-A are carried out on a neutral basis and that market access conditions are not impaired by the process or the outcomes of technical revision to the Annex.

4. The Parties, through the Joint Committee or a relevant subsidiary body established by it, shall endorse and promptly publish the technical revisions that are prepared pursuant to paragraphs 1 and 2.

**Article 18: Non-Application of Articles 15 and 16 to Matters within the Scope of Other Chapters**

Articles 15 and 16 shall not apply to matters within the scope of Chapter 3 (Rules of Origin and Verification Procedures), Chapter 4 (Customs Procedures), Chapter 5 (Sanitary and Phytosanitary Measures) or Chapter 6 (Technical Regulations, Standards and Conformity Assessment Procedures).

## ANNEX 2-A

### SCHEDULES OF COMMITMENTS ON TARIFFS

This Annex contains Schedules of Commitments on Tariffs pursuant to Article 3.1.

#### I. Commitments on Ordinary Customs Duties

1. Part I of each initial or revised Schedule annexed hereto shall be established or be replaced in modified form as the Parties agree and as foreseen under, and pursuant to, this Agreement.

#### General Notes

2. For the purposes of this Annex:

- (a) “**Tariff Code**” and “**Description**” refer to each actual or proxy national tariff line of a Party and the corresponding description the Parties agree had existed, in fact or in effect, on a mutually agreed date prior to entry into force of the Agreement for that Party.
- (b) “**Base Rate**” refers to the rate of ordinary customs duty of a Party based on the most-favoured-nation applied rate (in the case of a WTO Member) or the general non-preferential applied rate (in the case of a non-WTO Member) the Parties agree had existed in relation to the tariff code, in fact or in effect, on the mutually agreed date prior to entry into force of the Agreement for that Party under subparagraph (a).
- (c) “**U**” refers to no commitment being shown in relation to the base rate for the relevant tariff code and to the duty being “**unbound**” for the year concerned.

3. In the Schedules of all Parties, commitments shown shall:

- (a) be for calendar years, except for the periods that non-calendar year references are permitted under paragraph 4;
- (b) be effective from 1 January of the year concerned, except where:
  - (i) the year concerned is the year of entry into force for the Party concerned; or
  - (ii) another date is specified pursuant to this Agreement; and
- (c) remain effective after the years for which they are first shown, unless another commitment is shown for a subsequent year.

4. For a Party that is a Signatory:

- (a) Once the date of entry into force of the Agreement pursuant to Article 8.1 of Chapter 15 (Final Provisions) is known:
  - (i) ‘year 1’ shall become the calendar year of the date of entry into force of the Agreement pursuant to Article 8.1 of Chapter 15 (Final Provisions), regardless of whether the date pursuant to Article 8.2 of Chapter 15 falls in the same year or in a later year<sup>1</sup>; and
  - (ii) non-calendar years (other than those under subparagraph (b)) shall be replaced by specific calendar years.
- (b) Once the date of graduation of a Least Developed Country (LDC) from LDC status is known:
  - (i) ‘year 1 LDC’ shall become the calendar year following that of the date of its graduation from LDC status or the 11<sup>th</sup> calendar year from the date of entry into force pursuant to Article 8.1 of Chapter 15 (Final Provisions), whichever is later; and
  - (ii) non-calendar years of the form ‘year 1 LDC’ up to ‘year 25 LDC’ in its schedule shall be replaced by specific calendar years.

#### **Australia: Schedule of Commitments on Tariffs – Part I**

Pursuant to Article 3.1(a) of Chapter 2 (Trade in Goods), Australia shall eliminate ordinary customs duties on originating goods from the date of entry into force of this Agreement.

#### **New Zealand: Schedule of Commitments on Tariffs – Part I**

Pursuant to Article 3.1(a) of Chapter 2 (Trade in Goods), New Zealand shall eliminate ordinary customs duties on originating goods from the date of entry into force of this Agreement.

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<sup>1</sup> For the avoidance of doubt, where this Agreement enters into force for a Signatory at a date later than the date of entry into force of this Agreement, that Party shall implement the scheduled tariff reduction that it would have implemented had the Agreement entered into force for that Party on the same date as the date of entry into force of this Agreement pursuant to Article 8.1 of Chapter 15 (Final Provisions).

## **II. Commitments on Other Duties or Charges**

### **General Note**

1. Part II of the Schedules shall be established as the Parties agree and as foreseen under, and pursuant to, this Agreement.

### **Kiribati: Schedule of Commitments on Tariffs – Part II**

2. Kiribati may maintain an import levy imposed on imports under the *Import Levy (Special Fund) Act of 1977* or any successor legislation at a rate not exceeding A\$30 per 875 kilogram or per cubic metre of the goods subject to the payment of the levy, whichever rate yields the greater amount.

### **Tuvalu: Schedule of Commitments on Tariffs – Part II**

3. Tuvalu may maintain an import levy imposed on imports under the Import Levy (Imposition of Levy) Order of 2008 or any successor legislation at a rate not exceeding A\$10 per metric ton or per cubic metre of the goods subject to the payment of the levy, whichever rate yields the greater amount.

## ANNEX 2-B

### ADMINISTRATION OF EXEMPTIONS FROM THE OBLIGATION UNDER ARTICLE 3.2 IN RESPECT OF REGIONAL TRADE AGREEMENTS UNDER ARTICLE 3.2(C)

1. A Party shall request an exemption from the Joint Committee pursuant to Article 3.2(c) from the obligation under Article 3.2 by notifying the Joint Committee through Contact Points either:

- (a) it has entered into, or expects in the current calendar year to enter into, a regional trade agreement it considers might qualify for the exemption; or
- (b) a non-Party has acceded to a regional trade agreement to which it is a party for which the Joint Committee has approved an existing exemption.

2. When such notification is provided, the Parties acting jointly shall prepare calculations of shares of world merchandise exports for the consideration of the Joint Committee. Such calculations shall:

- (a) be averages of annual shares in the three consecutive calendar years ending in the calendar year two years before the current calendar year;<sup>1</sup>
- (b) be prepared without undue delay and be provided to the Joint Committee within 90 days, unless sufficient data in relation to all three years are not yet published, in case of which the date of commencement of preparation of the calculations may be delayed until 1 July of the current year;
- (c) use estimates of merchandise exports of each constituent party and the world denominated in current US dollar values for the same time period;
- (d) if annual data for a country or territory are not available, use the most recent annual data as proxy data for the year concerned, adjusted in proportion to the movement between each of those years in the year-average rate of exchange between the US dollar and the local currency of the country or territory;
- (e) in respect of the estimate of a customs union's contribution to world merchandise exports, be net of the intra-customs union exports subject to availability of suitable data;
- (f) be calculated using statistics published in the WTO International Trade Statistics publication or successor publication for as long as such statistics are published there in a form that is suitable for the purposes of this Annex, and notwithstanding subparagraph (e):

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<sup>1</sup> The current calendar year for the purposes of paragraph 2(a) and paragraph 4 shall be the actual or expected year of entry into force or the year of accession.



- (i) merchandise exports of a country or territory that is a constituent party shall be the published estimate if available, or an estimate published in another data source agreed by the Parties; and
- (ii) world merchandise exports shall be the published estimate net of intra-European Union exports and, only if used to derive that estimate, also be net of intra-customs union exports for any other customs union;

but if the WTO International Trade Statistics publication or successor publication no longer publishes statistics in a form that is suitable for the purposes of this Annex, the data sources to be used shall be agreed by the Parties.

3. The Joint Committee may approve the exemption if the Parties are satisfied:

- (a) the calculations show that no maximum limit for exemption under Article 3.2(c) is exceeded;
- (b) the regional trade agreement otherwise qualifies for the exemption; and
- (c) the Party has observed its publication and notification obligations under Articles 13 and 14 in relation to the regional trade agreement.

4. An approved exemption shall be null and void if the regional trade agreement has not entered into force for the requesting Party five years after the date of approval. A subsequent approval may be sought if that Party has entered into, or expects in the current calendar year to enter into, the same agreement and considers the agreement might qualify for the exemption.

ANNEX 2-C

<b>NOTIFICATION OF MODIFIED OR NEW IMPORT LICENSING PROCEDURES PURSUANT TO ARTICLES 14.1(C) AND 14.2(B)</b>	
<b>A. Notifying Party:</b>	
<b>B. Date of notification:</b>	
<b>C. Date of the notification replaced by this notification (if relevant):</b>	
<b>D. Product or products subject to licensing procedures:</b>	
<b>E. Contact point for information on eligibility:</b>	
<b>F. Administrative body (bodies) for submission of applications:</b>	
<b>G. Date and name of publication where licensing procedures are published:</b>	
<b>H. Indication of whether the licensing procedure is automatic or non-automatic according to definitions contained in Articles 2 and 3 of the Agreement on Import Licensing Procedures:</b>	
<b>I. In the case of automatic licensing procedures, their administrative purpose:</b>	
<b>J. In the case of non-automatic licensing procedures, indication of the measure being implemented through the licensing procedure:</b>	
<b>K. Expected duration of the licensing procedure, if this can be estimated with some probability, and if not, reason why this information cannot be provided:</b>	

**CHAPTER 3**  
**RULES OF ORIGIN AND VERIFICATION PROCEDURES**

**Section A: Rules of Origin**

**Article 1: Definitions**

For the purposes of this Chapter:

**aquaculture** means the farming of aquatic organisms including fish, molluscs, crustaceans, other aquatic invertebrates and aquatic plants, from seedstock such as eggs, fry, fingerlings and larvae, by intervention in the rearing or growth processes to enhance production such as regular stocking, feeding, or protection from predators;

**CIF value** means the value of the good imported and includes the cost of insurance and freight up to the port or place of entry into the country of importation;

**FOB** means the free-on-board value of the good, inclusive of the cost of transport to the port or site of final shipment abroad;

**generally accepted accounting principles** means the recognised consensus or substantial authoritative support in a Party, with respect to the recording of revenues, expenses, costs, assets and liabilities; the disclosure of information; and the preparation of financial statements. These standards may encompass broad guidelines of general application as well as detailed standards, practices and procedures;

**identical and interchangeable goods or materials** means goods or materials that are interchangeable for commercial purposes and whose properties are essentially identical;

**indirect material** means a good used in the production, testing or inspection of a good but not physically incorporated into the good, or a good used in the maintenance of buildings or the operation of equipment associated with the production of a good, including:

- (a) fuel and energy;
- (b) tools, dies and moulds;
- (c) spare parts and materials used in the maintenance of equipment and buildings;
- (d) lubricants, greases, compounding materials and other materials used in production or used to operate equipment and buildings;
- (e) gloves, glasses, footwear, clothing, safety equipment and supplies;
- (f) equipment, devices and supplies used for testing or inspecting goods;
- (g) catalysts and solvents; and
- (h) any other goods that are not incorporated into the good but whose use in the production of the good can reasonably be demonstrated to be a part of that production;

**material** means any matter or substance that is used in the production of a good;

**non-originating good** or **non-originating material** means a good or material that does not qualify as originating under this Chapter;

**originating material** means a material that qualifies as originating under this Chapter;

**packing materials and containers for shipment** means goods used to protect a good during its transportation, other than containers and packaging material used for retail sale;

**preferential tariff treatment** means the rate of customs duties applicable to an originating good of the exporting Party in accordance with Annex 2-A (Schedule of Commitments on Tariffs);

**producer** means a person who engages in the production of goods or materials;

**production** means methods of obtaining goods including but not limited to growing, mining, harvesting, farming, raising, breeding, extracting, gathering, collecting, capturing, fishing, trapping, hunting, manufacturing, aquaculture, processing or assembling a good; and

**product specific rules** are the rules set out in Annex 3-B.

## **Article 2: Originating Goods**

For the purposes of this Chapter, a good shall be treated as an originating good if it:

- (a) is wholly obtained or produced in a Party as defined in Article 3;
- (b) is produced entirely in one or more of the Parties, by one or more producers, exclusively from originating materials, in accordance with this Chapter;
- (c) satisfies all applicable requirements of Annex 3-B, as a result of processes performed entirely in the territory of one or more of the Parties by one or more producers; or
- (d) otherwise qualifies as an originating good under this Chapter,

and meets all other applicable requirements of this Chapter.

### Article 3: Goods Wholly Obtained or Produced

For the purposes of Article 2, the following goods shall be considered as wholly obtained or produced:

- (a) plants and plant goods, including fruit, flowers, vegetables, trees, seaweed, fungi and live plants, grown, harvested, picked or gathered in a Party;<sup>1</sup>
- (b) live animals born and raised in one or more Parties;
- (c) goods obtained from live animals in a Party;
- (d) goods obtained from hunting, trapping, fishing, farming, aquaculture, gathering or capturing in a Party;
- (e) minerals and other naturally occurring substances extracted or taken from the soil, waters, seabed or beneath the seabed in a Party;
- (f) goods of sea-fishing and other marine goods taken from the high seas, in accordance with international law<sup>2</sup>, by any vessel registered or recorded with a Party and entitled to fly the flag of that Party;
- (g) goods produced from the goods referred to in subparagraph (f) on board any factory ship registered or recorded with a Party and entitled to fly the flag of that Party;
- (h) goods taken by a Party, or a person of a Party, from the seabed or beneath the seabed beyond the Exclusive Economic Zone and adjacent Continental Shelf of that Party and beyond areas over which third parties exercise jurisdiction under exploitation rights granted in accordance with international law;
- (i) goods which are:
  - (i) waste and scrap derived from production and or consumption in a Party provided that such goods are fit only for the recovery of raw materials; or
  - (ii) used goods collected in a Party provided that such goods are fit only for the recovery of raw materials; and
- (j) goods produced or obtained in a Party solely from products referred to in subparagraphs (a) to (i) or from their derivatives.

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<sup>1</sup> For the purposes of this Article “in a Party” means the land, territorial sea, Exclusive Economic Zone and Continental Shelf over which a Party exercises sovereign rights or jurisdiction in accordance with international law.

<sup>2</sup> “International law” in sub-paragraphs (f) and (h) refers to generally accepted international law such as the *United Nations Convention on the Law of the Sea*.

#### Article 4: Calculation of Regional Value Content

1. For the purposes of Article 2, if Annex 3-B requires a good to meet a regional value requirement, the formula for calculating the regional value content will be:

$$\text{RVC} = \frac{\text{V} - \text{VNM}}{\text{V}} \times 100$$

where:

**RVC** is the regional value content of a good, expressed as a percentage;

**V** is the value of the good, as provided in paragraph 2; and

**VNM** is the value of non-originating materials, including materials of undetermined origin.

2. The value of the good referred to in paragraph 1 shall be, for exported goods, the FOB value of the good.

3. The value of non-originating materials or materials of undetermined origin referred to in paragraph 1 shall be:

- (a) for imported materials, the CIF value at the time of importation of the materials; or
- (b) for materials acquired within the territory of the Party in which the good is produced the earliest ascertainable price paid or payable for the materials in the territory of the Party.

4. The value of goods under this Chapter will be determined in accordance with the Agreement on Customs Valuation.

5. Each Party shall provide that, for a non-originating material or material of undetermined origin included under paragraph 1, the following expenses may be deducted from the value of the material:

- (a) the costs of freight, insurance, packing and all other costs incurred in transporting the material within or between the Parties' territories to the location of the producer;
- (b) duties, taxes and customs brokerage fees on the material paid in the territories of one or more of the Parties, other than duties and taxes that are waived, refunded, refundable or otherwise recoverable, including credit against duty or tax paid or payable;
- (c) the cost of waste and spoilage resulting from the use of the material in the production of the good, less the value of renewable scrap or by-product;

- (d) the cost of processing incurred in the territory of one or more of the Parties in the production of the non-originating material; and
- (e) the cost of originating materials used or consumed in the production of the non-originating material in the territory of one or more of the Parties.

6. If the cost or expense of a deduction listed in paragraph 5 is unknown or documentary evidence of the amount of the deduction is not available, then no deduction is allowable for that particular cost.

7. For the purposes of this Chapter, all costs shall be recorded and maintained in accordance with the generally accepted accounting principles applicable in the territory of the Party in which the good is produced or manufactured.

### **Article 5: Cumulative Rules of Origin**

1. A good is originating if the good is produced in one or more of the Parties by one or more producers, provided that the good satisfies the requirements in Article 2 and all other applicable requirements in this Chapter.

2. Originating goods or materials of any of the Parties used in the production of a good in another Party shall be considered to originate in the latter Party.

3. Production that occurs in the territory of one or more of the Parties by one or more producers may count as originating content in the origin determination of a good regardless of whether that production was sufficient to confer originating status to the materials themselves.

### **Article 6: Minimal Operations and Processes**

If a claim for origin is based on a regional value content, the operations or processes listed below, when undertaken by themselves or in combination with each other, are considered to be minimal and shall not be taken into account in determining whether or not a good is originating:

- (a) operations to ensure preservation of goods in good condition for the purposes of transport or storage;
- (b) facilitating shipment or transportation;
- (c) packaging or presenting goods for sale;
- (d) affixing of marks, labels or other like distinguishing signs on products or their packaging; and
- (e) disassembly.

### **Article 7: *De Minimis***

1. A good that does not satisfy a change in tariff classification requirement pursuant to Annex 3-B will nonetheless be an originating good if:
  - (a) the value of all non-originating materials used in the production of the good that did not undergo the required change in tariff classification does not exceed 10 per cent of the FOB value of the good; or alternatively
  - (b) for a textiles or apparel good provided for in Chapters 50 to 63 of the Harmonized System, the weight of all non-originating materials used in its production that did not undergo the required change in tariff classification does not exceed 10 per cent of the total weight of the good.
2. The goods under paragraph 1 must meet all other applicable requirements of this Chapter.
3. The value of such non-originating materials shall, however, be included in the value of non-originating materials for any applicable regional value content requirement for the good.

### **Article 8: Accessories, Spare Parts, Tools and Instructional or other Information Materials**

1. For the purposes of determining origin, accessories, spare parts, tools or instructional or other information materials provided with the good shall be considered originating goods and shall be disregarded in determining whether all the non-originating materials used in the production of the originating goods undergo the applicable change in tariff classification or production process requirements.
2. If the good is subject to a regional value content requirement, the value of the accessories, spare parts, tools or instructional or other information materials provided with the good shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.
3. Paragraphs 1 and 2 shall only apply if:
  - (a) the accessories, spare parts, tools or instructional or other information materials are not invoiced separately from the good; and
  - (b) the quantities and the value of those accessories, spare parts, tools or instructional or other information materials provided with the good are customary for that good.
4. If accessories, spare parts, tools and instructional or other information materials presented with the good are not customary for the good or are invoiced separately from the good, they shall be treated as separate goods for the purpose of determining origin.



## **Article 9: Identical and Interchangeable Goods or Materials**

The determination of whether identical and interchangeable goods or materials are originating goods shall be made either:

- (a) by physical segregation of each of the goods or materials; or
- (b) by the use of an inventory management method recognised in the generally accepted accounting principles of the Party in which the production is performed or otherwise accepted by that Party, provided that the inventory management method selected is used throughout the fiscal year of the person that selected the inventory management method.

## **Article 10: Treatment of Packing Materials and Containers**

1. Packing materials and containers in which a good is placed exclusively for transportation and shipment shall not be taken into account in determining the origin of any good.
2. Packing materials and containers in which a good is packaged for retail sale, when classified together with that good, shall not be taken into account in determining whether all of the non-originating materials used in the production of the good have met the applicable change in tariff classification or process of production requirements for the good as set out in Annex 3-B.
3. If a good is subject to a regional value content requirement, the value of the packing materials and containers in which the good is packaged for retail sale shall be taken into account as originating or non-originating materials, as the case may be, in calculating the regional value content of the good.
4. If the packaging material and container is not customary for the good, its value shall not be included as originating in a regional value content calculation for the good.

## **Article 11: Indirect Materials**

An indirect material shall be treated as an originating material without regard to where it is produced. The value of such a good shall be the cost registered in the accounting records of the producer of the good.

## **Article 12: Retention of records**

1. In accordance with its domestic laws and regulations, each Party shall require, that:
  - (a) a producer, exporter, or authorised representative of the producer or exporter shall maintain all records relating to the origin of a good for which preferential tariff

treatment is claimed in an importing Party, including the Declaration of Origin relevant to the good, or a copy thereof, for five years from the date of the exportation; and

- (b) an importer claiming preferential tariff treatment shall maintain all records relating to the importation of the good, including the Declaration of Origin relevant to the good (completed pursuant to Article 15), or a copy thereof, for five years after the date of importation.

2. The records to be maintained pursuant to this Article include electronic records.

### **Article 13: Consignment**

1. Goods directly transported among the Parties will retain their originating status under Article 2.

2. A good shall retain its originating status under Article 2 if it has been transported through a non-party provided that the good has not undergone subsequent production or any other operation in the territory of a non-party other than:

- (a) unloading, reloading, storing, any other operation necessary to preserve the goods in good condition, repacking, relabelling or any other operation necessary to transport the goods to the territory of the importing Party; or
- (b) if the goods have been shown in or utilised at an exhibition in a non-party.

### **Article 14: Goods in Storage**

The Customs Administration of the importing Party shall grant preferential tariff treatment for an originating good of the exporting Party which, on the date of entry into force of this Agreement, is:

- (a) in the process of being transported from the exporting Party; or
- (b) has not been released from Customs control; or
- (c) is in storage in a warehouse regulated by the Customs Administration of the importing Party;

provided that the good is destined for home consumption in the importing Party and satisfies all the applicable requirements of this Chapter.

## **Section B: Origin Procedures**

### **Article 15: Declaration of Origin**

1. A claim that goods are eligible for preferential tariff treatment shall be supported by a Declaration of Origin completed by the exporter or producer or an authorised representative of the exporter or producer.
2. The Declaration of Origin shall:
  - (a) contain the information detailed in Annex 3-A;
  - (b) be made in respect of one or more goods and may include a variety of goods;
  - (c) be completed in English;
  - (d) be in a written format, including electronic format; and
  - (e) be an original, except that copies may be made for subsequent transactions.
3. The Declaration of Origin may be made on the invoice for the goods or on a separate document, including on a company's letterhead.
4. Neither erasures nor superimposition shall be allowed on the Declaration of Origin. Any alteration shall be made by striking out the erroneous information and making any addition required. Such alteration shall be approved by the exporter or producer making the declaration. To the extent possible, unused spaces on the form shall be crossed out. If the Declaration of Origin is more than one page long, subsequent pages shall be numbered in sequence. For example, a three page document shall be numbered as 1 of 3, 2 of 3 and 3 of 3.
5. A Declaration of Origin shall remain valid for two years after the date on which the Declaration of Origin was signed.
6. Nothing in this Agreement shall prevent a producer or exporter from obtaining the services of a third party to assist them to complete the Declaration of Origin.

### **Article 16: Submission of Declaration of Origin**

Except as otherwise provided in this Chapter, the original Declaration of Origin or a copy shall be submitted to the Customs Administration of the importing Party when requested by that Customs Administration.

## **Article 17: Circumstances When Declaration Not Required**

1. In accordance with its domestic laws and regulations, the importing Party shall not require a Declaration of Origin in order to claim preferential tariff treatment for:

- (a) goods for which the customs value does not exceed US\$200 FOB or the equivalent amount in the importing Party's currency, or such higher amount as it may establish; or
- (b) any good for which a Party has waived the requirement for a Declaration of Origin,

provided that the importation does not form part of one or more importations that may reasonably be considered to have been undertaken or arranged for the purpose of avoiding the submission of the Declaration of Origin.

2. Notwithstanding Article 15, the importing Party may elect to waive the requirement for a Declaration of Origin or any of the requirements in Section B.

## **Article 18: Claim for Preferential Tariff Treatment**

1. Subject to Article 22, the importing Party shall grant preferential tariff treatment to a good imported into its territory from any other Party, provided that:

- (a) the good is an originating good under Article 2;
- (b) the consignment criteria outlined in Article 13 have been met; and
- (c) the importer claiming preferential tariff treatment has met the Declaration of Origin requirements specified in Article 15.

2. If the origin of the good is not in doubt, the discovery of minor transcription errors or discrepancies in documentation shall not by that sole fact invalidate the Declaration of Origin, if it does in fact correspond to the goods submitted.

3. For multiple goods declared under the same Declaration of Origin, a problem encountered with one of the goods listed shall not affect or delay the granting of preferential tariff treatment and customs clearance of the remaining goods listed in the Declaration of Origin.

4. The importing Party shall require that an importer promptly makes a corrected import declaration and pays any owed duties when the importer has reason to believe that the good does not meet the origin requirements.

5. Each Party shall provide that an importer may apply for preferential tariff treatment and a refund of any excess duties paid for a good if the importer did not make a claim for preferential tariff treatment at the time of importation, provided that:

- (a) the good would have qualified for preferential tariff treatment when it was imported into the territory of the Party; and
- (b) the application is made within two years of the date of importation or such longer period as the importing Party's laws and regulations allow.

### **Article 19: Verification of Origin**

1. When there is a reasonable doubt as to the origin of a good, the Customs Administration of an importing Party may verify the eligibility of a good for preferential tariff treatment under this Agreement by means of:

- (a) written requests for information to the importer;
- (b) written requests for information to the exporter or producer or an authorised representative of the exporter or producer;
- (c) a verification visit to the premises of the exporter or producer in the territory of another Party (under Article 20); or
- (d) any other procedures as mutually agreed by the relevant Parties.

2. A written request referred to in paragraph 1 shall include:

- (a) the identity of the Customs Administration making the request;
- (b) the reason for the request, including the specific issue the importing Party seeks to resolve with the verification;
- (c) sufficient information to identify the good that is being verified; and
- (d) a copy of relevant information submitted with the good, including the Declaration of Origin.

3. Subject to the availability of resources and to the extent allowed by its laws, regulations and policies, the exporting Party shall whenever possible cooperate in any action to verify eligibility and require that producers and exporters cooperate in any action to verify eligibility.

### **Article 20: Verification Visit**

1. If all verification actions under Article 19.1 (a), (b) and (d) have been exhausted and have failed to resolve the concerns of the Customs Administration of the importing Party, a verification visit may be conducted.

2. Prior to conducting such a visit, the Customs Administration of the importing Party shall:
  - (a) make a written request to the exporter or producer to conduct a verification visit of their premises; and
  - (b) obtain the written consent of the exporter or producer whose premises are to be visited.
3. If an exporter or producer consents to a proposed verification visit, it shall provide its written consent within 30 days of the receipt of a request for a visit.
4. The written request referred to in paragraph 2(a) shall include:
  - (a) the identity of the Customs Administration issuing the request;
  - (b) the name of the exporter or producer of the good in the exporting Party to whom the request is addressed;
  - (c) the date the written request is made;
  - (d) the proposed date and place of the visit;
  - (e) the objective and scope of the proposed visit, including specific reference to the good that is the subject of the verification referred to in the Declaration of Origin; and
  - (f) the names and titles of the officials of the Customs Administration of the importing Party who will participate in the visit.
5. The Customs Administration of the importing Party shall notify the Customs Administration of the exporting Party when it requests a verification visit in accordance with this Article.
6. Officials of the Customs Administration of the exporting Party may participate in the verification visit as observers.
7. Nothing in this Article shall affect the rights of the Customs Administration of a Party to undertake verification or compliance activities within its territory in accordance with its laws and regulations.

#### **Article 21: Time Limits for Decision on Origin**

The Customs Administration of the importing Party shall complete any action to verify eligibility for preferential tariff treatment within 130 days of the commencement of such action or within 90 days of the conclusion of a verification visit, whichever is later, and

make a decision and provide written advice as to whether the good is eligible for preferential tariff treatment to all relevant parties within the following 21 days.

### **Article 22: Denial of Preferential Tariff Treatment**

1. An importing Party may deny a claim for preferential tariff treatment for a good if:
  - (a) the good does not meet the requirements of this Chapter;
  - (b) the importer, exporter or producer fails to comply with any of the relevant requirements of this Chapter; or
  - (c) a verification conducted in accordance with this Chapter has failed to determine that the good is originating.
2. In the event that preferential tariff treatment is denied, the Customs Administration of the importing Party shall provide full reasons for that decision in writing to the importer, on request.
3. The Customs Administration of the importing Party shall not reject a claim for preferential tariff treatment only for the reason that the invoice is issued in a non-party or by a third party.

### **Article 23: Right of Appeal**

1. The importing Party shall grant the right of appeal in matters relating to the eligibility for preferential tariff treatment to producers, exporters or importers of goods traded or to be traded between the Parties, in accordance with its domestic laws, regulations and administrative practices.
2. If no right of appeal exists in a Party in matters relating to the eligibility for preferential tariff treatment to producers, exporters or importers of goods traded or to be traded between the Parties, those Parties will, subject to the availability of resources, endeavour to establish such rights of appeal.

### **Article 24: Confidentiality**

Information communicated between the Parties for the purpose of verification of origin shall be used for that purpose only, and be otherwise subject to Article 6 of Chapter 15 (Final Provisions).

### **Article 25: Action Against Fraudulent Acts**

When it is suspected that fraudulent acts in connection with the evidence of origin

requirements have been committed, the Parties concerned shall cooperate in the exchange of information in accordance with the Parties' respective laws and regulations.

### **Section C: Consultation and Review**

#### **Article 26: Meetings and Consultations on Rules of Origin**

1. The Parties shall, through the Committee on Trade in Goods, Rules of Origin and Customs Procedures, consult regularly to ensure that this Chapter is administered in a manner consistent with the objectives and other provisions of this Chapter.
2. The government authorities of the Parties with a direct interest in any issues that arise concerning origin determination, classification of products, or other matters related to this Chapter shall consult with a view to resolving such issues and, where relevant, inform the importer of the outcome. The Joint Committee shall be notified of any significant outcomes from such consultations.

#### **Article 27: Review of Origin Procedures**

1. The Parties, through the Committee on Trade in Goods, Rules of Origin and Customs Procedures shall commence a review of this Chapter within three years of entry into force of this Agreement and submit a final report to the Joint Committee, including any recommendations, within four years of the date of entry into force of this Agreement.
2. The Committee on Trade in Goods, Rules of Origin and Customs Procedures shall review the implementation of the Declaration of Origin provisions within four years of the date of entry into force of this Agreement and make appropriate recommendations to the Joint Committee.

#### **Article 28: Consultation and Review of Product Specific Rules**

1. The Parties shall consult and cooperate to ensure that Article 2(c) is applied in an effective and uniform manner.
2. If a Party considers that the regional value content, change in tariff classification or specific process requirement set out in Annex 3-B is unduly restricting, distorting or disrupting of the Party's trade of a good, then that Party may request in writing consultations with the other Parties to determine a suitable amendment to Annex 3-B. The Committee on Trade in Goods, Rules of Origin and Customs Procedures shall promptly consider the request. In the event that the Committee considers a change to one or more rules in Annex 3-B is warranted, it shall make recommendations to the Joint Committee, which shall decide whether to adopt the recommendations in accordance with Chapter 12 (Institutional Provisions).



3. The Parties shall complete a review of this Article within three years of the date of entry into force of this Agreement or a period otherwise agreed by the Parties to address any differences between the Parties arising from the operation of this Article.

#### **Article 29: Technical Revisions of the Product Specific Rules Schedule**

1. When a periodic amendment to the Harmonized System is published, the Parties shall prepare technical revisions to Annex 3-B to implement that version of the Harmonized System, and shall do so in accordance with this Article and the relevant procedures for technical revisions to Annex 3-B as adopted by the Joint Committee under Chapter 12 (Institutional Provisions).

2. The Parties shall ensure that technical revisions to Annex 3-B are carried out on a neutral basis and market access conditions are not impaired by the process or the outcomes of technical revisions to Annex 3-B.

3. The Parties, through the Joint Committee or a relevant subsidiary body established by it, shall endorse and promptly publish the technical revisions that are prepared pursuant to paragraph 1 and determine the date on which such revisions will come into effect.

## ANNEX 3-A

### DECLARATION OF ORIGIN REQUIREMENTS

A declaration of origin that is the basis for a claim for preferential tariff treatment under this Agreement shall include the following elements:

**1. Producer:**

Provide the producer's name, address (including country), e-mail address and telephone number. If multiple producers have been involved in producing the good(s) covered in the declaration, provide a list of those producers.

**2. Exporter:**

If known, provide the exporter's name, address, including country, e-mail address and telephone number.

**3. Authorised Representative:**

If the declaration is signed by an authorised representative of the exporter or producer, provide the authorised representative's name, address, including country, e-mail address and telephone number.

**4. Importer:**

If known, provide the importer's name, address, e-mail address and telephone number.

**5. Description and Harmonized System Tariff Classification of the Good(s):**

Provide a description of the good(s) and the Harmonized System tariff classification(s) of the good(s) to the 6-digit level. The description should be sufficient to relate it to the good(s) covered by the declaration.

If the declaration of origin covers a single shipment of a good or goods, indicate if known, the invoice number related to the exportation.

**6. Origin Criterion:**

Using codes, specify the rule(s) of origin criteria under which the good(s) qualify. (The codes are: WO = goods wholly obtained or produced in a Party in accordance with Article 2(a); PE = goods produced entirely in one or more of the Parties by one or more producers exclusively from originating materials in accordance with Article 2(b); and PSR = goods satisfying all applicable requirements of Annex 3-B as a result of processes performed entirely in the territory of one or more Parties by one or more producers in accordance with Article 3(c)).

**7. Period of Validity:**

If the declaration covers multiple shipments of identical goods, include the period of validity (a specified period of up to two years from the date of declaration).

**8. Authorised Signature and Date:**

The declaration must be signed and dated by the exporter or producer or an authorised representative of the exporter or producer accompanied by the following statement:

I declare that the good(s) described in this document qualify as originating in [NAME OF PACER PLUS PARTY(IES)] in accordance with the provisions of Chapter 3 (Rules of Origin and Verification Procedures) of the Pacific Agreement on Closer Economic Relations Plus (PACER Plus) and the information contained in this document is true and accurate. I assume responsibility for proving such representations and agree to maintain for a period of five years and present upon request or to make available during a verification visit, documentation necessary to support this declaration.

## ANNEX 3-B

### SCHEDULE OF PRODUCT SPECIFIC RULES

1. For the purpose of interpreting the Product Specific Rules set forth in this Annex:

**Chapter** means a chapter of the Harmonized System (the first two digits of the tariff classification number under the Harmonized System 2012);

**Heading** means a heading of the Harmonized System (the first four digits in the tariff classification number under the Harmonized System 2012); and

**Subheading** means a subheading of the Harmonized System (the first six digits in the tariff classification number under the Harmonized System 2012).

2. This Annex is set out as follows:

(a) **Column 1** – Tariff item (2-digit or 4-digit)

(b) **Column 2** – Tariff subheading (6-digit)

(c) **Column 3** – Applicable change in tariff classification rule

(d) **Column 4** – Applicable regional value content rule

(e) **Column 5** – Applicable process rule

3. The Product Specific Rule or set of Product Specific Rules that applies to a particular chapter (2-digit code), heading (4-digit code) or subheading (6-digit code) is set out immediately adjacent to the chapter, heading or subheading.

4. For the purposes of this Annex:

“**CC**” means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the 2-digit level;

“**CTH**” means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the 4-digit level;

“**CTSH**” means that all non-originating materials used in the production of the good have undergone a change in tariff classification at the 6-digit level; and

“**RVC (40)**” means that the good must have a regional value content of not less than 40 per cent as calculated under Article 4.

5. Where a range of Product Specific Rules are provided for a good, origin may be claimed on the basis that at least one of the Product Specific Rules is satisfied.

6. Where a Product Specific Rule requires a regional value content, origin may be claimed only if the final process of production is performed within a Party.

7. Where a Product Specific Rule requires a change in tariff classification or a specific process, the requirement applies only to non-originating materials, and the specific process must take place within the territory of one or more Parties. For example; the process “smoking, drying or production of flours, meals or pellets”, means that origin may be claimed only if all non-originating material used in the production of the good has undergone the processes of smoking, drying or production of flours, meals or pellets within one or more of the Parties. The Annex may include definitions of some processes.

8. Where a Product Specific Rule requires a change in tariff classification that excludes a change from other specified tariff classifications, the exclusion applies only to non-originating materials.

9. Section notes within this Annex apply to all chapters, headings or subheadings within the indicated section unless a specific exclusion is indicated.

10. Chapter notes within this Annex apply to all headings or subheadings within the indicated chapter unless a specific exclusion is indicated.

11. Heading notes within this Annex apply to all subheadings within the indicated heading unless a specific exclusion is indicated.

12. Reclassification of a good which does not undergo any transformation within a Party will not, in itself, confer origin to that good.

13. Product-Specific Rules:

HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
<b>Section I: Live animals; animal products</b>				
<b>Chapter 01</b>		CC		
<b>Chapter 02</b>		CC		
<b>Chapter 03</b>				
0301		CC		
0302-0303		CC		Landed; gutted or cleaned; and vacuum-packed
0304		CTH		
0305		CTH		
0306-0308		CC		Smoking, drying or production of flours, meals or pellets
<b>Chapter 04</b>				

HS2 / HS4	HS6	Option 1 (CTC)	Option (RVC) <sup>2</sup>	Option 3 (process rule)
0401-0406		CTSH	RVC (40)	
0407-0410		CC	RVC (40)	
<b>Chapter 05</b>		<b>CC</b>	<b>RVC (40)</b>	
<b>Section II: Vegetable products</b>				
<b>Section note:</b> All goods grown in the territory of a Party shall be treated as originating in the territory of that Party even if grown from seed, bulbs, rhizomes, rootstock, cuttings, slips, grafts, shoots, buds or other live parts of plants imported from a non-Party.				
<b>Chapter 06</b>				
0601-0602		CC	RVC (40)	
0603-0604		CTH	RVC (40)	
<b>Chapter 07</b>				
0701-0709		CC		
0710		CC		Cooked
0711		CTH		
0712		CTH	RVC (40)	
0713		CTH		
0714		CC		
<b>Chapter 08</b>				
0801-0810		CC		
0811		CC		Cooked
0812		CTH		
0813		CTH	RVC (40)	
0814		CTH		
<b>Chapter 09</b>				
0901		CTSH		
0902				
	0902.10	CC	RVC (40)	
	0902.20	CC	RVC (40)	
	0902.30	CTSH	RVC (40)	
	0902.40	CTSH	RVC (40)	
0903		CC	RVC (40)	
0904-0909		CC	RVC (40)	Crushing or grinding
0910				
	0910.11	CC		
	0910.12	CC		
	0910.20	CC	RVC (40)	Crushing or grinding
	0910.30	CC	RVC (40)	Crushing or grinding

<b>HS2 / HS4</b>	<b>HS6</b>	<b>Option 1 (CTC)</b>	<b>Option 2 (RVC)</b>	<b>Option 3 (process rule)</b>
	0910.91	CTSH	RVC (40)	
	0910.99	CTSH	RVC (40)	
<b>Chapter 10</b>		<b>CC</b>		
<b>Chapter 11</b>				
1101-1102		CC		
1103				
	1103.11	CC		
	1103.13	CC		
	1103.19	CC		
	1103.20	CTSH		
1104				
	1104.12	CC		
	1104.19	CC		
	1104.22	CC		
	1104.23	CC		
	1104.29	CC		
	1104.30	CTH		
1105				
	1105.10	CC		
	1105.20	CTSH		
1106		CC		
1107				
	1107.10	CC		
	1107.20	CTSH		
1108-1109		CC		
<b>Chapter 12</b>				
1201-1207		CC		
1208		CTH		
1209		CC		
1210				
	1210.10	CC		
	1210.20	CTSH		
1211-1214		CC		
<b>Chapter 13</b>		<b>CC</b>		
<b>Chapter 14</b>		<b>CC</b>		
<b>Section III: Animal or vegetable fats and oils and their cleavage products; prepared edible fats; animal or vegetable waxes</b>				

HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
<b>Chapter 15</b>				
<b>Chapter note for Chapter 15:</b>				
For the purposes of this Chapter, the refining process (chemical or physical) entails removing the odour, taste, colour and acidity of a crude or partially refined fat or oil.				
1501-1502		CC		Change through refining
1503		CTH		
1504-1515		CC		Change through refining
1516-1522		CTH		
<b>Section IV: Prepared foodstuffs; beverages, spirits and vinegar; tobacco and manufactured tobacco substitutes</b>				
<b>Chapter 16</b>		CC	RVC (40)	
<b>Chapter 17</b>				
1701				
	1701.12	CC		
	1701.13	CC		
	1701.14	CC		
	1701.91	CTSH (except from 1701.99)		
	1701.99	CTSH (except from 1701.91)		
1702-1704		CTH		
<b>Chapter 18</b>				
1801-1802		CC		
1803-1805		CTH		
1806		CTSH		
<b>Chapter 19</b>				
1901-1904		CC	RVC (40)	
1905		CTH (except from 1901.20)	RVC (40)	
<b>Chapter 20</b>				
2001-2006		CC	RVC (40)	
2007		CTH	RVC (40)	
2008-2009		CC	RVC (40)	
<b>Chapter 21</b>				
2101-2102		CC	RVC (40)	
2103-2106		CTSH	RVC (40)	
<b>Chapter 22</b>				
2201		CC	RVC (40)	



HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
2202-2203		CTH	RVC (40)	
2204				
	2204.10	CTSH	RVC (40)	
	2204.21	CTSH (except from 2204.29)	RVC (40)	
	2204.29	CTSH (except from 2204.21)	RVC (40)	
	2204.30	CTH	RVC (40)	
2205-2207		CTH	RVC (40)	
2208		CTSH	RVC (40)	
2209		CTH	RVC (40)	
<b>Chapter 23</b>				
2301-2308		CC	RVC (40)	
2309		CTH	RVC (40)	
<b>Chapter 24</b>		CC	RVC (40)	
<b>Section V: Mineral products</b>				
<b>Chapter 25</b>		CTH	RVC (40)	<b>A change from 2523.10</b>
<b>Chapter 26</b>		CTH	RVC (40)	
<b>Chapter 27</b>		CTH	RVC (40)	<b>See chapter and heading note</b>
<b>Chapter note for Chapter 27:</b>				
<u>Chemical Reaction Origin Rule:</u>				
For the purposes of this Chapter, a "chemical reaction" is a process (including a biochemical process) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds; or by altering the spatial arrangement of atoms in a molecule.				
The following are not considered to be chemical reactions for the purposes of this definition:				
(a) dissolving in water or other solvents;				
(b) the elimination of solvents including solvent water; or				
(c) the addition or elimination of water of crystallization.				
<b>Heading note for heading 2710:</b>				
Atmospheric Distillation and Vacuum Distillation Origin Rules				
For the purposes of Heading 2710, the following processes confer origin:				
(a) atmospheric distillation – a separation process in which petroleum oils are converted, in a distillation tower, into fractions according to boiling point and the vapor then condensed into different liquefied fractions. Liquefied petroleum gas, naphtha, gasoline, kerosene, diesel/heating oil, light gas oils, and lubricating oil are produced from petroleum distillation; and				
(b) vacuum distillation – distillation at a pressure below atmospheric but not so low that it would be classed as molecular distillation. Vacuum distillation is useful for distilling high-boiling and heat-sensitive materials such as heavy distillates in petroleum oils to produce light				

HS2 / HS4	HS6	Option 1 (CTC)	Option (RVC) <sup>2</sup>	Option 3 (process rule)
to heavy vacuum gas oils and residuum. In some refineries, gas oils may be further processed into lubricating oils.				
<b>Section VI: Products of the chemical or allied industries</b>				
<b>Chapters 28 to 40</b>				
<b><u>Chapter note for Chapters 28 to 40:</u></b>				
<u>Chemical Reaction Origin Rule:</u>				
Any good of Chapters 28 to 40 that is the product of a chemical reaction shall be considered to be an originating good if the chemical reaction occurred in the territory of the Parties. For the purposes of this section, a "chemical reaction" is a process (including a biochemical process) which results in a molecule with a new structure by breaking intramolecular bonds and by forming new intramolecular bonds, or by altering the spatial arrangement of the molecule.				
The following are not considered to be chemical reactions for the purposes of determining whether a product is an originating good:				
<ul style="list-style-type: none"> <li>(a) dissolving in water or other solvents;</li> <li>(b) the elimination of solvents including solvent water; or</li> <li>(c) the addition or elimination of water of crystallization.</li> </ul>				
<u>Purification Origin Rule:</u>				
For the purposes of Chapters 28 – 35 and 38, purification is considered to be origin conferring provided that one of the following criteria is satisfied:				
<ul style="list-style-type: none"> <li>(a) purification of a good resulting in the elimination of 80 per cent of the content of existing impurities; or</li> <li>(b) the reduction or elimination of impurities resulting in a good suitable for one or more of the following applications: <ul style="list-style-type: none"> <li>(i) pharmaceutical, medicinal, cosmetic, veterinary, or food grade substances;</li> <li>(ii) chemical products and reagents for analytical, diagnostic or laboratory uses;</li> <li>(iii) elements and components for use in micro-elements;</li> <li>(iv) specialized optical uses;</li> <li>(v) non-toxic uses for health and safety;</li> <li>(vi) biotechnical use;</li> <li>(vii) carriers used in a separation process; or</li> <li>(viii) nuclear grade uses.</li> </ul> </li> </ul>				
<u>Mixtures and Blends Origin Rule:</u>				
For the purposes of Chapters 30, 31, 39 and 40, Headings 3302, 3506, 3507 and 3707 and Subheading 3502.20, the deliberate and proportionally controlled mixing or blending (including dispersing) of materials to conform to predetermined specifications which results in the production of a good having physical or chemical characteristics which are relevant to the purposes or uses of the good and are different from the input materials is considered to be origin conferring.				
<u>Change in Particle Size Origin Rule:</u>				
For the purposes of Chapters 30, 31, 33 and 39, the deliberate and controlled modification in particle size of a good, other than by merely crushing (or pressing) resulting in a good having				

HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
<p>a defined particle size, defined particle size distribution or defined surface area, which are relevant to the purposes of the resulting good and have different physical or chemical characteristics from the input materials is considered to be origin conferring.</p> <p><u>Standards Materials Origin Rule:</u>  For the purposes of Chapters 28 – 32, 35 and 38, the production of standards materials is considered to be origin conferring.  For the purposes of this rule "standards materials" (including standard solutions) are preparations suitable for analytical, calibrating or referencing uses having precise degrees of purity or proportions which are certified by the manufacturer.</p> <p><u>Isomer Separation Origin Rule:</u>  For the purposes of Chapters 28 – 32, 35 and 39, the isolation or separation of isomers from mixtures of isomers is to be considered origin conferring.</p>				
<b>Chapter 28 to Chapter 31</b>		<b>CTSH</b>	<b>RVC (40)</b>	<b>See chapter note</b>
<b>Chapter 32</b>				
3201-3203		CTSH	RVC (40)	See chapter note
3204				
	3204.11	CTSH	RVC (40)	See chapter note
	3204.12	CTSH	RVC (40)	See chapter note
	3204.13	CTSH	RVC (40)	See chapter note
	3204.14	CTSH	RVC (40)	See chapter note
	3204.15	CTSH	RVC (40)	See chapter note
	3204.16	CTSH	RVC (40)	See chapter note
	3204.17	CTSH	RVC (40)	See chapter note
	3204.19	CTH	RVC (40)	See chapter note
	3204.20	CTSH	RVC (40)	See chapter note
	3204.90	CTSH	RVC (40)	See chapter note
3205-3212		CTSH	RVC (40)	See chapter note
3213		CTH	RVC (40)	See chapter note
3214		CTSH	RVC (40)	See chapter note
3215		CTH	RVC (40)	See chapter note
<b>Chapter 33</b>				
3301		CTSH	RVC (40)	See chapter note
3302		CTH	RVC (40)	See chapter note
3303		CTH (except from 3302.90)	RVC (40)	See chapter note
3304-3307		CTSH	RVC (40)	See chapter note
<b>Chapter 34</b>				

<b>HS2 / HS4</b>	<b>HS6</b>	<b>Option 1 (CTC)</b>	<b>Option 2 (RVC)</b>	<b>Option 3 (process rule)</b>
3401		CTH	RVC (40)	See chapter note
3402-3405		CTSH	RVC (40)	See chapter note
3406-3407		CTH	RVC (40)	See chapter note
<b>Chapter 35 to Chapter 37</b>		<b>CTH</b>	<b>RVC (40)</b>	<b>See chapter note</b>
<b>Chapter 38</b>				
<b>Heading Note for 3808:</b> Simple mixing of chemicals from within or from other headings of any chapter will not confer origin.				
3801-3807		CTSH	RVC (40)	See chapter note
3808		CTSH	RVC (40)	See chapter and heading note
3809		CTSH	RVC (40)	See chapter note
3810-3822		CTH	RVC (40)	See chapter note
3823-3824		CTSH	RVC (40)	See chapter note
3825-3826		CTH	RVC (40)	See chapter note
<b>Section VII: Plastics and articles thereof; rubber and articles thereof (see also chapter notes above chapter 28)</b>				
<b>Chapter 39</b>		<b>CTH</b>	<b>RVC (40)</b>	<b>See chapter note</b>
<b>Chapter 40</b>				
4001-4011		CTH	RVC (40)	See chapter note
4012		CTSH	RVC (40)	See chapter note
4013-4017		CTH	RVC (40)	See chapter note
<b>Section VIII: Raw hides and skins, leather, furskins and articles thereof; saddlery and harness; travel goods, handbags and similar containers; articles of animal gut (other than silkworm gut)</b>				
<b>Chapter 41</b>		<b>CTH</b>	<b>RVC (40)</b>	<b>A change from the wet state to the dry state</b>
<b>Chapter 42</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Chapter 43</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Section IX: Wood and articles of wood; wood charcoal; cork and articles of cork; manufactures of straw, of esparto or of other plaiting materials; basket-ware and wickerwork</b>				
<b>Chapter 44 to Chapter 46</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Section X: Pulp of wood or of other fibrous cellulosic material; recovered (waste and scrap) paper or paperboard; paper and paperboard and articles thereof</b>				
<b>Chapter 47 to Chapter 49</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Section XI: Textiles and textile articles</b>				
<b>Chapter 50 to</b>		<b>CTH</b>	<b>RVC (40)</b>	<b>A change from fabric</b>

HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
<b>Chapter 56</b>				that is constructed but not further prepared or finished provided that it is dyed, bleached or printed and finished in the territory of one or more of the Parties
<b>Chapter 57</b>				
5701-5703		CC	RVC (40)	
5704		CC (except from 5602)	RVC (40)	
5705		CC	RVC (40)	
<b>Chapter 58</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Chapter 59</b>		<b>CC</b>	<b>RVC (40)</b>	
<b>Chapter 60</b>		<b>CC</b>	<b>RVC (40)</b>	<b>A change from fabric that is constructed but not further prepared or finished provided that it is dyed, bleached or printed and finished in the territory of one or more of the Parties</b>
<b>Chapter 61</b>		<b>CC</b>	<b>RVC (40)</b>	
<b>Chapter 62</b>		<b>CC</b>	<b>RVC (40)</b>	
<b>Chapter 63</b>				
<b>Chapter note for headings 6301 to 6308:</b> The following individual processes, considered singly or in combination shall not confer origin whether or not such processes result in changes of classification:				
(i) Working or finishing one or more edges by hemming, rolling, whipping or similar means or by knotting fringe;				
(ii) Cutting fabrics, yarns or other textile materials; or separating goods produced in the finished state by cutting along dividing threads;				
(iii) Assembling or joining goods by sewing or stitching for convenience of shipment or other temporary purposes;				
(iv) Putting up goods for retail sale or in sets or ensembles.				
6301-6306		CC	RVC (40)	
6307				
	6307.10	CC	RVC (40)	
	6307.20	CTH	RVC (40)	
	6307.90	CC	RVC (40)	
6308		CTH	RVC (40)	
6309		CTH	RVC (40)	

HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
6310		CTH	RVC (40)	
<b>Section XII: Footwear, headgear, umbrellas, sun umbrellas, walking-sticks, seat-sticks, whips, riding-crops and parts thereof; prepared feathers and articles made therewith; artificial flowers; articles of human hair</b>				
<b>Chapter 64 to Chapter 67</b>		CTH	RVC (40)	
<b>Section XIII: Articles of stone, plaster, cement, asbestos, mica or similar materials; ceramic products; glass and glassware</b>				
<b>Chapter 68 to Chapter 70</b>		CTH	RVC (40)	
<b>Section XIV: Natural or cultured pearls, precious or semi-precious stones, precious metals, metals clad with precious metal and articles thereof; imitation jewellery; coins</b>				
<b>Chapter 71</b>		CTH	RVC (40)	
<b>Section XV: Base metals and articles of base metal</b>				
<b>Chapter 72</b>				
7201-7206		CTH	RVC (40)	
7207		CTH (except from 7206)	RVC (40)	
7208		CTH	RVC (40)	
7209		CTH (except from 7208 or 7211)	RVC (40)	
7210		CTH (except from 7208, 7209 or 7211)	RVC (40)	
7211		CTH (except from 7208 or 7209)	RVC (40)	
7212		CTH (except from 7208, 7209 or 7211)	RVC (40)	
7213		CTH	RVC (40)	
7214		CTH (except from 7213)	RVC (40)	
7215		CTH (except from 7213 or 7214)	RVC (40)	
7216		CTH (except from 7208 to 7215)	RVC (40)	
7217		CTH (except from 7213 to 7215)	RVC (40)	
7218-7219		CTH	RVC (40)	
7220		CTH (except from 7219)	RVC (40)	
7221-7224		CTH	RVC (40)	
7225		CTH		
7226		CTH (except from 7225)		
7227		CTH (except from 7228)	RVC (40)	
7228		CTH (except from 7227)	RVC (40)	

HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
7229		CTH (except from 7227 or 7228)	RVC (40)	
<b>Chapter 73</b>				
7301-7314		CTH	RVC (40)	
7315				
	7315.11	CTH	RVC (40)	
	7315.12	CTH	RVC (40)	
	7315.19	CTSH	RVC (40)	
	7315.20	CTH	RVC (40)	
	7315.81	CTH	RVC (40)	
	7315.82	CTH	RVC (40)	
	7315.89	CTH	RVC (40)	
	7315.90	CTSH	RVC (40)	
7316-7320		CTH	RVC (40)	
7321				
	7321.11	CTSH	RVC (40)	
	7321.12	CTSH	RVC (40)	
	7321.19	CTSH	RVC (40)	
	7321.81	CTSH	RVC (40)	
	7321.82	CTSH	RVC (40)	
	7321.89	CTSH	RVC (40)	
	7321.90	CTH	RVC (40)	
7322-7326		CTH	RVC (40)	
<b>Chapter 74</b>				
7401-7407		CTH	RVC (40)	
7408		CTH (except from 7407)	RVC (40)	
7409-7419		CTH	RVC (40)	
<b>Chapter 75</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Chapter 76</b>				
7601-7604		CTH	RVC (40)	
7605		CTH (except from 7604)	RVC (40)	
7606-7613		CTH	RVC (40)	
7614				
	7614.10	CTH	RVC (40)	
	7614.90	CTH (except from 7605)	RVC (40)	
7615-7616		CTH	RVC(40)	
<b>Chapter 78 to</b>		<b>CTH</b>	<b>RVC (40)</b>	

HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
<b>Chapter 81</b>				
<b>Chapter 82</b>		<b>CC</b>	<b>RVC (40)</b>	
<b>Chapter 83</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Section XVI: Machinery and mechanical appliances; electrical equipment; parts thereof, sound recorders and reproducers, television image and sound recorders and reproducers, and parts and accessories of such articles</b>				
<b>Chapter 84</b>				
<b>Chapter note for chapter 84:</b> Disassembly of non-originating goods in Chapter 84 will not confer origin.				
8401		CTSH	RVC (40)	
8402				
	8402.11	CTSH (except from 8402.12)	RVC (40)	
	8402.12	CTSH (except from 8402.11)	RVC (40)	
	8402.19	CTSH	RVC (40)	
	8402.20	CTSH	RVC (40)	
	8402.90	CTSH	RVC (40)	
8403-8405		CTSH	RVC (40)	
8406				
	8406.10	CTSH	RVC (40)	
	8406.81	CTSH (except from 8406.82)	RVC (40)	
	8406.82	CTSH (except from 8406.81)	RVC (40)	
	8406.90	CTSH	RVC (40)	
8407-8409		CTH	RVC (40)	
8410				
	8410.11	CTSH (except from 8410.12 to 8410.13)	RVC (40)	
	8410.12	CTSH (except from 8410.11 or 8410.13)	RVC (40)	
	8410.13	CTSH (except from 8410.11 to 8410.12)	RVC (40)	
	8410.90	CTSH	RVC (40)	
8411				
	8411.11	CTSH (except from 8411.12 to 8411.82)	RVC (40)	
	8411.12	CTSH (except from 8411.11 or 8411.21 to 8411.82)	RVC (40)	



HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
	8411.21	CTSH (except from 8411.11, 8411.12 or 8411.22 to 8411.82)	RVC (40)	
	8411.22	CTSH (except from 8411.11 to 8411.21, 8411.81 or 8411.82)	RVC (40)	
	8411.81	CTSH (except from 8411.11 to 8411.22 or 8411.82)	RVC (40)	
	8411.82	CTSH (except from 8411.11 to 8411.81)	RVC (40)	
	8411.91	CTSH	RVC (40)	
	8411.99	CTSH	RVC (40)	
8412-8424		CTSH	RVC (40)	
8425-8431		CTH	RVC (40)	
8432-8444		CTSH	RVC (40)	
8445-8447		CTH	RVC (40)	
8448		CTH	RVC (40)	Assembly from parts classified in the same heading
8449-8451		CTSH	RVC (40)	
8452				
	8452.10	CTSH (except from 8452.21 to 8452.29)	RVC (40)	
	8452.21	CTSH	RVC (40)	
	8452.29	CTSH	RVC (40)	
	8452.30	CTSH	RVC (40)	
	8452.90	CTSH	RVC (40)	
8453-8455		CTSH	RVC (40)	
8456-8466		CTH	RVC (40)	
8467-8469		CTSH	RVC (40)	
8470		CTH	RVC (40)	
8471		CTSH	RVC (40)	
8472-8473		CTH	RVC (40)	
8474-8475		CTSH	RVC (40)	
8476				
	8476.21	CTSH (except from 8476.29 to 8476.89)	RVC (40)	
	8476.29	CTSH (except from 8476.21 or 8476.81 to	RVC (40)	

HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
		8476.89)		
	8476.81	CTSH (except from 8476.21 to 8476.29 or 8476.89)	RVC (40)	
	8476.89	CTSH (except from 8476.21 to 8476.81)	RVC (40)	
	8476.90	CTSH	RVC (40)	
8477-8479		CTSH	RVC (40)	
8480		CTH	RVC (40)	
8481		CTH	RVC (40)	Assembly from parts classified in the same heading
8482		CTSH	RVC (40)	
8483		CTH	RVC (40)	
8484-8487		CTSH	RVC (40)	
<b>Chapter 85</b>				
<b>Chapter note for Chapter 85:</b> Disassembly of non-originating goods in Chapter 85 will not confer origin.				
8501-8503		CTH	RVC (40)	
8504				
	8504.10	CTSH	RVC (40)	
	8504.21	CTSH (except from 8504.22 to 8504.23)	RVC (40)	
	8504.22	CTSH (except from 8504.21 or 8504.23)	RVC (40)	
	8504.23	CTSH (except from 8504.21 to 8504.22)	RVC (40)	
	8504.31	CTSH (except from 8504.32 to 8504.34)	RVC (40)	
	8504.32	CTSH (except from 8504.31, 8504.33 or 8504.34)	RVC (40)	
	8504.33	CTSH (except from 8504.31, 8504.32 or 8504.34)	RVC (40)	
	8504.34	CTSH (except from 8504.31 to 8504.33)	RVC (40)	
	8504.40	CTSH	RVC (40)	
	8504.50	CTSH	RVC (40)	
	8504.90	CTSH	RVC (40)	
8505-8507		CTSH	RVC (40)	

HS2 / HS4	HS6	Option 1 (CTC)	Option 2 (RVC)	Option 3 (process rule)
8508				
	8508.11	CTSH (except from 8508.19)	RVC (40)	
	8508.19	CTSH (except from 8508.11)	RVC (40)	
	8508.60	CTSH	RVC (40)	
	8508.70	CTSH	RVC (40)	
8509-8511		CTSH	RVC (40)	
8512				
	8512.10	CTSH (except from 8512.20 to 8512.30)	RVC (40)	
	8512.20	CTSH (except from 8512.10 or 8512.30)	RVC (40)	
	8512.30	CTSH (except from 8512.10 to 8512.20)	RVC (40)	
	8512.40	CTSH	RVC (40)	
	8512.90	CTSH	RVC (40)	
8513		CTH	RVC (40)	Assembly from parts classified in the same heading
8514-8517		CTSH	RVC (40)	
8518		CTH	RVC (40)	Assembly from parts classified in the same heading
8519-8521		CTSH	RVC (40)	
8523		CTH	RVC (40)	Recording sound or other similarly recorded phenomena onto blank or unrecorded media shall confer origin whether or not there has been a change in tariff classification
8525		CTH	RVC (40)	
8526-8528		CTSH	RVC (40)	
8529		CTH	RVC (40)	
8530-8536		CTSH	RVC (40)	
8537-8538		CTH	RVC (40)	
8539				
	8539.10	CTSH	RVC (40)	
	8539.21	CTSH	RVC (40)	

<b>HS2 / HS4</b>	<b>HS6</b>	<b>Option 1 (CTC)</b>	<b>Option 2 (RVC)</b>	<b>Option 3 (process rule)</b>
	8539.22	CTSH	RVC (40)	
	8539.29	CTSH	RVC (40)	
	8539.31	CTSH	RVC (40)	
	8539.32	CTSH (except from 8539.39)	RVC (40)	
	8539.39	CTSH (except from 8539.31)	RVC (40)	
	8539.41	CTSH (except from 8539.49)	RVC (40)	
	8539.49	CTSH (except from 8539.41)	RVC (40)	
	8539.90	CTSH	RVC (40)	
8540-8543		CTSH	RVC (40)	
8544		CTH	RVC (40)	
8545-8547		CTSH	RVC (40)	
8548		CTH	RVC (40)	
<b>Section XVII: Vehicles, aircraft, vessels and associated transport equipment</b>				
<b>Chapter 86</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Chapter 87</b>				
8701-8707		CTH	RVC (40)	
8708		CTSH	RVC (40)	
8709-8716		CTH	RVC (40)	
<b>Chapter 88</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Chapter 89</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Section XVIII: Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; clocks and watches; musical instruments; parts and accessories thereof</b>				
<b>Chapter 90</b>				
<b>Chapter note for Chapter 90:</b> Disassembly of non-originating goods in Chapter 90 will not confer origin.				
9001		CTSH	RVC (40)	
	9001.10	CTH	RVC (40)	Assembly from parts classified in the same heading
	9001.20	CTSH	RVC (40)	
	9001.30	CTSH	RVC (40)	
	9001.40	CTSH	RVC (40)	
	9001.50	CTSH	RVC (40)	
	9001.90	CTSH	RVC (40)	

<b>HS2 / HS4</b>	<b>HS6</b>	<b>Option 1 (CTC)</b>	<b>Option 2 (RVC)</b>	<b>Option 3 (process rule)</b>
9002-9003		CTSH	RVC (40)	
9004		CTH	RVC (40)	Assembly from parts classified in the same heading
9005-9020		CTSH	RVC (40)	
9021				
	9021.10	CTH	RVC (40)	Assembly from parts classified in the same heading
	9021.21	CTSH	RVC (40)	
	9021.29	CTSH	RVC (40)	
	9021.31	CTSH	RVC (40)	
	9021.39	CTSH	RVC (40)	
	9021.40	CTSH	RVC (40)	
	9021.50	CTSH	RVC (40)	
	9021.90	CTSH	RVC (40)	
9022-9033		CTSH	RVC (40)	
<b>Chapter 91 to Chapter 92</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Section XIX: Arms and ammunition; parts and accessories thereof</b>				
<b>Chapter 93</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Section XX: Miscellaneous manufactured articles</b>				
<b>Chapter 94 to Chapter 96</b>		<b>CTH</b>	<b>RVC (40)</b>	
<b>Section XXI: Works of art, collectors' pieces and antiques</b>				
<b>Chapter 97</b>		<b>CC</b>	<b>RVC (40)</b>	

**CHAPTER 4**  
**CUSTOMS PROCEDURES**

**Article 1: Definitions**

For the purposes of this Chapter:

**customs law** means such laws and regulations administered and enforced by the Customs Administration of a Party concerning the importation, exportation, and transit/transshipment of goods, as they relate to customs duties, other taxes and other charges, or to prohibitions, restrictions and other similar controls with respect to the movement of controlled items across the boundary of the customs territory of a Party;

**customs procedures** means the treatment applied by the Customs Administration of a Party to goods, which are subject to that Party's customs law;

**Revised Kyoto Convention** means the World Customs Organization's *International Convention on the Simplification and Harmonization of Customs Procedures* done on 26 June 1999; and

**WCO** means the World Customs Organization.

**Article 2: Objectives**

1. The objectives of this Chapter are:
  - (a) to ensure predictability, consistency and transparency in the application of customs laws and regulations of the Parties;
  - (b) to promote efficient, economical administration of customs procedures and the expeditious clearance of goods;
  - (c) to simplify and harmonise customs procedures;
  - (d) to facilitate trade among the Parties and the security of such trade;
  - (e) to enhance the implementation of the requirements of Article VII of GATT 1994, the Agreement on Customs Valuation and other relevant WTO provisions relating to customs matters; and
  - (f) to promote cooperation between the Customs Administrations of the Parties.
2. Recognising the capacity constraints of the developing country Parties, and with a view to increasing their export opportunities, assistance in relation to this Chapter would be

provided under Chapter 10 (Development and Economic Cooperation) and the associated Work Programme.

### **Article 3: Scope**

This Chapter shall apply, in accordance with the Parties' respective laws, regulations and policies, to customs procedures applied to goods traded between the Parties.

### **Article 4: Customs Procedures and Facilitation**

1. Each Party shall ensure that its customs procedures and practices are predictable, consistent and transparent, and facilitate trade, including through the expeditious clearance of goods.
2. Customs procedures of each Party shall, if possible and to the extent permitted by its customs law, conform to international standards and recommended practices, in particular those of the WCO.
3. The Customs Administration of each Party shall periodically review its customs procedures with a view to their simplification and the facilitation of trade.

### **Article 5: Customs Cooperation**

1. Subject to available resources and to the extent its domestic laws permit, the Customs Administration of each Party should assist the Customs Administration of another Party in relation to:
  - (a) the implementation and operation of this Chapter;
  - (b) the development and implementation of customs best practice and risk management techniques;
  - (c) the provision, if possible, of prior notice of changes to laws, regulations, and relevant procedures and guidelines that would affect the operation of this Chapter;
  - (d) the simplification and harmonisation of customs procedures;
  - (e) the advancement of technical skills and the use of technology;
  - (f) the application of the Harmonized System;
  - (g) the application of the disciplines on valuation for customs purposes under Article VII of GATT 1994 and the Agreement on Customs Valuation;
  - (h) the movement of goods among the Parties; and

- (i) customs enforcement, including *inter alia* investigation and prevention of *prima facie* customs offences.
2. Subject to available resources, the Customs Administrations of the Parties may, as deemed appropriate, explore and undertake cooperation projects, including:
- (a) capacity building programmes to enhance the capability of customs personnel of Parties that are Forum Island Countries; and
  - (b) technical assistance programmes to facilitate the activities of Parties that are Forum Island Countries in relation to customs matters.

### **Article 6: Use of Automated Systems**

1. The Customs Administration of each Party should have its own system that supports electronic customs transactions.
2. In implementing initiatives under paragraph 1, the Customs Administration of each Party shall take into account relevant international standards and best practices, including those recommended by the WCO, taking into consideration its available infrastructure, capabilities and needs.

### **Article 7: Expedited Shipments**

To the extent possible, the Customs Administration of each Party shall adopt procedures to expedite the clearance of shipments while maintaining appropriate control, including:

- (a) to provide for pre-arrival processing of information related to shipments;
- (b) to permit the submission of a single document covering all goods contained in a shipment, including through electronic means; and
- (c) to minimise the documentation required for the release of shipments.

### **Article 8: Release of Goods**

1. To the extent possible, each Party shall adopt or maintain procedures allowing, goods to be released:
- (a) within 48 hours of arrival or as soon as practicable; and
  - (b) where possible, at the point of arrival, without temporary transfer to warehouses or other locations.



2. The provisions of paragraph 1 shall not prevent the Customs Administration of a Party from holding a shipment:

- (a) for the purpose of determining, in accordance with risk management techniques, whether an examination of the goods is necessary;
- (b) if permits need to be obtained for restricted goods; or
- (c) in any situation if it has concerns in relation to the goods.

### **Article 9: Valuation**

1. Subject to paragraph 2, each Party shall apply the provisions of Article VII of GATT 1994 and the Agreement on Customs Valuation, including the Interpretative Notes at Annex I to that Agreement, in determining the value for customs purposes of goods traded between the Parties.

2. If a Party is a developing country and not a WTO Member, it may apply the provisions of the Agreement on Customs Valuation to the extent of its capacity, provided that if a problem arises from the application of a specific valuation procedure, it engages in bilateral consultations on request of another Party with an interest in a good to which that valuation procedure has been applied, with a view to finding a mutually agreed solution. Such consultations shall be undertaken in accordance with Article 15.

3. A Party that is a developing country and not a WTO Member:

- (a) shall to the extent of its capacity apply a system for the valuation of goods for customs purposes that:
  - (i) is fair, uniform and neutral;
  - (ii) precludes the use of arbitrary or fictitious customs values;
  - (iii) bases the valuation of goods for customs purposes, to the greatest extent possible, on the transaction value of the goods being valued;
  - (iv) bases customs value on simple and equitable criteria consistent with commercial practices;
  - (v) ensures that valuation procedures are of general application without distinction between sources of supply; and
  - (vi) does not use valuation procedures to combat dumping;
- (b) shall to the greatest extent possible not determine customs value on the basis of:

- (i) the selling price in the country of importation of goods produced in such country;
- (ii) a system which provides for the acceptance for customs purposes of the higher of two alternative values;
- (iii) the price of goods in the domestic market of the country of exportation;
- (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of Article 6 and Article 8(2) of the Agreement on Customs Valuation;
- (v) the price of goods for export to a country other than the country of importation;
- (vi) minimum customs values; or
- (vii) arbitrary or fictitious values;

and shall seek to eliminate those measures which are so determined as soon as practicable; and

- (c) shall ensure that, if the importer so requests, the importer be informed in writing of the customs value and the method used to determine such value.

### **Article 10: Advance Rulings**

1. To the extent permitted by its domestic laws, regulations and administrative practices and its capacity, each Party upon receiving an application pursuant to paragraph 2(a), shall through its Customs Administration provide written advance rulings on tariff classification and origin of goods, and, if the Party has implemented the Agreement on Customs Valuation on questions arising from the application of that Agreement to goods.

2. Procedures for advance rulings adopted by a Party shall:

- (a) provide that an importer in its territory or an exporter or producer in the territory of another Party may apply for an advance ruling before the importation of the goods in question;
- (b) include a detailed description of the information required to process an application for an advance ruling;
- (c) provide that its Customs Administration may, at any time during the course of an evaluation of an application for an advance ruling, request that the applicant provide additional information within a specified period;

- (d) provide that any advance ruling be based on the facts and circumstances presented by the applicant, and any other relevant information in the possession of the decision-maker;
- (e) provide that an advance ruling be issued to the applicant expeditiously, within the period specified in each Party's domestic laws, regulations or administrative procedures; and
- (f) provide that a written explanation of the reasons for the ruling be provided to the applicant.

3. A Party may reject a request for an advance ruling where the additional information requested by it in accordance with paragraph 2(c) is not provided within the specified period.

4. Subject to paragraphs 1 and 5, each Party that permits advance rulings under its domestic laws, regulations and administrative procedures, shall apply an advance ruling to goods described in that ruling imported into its territory beginning on the date it issues the ruling or any other date specified in the ruling for such period in accordance with its domestic laws, regulations and administrative procedures. The issuing Party shall accord the same treatment to all importations described in that ruling, if the facts and circumstances are identical in all respects.

5. A Party may modify or revoke an advance ruling if:

- (a) a determination is made that the ruling was based on an error of fact or law;
- (b) a determination is made that false or misleading information was provided or relevant information was withheld;
- (c) there is a change in domestic law consistent with this Chapter;
- (d) there is a change in a material fact or circumstance on which the ruling was based;  
or
- (e) conflicting rulings have been issued.

6. If an importer claims that the treatment accorded to an imported good should be governed by an advance ruling, the Customs Administration may evaluate whether the facts and circumstances of the importation are consistent with the facts and circumstances upon which an advance ruling was based.

## **Article 11: Risk Management**

1. Each Party shall administer customs procedures so as to facilitate the clearance of low-risk goods and focus on high-risk goods. To enhance the flow of goods across its borders, the Customs Administration of each Party shall regularly review these procedures.
2. If a Customs Administration of a Party deems that the inspection of goods is not necessary to authorise clearance of the goods from customs control, that Party shall endeavour to provide a single point for the documentary or electronic processing of those goods.
3. Each Party shall, to the extent of its capacity, work to further enhance the use of risk management techniques in the administration of its customs procedures.

## **Article 12: Confidentiality**

1. Nothing in this Chapter shall be construed to require any Party to furnish or allow access to confidential information pursuant to this Chapter, the disclosure of which it considers would:
  - (a) be contrary to the national and public interest as determined by its laws, rules, regulations or policies;
  - (b) be contrary to any of its laws, regulations or policies including, but not limited to, those protecting personal privacy or the financial affairs and accounts of individuals;
  - (c) prejudice legitimate commercial interests of particular enterprises, public or private; or
  - (d) impede law enforcement.
2. A Party shall maintain the confidentiality of information provided pursuant to this Chapter and shall not use or disclose information provided pursuant to this Chapter except for the purpose for which it was provided, unless it has the consent of the providing Customs Administration, or disclosure is required by its laws and regulations. If a Party is required or authorised by its laws and regulations to disclose information provided pursuant to this Chapter, it shall, wherever possible, give advance notice of any such disclosure to the providing Customs Administration.

### **Article 13: Enquiry Points and Transparency**

1. Each Party shall designate one or more enquiry points to address enquiries from interested persons concerning customs matters, and shall publish online if possible and, if not, in print form, information concerning procedures for making such enquiries.
2. Each Party shall publish online if possible and, if not, in print form, all statutory and regulatory provisions and any customs administrative procedures applied or enforced by its Customs Administration, not including law enforcement procedures and internal operational guidelines.
3. Each Party that is a WTO Member or a Contracting Party to the Revised Kyoto Convention shall ensure that all items of information required to be published under paragraphs 1 and 2 are published promptly in such a manner as to enable interested Parties and persons to become acquainted with them. Each Party that is not a WTO Member or a Contracting Party to the Revised Kyoto Convention shall ensure that those items of information are published in such a manner as to enable interested Parties and persons to become acquainted with them and shall, to the extent of its capacity, ensure that those items are published promptly.

### **Article 14: Review and Appeal**

1. In accordance with its domestic law, each Party shall provide that any person to whom its Customs Administration issues an administrative decision has access, within its territory, to:
  - (a) administrative review independent of the official or office that issued the decision subject to review, or administrative review by a higher authority supervising its Customs Administration; and
  - (b) judicial review of the determination taken at the final level of administrative review.
2. The decision on appeal shall be given to the appellant and the reasons for such decision shall be provided in writing.

### **Article 15: Consultations**

The Customs Administrations of the Parties shall encourage consultation with each other regarding significant customs issues that affect goods traded between the Parties.

## **Article 16: Meetings on Customs Procedures**

1. The Parties shall, through the Joint Committee, the Committee on Trade in Goods, Rules of Origin and Customs Procedures, or another relevant subsidiary body, consult regularly to consider the implementation of their commitments under this Chapter.
2. The Parties, through the Joint Committee, the Committee on Trade in Goods, Rules of Origin and Customs Procedures, or another relevant subsidiary body, shall commence a review of this Chapter within three years of entry into force of this Agreement and submit a final report to the Joint Implementation Committee, including any recommendations, within four years of entry into force of this Agreement.

**CHAPTER 5**  
**SANITARY AND PHYTOSANITARY MEASURES**

**Article 1: Definitions**

1. For the purposes of this Chapter:

**Competent Authority** means those authorities within each Party recognised by the national government as responsible for developing and administering sanitary and phytosanitary measures within that Party;

**relevant international organisations in the field of sanitary or phytosanitary protection** mean the Codex Alimentarius Commission (Codex), the World Organisation for Animal Health (OIE) and those operating under the framework of the International Plant Protection Convention (IPPC), as specified in paragraph 3 of Annex A to the SPS Agreement; and

2. The definitions in Annex A of the SPS Agreement are incorporated into this Chapter and shall form part of this Chapter, *mutatis mutandis*.

**Article 2: Objectives**

1. The objectives of this Chapter are to:

- (a) facilitate trade between the Parties while protecting human, animal or plant life or health in the territory of each Party;
- (b) provide greater transparency in, and enhance understanding of, the application of each Party's sanitary and phytosanitary measures;
- (c) strengthen cooperation between the Parties on sanitary and phytosanitary matters;
- (d) enhance the practical implementation of the SPS Agreement by Parties that are WTO Members; and
- (e) promote the application of the requirements of the SPS Agreement by Parties that are not WTO Members.

2. Recognising the capacity constraints of the developing country Parties, and with a view to increasing their export opportunities, assistance in relation to this Chapter would be provided under Chapter 10 (Development and Economic Cooperation) and the associated Work Programme.

### **Article 3: Scope**

This Chapter shall apply to all sanitary and phytosanitary measures of a Party that may, directly or indirectly, affect trade between that Party and other Parties.

### **Article 4: Basic Rights and Obligations of Parties under this Chapter**

1. Nothing in this Chapter shall limit the rights of a Party to take sanitary and phytosanitary measures necessary for the protection of human, animal or plant life or health, provided that such measures are not inconsistent with this Chapter.
2. Parties that are WTO Members affirm their rights and obligations with respect to each other under the SPS Agreement. While reserving their rights under the SPS Agreement, Parties that are WTO Members shall apply the provisions of Article 1 to Article 8 of the SPS Agreement with respect to Parties that are not WTO Members, to the extent that such provisions are not already covered in this Chapter.
3. Notwithstanding that this Chapter applies to developing country Parties that are not WTO Members, where such a Party prepares, adopts or applies a sanitary or phytosanitary measure, such measure shall be based on the SPS Agreement only to the extent of its capacity. On request of a Party with an interest in a product subject to a sanitary or phytosanitary measure applied by such a Party, those Parties shall engage promptly in bilateral technical discussions on the matter in accordance with the procedure under Article 12.

### **Article 5: Scientific Basis for Non-Discrimination with Respect to and Harmonization of Sanitary and Phytosanitary Measures**

1. Each Party shall ensure that any sanitary or phytosanitary measure is applied only to the extent necessary to protect human, animal or plant life or health, is based on scientific principles and is not maintained without sufficient scientific evidence, except as provided for in paragraph 5 of this Article.
2. Each Party shall ensure that its sanitary and phytosanitary measures do not arbitrarily or unjustifiably discriminate between Parties where identical or similar conditions prevail, including between its own territory and that of other Parties.
3. Wherever possible, each Party shall base its sanitary or phytosanitary measures on international standards, guidelines or recommendations, where they exist. Sanitary or phytosanitary measures which conform to international standards, guidelines or recommendations shall be deemed to be necessary to protect human, animal or plant life or health and be presumed to be consistent with this Chapter.
4. A Party may introduce or maintain sanitary or phytosanitary measures which result in a higher level of sanitary or phytosanitary protection than would be achieved by measures based on the relevant international standards, guidelines or recommendations, provided there is a scientific justification.



5. In cases where relevant scientific evidence is insufficient, a Party may provisionally adopt sanitary or phytosanitary measures on the basis of pertinent information. In such circumstances, Parties shall seek to obtain additional information necessary for a more objective assessment of risk and review the sanitary or phytosanitary measure within a reasonable period of time.

### **Article 6: Equivalence of Sanitary and Phytosanitary Measures**

1. Each Party shall accept the sanitary and phytosanitary measures of other Parties as equivalent, even if the measures of another Party differ from its own or from those of other Parties trading in the same product, if the exporting Party objectively demonstrates to the importing Party that its measures achieve the importing Party's appropriate level of sanitary or phytosanitary protection. For this purpose, reasonable access shall be given on request to the importing Party for inspection, testing and other relevant procedures.

2. A Party shall on request enter into negotiations within a reasonable period of time with the aim of achieving bilateral or regional recognition arrangements of the equivalence of specified sanitary or phytosanitary measures.

3. With a view to facilitating appropriate trading opportunities for all of the Parties, particularly the developing country Parties, in respect of requests for recognition of equivalence under paragraphs 1 and 2:

- (a) requests should be processed as expeditiously as possible;
- (b) Parties shall cooperate on the prioritisation of exporting Parties' requests in accordance with each importing Party's laws, regulations and procedures governing the prioritisation of such requests;
- (c) once the importing Party has determined that the information provided by the exporting Party is sufficient, it shall begin the equivalence assessment within a reasonable period of time with a view to completing it as expeditiously as possible.

4. In respect of equivalence determinations, the Parties shall take into account the guidance provided by the relevant international organisations in the field of sanitary or phytosanitary protection.

5. If an exporting Party considers that limitations on its capacity to objectively demonstrate achievement of an importing Party's appropriate level of sanitary or phytosanitary protection constitute an obstacle to acceptance of the case for equivalence, it may request technical discussions with that importing Party in accordance with the procedure under Article 12, with a view to clarifying the matter and identifying any actions that may enhance the capacity of the exporting Party or otherwise assist the acceptance of equivalence.

6. Should the importing Party make a final decision to recognise a measure, a group of measures or a system as equivalent under this Article, the importing Party shall take the necessary actions to allow trade on the basis of the relevant measure, group of measures or system as promptly as possible.

7. Should the importing Party make a final decision to not recognise a measure, a group of measures or a system as equivalent to its own, the importing Party shall provide to the exporting Party an explanation of the reasons for its decision as promptly as possible.

8. To the extent possible, where mutually agreed, the Parties involved in a positive equivalence determination are to report the outcome to other Parties through Contact Points.

#### **Article 7: Adaptation of Sanitary and Phytosanitary Measures to Regional Conditions, including Pest- or Disease-Free Areas and Areas of Low Pest or Disease Prevalence**

1. The Parties may, by mutual agreement, cooperate on adaptation to regional conditions in accordance with the SPS Agreement and relevant international standards, guidelines and recommendations, in order to facilitate trade.

2. Importing Parties may make determinations in relation to regionalisation, pest- or disease-free areas, areas of low pest or disease prevalence, zoning and compartmentalisation which shall be consistent with the SPS Agreement, in particular Article 6 of the SPS Agreement.

3. Following a determination assessment, if the evaluation of the evidence provided by the exporting Party does not result in a decision by the importing Party to recognise the pest- and disease-free areas, or areas of low pest and disease prevalence, the importing Party shall provide the exporting Party the rationale for its decision.

#### **Article 8: Publication of Regulations**

1. Each Party shall ensure that all sanitary and phytosanitary regulations (sanitary and phytosanitary measures such as laws, decrees or ordinances which are applicable generally) which have been adopted are published promptly in such a manner as to enable interested Parties and persons to become acquainted with them.

2. Except in urgent circumstances, a Party shall allow a reasonable interval between the publication of a sanitary or phytosanitary regulation and its entry into force in order to allow time for producers in exporting Parties, and particularly in developing country Parties, to adapt their products and methods of production to the requirements of the importing Party. The reasonable interval shall be a period of not less than six months.

## **Article 9: Competent Authorities and Contact Points**

1. Each Party shall provide the other Parties with a description of its Competent Authorities and their division of responsibilities.
2. Each Party shall provide the other Parties with a Contact Point to facilitate distribution of requests and notifications made in accordance with this Chapter.
3. Each Party shall ensure that the information provided under paragraphs 1 and 2 is kept up to date.

## **Article 10: Notification**

1. Each Party shall provide timely and appropriate information directly to the Contact Points of all other Parties where:
  - (a) any new sanitary or phytosanitary measure or amendment to an existing measure that may directly or indirectly have a significant effect on the trade of an exporting Party is prepared;
  - (b) a provisional sanitary or phytosanitary measure against or affecting the exports of another Party is considered necessary to protect human, animal or plant life or health within the importing Party and is applied; or
  - (c) a change in animal or plant health status may affect existing trade.
2. Each exporting Party should, to the extent possible, provide relevant information to the Contact Point of an importing Party where it identifies after exportation a significant sanitary or phytosanitary risk associated with an export consignment destined for that importing Party.
3. If a Party has determined a significant, sustained or recurring pattern of non-compliance with a sanitary and phytosanitary measure, the importing Party shall notify the exporting Party as soon as possible of the non-compliance.
4. On request, the importing Party shall provide the exporting Party with relevant available information on sanitary and phytosanitary-related non-compliant consignments from the exporting Party where there is a significant, sustained or recurring pattern of non-compliance.
5. Further to paragraphs 1(a) and 1(b), if an international standard, guideline or recommendation does not exist or the content of a proposed sanitary or phytosanitary regulation is not substantially the same as the content of an international standard, guideline or recommendation, and if the regulation may have a significant effect on the trade of other Parties, the Party preparing it shall:
  - (a) publish a notice at an early stage in such a manner as to enable interested Parties to become acquainted with the proposal to introduce a particular regulation;

- (b) notify other Parties, at an early stage when amendments can be still be introduced and comments taken into account, of the products to be covered by the proposed regulation, together with a brief indication of the regulation's objective and rationale;
- (c) on request, provide to other Parties through Contact Points electronic copies of the proposed regulation and, whenever possible, identify the parts which deviate in substance from relevant international standards, guidelines or recommendations; and
- (d) without discrimination, allow reasonable time for other Parties to make comments in writing, discuss these comments on request and take these written comments and the results of these discussions into account;

but, where urgent problems of health protection arise or threaten to arise for that Party, it may omit such steps of subparagraphs (a) to (d) as it finds necessary, provided that the Party:

- (e) immediately notifies other Parties of the particular regulation, the products covered and its objective and rationale, including the nature of the urgent problems, and follows up such notification in writing if necessary;
- (f) on request, provides other Parties with electronic copies of the regulation; and
- (g) allows other Parties to make comments in writing, discusses these comments on request, and takes the comments and the results of these discussions into account.

6. Notifications, requests, comments, responses and other communications for the purposes of paragraph 5 shall be conveyed through Contact Points.

7. Paragraphs 5 and 6 shall apply to proposed amendments to existing sanitary or phytosanitary regulations and to proposed new sanitary or phytosanitary regulations.

### **Article 11: Cooperation**

1. The Parties acknowledge existing cooperation between them on sanitary and phytosanitary matters. Parties shall explore opportunities for further cooperation and information exchange on sanitary and phytosanitary matters of mutual interest or of significant interest to a developing country Party consistent with the objectives of this Chapter.

2. To enhance market access opportunities for the developing country Parties under this Agreement, each developing country Party may establish and maintain an updated list of prioritised products of significant export interest. The lists shall be considered by the developed country Parties in their import standards development work programmes, within the framework of their laws, regulations and procedures governing the prioritisation of market access requests, with a view to facilitating the exports of the developing country Parties.

3. The Parties recognise that capacity constraints may limit the ability of developing country Parties to comply with relevant sanitary and phytosanitary standards and make use of market access opportunities. The Parties also recognise the importance of information exchange on sanitary and phytosanitary matters pursuant to Article 10 for the timely identification of market access issues. Accordingly, where an exporter from a developing country Party is finding it difficult to address a significant, sustained or recurring pattern of non-compliance with an importing Party's requirements, cooperative actions shall be explored by the Parties to address the identified problem.

4. As appropriate in the implementation of this Chapter, each Party shall endeavour to coordinate with regard to regional or multilateral activities with the objective of avoiding unnecessary duplication and to maximise the benefits from the application of resources.

5. Each Party agrees to explore how it can strengthen cooperation on the provision of technical assistance and capacity building, especially in relation to trade facilitation.

### **Article 12: Technical Discussions**

1. A Party may, through Contact Points, request technical discussions with another Party on any sanitary or phytosanitary measure affecting trade between it and that other Party. The other Party shall respond promptly to any such request. The two Parties shall seek to clarify any measure at issue and, where there is any remaining difference of view, shall endeavour to find a mutually acceptable solution, taking into account the objectives of trade facilitation and of minimising the negative trade effects of sanitary and phytosanitary measures. In the case of measures affecting the export interests of a developing country Party, the Parties concerned should seek to resolve any concerns in a timely manner.

2. Parties may, through Contact Points, arrange to undertake technical discussions with each other on sanitary and phytosanitary matters of mutual interest. Technical discussions should be conducted using electronic means. If this is not possible they may be conducted in person or by any other means, as mutually determined by the Parties.

3. The Parties participating in technical discussions or negotiations pursuant to this Chapter may mutually agree to invite another Party or a relevant international or regional organisation in the field of sanitary or phytosanitary protection to participate for the purposes of providing technical advice.

4. If technical discussions on a matter under Article 6.5 have taken place, an importing Party may decline a further request for technical discussions, unless the exporting Party can demonstrate at the time of the request that there has been:

- (a) a material advancement in relevant science, technology or domestic processes; or
- (b) a material improvement in the risk profile of the exporting Party.

5. Without prejudice to the rights and obligations of the Parties under other provisions of this Agreement, where the importing Party declines a request for technical discussions under paragraph 4 it shall provide an explanation of the reasons for its position.

6. Technical discussions held under this Article do not constitute formal consultations under Chapter 14 (Consultations and Dispute Settlement) and are without prejudice to the rights and obligations of the Parties under that Chapter, the WTO Agreement, or any other agreement to which both Parties are party.

### **Article 13: Meetings on Sanitary and Phytosanitary Matters**

1. The Parties shall, through the Committee on Sanitary and Phytosanitary Measures and Technical Barriers to Trade, the Joint Committee or any other relevant subsidiary body, consult as required to consider the implementation of their commitments under this Chapter.

2. The Parties, through the Joint Committee, the Committee on Sanitary and Phytosanitary Measures and Technical Barriers to Trade, or any other relevant subsidiary body, shall commence a review of this Chapter within three years of the entry into force of this Agreement and submit a final report to the Joint Committee, including any recommendations, within four years of the entry into force of this Agreement.

### **Article 14: Special and Differential Treatment**

In the preparation and application of sanitary or phytosanitary measures, each Party shall take into account the special needs and interests of the developing country Parties. If the appropriate level of sanitary or phytosanitary protection allows scope for the phased introduction of new sanitary or phytosanitary measures, longer time-frames for compliance should be accorded on products of interest to developing country Parties so as to maintain their opportunities for export. If possible, producers in the developing country Parties shall be given longer time-frames to comply with sanitary and phytosanitary measures.

**CHAPTER 6**

**TECHNICAL REGULATIONS, STANDARDS AND CONFORMITY ASSESSMENT  
PROCEDURES**

**Article 1: Definitions**

The definitions set out in Annex 1 of the TBT Agreement are incorporated into this Chapter and shall form part of this Chapter, *mutatis mutandis*.

**Article 2: Objectives**

1. The objectives of this Chapter are to:
  - (a) facilitate trade among the Parties by ensuring that technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to trade;
  - (b) ensure transparency and promote understanding of each Party's technical regulations, standards and conformity assessment procedures;
  - (c) strengthen information exchange and cooperation, including on the preparation, adoption and application of technical regulations, standards and conformity assessment procedures;
  - (d) promote good regulatory practice and good practice in the preparation, adoption and application of standards by standardising bodies in the territory of each Party;
  - (e) enhance the implementation of the TBT Agreement by Parties that are WTO Members;
  - (f) promote the observance of the requirements of the TBT Agreement by Parties that are not WTO Members; and
  - (g) provide a framework of supporting mechanisms to realise these objectives.
2. Recognising the capacity constraints of the developing country Parties, and with a view to increasing their export opportunities, assistance in relation to this Chapter would be provided under Chapter 10 (Development and Economic Cooperation) and the associated Work Programme.

**Article 3: Scope**

1. Subject to paragraphs 2 and 3, this Chapter shall apply to all technical regulations, standards and conformity assessment procedures that are prepared, adopted or applied by the

central government of a Party and that may directly or indirectly affect trade in goods between the Parties.

2. This Chapter shall not apply to purchasing specifications prepared by governmental bodies for production or consumption requirements of such bodies or to sanitary or phytosanitary measures under Chapter 5 (Sanitary and Phytosanitary Measures).

3. Each Party shall take such reasonable measures as may be available to it to ensure compliance in the implementation of the provisions of this Chapter by local government and non-governmental bodies within its territory.

#### **Article 4: Rights and Obligations of Parties**

1. Nothing in this Chapter shall prevent a Party from preparing, adopting or applying technical regulations necessary for the protection of human health or safety, of animal or plant life or health or of the environment, for the prevention of deceptive practices, for ensuring the quality of its exports or for the protection of its essential security interests, or standards or related conformity assessment procedures, provided that such measures are not inconsistent with this Chapter.

2. Parties that are WTO Members affirm their rights and obligations with respect to each other under the TBT Agreement. While reserving their rights under the TBT Agreement, Parties that are WTO Members shall apply the provisions of Articles 1 through 10 of the TBT Agreement with respect to Parties that are not WTO Members, to the extent that such provisions are not already covered in this Chapter.

3. Notwithstanding that the provisions of this Chapter apply to developing country Parties that are not WTO Members, where a Party that is a developing country and not a WTO Member prepares, adopts or applies a technical regulation, standard or conformity assessment procedure, such regulation, standard or procedure shall be based on the TBT Agreement only to the extent of such Party's capacity. On request of a Party with an interest in a product subject to a technical regulation, standard or conformity assessment procedure applied by such Party, those Parties shall engage promptly in bilateral technical discussions on the matter in accordance with the procedure under Article 11.

#### **Article 5: Non-discrimination**

1. Each Party shall, in respect of technical regulations and standards, ensure that products imported from any Party shall be accorded treatment no less favourable than that accorded to like products of national origin and to like products originating in any other country.

2. In cases where a positive assurance of conformity with technical regulations or standards is required, each Party shall ensure that:

- (a) conformity assessment procedures are prepared, adopted and applied so as to grant access for suppliers of like products originating in any Party under



conditions no less favourable than those accorded to suppliers of like products of national origin or originating in any other country, in a comparable situation; and

- (b) such access shall, *inter alia*, entail suppliers' right to an assessment of conformity under the rules of the procedure, including, when foreseen by this procedure, the possibility to have conformity assessment activities undertaken at the site of the facilities and to receive the mark of the system.

### **Article 6: Trade Facilitation through Information Exchange**

1. Each Party shall respond to all requests for information relating to its technical regulations, standards and conformity assessment procedures and for clarification of its responses, provided that the requests are reasonable and are made in writing. Responses to written requests for information or clarification (including those made under Paragraph 3 of Article 4) shall be provided no later than 90 days after the receipt of the request or as mutually agreed between the Parties.

2. Further to Paragraph 1, if a Party:

- (a) does not use an international standard, guide or recommendation or the relevant parts thereof as a basis for a technical regulation or related conformity assessment procedure; or
- (b) does not accept a technical regulation of another Party as equivalent to its own; or
- (c) does not accept the results of a conformity assessment procedure conducted in the territory of another Party; or
- (d) recognises a body assessing conformity with a specific technical regulation or standard in its territory and refuses to recognise a body assessing conformity with that technical regulation or standard in the territory of another Party; or
- (e) applies a technical regulation that, in the view of another Party, is more trade restrictive than necessary to fulfil a legitimate objective, taking account of the risks that non-fulfilment would create; or
- (f) applies a conformity assessment procedure that, in the view of another Party, is more strict or applied more strictly than necessary to give adequate confidence that products conform with the applicable technical regulation or standard, taking account of the risks that non-conformity would create; or
- (g) applies a technical regulation that, in the view of another Party, is not in conformity with Article 5.1 of this Chapter; or
- (h) applies conformity assessment procedures in a manner that, in the view of another Party, is not in conformity with Article 5.2 of this Chapter;

it shall on request explain its reasons in writing. If the Party requesting an explanation so desires, it may request further technical discussions in accordance with the procedure under Article 11.

### **Article 7: Code of Good Practice for the Preparation, Adoption and Application of Standards**

Each Party in respect of central government bodies shall ensure, and in respect of local government and non-governmental bodies shall take such reasonable measures as may be available to it to ensure, that standardising bodies in its territory:

- (a) in the case of a Party that is a WTO Member, accept and comply with the Code of Good Practice for the Preparation, Adoption and Application of Standards at Annex 3 to the TBT Agreement; and
- (b) in the case of a Party that is not a WTO Member, observe to the extent of its capacity the Substantive Provisions of the Code of Good Practice for the Preparation, Adoption and Application of Standards at Annex 3 to the TBT Agreement.

### **Article 8: Transparency**

1. Consistent with Articles 2.9, 2.10, 5.6 and 5.7 of the TBT Agreement, where a relevant international standard, guide or recommendation does not exist or the technical content of a proposed technical regulation or related conformity assessment procedure is not in accordance with the technical content of relevant international standards, guides or recommendations, and if such regulation or procedure may have a significant effect on the trade of other Parties, the Party preparing it shall:

- (a) publish a notice of its proposal to introduce the regulation or procedure in a publication at an early appropriate stage, in such a manner as to enable interested Parties to become acquainted with it;
- (b) notify Parties, at an early appropriate stage when amendments can still be introduced and comments taken into account, of the products to be covered by the regulation or procedure and its objective and rationale;
- (c) on request, provide to other Parties through Contact Points particulars or copies in electronic format of the proposed regulation or procedure and, whenever possible, identify the parts which deviate in substance from relevant international standards, guides or recommendations; and
- (d) without discrimination, allow reasonable time for other Parties to make comments in writing, discuss these comments on request and take these written comments and the results of these discussions into account.

2. Where urgent problems of safety, health, environmental protection or national security arise or threaten to arise for that Party, it may omit such steps of paragraph 1(a) to 1(d) as it finds necessary, provided that, upon adoption of the regulation or procedure, the Party:
  - (a) notifies other Parties in writing of the regulation or procedure, the products covered, its objective and rationale, and the nature of the urgent problems;
  - (b) on request, provides other Parties through Contact Points with electronic copies of the regulation or the rules of the procedure; and
  - (c) without discrimination, allows other Parties to present their comments in writing, discusses these comments on request, and takes these written comments and the results of these discussions into account in making an informed decision about the measure.
3. Notifications, requests, comments, responses and other communications for the purposes of paragraphs 1 and 2 shall be conveyed through Contact Points.
4. Each Party shall ensure that technical regulations and conformity assessment procedures which have been adopted are published promptly or otherwise made available in such manner as to enable any member of the public in any Party to become acquainted with them.
5. Consistent with Articles 2.12 and 5.9 of the TBT Agreement and except in the urgent circumstances specified in Articles 2.10 and 5.7 of the TBT Agreement, an importing Party shall allow a reasonable interval between the publication of a technical regulation or related conformity assessment procedure and its entry into force in order to allow time for producers in exporting Parties, and particularly in developing country Parties, to adapt their products or methods of production to its requirements. The reasonable interval shall be a period of not less than six months, except where this would be ineffective in fulfilling the legitimate objective pursued.

#### **Article 9: Contact Points**

1. Each Party shall provide the other Parties with a Contact Point to facilitate the distribution of requests and notifications made in accordance with this Chapter and which shall, for that Party, have responsibility for coordinating the implementation of this Chapter.
2. Each Party shall provide each other Party with the name of its Contact Point and the contact details of the relevant position in the organisation which performs its functions, including telephone, facsimile, e-mail address, mailing address and any other relevant details.
3. Each Party shall ensure that the information provided under paragraphs 1 and 2 is kept up-to-date.
4. Each Party shall ensure that its Contact Point facilitates the exchange of information between the Parties on any matters relating to the implementation of this Chapter.

5. To promote efficiency in the distribution of requests and notifications under this Chapter and ensure consistency with the performance of related functions under the TBT Agreement, each Party that is a WTO Member should consider assigning to its Enquiry Point established pursuant to Article 10 of the TBT Agreement the role of Contact Point for the purposes of this Chapter.

### **Article 10: Cooperation**

1. The Parties shall undertake joint efforts in the fields of standards, technical regulations and conformity assessment procedures with a view to facilitating trade between the Parties, including increasing market access opportunities for developing country Parties.

2. Each Party shall on request of another Party give positive consideration to proposals for cooperation on matters within the scope of this Chapter on mutually agreed terms and conditions, including but not limited to:

- (a) advice, technical assistance or capacity building relating to the development and application of standards, technical regulations and conformity assessment procedures;
- (b) cooperation between conformity assessment bodies, both governmental and non-governmental, in the territories of each of the Parties on matters such as:
  - (i) use of accreditation to qualify conformity assessment bodies; and
  - (ii) enhancing infrastructure in calibration, testing, inspection, certification and accreditation to meet relevant international standards, guidelines and recommendations;
- (c) cooperation in areas of mutual interest in the work of relevant regional and international bodies relating to the development and application of standards and conformity assessment procedures, such as enhancing participation, particularly of the developing country Parties, in the existing frameworks for mutual recognition developed by relevant regional and international bodies; and
- (d) enhancing cooperation in the development and improvement of technical regulations and conformity assessment procedures in areas such as:
  - (i) cooperation in the development and promotion of good regulatory practice;
  - (ii) transparency, including ways to promote improved access to information on standards, technical regulations and conformity assessment procedures; and
  - (iii) management of risks relating to health, safety, the environment and deceptive practices.

3. On request of another Party, a Party shall give positive consideration to a sector-specific proposal that the requesting Party makes for further cooperation under this Chapter on mutually agreed terms and conditions.

### **Article 11: Technical Discussions**

1. If a Party considers that a technical regulation, standard or conformity assessment procedure affecting trade between it and another Party warrants further discussion, it may, through the Contact Points, request a detailed explanation of the measure and if necessary, request to hold technical discussions in an attempt to resolve any concerns on specific issues arising from the application of the measure. The other Party shall respond promptly to any requests for such explanations, and if so requested, shall enter into technical discussions within 60 days from the date of the request. The Parties to the technical discussions shall make every effort to reach a mutually satisfactory resolution through technical discussions within 90 days from the date of the request or within a timeframe mutually agreed upon by them.

2. A Party participating in technical discussions or negotiations pursuant to paragraph 3 of Article 4, paragraph 2 of Article 6 or paragraph 1 of this Article may invite another Party or a relevant international or regional organisation in the field of technical regulations, standards and conformity assessment procedures to participate for the purpose of providing technical advice.

3. Technical discussions should be conducted using electronic means. If this is not possible they may be conducted in person or by any other means, as mutually determined by the Parties.

4. The Parties shall take such reasonable measures as may be available to them to ensure that representatives of bodies responsible for the technical regulations, standards or conformity assessment procedures that are the subject of the technical discussions participate in those discussions.

5. A Party shall exercise restraint when requesting technical discussions between it and another Party on a matter that has been the subject of a previous technical discussion between the two Parties. If technical discussions on a matter under Article 6.2(b) to Article 6.2(f) have taken place, and a mutually satisfactory solution cannot be reached, an importing Party may only decline a further request for technical discussions on justifiable grounds.

6. Without prejudice to the rights and obligations of the Parties under other provisions of this Agreement, if the importing Party declines a request for technical discussions under paragraph 5 it shall provide an explanation of reasons for its position.

7. Technical discussions held pursuant to this Article do not constitute formal consultations under Chapter 14 (Consultations and Dispute Settlement) and are without prejudice to the rights and obligations of the Parties under that Chapter, the WTO Agreement or any other agreement to which both Parties are party.

## **Article 12: Meetings on Technical Regulations, Standards and Conformity Assessment Procedures**

1. The Parties shall, through the Committee on Sanitary and Phytosanitary Measures and Technical Barriers to Trade, the Joint Committee or any other relevant subsidiary body, consult as required to consider the implementation of their commitments under this Chapter.
2. The Parties, through the Committee on Sanitary and Phytosanitary Measures and Technical Barriers to Trade, the Joint Committee or any other relevant subsidiary body, shall commence a review of this Chapter within three years of entry into force of this Agreement and submit a final report to the Joint Committee, including any recommendations, within four years of entry into force of this Agreement.

## **Article 13: Special and Differential Treatment**

Consistent with Articles 12.3, 12.4 and 12.9 of the TBT Agreement:

- (a) Each Party shall, in the preparation and application of technical regulations, standards and conformity assessment procedures, take account of the special development, financial and trade needs of developing country Parties, with a view to ensuring that such technical regulations, standards and conformity assessment procedures do not create unnecessary obstacles to exports from developing country Parties.
- (b) Parties recognise that, although international standards, guidelines or recommendations may exist, in their particular technological and socio-economic conditions, developing country Parties may adopt certain technical regulations, standards or conformity assessment procedures aimed at preserving indigenous technology and production methods and processes compatible with their development needs. Parties therefore recognise that developing country Parties should not be expected to use international standards as a basis for their technical regulations or standards, including test methods, which are not appropriate to their development, financial and trade needs.
- (c) During consultations, developed country Parties shall bear in mind the special difficulties experienced by developing country Parties in formulating and implementing technical regulations, standards and conformity assessment procedures and, in their desire to assist developing country Parties with their efforts in this direction, developed country Parties shall take into account the special needs of the former in regard to financing, trade and development.

## CHAPTER 7

### TRADE IN SERVICES

#### Article 1: Definitions

For the purposes of this Chapter:

**aircraft repair and maintenance services** means such activities when undertaken on an aircraft or a part thereof while it is withdrawn from service but does not include line maintenance;

**airport operation services** means the supply of air terminal, airfield and other airport infrastructure operation services on a fee or contract basis. Airport operation services does not include air navigation services;

**commercial presence** means any type of business or professional establishment, including one operating through:

- (a) the constitution, acquisition or maintenance of an enterprise; or
- (b) the creation or maintenance of a branch or a representative office;

within the territory of a Party for the purposes of supplying a service;

**computer reservation system services** means services provided by computerised systems that contain information about air carriers' schedules, availability, fares and fare rules, through which reservations can be made or tickets may be issued;

**ground handling services** means the supply at an airport, on a fee or contract basis, of the following: airline representation, administration and supervision; passenger handling; baggage handling; ramp services; catering (except the preparation of the food); air cargo and mail handling; fuelling of an aircraft; aircraft servicing and cleaning; surface transport; and flight operations, crew administration and flight planning. Ground handling services do not include self-handling; security; line maintenance; aircraft repair and maintenance; or management or operation of essential centralised airport infrastructure such as de-icing facilities, fuel distribution systems, baggage handling systems, and fixed intra-airport transport systems;

**measures adopted or maintained by a Party** means any measure taken by:

- (a) central, state, regional or local Government and authorities; or
- (b) non-governmental bodies in the exercise of powers delegated by central, state, regional or local Governments or authorities;

Such measures include measures in respect of:

- (a) the purchase, payment or use of a service;
- (b) the access to and use of, in connection with the supply of a service, services which are required by a Party to be offered to the public generally; and
- (c) the presence, including commercial presence, of persons of a Party for the supply of a service in the territory of another Party;

**monopoly supplier of a service** means any person, public or private, who in the relevant market of the territory of a Party is authorised or established formally or in effect by that Party as the sole supplier of that service;

**person** means either a natural person or an enterprise;

**sector of a service** means:

- (a) with reference to a specific commitment, one or more, or all subsectors of that service, as specified in a Party's Schedule of Specific Services Commitments at Annex 7-A to this Agreement;
- (b) otherwise, the whole of that service sector, including all of its subsectors;

**selling and marketing of air transport services** means opportunities for the air carrier concerned to sell and market freely its air transport services including all aspects of marketing such as market research, advertising and distribution. These activities do not include the pricing of air transport services nor the applicable conditions;

**service of another Party** means a service which is supplied:

- (a) from or in the territory of that other Party; or in the case of maritime transport, by a vessel registered under the laws of that other Party, or by a person of that other Party who supplies the service through the operation of a vessel or its use in whole or in part; or
- (b) in the case of the supply of a service through commercial presence or through the presence of natural persons, by a service supplier of that other Party;

**service consumer** means any person that receives or uses a service;

**service supplier of a Party** means a person of a Party that supplies a service;<sup>1</sup>

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<sup>1</sup>Where the service is not supplied directly by an enterprise but through other forms of commercial presence such as a branch or a representative office, the service supplier (*i.e.*, enterprise) shall, nonetheless, through such presence be accorded the treatment provided for service suppliers under this Agreement. Such treatment shall be extended to the presence through which the service is supplied and need not be extended to any other parts of the supplier located outside the territory where the service is supplied.



**services** includes any service in any sector except services supplied in the exercise of governmental authority;

**services supplied in the exercise of governmental authority** means any service which is supplied neither on a commercial basis nor in competition with one or more service suppliers;

**specialty air services** means any non-transportation air services such as aerial firefighting, sightseeing, spraying, surveying, mapping, photography, parachute jumping, glider towing, and helicopter-lift for logging and construction, and other airborne agricultural, industrial, and inspection services;

**supply of a service** includes the production, distribution, marketing, sale and delivery of a service;

**trade in services** means the supply of a service:

- (a) from the territory of one Party into the territory of another Party ('Mode 1');
- (b) in the territory of one Party to the service consumer of another Party ('Mode 2');
- (c) by a service supplier of one Party, through commercial presence in the territory of another Party ('Mode 3');
- (d) by a service supplier of one Party, through presence of natural persons of a Party in the territory of another Party ('Mode 4');

**traffic rights** means the right for scheduled and non-scheduled services to operate or carry passengers, cargo and mail for remuneration or hire from, to, within, or over the territory of a Party, including points to be served, routes to be operated, types of traffic to be carried, capacity to be provided, tariffs to be charged and their conditions, and criteria for designation of airlines, including such criteria as number, ownership, and control.

## **Article 2: Scope**

1. This Chapter applies to measures affecting trade in services adopted or maintained by a Party.

2. This Chapter shall not apply to:

- (a) services supplied in the exercise of governmental authority;<sup>2</sup>
- (b) any measures adopted or maintained by a Party with respect to government procurement;

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<sup>2</sup> For greater certainty, nothing in this Chapter shall be construed as requiring the privatisation of public services supplied in the exercise of government authority.

- (c) subsidies or grants provided by a Party, including government-supported loans, guarantees, and insurance, or any conditions attached to the receipt or continued receipt of such subsidies or grants, whether or not such subsidies or grants are offered exclusively to domestic services, service consumers or service suppliers;
- (d) in respect of air transport services, measures affecting traffic rights however granted; or measures affecting services directly related to the exercise of traffic rights, other than measures affecting:
  - (i) aircraft repair and maintenance services;
  - (ii) the selling and marketing of air transport services;
  - (iii) computer reservation system services;
  - (iv) specialty air services;
  - (v) ground handling services; and
  - (vi) airport operation services.

3. For greater certainty, the Parties recognise the right of all Parties to regulate and to introduce new regulations to regulate the supply of services within their territory in order to meet national policy objectives, provided that such regulation is not inconsistent with this Chapter.<sup>3</sup>

4. Nothing in this Chapter shall apply to measures affecting natural persons seeking access to the employment market of another Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

### **Article 3: Most-Favoured-Nation Treatment**

1. With respect to any measure covered by this Chapter, each Party shall accord immediately and unconditionally to services and service suppliers of another Party treatment no less favourable than that it accords to like services and service suppliers of a non-party.

2. A Party may maintain a measure inconsistent with Paragraph 1 provided that such a measure falls within the scope of any exemptions list in Annex I (Schedule of Most-Favoured-Nation Exemptions on Services and Investment).

### **Article 4: Increasing the Participation of Forum Island Countries**

1. The increasing participation of Forum Island Countries in services trade shall be

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<sup>3</sup> For greater certainty, the Parties mutually understand that Parties have the right to regulate, provided that regulation does not nullify or impair obligations and commitments of this Chapter.

facilitated through negotiated specific commitments pursuant to Article 5, Article 6, Article 7 and Article 8 relating to:

- (a) the strengthening of their domestic services capacity and its efficiency and competitiveness *inter alia* through access to technology on a commercial basis;
- (b) the improvement of their access to distribution channels and information networks; and
- (c) the liberalisation of market access in sectors and modes of supply of export interest to Forum Island Countries.

2. Within one year of the date of entry into force of this Agreement, each Party shall establish contact points to facilitate the access of service suppliers to information related to their respective markets in relation to commercial and technical aspects of the supply services, registration, recognition and the obtaining of professional qualifications and the availability of technology.

#### **Article 5: Market Access**

1. With respect to market access through the modes of supply identified in the definition of “trade in services” in Article 1, each Party shall accord services and service suppliers of another Party treatment no less favourable than that provided for under the terms, limitations and conditions specified in its Schedule of Specific Services Commitments at Annex 7-A to this Agreement.

2. In the sectors where market access commitments are undertaken, a Party shall not maintain or adopt, either on the basis of a regional subdivision or on the basis of its entire territory, unless otherwise specified in its Schedule, measures which:

- (a) limit the number of service suppliers whether in the form of numerical quotas, monopolies, exclusive service suppliers or the requirement of an economic needs test;
- (b) limit the total value of service transactions or assets in the form of numerical quotas or the requirement of an economic needs test;
- (c) limit the total number of service operations or on the total quantity of service output expressed in terms of designated numerical units in the form of quotas or the requirement of an economic needs test, except measures of a Party which limit inputs for the supply of services;
- (d) limit the total number of natural persons who may be employed in a particular service sector or who a service supplier may employ and who are necessary for, and directly related to, the supply of a specific service, in the form of numerical quotas or the requirement of an economic needs test;

- (e) restrict or require specific types of legal entity or joint venture through which a service supplier may supply a service; and
- (f) limit the participation of foreign capital in terms of maximum percentage limit on foreign shareholding or of the total value of individual or aggregate foreign investment.

3. If a Party undertakes a market access commitment in relation to the supply of a service through Mode 1, and if the cross-border movement of capital is an essential part of the service itself, it shall allow such movement of capital.

4. If a Party undertakes a market access commitment in relation to the supply of a service through Mode 3, it shall allow related transfers of capital into its territory.

### **Article 6: National Treatment**

1. In the sectors specified in its Schedule of Specific Services Commitments at Annex 7-A to this Agreement, and subject to any conditions and qualifications set out therein, each Party shall accord to services and service suppliers of another Party, in respect of all measures affecting the supply of services, treatment no less favourable than that it accords to its own like services and service suppliers.

2. A Party may meet the requirement in paragraph 1 by according to services and service suppliers of another Party either formally identical treatment or formally different treatment to that which it accords to its own like services and service suppliers.

3. Formally identical or formally different treatment shall be considered to be less favourable if it modifies the conditions of competition in favour of services or service suppliers of the Party compared to the like service or service suppliers of another Party.

4. Specific commitments assumed under this Article shall not be construed to require any Party to compensate for any inherent competitive disadvantages which result from the foreign character of the relevant services or service suppliers.

### **Article 7: Additional Commitments**

The Parties may negotiate commitments with respect to measures affecting trade in services not subject to scheduling under Article 5 and Article 6, including those regarding qualifications, standards or licensing matters. Such commitments shall be entered in a Party's Schedule of Specific Services Commitments at Annex 7-A to this Agreement.

### **Article 8: Specific Commitments**

1. The specific commitments undertaken by each Party under Article 5 and Article 6 shall be set out in the Schedule of Specific Services Commitments under Annex 7-A to this

Agreement. With respect to sectors where such commitments are undertaken, each Schedule shall specify:

- (a) terms, limitations and conditions on market access;
- (b) conditions and qualifications on national treatment;
- (c) undertakings related to additional commitments; and
- (d) where appropriate, the time-frame for implementation of such commitments.

2. Measures inconsistent with both Article 5 and Article 6 are inscribed in the column relating to Article 5. In this case, the inscription shall be considered to also provide a condition or qualification to Article 6.

### **Article 9: Modification of Schedules**

1. (a) A Party (referred to in this Article as the “modifying Party”) may modify or withdraw any commitment in its Schedule, at any time after three years have elapsed from the date on which that commitment entered into force, in accordance with the provisions of this Article.  
  
(b) A modifying Party shall notify its intent to modify or withdraw a commitment pursuant to this Article to the Joint Committee no later than three months before the intended date of implementation of the modification or withdrawal.
2. (a) At the request of any Party whose benefits under this Agreement may be affected (referred to in this Article as an "affected Party") by a proposed modification or withdrawal notified under paragraph 1(b), the modifying Party shall enter into negotiations with a view to reaching agreement on any necessary compensatory adjustment. In such negotiations and agreement, the Parties concerned shall endeavour to maintain a general level of mutually advantageous commitments not less favourable to trade than that provided for in Schedules of specific commitments prior to such negotiations.  
  
(b) Compensatory adjustments shall be made on a most-favoured-nation basis.
3. (a) If agreement is not reached between the modifying Party and any affected Party before the end of the period provided for negotiations, such affected Party may refer the matter to the Joint Committee. Any affected Party that wishes to enforce a right that it may have to compensation must participate in meetings that may be convened by the Joint Committee to resolve this matter.  
  
(b) If no affected Party has requested the intervention of the Joint Committee, the modifying Party shall be free to implement the proposed modification or withdrawal.

4. (a) The modifying Party may not modify or withdraw its commitment until it has made compensatory adjustments in conformity with the findings of the Joint Committee.
  - (b) If the modifying Party implements its proposed modification or withdrawal and does not comply with the recommendations of the Joint Committee, any affected Party that participated in the Joint Committee's meetings may modify or withdraw substantially equivalent benefits in conformity with those findings. Notwithstanding Article 3, such a modification or withdrawal may be implemented solely with respect to the modifying Party.
5. The Joint Committee shall establish procedures for the rectification or modification of Schedules. Any Party which has modified or withdrawn scheduled commitments under this Article shall modify its Schedule according to such procedures.

### **Article 10: Domestic Regulation**

1. In sectors where specific commitments are undertaken, each Party shall ensure that all measures of general application affecting trade in services are administered in a reasonable, objective and impartial manner.
2. (a) Each Party shall maintain or institute as soon as practicable judicial, arbitral or administrative tribunals or procedures, which provide, at the request of an affected service supplier, for the prompt review of, and where justified, appropriate remedies for, administrative decisions affecting trade in services, including correction of the contested final administrative actions. Where such tribunals or procedures are not independent of the agency responsible for the administrative action concerned, the Party shall ensure that the tribunals or procedures provide for an objective and impartial review.
- (b) Each Party shall ensure that, in any such tribunal or under any such procedures referred to in subparagraph (a), the parties to any proceedings are provided with the right to:
  - (i) a reasonable opportunity to support or defend their respective positions;  
and
  - (ii) a decision in accordance with the Party's laws.
- (c) Each Party shall ensure, subject to appeal or further review as provided in its law, that any decision referred to in subparagraph (b) shall be implemented in accordance with its laws.
- (d) The provisions of subparagraph (a) shall not be construed to require a Party to institute such tribunals or procedures where this would be inconsistent with its constitutional structure or the nature of its legal system.

3. With a view to ensuring that measures relating to qualification requirements and procedures, technical standards and licensing requirements and procedures do not constitute unnecessary barriers to trade in services, the Parties shall jointly review the results of the WTO negotiations on disciplines on such measures pursuant to Article VI:4 of GATS, and shall amend this Article, as appropriate, after consultations among the Parties to bring the results of those negotiations into effect under this Agreement. The Parties note that the disciplines arising from such negotiations shall aim to ensure that qualification requirements and procedures, technical standards and licensing requirements and procedures are, *inter alia*:

- (a) based on objective and transparent criteria, such as competence and the ability to supply the service;
- (b) not more burdensome than necessary to ensure the quality of the service; and
- (c) in the case of licensing procedures, not in themselves a restriction on the supply of the service.

4. In sectors in which a Party has undertaken specific commitments under Article 5, Article 6 and Article 7, pending the incorporation of the disciplines referred to in paragraph 3, that Party shall not apply licensing and qualification requirements and technical standards that nullify or impair such specific commitments under this Agreement in a manner which:

- (a) does not comply with the criteria outlined in paragraph 3(a), (b) or (c); and
- (b) could not reasonably have been expected of that Party at the time the specific commitments in those sectors were made.

5. In determining whether a Party is in conformity with its obligations under paragraph 3, account shall be taken of international standards of relevant international organisations applied by that Party.<sup>4</sup>

6. If authorisation is required for the supply of a service on which a specific commitment has been made, the competent authorities of that Party shall:

- (a) in the case of an incomplete application, at the request of the applicant, identify all the additional information that is required to complete the application and provide the opportunity to remedy deficiencies within a reasonable timeframe;
- (b) within a reasonable period of time after the submission of an application considered complete under domestic laws and regulations, inform the applicant of the decision concerning the application;
- (c) at the request of the applicant, provide, without undue delay, information concerning the status of the application under consideration; and

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<sup>4</sup> The term "relevant international organisations" refers to international bodies whose membership is open to the relevant bodies of all of the Parties.

- (d) if an application is rejected, to the maximum extent possible, inform the applicant in writing, and without delay, the reasons for the rejection of the application and of the timeframe to appeal against the decision. An applicant should be permitted, within reasonable time limits, to resubmit an application.

7. In sectors where specific commitments regarding professional services are undertaken, each Party shall provide for adequate procedures to verify the competence of professionals of any other Party.

8. Subject to its domestic laws and regulations, each Party shall permit service suppliers of the other Parties to use the business names under which they ordinarily trade in the territories of the other Parties and otherwise ensure that the use of business names is not unduly restricted.

### **Article 11: Recognition**

1. For the purposes of the fulfilment, in whole or in part, of its standards or criteria for the authorisation, licensing or certification of service suppliers, and subject to the requirements of paragraph 4, a Party may recognise the education or experience obtained, requirements met, or licenses or certifications granted in a particular country. Such recognition, which may be achieved through harmonisation or otherwise, may be based upon an agreement or arrangement with the country concerned or may be accorded autonomously.

2. Where a Party recognises, autonomously or by agreement or arrangement, the education or experience obtained, requirements met, or licences or certifications granted in the territory of a non-party, nothing in Article 3 shall be construed to require the Party to accord such recognition to the education or experience obtained, requirements met, or licences or certifications granted in the territory of another Party.

3. A Party that is a party to an agreement or arrangement of the type referred to in paragraph 2, whether existing or future, shall afford adequate opportunity for other interested Parties to negotiate their accession to such an agreement or arrangement or to negotiate comparable ones with it. Where a Party accords recognition autonomously, it shall afford adequate opportunity for another Party to demonstrate that education, experience, licences, or certifications obtained or requirements met in that other Party's territory should be recognised.

4. A Party shall not accord recognition in a manner which would constitute a means of discrimination between other Parties in the application of its standards or criteria for the authorisation, licensing or certification of services suppliers, or a disguised restriction on trade in services.

5. If appropriate, recognition should be based on multilaterally agreed criteria. In appropriate cases, Parties shall work in cooperation with relevant inter-governmental and non-governmental organisations towards the establishment and adoption of common international standards and criteria for recognition and common international standards for the practice of relevant services trades and professions.



6. The Parties shall actively encourage their competent bodies to consult with each other and with relevant regional bodies after the entry into force of this Agreement to explore the possibilities for recognition of qualifications or professional recognition or registration. The Parties shall report periodically to the Joint Committee for review.

### **Article 12: Payments and Transfers**

1. Except under the circumstances envisaged in Article 2 of Chapter 11 (General Provisions and Exceptions), a Party shall not apply restrictions on international transfers and payments for current transactions relating to its specific commitments.

2. Nothing in this Chapter shall affect the rights and obligations of a Party as a Member of the International Monetary Fund (IMF) under the IMF Articles of Agreement, provided that a Party shall not impose restrictions on any capital transactions inconsistent with its specific commitments regarding such transactions, except under Article 3 of Chapter 11 (General Provisions and Exceptions), or at the request of the IMF.

### **Article 13: Monopolies and Exclusive Service Suppliers**

1. Each Party shall ensure that any monopoly supplier of a service in its territory does not, in the supply of the monopoly service in the relevant market, act in a manner inconsistent with that Party's obligations under Article 3, Article 5, Article 6 and Article 7.

2. If a Party's monopoly supplier competes, either directly or through an affiliated company, in the supply of a service which is outside the scope of its monopoly rights and which is subject to that Party's specific commitments, the Party shall ensure that such a supplier does not abuse its monopoly position to act in its territory in a manner inconsistent with such commitments.

3. If a Party has a reason to believe that a monopoly supplier of a service of another Party is acting in a manner inconsistent with paragraph 1 or 2, it may request the Party establishing, maintaining or authorising such supplier to provide specific information concerning the relevant operations.

4. This Article shall also apply to cases of exclusive service suppliers, where a Party, formally or in effect:

- (a) authorises or establishes a small number of service suppliers; and
- (b) substantially prevents competition among those suppliers in its territory.

### **Article 14: Emergency Safeguard Measures**

1. The Parties note the multilateral negotiations pursuant to Article X of GATS on the question of emergency safeguard measures based on the principle of non-discrimination. On

the conclusion of such multilateral negotiations, the Parties shall conduct a review for the purposes of discussing appropriate amendments to this Chapter so as to incorporate the results of such multilateral negotiations.

2. In the event that the implementation of the commitments made under this Agreement causes substantial adverse impact to a service sector of a Party before the conclusion of the multilateral negotiations referred to in paragraph 1, that affected Party may request to hold consultations with the other Party or Parties. The requested Party or Parties shall respond to such a request in good faith.

3. In undertaking such consultations, the Parties shall endeavour to reach a mutually agreed solution within a reasonable period of time.

4. The consulting parties shall notify the agreed solution to all other Parties as soon as practicable and by no later than the next meeting of the Joint Committee.

#### **Article 15: Subsidies**

1. Notwithstanding Article 2.2(c), where one Party considers that subsidies provided by another Party affecting trade in services nullify or impair any benefits it expected to receive under this Chapter, the Parties agree to consult with a view to reaching a mutually satisfactory solution.

2. Notwithstanding Article 2.2(c), following the conclusion of the negotiations on trade distorting subsidies on trade in services under Article XV of the GATS, the Parties agree to review the operation of this Article with a view to considering the possible modification or elimination of this Article.

#### **Article 16: Denial of Benefits**

1. A Party may deny the benefits of this Chapter to a service supplier of another Party where the Party establishes that:

- (a) the service is being supplied by an enterprise that is owned or controlled by persons of a non-party and the enterprise has no substantive business operations in the territory of any Party; or
- (b) the service is being supplied by an enterprise that is owned or controlled by persons of the denying Party and the enterprise has no substantive business operations in the territory of any Party.

2. In the case of the supply of maritime transport services, a Party may deny the benefits of this Chapter to a service supplier of another Party if it establishes that the service is supplied by a vessel registered under the laws of a non-party, and by a person who operates or uses the vessel in whole or in part but is of a non-party.

## **Article 17: Contact Points and Transparency**

1. Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Chapter, and shall provide details of such contact point to the other Parties. The Parties shall notify each other promptly of any amendments to the details of their contact points.
2. Each Party shall publish promptly or otherwise make publicly available international agreements pertaining to or affecting trade in services to which it is a signatory.
3. To the extent of its capacity, each Party shall ensure that all measures of general application relating to licensing requirements and procedures, qualification requirements and procedures, and technical standards are published promptly through printed or electronic means, or otherwise. Information regarding these measures shall include, where applicable:
  - (a) requirements for authorisation, including for application and periodic renewal of such authorisation, and generally applicable terms and conditions of such authorisation;
  - (b) licensing requirements and procedures, including requirements, criteria and procedures for application and renewal, and applicable fees;
  - (c) qualification requirements and procedures, including requirements, criteria and procedures for application and renewal, and procedures for verification and assessment of qualifications, and applicable fees;
  - (d) technical standards;
  - (e) procedures relating to appeals or reviews of decisions concerning applications;
  - (f) procedures for monitoring or enforcing compliance with the terms and conditions of licences;
  - (g) an established timeframe for the processing of an application.
4. Each Party shall respond promptly to all requests by another Party for specific information on any measures of general application which pertain to or affect the operation of this Chapter or international agreements within the meaning of paragraph 2.

## **Article 18: Review of Commitments**

1. The Parties shall review commitments on trade in services, with the first review within three years of entry into force of this Agreement and periodically thereafter as determined by the Joint Committee, with the aim of improving the overall commitments undertaken by the Parties under this Chapter so as to progressively liberalise trade in services among the Parties.

2. The Parties recognise the limited capacities of developing country Parties which will be taken into account in the review process. When improving the overall commitments undertaken by the Parties, appropriate flexibility will be given to the developing country Parties to opening fewer sectors, liberalising fewer types of transaction, progressively extending market access in line with their development situation and, when making access to their markets available to foreign service suppliers, attaching to such access conditions aimed at achieving the objectives referred to in Article 4.

#### **Article 19: Joint Committee**

The Parties shall, through the Joint Committee or a relevant subsidiary body, consult regularly to consider the implementation of their commitments under this Chapter.

## ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)

### SCHEDULE OF AUSTRALIA

1. Unless otherwise stated, all CPC references correspond to the United Nations Provisional Central Product Classification.
2. Measures inconsistent with both Article 5 (Market Access) and Article 6 (National Treatment) shall be inscribed in the column relating to Market Access. In this case the inscription will be considered to provide a condition or qualification to Article 6 (National Treatment) as well.
3. For greater certainty, an entry of ‘none’ means no limitations except as listed elsewhere in the schedule, including in either or all of Part I, the Limitations on Market Access, Limitations on National Treatment or Additional Commitments columns. The inscription ‘unbound’ means that no commitments are taken with respect to a particular subsector or area.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>PART I. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN PART II OF THIS SCHEDULE	3) Under Australia’s Foreign Investment Framework, which comprises Australia’s Foreign Investment Policy, the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth) (FATA); Foreign Acquisitions and Takeovers Regulations 2015 (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Act</i>	3) Australia's foreign investment policy guidelines apply to foreign-owned or controlled enterprises after establishment in Australia.  3) Unbound for any measure with respect to: – the privatisation of government owned entities or	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>2015 (Cth); Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements, the following investments<sup>1</sup> are subject to approval by the Australian Government and may also require notification<sup>2</sup> to the Government:</p> <ul style="list-style-type: none"> <li>– a proposed investment by a ‘foreign person’* in an entity or Australian business valued above A\$252 million<sup>†</sup>;</li> <li>– a proposed direct investment</li> </ul>	<p>assets; and</p> <ul style="list-style-type: none"> <li>– the devolution to the private sector of services provided in the exercise of governmental authority at the date of entry into force of this Agreement.</li> </ul> <p>3) At least one director of a private company must be ordinarily resident in Australia. At least two of the directors of a public company must be ordinarily resident in Australia. At least one secretary of a private company (if such a private company appoints one or more secretaries) must be ordinarily resident in Australia. At least one secretary of a public</p>	

<sup>1</sup> “Investment” means activities covered by Part II of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) or, where applicable, ministerial statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

<sup>2</sup> The *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* (Cth) and the *Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015* (Cth) sets the fees for foreign investment applications and notices. Fees are indexed annually on 1 July.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>by a ‘foreign government investor’<sup>3</sup> of any interest regardless of value;</p> <ul style="list-style-type: none"> <li>– a proposed investment by a foreign person* of 5 per cent or more in the media sector, regardless of the value of the investment ;</li> <li>– a proposed acquisition by a foreign person* of an interest in developed commercial land<sup>4</sup> where the value of the interest is more than A\$252 million<sup>†</sup>, unless the land meets the conditions for the lower developed commercial land threshold of A\$55million<sup>†5</sup>.</li> </ul>	<p>company must be ordinarily resident in Australia.</p> <p>3) Australian States and Territories maintain limitations on the establishment of Associations as follows:</p> <p>Australian Capital Territory An application for incorporation of an association must be made by a person who is a resident of the Australian Capital Territory. The public officer of an incorporated association must be a person who is a resident of the Australian Capital Territory.</p> <p>Northern Territory An application for the</p>	

<sup>3</sup>The term “foreign government investor” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

<sup>4</sup> The term “developed commercial land” means commercial land that is not vacant within the meaning of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

<sup>5</sup> The conditions for the lower threshold are those set out in *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

\* The term “foreign person” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>Investments may be refused, subject to orders, and/or approved subject to conditions. Foreign persons* that do not comply with the foreign investment framework may be subject to civil and criminal penalties.</p> <p>The acquisition of a stake in an existing financial sector company by a foreign investor, or entry into an arrangement by a foreign investor, that would lead to an unacceptable shareholding situation or to practical control<sup>6</sup> of an existing financial sector company, may be refused, or be subject to certain conditions<sup>7</sup>;</p>	<p>incorporation of an association<sup>12</sup> must be made by a person who is a resident of the Northern Territory. The public officer of an incorporated association must be a person who is a resident of the Northern Territory.</p> <p>Queensland The office of secretary shall become vacant if the person holding that office ceases to be a resident in Queensland, or in another State but not more than 65 kilometres from the Queensland border. The management committee of an incorporated association must ensure the secretary is an individual residing in Queensland, or in another State</p>	

<sup>†</sup> This is the figure as at 1 January 2016. To be indexed on 1 January each year to the GDP implicit price deflator in the Australian National Accounts for the previous financial year.

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

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

<sup>12</sup> “Association” includes a trading association.



Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>Unbound with respect to the proposed acquisition by a foreign person* of an interest in agricultural land<sup>8</sup> where the cumulative value of agricultural land owned by the foreign person* alone or together with associates, including the proposed acquisition, is above A\$15 million;</p> <p>Unbound with respect to the proposed acquisition by a foreign person* of an interest in an agribusiness<sup>9</sup> where the cumulative value of the interest held the foreign person* in that agribusiness, alone or together with associates, including the proposed acquisition, is above A\$55 million<sup>†</sup>;</p> <p>Unbound with respect to</p>	<p>but not more than 65 kilometres from the Queensland border. The members of the management committee of an incorporated association must ensure that the association has an address nominated for the service of documents on the association. The nominated address must be a place in the State where a document can be served personally on a person. A post office box is not a place that can be shown as a nominated address.</p> <p>South Australia The public officer of an incorporated association must be a person who is a resident of South Australia.</p> <p>Tasmania</p>	

<sup>8</sup> The term “agricultural land” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

<sup>9</sup> The term “agribusiness” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>proposed acquisitions by a foreign person* of an interest in Australian land<sup>10</sup>, other than developed commercial land or land that is used whole and exclusively for a primary production business;</p> <p>For greater certainty, where an investment could qualify for the application of one or more of the above screening thresholds, approval and/or notification requirements apply from the lowest applicable threshold.</p> <p>Unbound for any measure that Australia considers necessary for the protection of its essential security interests with respect to proposals by foreign persons* to invest in Australia.</p>	<p>A person is not eligible to be appointed as a public officer of an incorporated association unless the person is resident in Tasmania.</p> <p>Victoria A person applying for the incorporation of an association must be an Australian resident. The first secretary and secretary of an incorporated association must be Australian residents.</p> <p>3) All Australian States and Territories maintain limitations on the establishment of Co-operatives as follows: (a) The secretary of a co-operative must be a person ordinarily resident in Australia. At least two of the directors of a co-operative must be Australian</p>	

<sup>10</sup> The terms “Australian land” and “interest in Australian land” have the meanings set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>For greater certainty, terms used in the above entries should be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.</p> <p>1), 2) and 3) Unbound for any measure according preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation in relation to acquisition, establishment or operation of any commercial or industrial undertaking in the service sector. Unbound for any measure with respect to commercial presence that accords preferences to any Indigenous person or organisation providing for the favourable treatment of any Indigenous person or organisation. For the purposes</p>	<p>residents.</p> <p>(b) For Co-operative National Law (CNL) jurisdictions (currently New South Wales, Victoria, South Australia, the Northern Territory, and Tasmania): A co-operative registered under the Co-operatives National Law must have a registered office in the jurisdiction in which it was first incorporated as a co-operative. It does not need to have a registered office in any other jurisdiction that has applied the CNL.</p> <p>(c) For non-CNL jurisdictions: A co-operative must have a registered office in each State or Territory in which it operates. A foreign co-operative must appoint a person who will act as agent of the co-operative in each State or Territory in which it operates. A foreign co-operative must appoint a person resident in each state or territory in which it</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>of this Schedule, an Indigenous person means a person of the Aboriginal and Torres Strait Islander peoples.</p> <p>1), 2) and 3) Unbound with respect to the provision of law enforcement and correctional services, and the following services<sup>11</sup> to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, child care, public utilities, public transport and public housing.</p>	<p>operates as a person on whom all notices and legal processes may be served on behalf of the co-operative.</p> <p>3) In the Australian Capital Territory, New South Wales, Northern Territory, Queensland, South Australia, Tasmania and Victoria, a limited partnership or an incorporated limited partnership established in a State or Territory must have an office, principal office or registered office in that State or Territory.</p>	

<sup>11</sup>This includes any measure with respect to: the collection of blood and its components; the distribution of blood and blood-related products, including plasma derived products; plasma fractionation services; and the procurement of blood and blood-related products and services.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>PART II. SECTOR-SPECIFIC COMMITMENTS</b>			
<b>1. BUSINESS SERVICES</b>			
A. <u>Professional Services</u>			
a) Legal services <sup>28</sup>			

<sup>28</sup> For the purposes of this entry:

“legal advisory services” – includes provision of advice to and consultation with clients in matters, including transactions, relationships and disputes, involving the application or interpretation of law; participation with or on behalf of clients in negotiations and other dealings with third parties in such matters; and preparation of documents governed in whole or in part by law, and the verification of documents of any kind for purposes of and in accordance with the requirements of law. Does not include advice, consultation and documentation services performed by service suppliers entrusted with public functions, such as notary services, or services provided by patent or trade marks attorneys.

“legal representational services” – includes preparation of documents intended to be submitted to courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of law; and appearance before courts, administrative agencies, and other duly constituted official tribunals in matters involving the application and interpretation of the specified body of law. (Note 1: The inclusion of representational services before administrative agencies and other duly constituted official tribunals within the context of legal services does not necessarily mean that a licensed lawyer must supply such services in all cases. The precise scope of services subject to licensing requirements is subject to the discretion of the relevant regulatory authority.) Does not include documentation services performed by service suppliers entrusted with public functions, such as notary services, or services provided by patent or trade marks attorneys.

“legal arbitration, conciliation and mediation services” – preparation of documents to be submitted to, preparation for and appearance before, an arbitrator, conciliator or mediators in any dispute involving the application and interpretation of law. Does not include arbitration, conciliation and mediation services in disputes for which the law has no bearing which fall under services incidental to management consulting. As a sub-category, international legal arbitration, conciliation and mediation services refer to the same services when the dispute involves parties from two or more countries.

“domestic law (host country law)” – the law of Australia.

“foreign law” – the law of the territories of PACER Plus Parties and other countries other than the law of Australia.

“international law” – includes law established by international treaties and conventions, as well as customary law.

For the purposes of these definitions:

“arbitration” is taken to mean a process in which the parties to a dispute present arguments and evidence to a dispute resolution practitioner (the arbitrator) who makes a determination.

“mediation” is taken to mean a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the mediator), identify the disputed issues, develop options, consider alternatives and endeavour to reach an agreement. The mediator has no advisory or determinative role in regard to the content of the dispute or the outcome of its resolution, but may advise on or determine the process of mediation whereby resolution is attempted.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
i) Legal advisory and representational services in domestic law (host-country law)	1) None 2) None 3) None	1) None 2) None 3) None	
ii) Legal advisory services in foreign law and international law and (in relation to foreign and international law only) legal arbitration and conciliation/mediation services.	1) None 2) None 3) None	1) None 2) None 3) None	Limited Licence only is required: Only registration with limited licence is required, rather than full admission/ licence, in order to provide: (a) legal advisory services in foreign law, where licensed in the relevant foreign jurisdiction(s); (b) legal advisory services in international law; or (c) legal arbitration and conciliation/mediation services in relation to foreign and international law. (By contrast, a Full Licence is required for (a)(i) above (legal advisory and representational

“conciliation” is taken to mean a process in which the parties to a dispute, with the assistance of a dispute resolution practitioner (the conciliator), identify the issues in dispute, develop options, consider alternatives and endeavour to reach an agreement. The conciliator may have an advisory role on the content of the dispute or the outcome of its resolution, but not a determinative role. The conciliator may advise on or determine the process of conciliation whereby resolution is attempted, and may make suggestions for terms of settlement, give expert advice on likely settlement terms, and may actively encourage the participants to reach an agreement.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>b) Accounting, auditing and book-keeping services (CPC 862)</p>	<p>1) None 2) None 3) None.</p>	<p>1) None 2) None 3) None, except a person who is not ordinarily resident in Australia may be refused registration as a company auditor or liquidator.</p>	<p>services in domestic law (host-country law)), for which full admission is required: i.e. practitioners must satisfy admission requirements, including qualification requirements, applicable to domestic legal practitioners.)</p> <p>3) Joint offices involving revenue-sharing between foreign law firms and Australian local law firms are permitted in New South Wales, Victoria, Queensland, Tasmania, Western Australia, the Australian Capital Territory and the Northern Territory subject to the foreign law firms satisfying certain requirements, including in relation to liability, standard of conduct and professional ethics.</p>

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>c) Taxation services (CPC 863)</p> <p>d) Architectural services (CPC 8671)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>At least one partner in a firm providing auditing services must be a registered company auditor who is ordinarily resident in Australia.</p> <p>A person must be ordinarily resident in New South Wales in order to be an auditor of specified kinds of societies and associations.</p> <p>In Victoria, a firm of auditors cannot audit an estate agent's accounts unless at least one member of the firm of auditors is an Australian resident.</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None, except in the Northern Territory, to qualify for registration as an architectural partnership or company, the partnership/company must have</p>	



Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		a place of business or be carrying on business within the Northern Territory.	
e) Engineering services (CPC 8672)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Integrated engineering services (CPC 8673)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Urban planning and landscape architectural services (CPC 8674)	1) None 2) None 3) None	1) None 2) None 3) None	
h) Dental services (CPC 93123)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Veterinary services (CPC 932)	1) None 2) None 3) None	1) None 2) None 3) None	
B. <u>Computer and related services</u> (CPC 84), excluding audio visual and	1) None 2) None	1) None 2) None	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
broadcasting content <sup>29</sup>	3) None	3) None	
C. <u>Research and development services</u>			
a) R&D services on natural sciences (CPC 851)	1) None 2) None 3) None	1), 2) and 3) None, except that under Queensland's <i>Biodiscovery Act 2004</i> (Qld), benefit sharing agreements require sublicences for use of samples or derivatives to conduct biodiscovery research and commercialisation to be offered first to Queensland-based entities, then to Australian-based entities, and then to overseas-based entities. Any entity with a benefit sharing agreement must obtain consent before granting a sublicense to an overseas-based entity.	
b) R&D services on social sciences and humanities	1) None 2) None	1) None 2) None	

<sup>29</sup> For greater certainty, Australia's commitments do not impose any obligations on Australia with respect to measures affecting services in other sectors, including audio-visual services, however delivered.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(CPC 852)	3) None	3) None	
c) Interdisciplinary sciences (CPC 853)	1) None 2) None 3) None	1) None 2) None 3) None	
<u>D. Real Estate Service</u>			
a) Involving own or leased property (CPC 821)	1) Commercial presence required 2) Commercial presence required 3) None	1), 2) and 3) None, except: In the Australian Capital Territory, an estate agent must have their principal place of business in the Australian Capital Territory.	
b) On a fee or contract basis (CPC 822)		In the Northern Territory, a licensed agent <sup>30</sup> must maintain an office in Australia at or from which the conduct of business under the licence is to occur.  In New South Wales, a person cannot be appointed as an agent (for a proprietor of a development lot,	

<sup>30</sup> A “licensed agent” includes a real estate agent, business agent or conveyancing agent.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		<p>neighbourhood lot or strata lot) if they are not an Australian resident. A person cannot be appointed as an agent (for an owner of a lot, for dealings with the owner's corporation) if they are not an Australian resident. To be licensed as a property, stock, business, strata managing or community managing agent in New South Wales, licensees must have a registered office in New South Wales.</p> <p>In Victoria, a person cannot be licensed as an estate agent unless they have a registered office in Victoria and they must maintain a principal office in Victoria. An agent's representative must have a registered address in Victoria to which documents can be sent. A person cannot be licensed as a conveyancer or carry on a conveyancing business in Victoria unless they maintain a</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		<p>principal place of business in Victoria.</p> <p>In Western Australia, a person seeking to carry on business as a real estate or business agent in Western Australia must establish and maintain a registered office in the State. A person seeking to carry on business as a settlement agent (conveyancer) in Western Australia must ordinarily reside in the State. A licensed settlement agent must establish and maintain a registered office in the State.</p> <p>In Queensland, in order to operate as a real estate agent, auctioneer, or commercial agent in Queensland, a person must have a business address in Queensland. This must be a physical address and not a post box.</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>E. <u>Rental/leasing services without operators</u></b></p> <p>a) Relating to ships (CPC 83103**)    Excludes cabotage, intrastate and offshore trades</p> <p>b) Relating to aircraft (CPC 83104)</p> <p>c) Relating to other transport equipment (CPC 83101, 83102, 83105)</p> <p>d) Relating to other machinery and equipment (CPC 83106-9)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>F. <u>Other business services</u></b></p> <p>a) Advertising services (CPC 87110, 87120**, 87190)</p> <p>Covers services by advertising agencies in</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>creating and placing advertising in periodicals, newspapers, radio and television for clients; outdoor advertising; media representation i.e. sale of time and space for various media; distribution and delivery of advertising material or samples. Does not include production or broadcast/screening of advertisements for radio, television or cinema.</p>			
<p>b) Market research and public opinion polling services (CPC 864)</p> <p>c) Management consulting services (CPC 865)</p> <p>d) Services related to management consulting (CPC 86601, 86609)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Excludes arbitration and conciliation services			
e) Technical testing and analysis services (CPC 8676)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Services incidental to agriculture, hunting and forestry (CPC 8811**, 8812**, 8814**)	1) None 2) None 3) None	1) None 2) None 3) None	
Provision of advice and guidance relating to crop and livestock management on consultancy basis. Includes specialised consultancy services only, related to forestry activities, timber evaluation, forest management or planning. Does not include logging.			
g) Services incidental to fishing (CPC 882**)	1) None 2) None 3) None	1) None 2) None 3) None	
Consists of specialised			



Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
consultancy services only, related to marine or freshwater fisheries, fish hatchery services. Does not include fishing.			
h) Services incidental to mining and site preparation work for mining (CPC 883, 5115)	1) None 2) None 3) None	1), 2) and 3) None, except the operator of Mount Isa Mines shall, so far as is reasonably and economically practicable: (a) use the services of professional consultants resident and available within Queensland; (b) use labour available within Queensland; (c) when preparing specifications, calling for tenders and letting contracts for works, materials, plant, equipment and supplies ensure that Queensland suppliers, manufacturers, and contractors are given reasonable opportunity to tender or quote; and (d) give proper consideration and where possible preference to Queensland suppliers,	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		<p>manufacturers and contractors when letting contracts or placing orders for works, materials, plant, equipment and supplies where price, quality, delivery and service are equal to or better than that obtainable elsewhere.</p>	
<p>i) Services incidental to manufacturing (CPC 884 + 885 except for 88442)</p> <p>j) Services incidental to energy distribution (CPC 887**)    Covers consultancy services related to the transmission and distribution on a fee or contract basis of electricity, gaseous fuels and steam and hot water to household, industrial, commercial and other users.</p> <p>k) Placement and supply services of personnel (CPC 872)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) Unbound 2) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) Unbound 2) None</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	3) None	3) None	
l) Investigation and security (CPC 873)	1) None 2) None 3) None	1) None 2) None 3) None, except in New South Wales, a person must be an Australian citizen or an Australian permanent resident to obtain a licence to carry on a security activity.	
m) Related scientific and technical consulting services (CPC 8675)	1) None 2) None 3) None	1) None 2) None 3) None	
n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633 + 8861 - 8866)	1) None 2) None 3) None	1) None 2) None 3) None	
o) Building-cleaning services (CPC 874)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
p) Photographic services (CPC 875)	1) None 2) None	1) None 2) None	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	3) None	3) None	
s) Convention services (CPC 87909**)	1) None 2) None 3) None	1) None 2) None 3) None	
Activities of establishments engaged in provision of planning, organising, managing and marketing services for conventions and similar events (including catering and beverage services).			
t) Other:			
Telephone answering services(CPC 87903)	1) None 2) None 3) None	1) None 2) None 3) None	
Duplicating services (CPC 87904)	1) None 2) None 3) None	1) None 2) None 3) None	
Translation and interpretation services (CPC 87905)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Mailing list compilation and mailing services (CPC 87906)	1) None 2) None 3) None	1) None 2) None 3) None	
Interior design (CPC 87907)	1) None 2) None 3) None	1) None 2) None 3) None	
Specialised consultancy services related to the post-construction design and fitting out of interior living and working spaces. Includes purchase of necessary goods.			
<b>2. COMMUNICATION SERVICES</b>			
C. <u>Telecommunications services</u>			
Covers the following sub-sectors from the Services Sectoral Classification List (W/120) and related CPC numbers 7521,7522,7523, 7529**			
(a) Voice telephone services	1) None	1) None	Australia undertakes additional commitments as indicated in the attached Reference Paper on telecommunications.
(b) Packet-switched data transmission services	2) None	2) None	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(c) Circuit-switched data transmission services</p> <p>(d) Telex services</p> <p>(e) Telegraph services</p> <p>(f) Facsimile services</p> <p>g) Private leased circuit services</p> <p>o) Other</p> <ul style="list-style-type: none"> <li>- Digital Cellular services</li> <li>- Paging services</li> <li>- Personal Communications Services</li> <li>- Trunked Radio System Services</li> <li>- Mobile Data Services</li> </ul> <p>Services covered by the <i>Broadcasting Services Act 1992</i> (Cth) are excluded from the basic telecommunications sector</p>	<p>3) None, except that:</p> <p>i) An entity holding a new carrier licence must be a public body or a constitutional corporation under Australian law or a partnership where each partner is a constitutional corporation under Australian law.</p> <p>ii) The maximum aggregate foreign ownership allowed in Telstra is 35 per cent. The maximum individual foreign ownership allowed in Telstra is 5 per cent.</p>	<p>3) None, except that the Chairperson and majority of directors of Telstra must be Australian citizens. Telstra must maintain its head office, main base of operations and place of incorporation in Australia.</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
h) Electronic mail (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Voice mail (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
j) On-line information and data base retrieval (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
k) Electronic data interchange (EDI) (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
l) Enhanced/value-added facsimile services, including store and retrieve (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
m) Code and protocol conversion (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b>			
A. <u>General construction work for</u>	1) Unbound*	1) Unbound*	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<u>buildings</u> (CPC 512)	2) None 3) None	2) None 3) None	
B. <u>General construction work for civil engineering</u> (CPC 513)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
C. <u>Installation and assembly work</u> (CPC 514, 516)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
D. <u>Building completion and finishing work</u> (CPC 517)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
E. <u>Other</u> (CPC 511 + 515 + 518)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
<b>4. DISTRIBUTION SERVICES</b>			
A. <u>Commission agents' services</u> (CPC 62113-62118)  Includes services by commission agents, commodity brokers, auctioneers and other	1) None 2) None 3) None	1) None 2) None 3) None	



Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
wholesalers who trade on behalf of others, of food products, and non-alcoholic beverages. Excludes tobacco alcoholic beverages, and firearms.			
<p><u>B. Wholesale trade services</u> (CPC 6221**, 6222**, 6223-6228**)</p> <p>Wholesale trade services of agricultural raw materials and live animals. Excludes wholesale trade services of unmanufactured tobacco, tobacco products, alcoholic beverages, and firearms.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p><u>C. Retailing services</u> (CPC 631, 63212, 6322, 6323, 6324, 6325, 6329, 61112, 6113, 6121)</p> <p>Australia's commitments in relation to these services extend to cover the following</p>	<p>1) Unbound except for mail order 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>services not listed in relevant CPC classifications: inventory management of goods, assembling, sorting and grading of goods, breaking bulk, re-distribution and delivery services for retailing.</p> <p>Does not cover dispensing of pharmaceuticals, retailing services of alcoholic beverages, tobacco products, and firearms.</p>			
<p>D. <u>Franchising</u> (CPC 8929)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p><b>5. EDUCATIONAL SERVICES</b></p>			
<p>B. <u>Secondary education services</u> (CPC 922**)</p> <p>Covers general as well as technical and vocational education at the secondary level in private institutions</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) Unbound</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>C. <u>Higher education services</u> (CPC 923**)    Covers provision of private tertiary education services including at university level</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) Unbound</p>	
<p>E. <u>Other education services</u> (CPC 929**)    Covers tuition and testing in English and other languages. Tuition in cuisine and traditional therapies (including massage, acupuncture), music, dance and martial arts.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) Unbound</p>	
<b>6. ENVIRONMENTAL SERVICES</b> <sup>31</sup>			
<p>A. <u>Wastewater management</u> (CPC 9401)    This covers removal, treatment and disposal of</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

<sup>31</sup> Australia's commitments on environmental services exclude the provision of water for human use, including water collection, purification and distribution through mains.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
household, commercial and industrial sewage and other waste waters including tank emptying and cleaning, monitoring, removal and treatment of solid wastes.			
<p><b>B. <u>Waste management</u></b> (CPC 9402, 9403)</p> <p>This covers hazardous and non-hazardous waste collection, treatment and disposal (including incineration, composting and landfill); sweeping and snow removal, and other sanitation services.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p><b>C. <u>Protection of ambient air and climate</u></b> (CPC 9404)</p> <p>This covers services at power stations or industrial complexes to remove air pollutants; monitoring of mobile emissions and</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
implementation of control systems or reduction programmes.			
D. <u>Remediation and cleanup of soil and water</u> (CPC 9406**) <sup>32</sup> This covers cleaning- up systems in situ or mobile, emergency response, clean-up and longer term abatement of spills and natural disasters; and rehabilitation programmes (e.g. recovery of mining sites) including monitoring.	1) None 2) None 3) None	1) None 2) None 3) None	
E. <u>Noise and vibration abatement</u> (CPC 9405)  This covers monitoring programmes, and installation of noise reduction systems and screens.	1) None 2) None 3) None	1) None 2) None 3) None	

<sup>32</sup> Australia's commitments under items 6.D and 6.F combine to cover the entirety of CPC 9406 services.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>F. <u>Protection of biodiversity and landscape</u> (CPC 9406**)<sup>33</sup></b></p> <p>This covers ecology and habitat protection and promotion of forests and promoting sustainable forestry.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p><b>G. <u>Other environmental and ancillary services</u> (CPC 9409)</b></p> <p>This covers other environment protection services, including services related to environmental impact assessment.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

<sup>33</sup> Australia's commitments under items 6.D and 6.F combine to cover the entirety of CPC 9406 services.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>7. FINANCIAL SERVICES</b></p> <p>Australia undertakes its specific commitments on financial services in accordance with the World Trade Organisation's (WTO) "Understanding on Commitments in Financial Services" (hereinafter referred to as the "Understanding") subject to Article 2 (Scope) of the Trade in Services Chapter of this Agreement.</p> <p>The obligations under the Understanding are addressed in this Schedule additionally to those covered by Article 5 (Market Access), Article 6 (National Treatment), and Article 7 (Additional Commitments) of the Trade in Services Chapter of this Agreement, as well as the WTO Annex on Financial Services.</p> <p>The market access commitments with respect to "cross-border supply" and "consumption abroad" (as described in paragraph (s) of Article 1 (Definitions) of the Trade in Services Chapter) bound in this Schedule are limited to the services indicated in paragraphs B.3 and B.4 of the Understanding, respectively. These specific commitments on financial services are subject to the general limitations contained in the "Horizontal Commitments" section of this Schedule.</p>			
<p>A. <u>Insurance and insurance-related services</u></p>	<p>3) Approval of non-resident life insurers is restricted to subsidiaries.</p> <p>Most State and Territory Governments maintain restrictions, by way of monopolies or licensing provisions and associated controls on premiums and other terms of policies, in the following areas of insurance:</p>	<p>3) Sub-national guarantees are provided to some State and Territory Insurance Offices.</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>Compulsory Third Party Motor Vehicle Accident: Victoria, Western Australia, Tasmania, Northern Territory (monopolies); New South Wales, Queensland, South Australia, Australian Capital Territory (licensing, premiums/policy terms).</p> <p>Workers Compensation: South Australia, Victoria, Queensland (monopolies); New South Wales, Western Australia, Tasmania (licensing, premiums/policy terms).</p> <p>Comcare is the monopoly provider of workers' compensation insurance to Commonwealth Government employees.</p>		
B. <u>Banking and Other</u>	1), 3) To undertake banking	1), 3) Liabilities of the	



Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><u>financial services</u> (excluding insurance)<sup>34</sup></p>	<p>business in Australia an entity must be a body corporate and authorised by the Australian Prudential Regulation Authority (APRA) as an authorised deposit-taking institution (ADI). Foreign deposit-taking institutions (including foreign banks) may only operate a banking business in Australia through locally incorporated deposit-taking subsidiaries or authorised branches (foreign ADIs), or through both structures. A foreign ADI is not permitted to accept initial deposits (and other funds) from individuals and non-corporate institutions of less than A\$250,000.</p> <p>A foreign deposit-taking institution that operates a representative office in Australia is not permitted to</p>	<p>Commonwealth Bank, previously Commonwealth Government-owned, are covered by transitional guarantee arrangements.</p> <p>1), 3) The financial operations of some State or Territory owned entities may be guaranteed by the State or Territory Governments. A number of State and Territory Governments have also provided transitional guarantees to some of the assets and liabilities of former State-owned or controlled banks.</p> <p>3) In Western Australia, a natural person (whether alone or in partnership with other persons) or an incorporated body seeking to carry on a business of providing credit in Western</p>	

<sup>34</sup> Including remittance centres and remittance centre services.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>undertake any banking business, including advertising for deposits, in Australia. Such a representative office is only permitted to act as a liaison point.</p> <p>Foreign banks located overseas may only raise funds in Australia through the issue of debt securities provided those securities are offered/traded in parcels of not less than A\$500,000 and the securities and any associated information memoranda clearly state the issuing bank is not authorised under the <i>Banking Act 1959</i> (Cth) in Australia.</p> <p>1), 3) A number of State and Territory Governments operate central financing authorities through which the Government's wholly or partly-owned statutory authorities and business</p>	<p>Australia (including where the provision of the credit is connected with the carrying on of another business), must have a principal office in Australia and a principal place of business in Western Australia. Any person (including an incorporated body) seeking to exercise or carry on the business or any functions of a debt collector in Western Australia, must have a principal place of business in the State. A natural person seeking to carry on business as a finance broker in Western Australia must be ordinarily resident in Western Australia. A finance broker must have a registered office in Western Australia while carrying on business as a broker.</p> <p>3) A person operating as a second-hand dealer or as a pawnbroker must have a principal place of</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>enterprises are obliged to borrow (and in some cases invest) their funds, or otherwise obtain certain financial services:</p> <p>South Australia – South Australian Government Financing Authority, Local Government Finance Authority of South Australia</p> <p>Tasmania – Tascorp</p> <p>New South Wales – New South Wales Treasury Corporation</p> <p>Victoria – Treasury Corporation of Victoria</p> <p>Queensland – Queensland Treasury Corporation, Queensland Investment Corporation</p> <p>Northern Territory – Northern Territory Treasury Corporation</p> <p>Western Australia – Western Australian Treasury Corporation</p>	<p>business in Queensland where a document can be served personally. A post office box does not suffice.</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	3) To obtain an Australian market licence, an applicant must be a body corporate. The responsible entity of a registered managed investment scheme must be a public company that holds an Australian financial services licence authorising it to operate a managed investment scheme.		
<b>8. HEALTH-RELATED AND SOCIAL SERVICES</b>			
<p>A. <u>Private hospital services</u> (CPC 93110**)</p> <p>Covers delivery of services under the direction of registered medical doctors to patients in hospital institutions that are not funded, owned or operated by or on behalf of the federal government or a State or Territory government in Australia.</p>	<p>1) Unbound 2) None 3) None, except that measures in the form of economic needs tests, limitations on the number of services operations and types of legal entity may apply.</p>	<p>1) Unbound 2) None 3) None</p>	
B. <u>Other human health services</u>	1) Unbound	1) Unbound	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(CPC 93199**)  Covers podiatry and chiropody services. Includes podiatry services carried out in health clinics, and in residential health facilities other than hospitals, as well as in own consulting rooms, patients' homes or elsewhere.	2) None 3) None	2) None 3) None	
<b>9. TOURISM AND TRAVEL RELATED SERVICES</b>			
A. <u>Hotels and restaurants</u> (CPC 641, 642, 643)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
B. <u>Travel agencies and tour operator services</u> (CPC 7471)	1) None 2) None 3) None	1) None 2) None 3) None	
C. <u>Tourist guide services</u> (CPC 7472)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>10. RECREATIONAL, CULTURAL AND SPORTING SERVICES</b>			
B. <u>News agency services</u> (CPC 962)	1) None 2) None	1) None 2) None	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	3) None	3) None	
<b>D. <u>Sporting and other recreational services</u></b>			
Sporting services (CPC 9641)	1) None 2) None 3) None	1) None 2) None 3) None	
Other recreational services (CPC 96491)	1) None 2) None 3) None	1), 2) and 3) None, except: The Chief Executive of Queensland's Department of Environment and Heritage Protection may grant a wildlife authority, <sup>35</sup> other than a wildlife movement permit, to a corporation only if the corporation has an office in the State. The chief executive may approve a person to be an authorised cultivator or propagator for protected plants only if: (a) in the case of a natural person, the person is a resident of the	
Covers recreation park and beach services			

<sup>35</sup> This term is defined in Schedule 7 of the Nature Conservation (Administration) Regulation 2006 (Qld).

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		<p>State; or                      (b) if the person is a corporation, the corporation has premises in the State at which the plants are to be cultivated or propagated. An individual or corporation is only taken to be a “person aggrieved” by a decision, failure to make a decision or conduct under the Act if the individual is an Australian citizen or ordinarily resident in Australia or, if a corporation, established in Australia.</p>	
<b>11. TRANSPORT SERVICES</b>			
A. <u>Maritime transport services</u>			<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions: pilotage, towing and tug assistance; provisioning, fuelling and watering; garbage collection and ballast waste disposal; Port Captain's services; navigation aids (a); shore-based</p>

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
			<p>operational services essential to ship operations, including communications water and electrical supplies; emergency repair facilities; anchorage, berth and berthing services.</p> <p>(a): except for Queensland, where vessels of 35 m and above must pay conservancy fees to fund navigational aids, while this obligation applies only to Australian vessels of 50m and above.</p> <p>Where road, rail and related auxiliary services are not otherwise fully covered in this schedule, a multimodal transport operator shall have the ability, on reasonable and non-discriminatory terms and conditions, to rent, hire or charter trucks, railway carriages, ships and related equipment for the purpose of onward forwarding of international cargoes carried by sea, or have access to and use of these forms</p>



Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
			of transport services for the purpose of providing multimodal transport services.
International transport (freight and passengers) (CPC 7211 and 7212 less cabotage and offshore transport - as defined in Note to Schedule) <sup>36</sup>	<p>1) a) Liner Shipping: None, except that every ocean carrier who provides international liner cargo shipping services to or from Australia must, at all times, be represented by a natural person who is resident in Australia.</p> <p>1) b) Bulk, tramp and other international shipping, including international passenger transportation: None.</p> <p>2) None</p>	<p>1) a) None</p> <p>1) b) None</p>	See Note to Schedule
	3) a) Establishment of registered	3) a) Unbound	

<sup>36</sup> Only a person affected by a registered conference agreement or by a registered non-conference ocean carrier with substantial market power may apply to the Australian Competition and Consumer Commission to examine whether conference members, and non-conference operators with substantial market power, are hindering other shipping operators from engaging efficiently in the provision of outward liner cargo services to an extent that is reasonable. For greater certainty, matters which are relevant to the determination of 'reasonable' include Australia's national interest and the interests of Australian shippers. For the purposes of this entry, sections 10.48 and 10.58 of Part X of the *Competition and Consumer Act 2010* (Cth) list the categories of persons to whom this reservation will apply.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>company for the purpose of operating a fleet under the national flag of Australia: nationality requirements for ownership and registration of vessels as defined by the <i>Shipping Registration Act 1981</i> (Cth).</p> <p>3) b) Other forms of commercial presence for the supply of international maritime transport services (as defined in Note to Schedule): None</p>	<p>3) b) None</p>	<p>See Note to Schedule</p>
<p><u>Maritime auxiliary services</u></p> <p>International rental of vessels with crew (less cabotage and offshore transport - as defined in Note to Schedule)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Maritime cargo handling services (as described in Note to Schedule)	1) Unbound* 2) None 3) None, except Unbound in South Australia. Licences/concessions are granted by port authorities. Public utility concession or licensing procedures may apply in the case of the occupation of the public domain for the conduct of these activities.	1) Unbound* 2) None 3) None	
Storage and warehousing services (CPC 742)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
Maritime freight forwarding services (as defined in Note to Schedule)	1) None 2) None 3) None	1) None 2) None 3) None	
Customs clearance services (as described in Note to Schedule)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
Preshipment inspection (as defined in Note to Schedule)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Maritime agency services (as described in Note to Schedule)	1) None 2) None 3) None	1) None 2) None 3) None	
<p data-bbox="143 491 488 520">C. <u>Air Transport Services</u></p> <p data-bbox="143 564 528 632">d) <u>Maintenance and repair of aircraft</u> (CPC 8868**)</p> <p data-bbox="188 676 564 1257">Covers establishments mainly engaged in periodic maintenance and repair (routine and emergency) of airframes (including wings, doors, control surfaces) avionics, engines and engine components, hydraulics, pressurisation and electrical systems and landing gear. Includes painting, other fuselage surface treatments and repair of flight-deck (and other) transparencies. Further includes rotary and glider aircraft.</p> <p data-bbox="143 1302 528 1331"><u>Computer reservation systems</u></p>	<p data-bbox="600 564 761 667">1) Unbound 2) None 3) None</p>	<p data-bbox="1081 564 1243 667">1) Unbound 2) None 3) None</p>	
	1) None	1) None	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(CPC 7523**)</p> <p>Activities of establishments engaged in providing and maintaining computer reservation to other enterprises engaged in the provision of travel agency services, including transport and accommodation booking, tour and travel wholesaling/retailing – to establishments engaged in providing reservation services (such as travel agencies etc.). CRS services related to air carriers include the provision of information on air carrier schedules, space availability and tariffs.</p>	<p>2) None</p> <p>3) None</p>	<p>2) None</p> <p>3) None</p>	
<p><u>Airport operation services</u> (excl. cargo handling) (CPC 7461)</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None</p>	
<p><u>Ground handling services</u> – Cargo handling (CPC 74110)</p>	<p>1) Unbound*</p> <p>2) None</p>	<p>1) Unbound*</p> <p>2) None</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>and 74190 air transport sector only)</p> <ul style="list-style-type: none"> <li>- Other supporting services for air transport (CPC 7469**) (excludes airport rescue and terminal firefighting services)</li> </ul>	<p>3) None</p>	<p>3) None</p>	
<p><u>Selling and marketing of air transport services</u><sup>37</sup></p> <p>This commitment confirms, without extending, the application to air transport services of the specific commitments made elsewhere in this Schedule in the following sections, subject to all limitations, exceptions and qualifications set out in those sections:</p> <ul style="list-style-type: none"> <li>- Travel agencies and tour operator services (CPC 7471),</li> <li>- Market research and public</li> </ul>	<p>1) None, except: Retailing services (CPC 631, 63212, 6322-5, 6329, 61112, 6113, 6121) are unbound except for mail order.</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	

<sup>37</sup> For the purposes of this commitment, 'selling and marketing of air transport services' is defined as in paragraph 6(b) of the GATS Annex on Air Transport Services, except that the aspects of 'marketing' covered by this commitment are limited to market research, advertising and distribution

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>opinion polling services (CPC 864),</p> <ul style="list-style-type: none"> <li>– Advertising services (CPC 87110, 87120**, 87190) (as described in this schedule),</li> <li>– Distribution: Commission agents' services (CPC 62113-62118); Wholesale trade services (CPC 6223-6228); Retailing services (CPC 631, 63212, 6322, 6323, 6324, 6325, 6329, 61112, 6113, 6121) (as described in this schedule); and Franchising (CPC 8929).</li> </ul>			
<p><u>E. Rail transport services</u></p> <ul style="list-style-type: none"> <li>b) Freight transportation (CPC 7112);</li> <li>c) Pushing and towing services (CPC 7113); and</li> <li>e) Supporting services for rail</li> </ul>	<ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) Below track: Most rail-track networks in Australia are government owned although much is leased to private operators. There are no</li> </ul>	<ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) None</li> </ul>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>transport services (CPC 743).</p>	<p>restrictions on the right to establish new networks but access to public land may not be guaranteed.</p> <p>Above track (rail transport services (such as trains) that operate over the rail-track infrastructure): none except that access to rail infrastructure is allocated under pro-competitive principles for safety, efficiency and the long term interests of users.</p>		
<p>F. <u>Road transport services</u></p> <p>a) Passenger transportation (CPC 71213, 71214, 7122)</p> <p>Does not include regular urban bus services</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None</p>	<p>1) Unbound</p> <p>2) None</p> <p>3) None, except Australian States and Territories maintain limitations including a) in the Australian Capital Territory, an application for accreditation to run a public transport service must be made by an Australian citizen or</p>	



Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		<p>permanent resident of Australia.                      b) in the Northern Territory, a taxi licence will be cancelled where the holder, being an individual, has not been ordinarily resident in the Northern Territory for more than six months or, being a body corporate, has ceased for more than six months to have its principal place of business in the Northern Territory.                      c) in Western Australia, to hold a Government Lease taxi plate, the plate holder must be an Australian citizen or a permanent resident.</p>	
b) Freight transportation (CPC 7123)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Rental of commercial vehicles with operator (CPC 7124)	1) None 2) None 3) None	1) None 2) None 3) None	
G. <u>Pipeline transport</u>			

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>a) Transportation of fuels (CPC 7131)</p> <p>b) Transportation of other goods (CPC 7139)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>H. <u>Services auxiliary to all modes of transport</u></p> <p>a) Cargo-handling services in relation to rail, road and air transport only (CPC 741**)</p> <p>(Note also that maritime cargo handling services are dealt with under “Maritime Services” above)</p>	<p>1) Unbound* 2) None 3) None</p>	<p>1) Unbound* 2) None 3) None</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>b) Storage and warehouse services (CPC 742 excluding maritime)</p> <p>Australia's commitment in relation to these services extends to cover the following services in addition to those listed in CPC 742: distribution centre services and materials handling and equipment services such as container station and depot services (excluding maritime).</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None</p>	<p>1) Unbound*</p> <p>2) None</p> <p>3) None</p>	
<p>c) Freight transport agency services (CPC 748 excluding maritime)</p> <p>Australia's commitment in relation to these services extends to cover the following services in addition to those listed in CPC 748: customs agency services and load scheduling services</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(excluding maritime).			
<p>d) Other supporting and auxiliary transport services (CPC 749 excluding maritime)</p> <p>Australia's commitment in relation to these services extends to cover the following services in addition to those listed under CPC 749: container leasing and rental services (excluding maritime).</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	

\* Unbound due to lack of technical feasibility

\*\* Indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance.

## **NOTE TO SCHEDULE OF AUSTRALIA: MARITIME TRANSPORT SERVICES**

### **DEFINITIONS**

1. Multimodal Transport Operator: the person on whose behalf the bill of lading/multimodal document evidencing a contract of multimodal carriage of goods, is issued and who is responsible for the carriage of goods pursuant to the contract of carriage.
2. Cabotage: for the purposes of this Schedule only, cabotage is defined as the transportation of passengers or goods between a port located in Australia and another port located in Australia and traffic originating and terminating in the same port located in Australia.
3. Offshore Transport refers to shipping services involving the transportation of passengers or goods between a port located in Australia and any location associated with or incidental to, the exploration or exploitation of natural resources of the continental shelf of Australia, the seabed of the Australian coastal sea and the subsoil of that seabed.
4. Other Forms of Commercial Presence for the Supply of International Maritime Transport Services: for the purposes of this Schedule, means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. This commitment shall not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery.

These activities include:

- marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated service;

- the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
  - the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the GATS Annex on Telecommunications);
  - the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;
  - acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.
5. International Rental of Vessels with Crew: rental and/or leasing services of all types of sea-going vessels with crew (such as tankers, bulk dry cargo vessels, cargo and freight vessels) for the purpose of international trade.
6. Maritime Cargo Handling Services: activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring of terminal operator companies. The activities covered include the organisation and supervision of: the loading/discharging of cargo to/from a ship; the lashing/unlashing of cargo; and, the reception/delivery and safekeeping of cargoes in the wharf area before shipment or after discharge. The organisation and supervision includes the arrangements for (1) engaging skilled labour (dockers), (2) using all the necessary equipment for on-board or shore use and the appropriate storage space, whether by ownership, rental or otherwise, (3) the checking of parcels and markings, the weighing and measuring of cargo (upon request of the owner), and (4) the administrative duties as well as the responsibility related to the services.
- Container terminal operators can furthermore be appointed for stuffing/stripping containers and e.g. the survey and supply of electricity to containers.
7. Maritime Freight Forwarding Services: the organisation and monitoring of shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.

8. Customs Clearance Services: activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through-transport of cargoes, whether this is the main activity of the service provider or a usual complement of its main activity.
  9. Preshipment Inspection: all services performed on a fee or contract basis involved in the verification of the quality, quantity, price (including currency exchange rate and financial terms), and/or the customs classification of goods to be exported. Does not include customs or quarantine inspection.
  10. Maritime Agency Services: activities consisting in representing, within a given geographic area, as an agent, the business interests of one or more shipping line or shipping companies, for the following purposes:
    - marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies; acquisition and resale of the necessary related services, preparation of documentation, and provision of business information
    - acting on behalf of the companies organising the call of the ship or taking over cargoes when required.
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**ANNEX 7-A – SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)**

**SCHEDULE OF THE COOK ISLANDS**

1. The inscription ‘none’ means that, for the listed sector or sub-sector, no limitations to the obligations of national treatment are maintained. The inscription ‘unbound’ means that no commitments are taken with respect to a particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.

**Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence**

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<b>1. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN THIS SCHEDULE	Investment <sup>2</sup> in the Cook Islands by a natural person or by an enterprise of another Party requires approval from the Business Trade Investment Board (BTIB). <sup>3</sup>  The BTIB shall approve a foreign enterprise to carry on business in the Cook Islands if it is satisfied that the investment	The ownership of freehold interest in land is restricted only to Cook Islanders. Natural persons who are not Cook Islanders and who are Permanent Residents of the Cook Islands or who are Enterprises may only acquire a leasehold interest in land to	

<sup>1</sup> CPC in the sectoral column means the Provisional Central Product Classification, United Nations, 1991.

<sup>2</sup> Investment is defined in this Schedule as an enterprise in which Cook Islanders own less than 66 per cent of shares or when they do not have management control of the enterprise.

<sup>3</sup> This entry in the schedule is in accordance with the Cook Islands’ foreign investment law at the time of entry into force, which consists of the Development Investment Act 1995-96, the Development Investment (Investment Code) Order 2003, and the Development Investment Regulations 1995-96. The Cook Islands has interest in further refining and improving its laws regulating foreign investment. Should the Cook Islands adopt, after entry into force, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Trade in Services.



Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>would likely result in a net benefit to the Cook Islands.<sup>4</sup></p> <p>Investments in the following areas are reserved to Cook Islanders and to enterprises fully-owned by Cook Islanders:</p> <ul style="list-style-type: none"> <li>Visitor accommodation;</li> <li>Diving operations;</li> <li>Water-sports operations (water skis, parasailing, jet-skis, etc.);</li> <li>Tourist tours or transfers;</li> <li>Eco-tourism;</li> <li>Cinema operations;</li> <li>Cultural attractions (including cultural performances);</li> <li>Bakeries or pastry shops;</li> <li>Grocery retail outlets (including sundry stores, superettes, and supermarkets);</li> <li>Ownership of galleries for paintings or other visual arts;</li> </ul>	<p>a maximum term of 60 years but subject to approval from the Leases Approval Tribunal under a non-discriminatory process.</p>	

<sup>4</sup> The criteria on which this decision will be based includes: (a) the demand for the product to be provided; (b) whether the product to be provided is currently available in the Cook Islands; (c) the participation by Cook Islanders in the enterprise; (d) the employment of Cook Islanders in the enterprise; (e) training to be provided to Cook Islanders; (f) the degree of innovations, new processes or products, or new skills and technology associated with the proposed activity; (g) whether a significant proportion of financing for the enterprise would be sourced from outside the Cook Islands; (h) whether a significant proportion of the capital expenditure proposed in relation to the enterprise would be spent on businesses in the Cook Islands; (i) whether the activities concerned would be carried out in an island other than Rarotonga; (j) whether the activities concerned would generate a demonstrable net economic benefit to the Cook Islands or to at least one island in the Cook Islands; (k) whether the activities concerned would have a significant adverse effect on the social and cultural fabric of the Cook Islands, or the island or community where the activities would be carried out.

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>Motor vehicle dealers;  Restaurants, cafés, or other food preparation and sale operations;  Retail of traditional or cultural handicrafts and artefacts (including commercial reproductions);  Sale or supply of computer hardware or related services;  Trucking and cartage operations;  Taverns or public bars;  Duty free shops;  Laundry or dry-cleaning;  Places offering Internet access (e.g. internet cafés);  Audio or video production, hire, or sale;  Hair dressing salons, beauty parlours, or health spas.<sup>5</sup></p> <p>However, investments in the reserved areas may be approved if: Cook Islanders or enterprises owned by Cook Islanders are not providing the service, or; the foreign investor brings a capital investment of, in the case of Rarotonga, not less than NZ\$1 million, and in the case</p>		

<sup>5</sup> For greater certainty, nothing in section II of this schedule (Sector-Specific Commitments) can be taken to somehow lessen or modify the limitations listed in this section.

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
	of other islands of the Cook Islands, not less than NZ\$500,000. Approval shall also be based on the criteria indicated above.		

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>II. Sector-Specific Commitments</b>			
<p>1. BUSINESS SERVICES</p> <p>A. Professional Services</p> <p>a) Legal Services (CPC 861)</p> <p>b) Accounting, auditing and bookkeeping services (CPC 862)</p> <p>c) Taxation services (CPC 863)</p> <p>d) Architectural services (CPC 8671)</p> <p>e) Engineering services (CPC 8672)</p> <p>f) Integrated engineering services (CPC 8673)</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p>	

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
g) Urban planning and landscape architectural services (CPC 8674)  h) Medical and dental services (CPC 9312)  i) Veterinary services (CPC 932)  j) Midwives, nurses, physiotherapists and paramedical personnel (CPC 93191)	3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	
B. Computer and Related Services (CPC 84)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Research and Development Services			
a) R&D services on natural sciences (CPC 851)	1) None 2) None 3) A research permit is required, the granting of which is based on an	1) None 2) None 3) None	

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>b) R&amp;D services on social sciences and humanities (CPC 852)</p> <p>c) Interdisciplinary R&amp;D services (CPC 853)</p>	<p>assessment of the potential for the proposed research to address national priorities, deliver benefits, and strengthen national research capacity.</p> <p>1) None 2) None 3) A research permit is required, the granting of which is based on an assessment of the potential for the proposed research to address national priorities, deliver benefits, and strengthen national research capacity.</p> <p>1) None 2) None 3) A research permit is required, the granting of which is based on an assessment of the potential for the proposed research to address national priorities, deliver benefits, and strengthen national research capacity.</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>D. Real Estate Services</p> <p>a) Involving own or leased property (CPC 821)</p>	<p>1) Unbound 2) None 3) None</p>	<p>1) Unbound 2) None 3) None</p>	

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
b) On a fee or contract basis (CPC 822)	1) Unbound 2) None 3) None	1) Unbound 2) None 3) None	
E. Rental/Leasing Services without Operators			
a) Relating to ships (CPC 83103)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Relating to aircraft (CPC 83104)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Relating to other machinery and equipment (CPC 83106-83109)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Other (CPC 832).	1) None 2) None 3) None	1) None 2) None 3) None	

F. Other Business Services			
a) Advertising services (CPC 871)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Market research and public opinion polling services (CPC 864)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Management consulting services (CPC 865)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Services related to management consulting (CPC 866)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Technical testing and analysis services (CPC 8676)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Services incidental to agriculture, hunting and forestry (CPC 881)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Services incidental to fishing (CPC 882**)	1) None 2) None 3) None	1) None 2) None 3) None	





n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633+8861-8866)	1) None 2) None 3) None	1) None 2) None 3) None	
o) Building-cleaning services (CPC 874)	1) None 2) None 3) None	1) None 2) None 3) None	
p) Photographic services (CPC 875)	1) None 2) None 3) None	1) None 2) None 3) None	
q) Packaging services (CPC 876)	1) None 2) None 3) None	1) None 2) None 3) None	
r) Printing, publishing (CPC 88442)	1) None 2) None 3) None	1) None 2) None 3) None	
t) Other (CPC 8790)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>2. COMMUNICATION SERVICES</b>			
B. Courier Services (CPC 7512)	1) None 2) None	1) None 2) None	

	3) None	3) None	
C. Telecommunication Services <sup>6</sup>	1) Unbound 2) Unbound 3) Unbound	1) Unbound 2) Unbound 3) Unbound	
<b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b>			
A. General construction work for buildings (CPC 512)	1) None 2) None 3) None	1) None 2) None 3) None	
B. General construction work for civil engineering (CPC 513)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Installation and assembly work (CPC 514+516)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Building completion and finishing work (CPC 517)	1) None 2) None 3) None	1) None 2) None 3) None	

<sup>6</sup>The Cook Islands has interest in introducing competition in the telecommunications market and in further developing appropriate regulatory frameworks, including to ensure universal service. Relevant assistance for this purpose will be sought through the Chapter on Development Assistance of PACER Plus after entry into force of the Agreement. Should competition be introduced and adequate regulatory frameworks be introduced in the future, the Cook Islands would consider reflecting these under PACER Plus through an amended schedule of specific commitments on Trade in Services.

E. Other (CPC 511+515+518)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>4. DISTRIBUTION SERVICES</b> (excluding distribution services in relation to alcohol, tobacco, fresh fish, pearls)			
A. Commission agents' services (CPC 621, 61111**, 6113**, 6121**)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Wholesale trade services (CPC 622, 61111**, 6113**, 6121**)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Retailing services (CPC 632, 61112, 6113**, 6121**)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Franchising (CPC 8929)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>5. EDUCATIONAL SERVICES</b> (limited to services provided by privately-owned institutions)			
A. Primary education services (CPC 921**)	1) None 2) None 3) Approval of privately-owned institutions subject to prior national	1) None 2) None 3) None	

<p>B. Secondary education services (CPC 922**)</p>	<p>approval, which is conditional on local authorities being satisfied that the proposed institution would meet an educational need not currently met in the Cook Islands.</p> <p>1) None 2) None 3) Approval of privately-owned institutions subject to prior national approval, which is conditional on local authorities being satisfied that the proposed institution would meet an educational need not currently met in the Cook Islands.</p>	<p>1) None 2) None 3) None</p>	
<p>C. Higher education services in private institutions (CPC 923**)</p>	<p>1) None 2) None 3) Approval of privately-owned institutions subject to prior national approval, which is conditional on local authorities being satisfied that the proposed institution would meet an educational need not currently met in the Cook Islands.</p>	<p>1) None 2) None 3) None</p>	
<p>D. Adult education (CPC 924**)</p>	<p>1) None 2) None 3) Approval of privately-owned institutions subject to prior national</p>	<p>1) None 2) None 3) None</p>	

E. Other education services (CPC 929**)	<p>approval, which is conditional on local authorities being satisfied that the proposed institution would meet an educational need not currently met in the Cook Islands.</p> <p>1) None 2) None 3) Approval of privately-owned institutions subject to prior national approval, which is conditional on local authorities being satisfied that the proposed institution would meet an educational need not currently met in the Cook Islands.</p>	<p>1) None 2) None 3) None</p>	
<p>6. ENVIRONMENTAL SERVICES</p> <p>Consultancy related to the provision of the following environmental services:</p> <p>A. Sewage Services (CPC 9401**)</p> <p>B. Refuse disposal services (CPC 9402**)</p> <p>C. Sanitation and similar services (CPC</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None</p>	

9403**) )	2) None 3) None	2) None 3) None	
D. Other environmental services (CPC 9404-9409)	1) None 2) None 3) None	1) None 2) None 3) None	
<p><b>7. FINANCIAL SERVICES</b></p> <p>Excluding: activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; activities forming part of a statutory system of social security or public retirement plans; and other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.</p> <p>A. Insurance and insurance-related services</p> <p>(i) Direct insurance (including co-insurance) :</p> <p>(A) life</p> <p>(B) non-life</p> <p>(ii) Reinsurance and retrocession;</p>	<p>1) Only through an established agent or broker.</p> <p>2) None</p> <p>3) Incorporation in the Cook Islands is required.</p> <p>1) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p>	

<p>(iii) Insurance intermediation, such as brokerage and agency;</p> <p>(iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.</p>	<p>2) None 3) Incorporation in the Cook Islands is required.</p> <p>1) Unbound 2) Unbound 3) None</p> <p>1) None 2) None 3) None</p>	<p>2) None 3) None</p> <p>1) Unbound 2) Unbound 3) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>B. Banking and other financial services (excluding insurance)</p> <p>(a) Acceptance of deposits and other repayable funds from the public;</p> <p>(b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;</p> <p>(c) Financial leasing;</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	



<p>(d) All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>(e) Guarantees and commitments;</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:  (i) money market instruments (including cheques, bills, certificates of deposits);  (ii) foreign exchange;  (iii) derivative products including, but not limited to, futures and options;  (iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;  (v) transferable securities;  (vi) other negotiable instruments and financial assets, including bullion.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>(g) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

privately) and provision of services related to such issues;			
(h) Money broking;	1) None 2) None 3) None	1) None 2) None 3) None	
(i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;	1) None 2) None 3) None	1) None 2) None 3) None	
(j) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;	1) None 2) None 3) None	1) None 2) None 3) None	
(k) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;	1) None 2) None 3) None	1) None 2) None 3) None	
(l) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate	1) None 2) None 3) None	1) None 2) None 3) None	

restructuring and strategy.			
<b>8.HEALTH RELATED AND SOCIAL SERVICES</b> (limited to services provided by privately-owned institutions)			
A. Hospital Services(CPC 9311**)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Other Human Health Services (CPC 9319**)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Social Services (CPC 933**)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>9. TOURISM AND TRAVEL SERVICES</b>			
A. Hotels and restaurants (CPC 641-643)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Travel agencies and tour operator services	1) None 2) None 3) None	1) None 2) None 3) None	

C. Tourist guide services (CPC 7472)	1) None 2) None 3) None	1) None 2) None 3) None	
<p>11. TRANSPORT SERVICES</p> <p>A. Maritime Transport Services</p> <p>International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)</p>	<p>1) Local agent or registration in the Cook Islands required.</p> <p>For transport of cargo, supply of the service is conditional on the granting of a license, the issuance of which is based on such criteria as the frequency, type, and price of the services proposed, as well as the impact on existing service.</p> <p>2) None</p> <p>3)(a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: none</p> <p>3)(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2): none</p>	<p>1) None</p> <p>2) None</p> <p>3)(a) None</p> <p>3)(b) None</p>	<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions</p> <ol style="list-style-type: none"> <li>1. Pilotage</li> <li>2. Towing and the tug assistance</li> <li>3. Provisioning, fuelling and watering</li> <li>4. Garbage collecting and ballast waste disposal</li> <li>5. Port Captain's services</li> <li>6. Navigation aids</li> <li>7. Shore-based operational services essential to ship operations including communications, water and electrical supplies</li> </ol>

			8. Emergency repair facilities 9. Anchorage, berth and berthing services
d) Maintenance and repair of vessels (CPC 8868**)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>MARITIME AUXILIARY SERVICES</b>			
Container Station and Depot Services (as defined in Annex)	1) None 2) None 3) None	1) None 2) None 3) None	
Maritime Freight Forwarding Services (as defined in Annex)	1) Suppliers of international maritime transport services are required to go through a local agent established in the Cook Islands. 2) None 3) None	1) None 2) None 3) None	
Storage and Warehousing Services (as defined in Annex)	1) Unbound 2) None 3) None	1) None 2) None 3) None	
Maritime Agency Services (as defined in Annex)	1) None 2) None	1) Unbound 2) None	

	3) None	3) None	
Customs clearance services (as defined in Annex)	1) Unbound 2) None 3) None	1) Unbound 2) None 3) None	
<b>C. Air Transport Services<sup>7</sup></b>			
Aircraft repair and maintenance services;	1) None 2) None 3) None	1) None 2) None 3) None	
Selling and marketing of air transport services;	1) None 2) None 3) None	1) None 2) None 3) None	
Computer reservation system services;	1) None 2) None 3) None	1) None 2) None 3) None	
Specialty air services.	1) None 2) None 3) None	1) None 2) None 3) None	
<b>H. Services Auxiliary to All Modes of</b>			

<sup>7</sup> As defined in Article 1 of Chapter 7 (Trade in Services).

Transport			
a) Cargo-handling services, except maritime and air cargo handling (CPC 741**)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Storage and warehouse services, except maritime storage and warehousing services (CPC 742**)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Freight transport agency services, except maritime freight agency services (CPC 748**)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Other (CPC 749)	1) None 2) None 3) None	1) None 2) None 3) None	

\*\* The service specified constitutes only part of the total range of activities covered by the CPC concordance.

## **ANNEX TO SCHEDULE OF THE COOK ISLANDS: DEFINITIONS IN RELATION TO MARITIME TRANSPORT**

1. Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in the Cook Islands and another port located in the Cook Islands, traffic originating and terminating in the same port located in the Cook Islands provided that this traffic remains within the Cook Islands’ territorial waters, and traffic between a port located in the Cook Islands and installations or structures situated in the EEZ or relating to the continental shelf of the Cook Islands.
2. “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);



(e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. “Maritime agency services” means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

– marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

– acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

4. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

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## ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)

### SCHEDULE OF THE FEDERATED STATES OF MICRONESIA

Modes of Supply:      (1) Cross-border supply      (2) Consumption abroad      (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>1. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN THIS SCHEDULE	3) Investment by an investor of another Party requires a Foreign Investment Permit in relation to economic sectors under national jurisdiction, and State Foreign Investment Permits from any state in which it wants to conduct business in relation to sectors under the jurisdiction of states. <sup>2</sup>	3) Natural persons that are not citizens of the Federated States of Micronesia and enterprises that are not wholly-owned by citizens of the Federated States of Micronesia are prohibited from owning or acquiring land or any interest in land.  Limits to lease of land are: o Up to 99 years in	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

<sup>2</sup> This entry in the schedule is in accordance with FSM's foreign investment rules at time of entry into force of the Agreement, which principally consists of the *FSM Investment Law 2005*, the *Pohnpei Foreign Investment Act 2011*, the *Yap Foreign Investment Act 2012*, the *Chuuk State Foreign Investment Act 1998*, *Kosrae Foreign Investment Act 1998*, and related instruments. Should the FSM adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Trade in Services. Monetary amounts mentioned in this section can be adjusted for inflation after entry into force of the agreement. Permits may be refused to applicants that have criminal records, carry outstanding debts to FSM persons or governments, or that have had a Foreign Investment Permit revoked in the past. For the purpose of this schedule, no discriminatory economic needs tests are applied at the national level. Investment for the purpose of this entry is defined as *per* the relevant laws at the time of entry into force of the Agreement (see below).

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>Foreign Investment Permits are subject to the following additional limitations in the following states:</p> <p><u>Chuuk State:</u></p> <p>Issuance of permits is based on an economic needs test which is based on the following criteria:</p> <ul style="list-style-type: none"> <li>- the value of the investment and its economic benefits for Chuuk; effect on competition; impact on employment of locals.</li> </ul> <p>This economic needs test does not apply to eco-tourism, professional services<sup>3</sup>, and services related to the exportation of local products.</p> <p><u>Kosrae State:</u></p> <ul style="list-style-type: none"> <li>- For tourism other than</li> </ul>	<p>Chuuk State;</p> <ul style="list-style-type: none"> <li>○ Up to 55 years in Yap State;</li> <li>○ 55 years renewable but no more than 99 years for private land, and 40 years renewable for public land in Kosrae State;</li> <li>○ 55 years renewable up to 99 years in Pohnpei State.</li> </ul> <p>Natural persons that are not citizens of the Federated States of Micronesia enterprises that are not wholly-owned by citizens of the Federated States of Micronesia cannot sub-lease land.</p> <p>3) The lease of real estate by natural persons who are not citizens of the Federated States of Micronesia and by enterprises</p>	

<sup>3</sup> Includes services of computer consultants.

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>eco-tourism, maintenance of a minimum investment of US\$5,000 is required.</p> <p><u>Yap State:</u></p> <ul style="list-style-type: none"> <li>- All foreign investments in which total capital is less than US\$3 million shall require a partner that is Yapese by birth.</li> </ul> <p><u>Pohnpei State:</u></p> <p>Issuance of permits is based on an economic needs test which is based on the following criteria:</p> <ul style="list-style-type: none"> <li>- the value of the investment and its economic benefits for Pohnpei; the degree of domestic ownership; impact on employment of locals.</li> </ul> <p>This economic needs test does</p>	<p>that are not wholly-owned by citizens of the Federated States of Micronesia requires an authorization by the competent State authority which will consider among other things whether important economic, social or cultural interests are affected.</p> <p>3) An investor applying for a Foreign Investment Permit shall designate a person residing within the Federated States of Micronesia as a designated agent upon whom the process can be served.</p> <p>3) Foreign service suppliers are required to provide training to local employees.</p> <p>3) Unbound for measures: a) as</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>not apply when these conditions are met :</p> <p>A) For professional services and tourism services<sup>4</sup>:</p> <p>(i) the initial capital of the foreign investment is greater than US\$50,000 in the case of professional services or than US\$250,000 for other services sectors; and</p> <p>(ii) the proposed investment is a joint venture where at least 60 per cent of the total equity is beneficially held by citizens of the Federated States of Micronesia;</p> <p>B) For other services sectors:</p> <p>(i) the initial capital of the</p>	<p>part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force; or,</p> <p>b) regarding the sale or disposal of government-owned entities or assets.</p>	

<sup>4</sup> For the purpose of this limitation, tourism services mean the hotels, visitors' lodge, golf courses, marinas or other recreational facilities that principally serve the visitor industry.

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>foreign investment is greater than US\$250,000; and</p> <p>(ii) the proposed investment is a joint venture where at least 51 per cent of the total equity is beneficially held by citizens of the Federated States of Micronesia.</p> <p>3) Unbound for measures: a) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force; or, b) regarding the sale or disposal of government-owned entities or assets.</p>		

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>II. Sector-Specific Commitments</b>			
<b>1. BUSINESS SERVICES</b>			
<b>A. Professional Services</b>			
a) Legal advisory services (CPC 861**)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Accounting, auditing and bookkeeping services (CPC 862)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Taxation services (CPC 863)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Architectural services (CPC 8671)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Engineering services (CPC 8672)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
f) Integrated engineering services (CPC 8673)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Urban planning and landscape architectural services (CPC 8674)	1) None 2) None 3) None	1) None 2) None 3) None	
h) Medical and dental services (CPC 9312)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Veterinary services (CPC 932)	1) None 2) None 3) None	1) None 2) None 3) None	
j) Midwives, nurses, physiotherapists and paramedical personnel (CPC 93191)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Computer and Related Services (CPC 84)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Research and			



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Development Services</p> <p>a) R&amp;D services on natural sciences (CPC 851)</p> <p>b) R&amp;D services on social sciences and humanities (CPC 852)</p> <p>c) Interdisciplinary R&amp;D services (CPC 853)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>E. Rental/Leasing Services without Operators</p> <p>a) Relating to ships (CPC 83103)</p> <p>b) Relating to aircraft (CPC 83104)</p> <p>d) Relating to other</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
machinery and equipment (CPC 83106-83109)	2) None 3) None	2) None 3) None	
e) Other (CPC 832)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>F. Other Business Services</b>			
a) Advertising services (CPC 871)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Market research and public opinion polling services (CPC 864)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Management consulting services (CPC 865)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Services related to management consulting (CPC 866)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Technical testing and analysis services, including	1) None 2) None	1) None 2) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
ship survey services	3) None	3) None	
f) Services incidental to agriculture, hunting and forestry (CPC 881**)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Services incidental to fishing (CPC 882**)	1) None 2) None 3) None	1) None 2) None 3) None	
Consists of specialized consultancy services only, related to fisheries. Does not include fishing.			
h) Services incidental to mining (CPC 883+5115)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Services incidental to manufacturing (CPC 884+885)	1) None 2) None 3) None	1) None 2) None 3) None	
j) Services incidental to energy distribution (CPC 997**)	1) None 2) None 3) None	1) None 2) None 3) None	
Covers specialised	1) None	1) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
consultancy services only, in relation to energy distribution.	2) None 3) None	2) None 3) None	
k) Placement and supply services and personnel (CPC 872)	1) None 2) None 3) None	1) None 2) None 3) None	
m) Related scientific and technical consulting services (CPC 8675)	1) None 2) None 3) None	1) None 2) None 3) None	
n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633+8861-8866)	1) None 2) None 3) None	1) None 2) None 3) None	
p) Photographic services (CPC 875)	1) None 2) None 3) None	1) None 2) None 3) None	
q) Packaging services (CPC 876)	1) None 2) None 3) None	1) None 2) None 3) None	
r) Printing, publishing	1) None	1) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(CPC 88442)	2) None 3) None	2) None 3) None	
s) Convention services (CPC 87909*)	1) None 2) None 3) None	1) None 2) None 3) None	
t) Other (CPC 8790)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>2. COMMUNICATION SERVICES</b>			
B. Courier Services	1) None 2) None 3) None	1) None 2) None 3) None	
C. Telecommunication services <sup>5</sup> Basic Services			

<sup>5</sup> The Federated States of Micronesia has interest in introducing competition in the telecommunications sector and in further developing appropriate regulatory frameworks, including ensuring universal service. Should competition and adequate regulatory frameworks be introduced in the future, the Federated States of Micronesia would reflect these, where appropriate, under PACER Plus through a revised Schedule of Commitments on Trade in Services.

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(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	1) Unbound 2) Unbound 3) Unbound	1) Unbound 2) Unbound 3) Unbound	
Value-added 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, including store and forward, store and retrieve (m) Code and protocol conversion (n) On-line information	1) Unbound 2) Unbound 3) Unbound	1) Unbound 2) Unbound 3) Unbound	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
and/or data processing (o) Other			
<p><b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b></p> <p>A. General construction work for buildings (CPC 512)</p> <p>B. General construction work for civil engineering (CPC 513)</p> <p>C. Installation and assembly work (CPC 514+516)</p> <p>D. Building completion and finishing work (CPC 517)</p> <p>E. Other (CPC 511+515+518)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	3) None	3) None	
<p>4. DISTRIBUTION SERVICES (excluding distribution services in relation to alcohol, tobacco, and oil)</p> <p>A. Commission agents' services (CPC 621**, 61111**, 6113**, 6121**)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>B. Wholesale trade services (CPC 622**, 61111**, 6113**, 6121**)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>5. EDUCATIONAL SERVICES (limited to services provided by privately-owned institutions)</p> <p>A. Primary education services (CPC 921**)</p>	<p>1) None 2) None</p>	<p>1) None 2) None</p>	



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>B. Secondary education services (CPC 922**)</p> <p>C. Higher education services in private institutions (CPC 923**)</p> <p>D. Adult education (CPC 924)</p> <p>E. Other education services (CPC 929)</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>6. ENVIRONMENTAL SERVICES</p> <p>Consultancy related to the provision of the following environmental services:</p> <p>A. Sewage Services (CPC 9401**)</p>	<p>1) None 2) None</p>	<p>1) None 2) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>B. Refuse disposal services (CPC 9402**)</p> <p>C. Sanitation and similar services (CPC 9403**)</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>D. Other (CPC 9404-9409)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>7. FINANCIAL SERVICES</p> <p>Excluding: - activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; - activities forming part of a statutory system of social security or public retirement plans; - and other</p>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.</p> <p>A. <u>All insurance and insurance related services</u> (CPC 812)</p> <p>(i) Direct insurance (including co-insurance):            (A) life            (B) non-life</p>	<p>1) 2) Suppliers of another Party need to be registered in the Federated States of Micronesia and must have a designated agent in the Federated States of Micronesia. A supplier of another Party who receives US\$2 million or more in income from premiums collected in the Federated States of Micronesia in each fiscal year for three</p>	<p>1) 2) For services other than marine, aviation and transportation (MAT) insurance, suppliers of another Party are required to post a bond of, or deposit in an escrow account, US\$100,000.<sup>6</sup></p> <p>3) None</p>	

<sup>6</sup> The monetary amount can be adjusted for inflation after entry into force of the Agreement.

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(ii) Reinsurance and retrocession</p> <p>(iii) Insurance intermediation, such as brokerage and agency;</p> <p>(iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.</p>	<p>consecutive fiscal years, shall be required to incorporate in the Federated States of Micronesia.</p> <p>3) Incorporation required</p> <p>1) Unbound 2) Unbound 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) Unbound 2) Unbound 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>B. <u>Banking and other financial services (excl. insurance)</u></b></p> <p>(a) Acceptance of deposits and other repayable funds from the public;</p>	<p>1) Unbound 2) Unbound 3) None</p>	<p>1) Unbound 2) Unbound 3) Lower minimum capital</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;</p> <p>(c) Financial leasing;</p> <p>(d) All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;</p> <p>(e) Guarantees and commitments;</p> <p>(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <p>(i) money market instruments (including cheques, bills,</p>		<p>requirements are imposed on ‘domestic banks’, which are banks in which at least two thirds of the capital stock is held by persons who are citizens of the Federated States of Micronesia and have resided in the Federated States of Micronesia for at least one year prior to the initial application for the establishment of the bank.</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>certificates of deposits) ; (ii) foreign exchange; (iii) derivative products including, but not limited to, futures and options; (iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements; (v) transferable securities; (vi) other negotiable instruments and financial assets, including bullion.</p> <p>(g) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such</p>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>issues;</p> <p>(h) Money broking;</p> <p>(i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;</p> <p>(j) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;</p> <p>(k) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;</p>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(l) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.			
<p>8. HEALTH RELATED AND SOCIAL SERVICES (limited to services provided by privately-owned institutions)</p> <p>A. Hospital Services (CPC 9311**)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
B. Other Human Health Services (CPC 9319**)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Social Services (CPC 933**)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>9. TOURISM AND TRAVEL RELATED SERVICES</b>			
A. Hotels and Restaurants (including catering) (CPC 641-643)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Travel agencies and tour operator services (CPC 7471)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Tourist guide services (CPC 7472)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>10. RECREATIONAL, CULTURAL AND</b>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>SPORTING SERVICES</b></p> <p>A. Entertainment Services (CPC 9619)</p> <p>B. News agency services (CPC 962)</p> <p>C. Libraries, archives, museums, and other cultural services (CPC 963)</p> <p>D. Sporting and other recreational services (CPC 964**)</p> <p>- Excluding gambling and betting</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>11. TRANSPORT SERVICES</b></p> <p>A. Maritime Transport Services</p>	<p>1) (a) Liner shipping:</p> <p>- Conditional on the granting of a license, the issuance of which is based on such criteria as the frequency,</p>	<p>1) (a) None</p>	<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions</p>

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)</p>	<p>type, and price of the services proposed, as well as the impact on the services provided by other transporters.</p> <ul style="list-style-type: none"> <li>- Licenses granted preferably to carriers owned by Federated States of Micronesia citizens, that employ Federated States of Micronesia citizens, and that conduct training for Federated States of Micronesia citizens.</li> <li>- Vessels owned and operated by the Federated States of Micronesia government do not require a license to be granted on the basis of the criteria mentioned above.</li> <li>- Local agent in the Federated States of Micronesia or registration in the Federated States of Micronesia</li> </ul>		<ol style="list-style-type: none"> <li>1. Pilotage</li> <li>2. Towing and the tug assistance</li> <li>3. Provisioning, fuelling and watering</li> <li>4. Garbage collecting and ballast waste disposal</li> <li>5. Port Captain's services</li> <li>6. Navigation aids</li> <li>7. Shore-based operational services essential to ship operations including communications, water and electrical supplies</li> <li>8. Emergency repair facilities</li> <li>9. Anchorage, berth and berthing services</li> </ol>

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>required.</p> <p>(b) Bulk, tramp, and other international shipping, including passenger transportation: local agent in the Federated States of Micronesia or registration in the Federated States of Micronesia required.</p> <p>3) (a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound</p> <p>(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2): none</p>	<p>(b) None</p> <p>3) (a) Unbound</p> <p>3) (b) None</p>	
d) Maintenance and repair of vessels (CPC 8868**)	<p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Maritime Agency Services (as defined in Annex)	1) Suppliers of international maritime transport services are required to go through a local agent established in the Federated States of Micronesia. 2) None 3) None	1) None 2) None 3) None	
C. Air Transport Services <sup>7</sup>  - Aircraft repair and maintenance services;  - Selling and marketing of air transport services;  Computer reservation system	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None	

<sup>7</sup> As defined in Article 1 of Chapter 7 (Trade in Services).

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
services;  Ground handling services.	3) None  1) None 2) None 3) None	3) None  1) None 2) None 3) None	
Specialty air services	1) Unbound 2) Unbound 3) None	1) Unbound 2) Unbound 3) None	
G. Pipeline Transport (CPC 7131)	1) None 2) None 3) None	1) None 2) None 3) None	
H. Services Auxiliary to All Modes of Transport  a) Cargo-handling services, except maritime cargo handling (CPC 741**)  b) Storage and warehouse services, except maritime storage and warehousing services (CPC 742**)	  1) None 2) None 3) None  1) None 2) None 3) None	  1) None 2) None 3) None  1) None 2) None 3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
c) Freight transport agency services, except maritime freight agency services (CPC 748**)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Other (CPC 749)	1) None 2) None 3) None	1) None 2) None 3) None	

**ANNEX TO SCHEDULE OF THE FEDERATED STATES OF MICRONESIA:    DEFINITIONS IN RELATION TO  
MARITIME TRANSPORT**

1.        Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in the Federated States of Micronesia and another port located in the Federated States of Micronesia, traffic originating and terminating in the same port located in the FSM provided that this traffic remains within the Federated States of Micronesia’s territorial waters, and traffic between a port located in the Federated States of Micronesia and installations or structures situated in the EEZ or relating to the continental shelf of the Federated States of Micronesia.

2.        “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a)        marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b)        the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c)        the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d)        the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);



(e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. “Maritime agency services” means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

– marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

– acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

4. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

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**ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)**

**SCHEDULE OF KIRIBATI**

Modes of supply:                      1) Cross-border supply                      2) Consumption abroad                      3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>1. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN THIS SCHEDULE		<p>3) Enterprises that are not wholly-owned by citizens of Kiribati are required to provide training to employees who are natural persons of Kiribati to allow transfer of skills.</p> <p>3) Natural persons who are not citizens of Kiribati and enterprises that are not wholly-owned by citizens of Kiribati are prohibited from owning or acquiring land or any interest in land.</p> <p>Such natural persons and enterprises may lease land in Kiribati, provided that the lease is approved by the Competent</p>	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		<p>Authority. Land may be leased for a period of 30 years renewable.</p> <p>Sub-lease of land involving natural persons that are not citizens of Kiribati and enterprises that are not wholly-owned by citizens of Kiribati is not allowed.</p>	
	<p>3) Investment by natural persons who are not I-Kiribati and by enterprises of another Party requires approval from the Foreign Investment Commission.<sup>2</sup> Approval is granted subject to meeting an economic needs test on the basis of established criteria.<sup>34</sup></p>		

<sup>2</sup> This entry in the schedule is in accordance with Kiribati's foreign investment rules at the time of entry into force of the Agreement, which principally consists of the *Foreign Investment Act 1985*, the *Foreign Investment (Amendment) Act 1989*, the *Foreign Investment (Amendment) Act of 1992*, the *Foreign Investment (Amendment) Act 1997*, and the *Foreign Investment (Amendment) Act 2000*. Kiribati has interest in further refining and improving its laws regulating the admission of foreign investment. Should Kiribati adopt, after entry into force of the PACER Plus Agreement, new or revised laws and regulations as a result, it would positively consider reflecting, where appropriate, such better treatment under PACER Plus through a revised Schedule of Commitments in Trade in Services.

<sup>3</sup> The economic needs test is set out in Article 10(1) of the *Foreign Investment Act 1985* as at the time of entry into force of the PACER Plus Agreement.

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>II. Sector-Specific Commitments</b>			
<p>1. BUSINESS SERVICES</p> <p>A. Professional Services</p> <p>a) Legal Services (CPC 861**) on foreign law and international law, excluding legal advisory and legal documentation and certification services performed by service suppliers entrusted with public functions, such as notary services.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>b) Accounting, auditing and bookkeeping services (CPC 862)</p> <p>c) Taxation services (CPC 863)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
d) Architectural services (CPC 8671)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Engineering services (CPC 8672)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Integrated engineering services (CPC 8673)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Urban planning and landscape architectural services (CPC 8674)	1) None 2) None 3) None	1) None 2) None 3) None	
h) Medical and dental services (CPC 9312)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Veterinary services (CPC 932)	1) None 2) None 3) None	1) None 2) None 3) None	
j) Midwives, nurses, physiotherapists and	1) Unbound* 2) None	1) Unbound* 2) None	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
paramedical personnel (CPC 93191)	3) None	3) None	
<p><b>B. Computer and Related Services (CPC 84)</b></p> <p>(a) Consultancy Services Related to the Installation of Computer Hardware (CPC 841)</p> <p>(b) Software Implementation Services (CPC 842)</p> <p>(c) Data processing Services (CPC 843)</p> <p>(d) Data base services (CPC 844)</p> <p>(e) Maintenance and repair of office machinery and equipment including computers (CPC 845)</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>C. Research and Development Services</b></p> <p>a) R&amp;D services on natural sciences (CPC 851)</p> <p>b) R&amp;D services on social sciences and humanities (CPC 852)</p> <p>c) Interdisciplinary R&amp;D services (CPC 853)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>E. Rental/Leasing Services without Operators</b></p> <p>a) Relating to ships (CPC 83103)</p> <p>b) Relating to aircraft (CPC 83104)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>c) Relating to transport equipment (CPC 83101+83102+83105)</p> <p>d) Relating to other machinery and equipment (CPC 83106-83109)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>F. Other Business Services</p> <p>a) Advertising services (CPC 871)</p> <p>b) Market research and public opinion polling services (CPC 864)</p> <p>c) Management consulting services (CPC 865)</p> <p>d) Services related to management consulting (CPC 866)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	



Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
e) Technical testing and analysis services (CPC 8676)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Services incidental to agriculture, hunting and forestry (CPC 881)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Services incidental to fishing (CPC 882**) <p>Consists of specialized consultancy services only, related to fisheries. Does not include fishing.</p>	1) None 2) None 3) None	1) None 2) None 3) None	
h) Services incidental to mining (CPC 883)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Services incidental to manufacturing (CPC 884)	1) None 2) None 3) None	1) None 2) None 3) None	
m) Related scientific and technical consulting services (CPC 8675)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>j) Services incidental to energy distribution (CPC 997**)</p> <p>Covers specialised consultancy services only, in relation to energy distribution.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633+8861-8866)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>o) Building-cleaning services (CPC 874)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>p) Photographic services (CPC 875)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>q) Packaging services (CPC 876)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>r) Printing, publishing</p>	<p>1) None</p>	<p>1) None</p>	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(CPC 88442)	2) None 3) None	2) None 3) None	
t) Other (CPC 8790)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>2. COMMUNICATION SERVICES</b>			
<b>B. Courier Services (CPC 7512)</b>	1) None 2) None 3) None	1) None 2) None 3) None	
<b>C. Telecommunication services</b>			
a. Voice telephone services (CPC 7521)	1) None 2) None 3) None	1) None 2) None 3) None	Kiribati subscribes to the Reference Paper on Basic Telecommunication Services, as attached.
b. Packet-switched data transmission services (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
c. Circuit-switched data	1) None	1) None	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
transmission services (CPC 7523**)	2) None 3) None	2) None 3) None	
d. Telex services (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
e. Telegraph services (CPC 7522)	1) None 2) None 3) None	1) None 2) None 3) None	
f. Facsimile services (CPC 7521**+7529**)	1) None 2) None 3) None	1) None 2) None 3) None	
g. Private leased circuit services (CPC 7522**+7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
h. Electronic mail (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
i. Voice mail (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
j. On-line information and data base retrieval (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
k. Electronic data interchange (EDI) (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
l. enhanced/value-added facsimile services, incl. store and forward, store and retrieve (CPC 7523**)	1) None 2) None 3) None	1) None 2) None 3) None	
m. code and protocol conversion (CPC n.a.)	1) None 2) None 3) None	1) None 2) None 3) None	
n. on-line information and/or data- processing (incl. transaction processing) (CPC 843**)	1) None 2) None 3) None	1) None 2) None 3) None	
o. other	1) None 2) None 3) None	1) None 2) None 3) None	
<b>3. CONSTRUCTION AND</b>			

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>RELATED ENGINEERING SERVICES</b></p> <p>A. General construction work for buildings (CPC 512)</p> <p>B. General construction work for civil engineering (CPC 513)</p> <p>C. Installation and assembly work (CPC 514+516)</p> <p>D. Building completion and finishing work (CPC 517)</p> <p>E. Other (CPC 511+515+518)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>5. EDUCATIONAL SERVICES</b> (limited to services provided by privately-owned institutions)</p>			

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>A. Primary education services (CPC 921**)</p> <p>B. Secondary education services (CPC 922**)</p> <p>C. Higher education services in private institutions (CPC 923**)</p> <p>D. Adult education (CPC 924)</p> <p>E. Other education services (CPC 929)</p>	<p>1) Unbound 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) Unbound 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>6. ENVIRONMENTAL SERVICES</p> <p>B. Refuse disposal services (CPC 9402**) for recyclable</p>	<p>1) Services must be supplied through a commercial presence,</p>	<p>1) None 2) None</p>	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
items excluding PET 14, lead acid batteries and aluminium cans - services include collection, transport and reduction services	except as regards consulting services 2) None 3) None	3) None	
<p>Consultancy related to the provision of the following environmental services:</p> <p>A. Sewage Services (CPC 9401**)</p> <p>B. Refuse disposal services (CPC 9402**)</p> <p>C. Sanitation and similar services (CPC 9403**)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
D. Other environmental services (CPC 9404-9409)	1) None 2) None 3) None	1) None 2) None 3) None	



Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>7. FINANCIAL SERVICES</p> <p>Excluding: - activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; - activities forming part of a statutory system of social security or public retirement plans; - and other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.</p> <p>A. Insurance and insurance-related services</p> <p>(i) Direct insurance (including co-insurance) :</p> <p>    (A) life</p> <p>    (B) non-life</p>	<p>1) Unbound 2) None 3) None</p>	<p>1) Unbound 2) None 3) None</p>	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(ii) Reinsurance and retrocession;</p> <p>(iii) Insurance intermediation, such as brokerage and agency;</p> <p>(iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.</p>			
<p>B. Banking and other financial services (excluding insurance)</p> <p>(a) Acceptance of deposits and other repayable funds from the public;</p> <p>(b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;</p> <p>(c) Financial leasing;</p>	<p>1) Unbound 2) Unbound 3) None</p>	<p>1) Unbound 2) Unbound 3) None</p>	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(d) All payment and money transmission services, including credit, charge and debit cards, travelers cheques and bankers drafts;</p> <p>(e) Guarantees and commitments;</p> <p>(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <ul style="list-style-type: none"><li>(i) money market instruments (including cheques, bills, certificates of deposits) ;</li><li>(ii) foreign exchange;</li><li>(iii) derivative products including, but not limited to, futures and options;</li><li>(iv) exchange rate and interest rate instruments, including products such</li></ul>			

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>as swaps, forward rate agreements;</p> <p>(v) transferable securities;</p> <p>(vi) other negotiable instruments and financial assets, including bullion.</p> <p>(g) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;</p> <p>(h) Money broking;</p> <p>(i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;</p> <p>(j) Settlement and clearing</p>			

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
services for financial assets, including securities, derivative products, and other negotiable instruments.			
<p>(k) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;</p> <p>(l) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>8. HEALTH RELATED AND SOCIAL SERVICES (limited to services provided by privately-owned institutions)</p>			

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>A. Hospital Services (CPC 9311**)</p> <p>B. Other Human Health Services (CPC 9319**)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>9. TOURISM AND TRAVEL RELATED SERVICES</b></p> <p>A. Hotels and restaurant (incl. catering) (CPC 641, 642, 643)</p> <p>B. Travel agencies and tour operators services (CPC 7471)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>10. RECREATIONAL, CULTURAL AND SPORTING SERVICES</b></p>			

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
A. Entertainment Services (CPC 9619)	1) None 2) None 3) None	1) None 2) None 3) None	
B. News agency services (CPC 962)	1) None 2) None 3) None	1) None 2) None 3) None	
Library services (CPC 96311)	1) None 2) None 3) None	1) None 2) None 3) None	
Archive services (CPC 96312)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Sporting and other recreational services (CPC 964**) <ul style="list-style-type: none"> <li>- Excluding gambling and betting</li> </ul>	1) None 2) None 3) None	1) None 2) None 3) None	
<b>11. TRANSPORT SERVICES</b>			

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>A. Maritime Transport Services</p> <p>International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)</p>	<p>1) (a) Liner shipping:</p> <ul style="list-style-type: none"> <li>- Conditional on the granting of a license, the issuance of which is based on such criteria as the frequency, type, and price of the services proposed, as well as the impact on the services provided by other transporters.</li> <li>- Licenses granted preferably to carriers owned by Kiribati citizens, and that employ Kiribati citizens, and that conduct training for Kiribati citizens.</li> <li>- Vessels owned and operated by the Kiribati government do not require a license to be granted on the basis of</li> </ul>	<p>1) (a) None</p>	<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions</p> <ol style="list-style-type: none"> <li>1. Pilotage</li> <li>2. Towing and the tug assistance</li> <li>3. Provisioning, fueling and watering</li> <li>4. Garbage collecting and ballast waste disposal</li> <li>5. Port Captain's services</li> <li>6. Navigation aids</li> <li>7. Shore-based operational services essential to ship operations including communications, water and electrical supplies</li> <li>8. Emergency repair facilities</li> <li>9. Anchorage, berth and berthing services</li> </ol>



Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>the criteria mentioned above.</p> <ul style="list-style-type: none"> <li>- Local agent in Kiribati required.</li> </ul> <p>(b) Bulk, tramp, and other international shipping, including passenger transportation: Local agent in Kiribati required.</p> <p>2) None</p> <p>3)(a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound</p> <p>(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2):</p>	<p>(b) None</p> <p>2) None</p> <p>3)(a) Unbound</p> <p>3)(b) None</p>	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	none		
d) Maintenance and repair of vessels (CPC 8868**)	1) None 2) None 3) None	1) None 2) None 3) None	
<p><b>MARITIME AUXILIARY SERVICES</b></p> <p>Container Station and Depot Services (as defined in Annex)</p> <p>Storage and Warehousing Services</p> <p>Maritime Agency Services (as defined in Annex)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) Suppliers of maritime transport services are required to go through a local agent established in Kiribati 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>C. Air Transport Services<sup>5</sup></b></p> <p>Aircraft repair and maintenance services</p> <p>Selling and marketing of air transport services</p> <p>Computer reservation system services</p> <p>Specialty air services</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>H. Services Auxiliary to All Modes of Transport</b></p> <p>a) Cargo-handling services, except maritime and air cargo handling (CPC 741**)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

<sup>5</sup> As defined in Article 1 of Chapter 7 (Trade in Services).

Modes of supply:

1) Cross-border supply

2) Consumption abroad

3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
b) Storage and warehouse services, except maritime storage and warehousing services (CPC 742**)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Freight transport agency services, except maritime freight agency services (CPC 748**)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Other (CPC 749)	1) None 2) None 3) None	1) None 2) None 3) None	

## **ANNEX I TO THE SCHEDULE OF KIRIBATI: DEFINITIONS IN RELATION TO MARITIME TRANSPORT**

1. Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in the Kiribati and another port located in the Kiribati, traffic originating and terminating in the same port located in the Kiribati provided that this traffic remains within the Kiribati’s territorial waters, and traffic between a port located in the Kiribati and installations or structures situated in the EEZ or relating to the continental shelf of Kiribati.

2. “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);

(e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. "Maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

- the loading/discharging of cargo to/from a ship;
- the lashing/unlashing of cargo;
- the reception/delivery and safekeeping of cargoes before shipment or after discharge.

4. "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

5. "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

6. "Maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

- marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;
- acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

7. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

## ANNEX II TO THE SCHEDULE OF KIRIBATI: TELECOM REFERENCE PAPER

### Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

### Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market.

### 1. Competitive safeguards

#### 1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

#### 1.2 Safeguards



The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

## 2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

### 2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided:

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

### 2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

### 2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

### 2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time or
- (b) after a reasonable period of time which has been made publicly known

to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

## 3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive per se, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

## 4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence and
- (b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

## ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)

### SCHEDULE OF NAURU

Modes of Supply:    (1) Cross-border supply    (2) Consumption abroad    (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>1. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN THIS SCHEDULE	3) The establishment or acquisition of an enterprise in Nauru by natural persons who are not Nauruan citizens or by enterprises that are not wholly owned by Nauruan citizens requires approval from Cabinet. Approval is granted subject to meeting the economic needs criteria administered by Cabinet at the time the application is made. <sup>2</sup>	3) Natural persons of another Party and enterprises that are not wholly-owned by citizens of Nauru are prohibited from owning land, or acquiring any interest in or control over land in Nauru, whether by purchase, receipt of gift, transfers by operation of law, or any other means. Lease of land by enterprises established in Nauru is subject to a non-discriminatory approval process.	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

<sup>2</sup> Nauru has interest in further refining and improving its laws regulating foreign investment. Should Nauru adopt, after entry into force, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Investment.

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>			
<b>1. BUSINESS SERVICES</b>			
<b>A. Professional Services</b>			
a) Legal Services (CPC 861)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Accounting, auditing and bookkeeping services (CPC 862)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Taxation services (CPC 863)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Architectural services (CPC 8671)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Engineering services (CPC 8672)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
f) Integrated engineering services (CPC 8673)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Urban planning and landscape architectural services (CPC 8674)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>B. Computer and Related Services (CPC 84)</b>	1) None 2) None 3) None	1) None 2) None 3) None	
<b>C. Research and Development Services</b>			
a) R&D services on natural sciences (CPC 851)	1) None 2) None 3) None	1) None 2) None 3) None	
b) R&D services on social sciences and humanities (CPC 852)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Interdisciplinary R&D	1) None	1) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
services (CPC 853)	2) None 3) None	2) None 3) None	
<b>D. Real Estate Services</b>			
a) Involving own or leased property (CPC 821)	1) Unbound 2) None 3) None	1) Unbound 2) None 3) None	
b) On a fee or contract basis (CPC 822)	1) Unbound 2) None 3) None	1) Unbound 2) None 3) None	
<b>E. Rental/Leasing Services without Operators</b>			
a) Relating to ships (CPC 83103)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Relating to aircraft (CPC 83104)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Relating to other	1) None	1) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
machinery and equipment (CPC 83106-83109)	2) None 3) None	2) None 3) None	
e) Other (CPC 832)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>F. Other Business Services</b>			
a) Advertising services (CPC 871)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Market research and public opinion polling services (CPC 864)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Management consulting services (CPC 865)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Services related to management consulting (CPC 866)	1) None 2) None 3) None	1) None 2) None 3) None	



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
e) Technical testing and analysis services (CPC 8676)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Services incidental to agriculture, hunting and forestry (CPC 881)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Services incidental to fishing (CPC 882**) (consists of specialized consultancy services only, related to fisheries. Does not include fishing)	1) None 2) None 3) None	1) None 2) None 3) None	
h) Services incidental to mining (CPC 883)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Services incidental to manufacturing (CPC 884)	1) None 2) None 3) None	1) None 2) None 3) None	
j) Services incidental to energy distribution (CPC 997**) (covers specialised	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>consultancy services only, in relation to energy distribution)</p> <p>k) Placement and supply services and personnel (CPC 872)</p> <p>m) Related scientific and technical consulting services (CPC 8675)</p> <p>n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633+8861-8866)</p> <p>o) Building-cleaning services (CPC 874)</p> <p>p) Photographic services (CPC 875)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
q) Packaging services (CPC 876)	1) None 2) None 3) None	1) None 2) None 3) None	
r) Printing, publishing (CPC 88442)	1) None 2) None 3) None	1) None 2) None 3) None	
s) Convention services (CPC 87909*)	1) None 2) None 3) None	1) None 2) None 3) None	
t) Other (CPC 8790)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>2. COMMUNICATION SERVICES</b>			
B. Courier Services (CPC 7512)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Audiovisual services			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
b) Motion picture projection services (CPC 9612)  e) Sound recording services	1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None	
<b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b>  A. General construction work for buildings (CPC 512)  B. General construction work for civil engineering (CPC 513)  C. Installation and assembly work (CPC 514+516)	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
D. Building completion and finishing work (CPC 517)	1) None 2) None 3) None	1) None 2) None 3) None	
E. Other (CPC 511+515+518)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>4. DISTRIBUTION SERVICES</b> (excluding distribution services in relation to alcohol, tobacco, phosphate, and handicrafts)			
A. Commission agents' services (CPC 621, 61111**, 6113**, 6121**)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Wholesale trade services (CPC 622, 61111**, 6113**, 6121**)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Retailing services (CPC	1) None	1) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
631, 632, 61112, 6113**, 6121**) <ul style="list-style-type: none"> <li>- Excluding small retail shops (including mobile retail shops, open air vendors/take-outs), food take-out, tailor / sewing shops, bakeries and pastry shops.</li> </ul>	2) None 3) None	2) None 3) None	
D. Franchising (CPC 8929)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>5. EDUCATIONAL SERVICES</b> (limited to services provided by privately-owned institutions)			
B. Secondary education services (CPC 922**)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>C. Higher education services in private institutions (CPC 923**)</p> <p>D. Adult education (CPC 924)</p> <p>E. Other education services (CPC 929)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>6. ENVIRONMENTAL SERVICES</b></p> <p>Consultancy related to the provision of the following environmental services:</p> <p>A. Sewage Services (CPC 9401**)</p> <p>B. Refuse disposal services (CPC 9402**)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>C. Sanitation and similar services (CPC 9403**)</p> <p>D. Other environmental services (CPC 9404-9409)</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>7. FINANCIAL SERVICES</b></p> <p>Excluding: - activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; - activities forming part of a statutory system of social security or public retirement plans; - and other activities conducted by a public entity for the account or with the guarantee or</p>			



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>using the financial resources of the government.</p> <p>A. Insurance and insurance-related services</p> <p>(i) Direct insurance (including co-insurance) :</p> <p>(A) life</p> <p>(B) non-life</p> <p>(iii) Insurance intermediation, such as brokerage and agency;</p>	<p>1) Unbound, except for marine, aviation and transport (MAT) insurance, where: none.</p> <p>2) Unbound, except for marine, aviation and transport (MAT) insurance, where: none.</p> <p>3) None</p> <p>1) Unbound, except for marine, aviation and transport (MAT) insurance, where: none.</p> <p>2) Unbound, except for marine, aviation and transport (MAT) insurance, where: none.</p> <p>3) None</p>	<p>1) Unbound, except for marine, aviation and transport (MAT) insurance, where: none.</p> <p>2) Unbound, except for marine, aviation and transport (MAT) insurance, where: none.</p> <p>3) None</p> <p>1) Unbound, except for marine, aviation and transport (MAT) insurance, where: none.</p> <p>2) Unbound, except for marine, aviation and transport (MAT) insurance, where: none.</p> <p>3) None</p>	
(ii) Reinsurance and retrocession;	<p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	
(iv) Services auxiliary to	<p>1) None</p>	<p>1) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
insurance, such as consultancy, actuarial, risk assessment and claim settlement services.	2) None 3) None	2) None 3) None	
<p>B. Banking and other financial services (excluding insurance)</p> <p>(a) Acceptance of deposits and other repayable funds from the public;</p> <p>(b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;</p> <p>(c) Financial leasing;</p> <p>(d) All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;</p>	<p>1) Unbound, except for subsectors 7.B.(k) and 7.B.(l), where: none.</p> <p>2) Unbound, except for subsectors 7.B.(k) and 7.B.(l), where: none.</p> <p>3) None</p>	<p>1) Unbound, except for subsectors 7.B.(k) and 7.B.(l), where: none.</p> <p>2) Unbound, except for subsectors 7.B.(k) and 7.B.(l), where: none.</p> <p>3) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(e) Guarantees and commitments;</p> <p>(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <ul style="list-style-type: none"> <li>(i) money market instruments (including cheques, bills, certificates of deposits)</li> <li>;</li> <li>(ii) foreign exchange;</li> <li>(iii) derivative products including, but not limited to, futures and options;</li> <li>(iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;</li> </ul>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(v) transferable securities;</p> <p>(vi) other negotiable instruments and financial assets, including bullion.</p> <p>(g) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;</p> <p>(h) Money broking;</p> <p>(i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;</p>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(j) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;</p> <p>(k) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;</p> <p>(l) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and</p>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
strategy.			
<p><b>9. TOURISM AND TRAVEL RELATED SERVICES</b></p> <p><b>A. Hotels and restaurant (incl. catering) (CPC 641, 642**, 643)</b> - Excluding Food take-out, bakeries and pastry shops.</p> <p><b>B. Travel agencies and tour operators services (CPC 7471)</b></p> <p><b>C. Tourist guides services (CPC 7472)</b></p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>10. RECREATIONAL, CULTURAL AND SPORTING SERVICES</b></p> <p><b>A. Entertainment Services (CPC 9619)</b></p>	<p>1) None 2) None</p>	<p>1) None 2) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>B. News agency services (CPC 962)</p> <p>C. Libraries, archives, museums, and other cultural services (CPC 963)</p> <p>D. Sporting and other recreational services (CPC 964**)</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>11. TRANSPORT SERVICES</p> <p>A. Maritime Transport Services</p> <p>International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)</p>	<p>1) (a) Liner shipping:</p> <ul style="list-style-type: none"> <li>- Conditional on the granting of a license, the issuance of which is based on such criteria as the frequency, type, and price of the services proposed, as well as the</li> </ul>	<p>1) (a) None</p>	<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions</p> <p>1. Pilotage</p>

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>impact on the services provided by other transporters.</p> <p>- Local agent or registration in Nauru required.</p> <p>b) Bulk, tramp, and other international shipping, including passenger transportation: None</p> <p>2) None</p> <p>3)(a) Establishment of registered company for the purpose of operating a fleet under the national flag of Nauru: unbound.</p> <p>3)(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2): none.</p>	<p>(b) None</p> <p>2) None</p> <p>3)(a) unbound</p> <p>3)(b) none</p>	<p>2. Towing and the tug assistance</p> <p>3. Provisioning, fuelling and watering</p> <p>4. Garbage collecting and ballast waste disposal</p> <p>5. Port Captain's services</p> <p>6. Navigation aids</p> <p>7. Shore-based operational services essential to ship operations including communications, water and electrical supplies</p> <p>8. Emergency repair facilities</p> <p>9. Anchorage, berth and berthing services</p>



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
d) Maintenance and repair of vessels (CPC 8868**)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>MARITIME AUXILIARY SERVICES</b>			
Customs Clearance Services (as defined in Annex)	1) Unbound 2) None 3) None	1) Unbound 2) None 3) None	
Container Station and Depot Services (as defined in Annex)	1) Unbound 2) None 3) None	1) Unbound 2) None 3) None	
Storage and Warehousing Services	1) Unbound 2) None 3) None	1) Unbound 2) None 3) None	
Maritime Agency Services (as defined in Annex)	1) Suppliers of maritime transport services are required to go through a local agent	1) None 2) None 3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	established in Nauru. 2) None 3) None		
Maritime Freight Forwarding Services (as defined in Annex)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>C. Air Transport Services<sup>3</sup></b>			
Aircraft repair and maintenance services;	1) None 2) None 3) None	1) None 2) None 3) None	
Selling and marketing of air transport services;	1) None 2) None 3) None	1) None 2) None 3) None	
Computer reservation system services.	1) None 2) None 3) None	1) None 2) None 3) None	
Specialty air services	1) Unbound	1) Unbound	

<sup>3</sup> As defined in Article 1 of Chapter 7 (Trade in Services).

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	2) None 3) None	2) None 3) None	
<p>H. Services Auxiliary to All Modes of Transport</p> <p>a) Cargo-handling services, except maritime and air cargo handling (CPC 741**)</p> <p>b) Storage and warehouse services, except maritime storage and warehousing services (CPC 742**)</p> <p>c) Freight transport agency services, except maritime freight agency services (CPC 748**)</p> <p>d) Other (CPC 749)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

## **ANNEX TO THE SCHEDULE OF NAURU: DEFINITIONS IN RELATION TO MARITIME TRANSPORT**

1. Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in Nauru and another port located in Nauru, traffic originating and terminating in the same port located in Nauru provided that this traffic remains within Nauru’s territorial waters, and traffic between a port located in Nauru and installations or structures situated in the EEZ or relating to the continental shelf of Nauru.

2. “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);

(e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. "Maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

- the loading/discharging of cargo to/from a ship;
- the lashing/unlashing of cargo;
- the reception/delivery and safekeeping of cargoes before shipment or after discharge.

4. "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

5. "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

6. "Maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

– marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

– acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

7. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

## ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)

### SCHEDULE OF NEW ZEALAND

1. Unless otherwise indicated, the classification of services sectors is based on the 1991 Provisional Central Product Classification of the United Nations Statistical Office and the ordering reflects the services sectoral classification list used in the WTO document MTN.GNS/W/120, dated 10 July 1991.

2. For clarity, an entry of 'none' means no limitations except as listed elsewhere in the schedule, including Part I, the Limitations on Market Access, Limitations on National Treatment, or the Additional Commitments columns. The inscription 'unbound' means that no commitments are taken with respect to particular subsector or area.

Modes of supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>I. HORIZONTAL COMMITMENTS</b>			
All sectors		3) Overseas Investment Office (OIO) approval is required for the following investments by an "overseas person": <sup>1</sup> (a) acquisition or control of 25 per cent or more of any class of shares <sup>2</sup> or	

<sup>1</sup> An "overseas person" is defined as an individual not normally resident in New Zealand; a company not incorporated in New Zealand; a New Zealand-incorporated company in which 25 per cent or more of any class of shares or 25 per cent or more of the voting power is held by overseas persons; or a nominee of the overseas person, whether or not the nominee is himself/herself an overseas person.

<sup>2</sup> For greater certainty, the term 'shares' includes shares and other types of securities.

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		<p>voting power<sup>3</sup> in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ \$10 million;</p> <p>(b) commencement of business operations or acquisition of an existing business, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ \$10 million;</p> <p>(c) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to</p>	

<sup>3</sup> For greater certainty, 'voting power' includes the power to control the composition of 25 per cent or more of the governing body of the New Zealand entity.



Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		<p>New Zealand's Overseas Investment legislation; and</p> <p>(d) acquisition, regardless of the dollar value, of 25 per cent or more of any class of shares or voting power in a New Zealand entity that owns commercial fishing quota or annual catch entitlement, or the acquisition of commercial fishing quota or annual catch entitlement.</p> <p>Overseas investors must comply with the criteria set out in the overseas investment regime and any conditions specified by the Regulator and the relevant Minister or Ministers.</p> <p>Unbound for enterprises currently in State ownership.</p>	
<b>I. SECTOR-SPECIFIC COMMITMENTS</b>			
1. BUSINESS SERVICES			

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>A. <u>Professional services</u></p> <p>a) Legal services, in respect of the following areas of law: (CPC 861)</p> <p>Domestic law</p> <p>International law</p> <p>Foreign law</p> <p>b) Accounting, auditing and book-keeping services (CPC 862)</p> <p>c) Taxation services</p> <p>Tax preparation, tax planning and consulting services (CPC 86301-86303)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
d) Architectural services (CPC 8671)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Engineering services (CPC 8672)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Integrated engineering services (CPC 8673)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Veterinary services (CPC 9320)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>B. <u>Computer and Related Services</u></b>			
a) Consultancy services related to the installation of computer hardware (CPC 841)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Software implementation services (CPC 842)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Data processing services	1) None	1) None	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(CPC 843)	2) None 3) None	2) None 3) None	
d) Data base services (CPC 844)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Maintenance and repair of office machinery and equipment including computers (CPC 845)	1) None 2) None 3) None	1) None 2) None 3) None	
Other computer services (CPC 849)	1) None 2) None 3) None	1) None 2) None 3) None	
D. <u>Real estate services</u>			
a) Involving own or leased property (CPC 821)	1) None 2) None 3) None	1) None 2) None 3) None	
b) On a fee or contract basis (CPC 822)	1) None 2) None 3) None	1) None 2) None 3) None	
E. <u>Rental/leasing of equipment without crew</u>			

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
a) Transport and non-transport (CPC 8310)	1) None 2) None 3) None	1) None 2) None 3) None	
F. <u>Other business services</u>			
a) Advertising services (CPC 871)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Market research and public opinion polling services (CPC 864)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Management consulting services (CPC 865)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Services related to management consulting (CPC 866)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Services incidental to agriculture, hunting and forestry (CPC 8811, 8813, 8814)	1) None 2) None 3) None	1) None 2) None 3) None	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Services incidental to animal husbandry (CPC 8812)	1) None 2) None 3) Access to the national dairy herd testing database is only given where it is judged to be in the interests of the New Zealand industry.	1) None 2) None 3) None	
k) Placement and supply services of personnel (CPC 872)	1) None 2) None 3) None	1) None 2) None 3) None	
o) Cleaning of buildings and similar activities (CPC 874)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
p) Photographic services (CPC 875)	1) None 2) None 3) None	1) None 2) None 3) None	
s) Convention services (CPC 87909**)	1) None 2) None 3) None	1) None 2) None 3) None	
t) Credit reporting services (CPC 87901)	1) None 2) None 3) None	1) None 2) None 3) None	The <i>Privacy Act 1993</i> establishes New Zealand's regulatory framework for the

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Collection agency services (CPC 87902)	1) None 2) None 3) None	1) None 2) None 3) None	treatment of personal information, in general accordance with the Recommendation of the Council of the OECD Concerning Guidelines Governing the Protection of Privacy and Transborder Flows of Personal Data.
t) Other			
Telephone answering services (CPC 87903)	1) None 2) None 3) None	1) None 2) None 3) None	
Translation services (CPC 87905**)	1) None 2) None 3) None	1) None 2) None 3) None	
Mailing list compilation and mailing services (CPC 87906)	1) None 2) None 3) None	1) Unbound* 2) Unbound* 3) Unbound*	
Interior design services (CPC 87907**)	1) None 2) None 3) None	1) None 2) None 3) None	
Duplicating services (CPC 87904)	1) None 2) None 3) None	1) None 2) None 3) None	
Other business services –	1) None	1) None	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>services generally provided to business not elsewhere classified in the CPC and not including convention services. These include: business brokerage services, appraisal services (other than for real estate), secretarial services, demonstration exhibition services. (CPC 87909)</p>	<p>2) None 3) None</p>	<p>2) None 3) None</p>	
<p><b>2. COMMUNICATIONS SERVICES</b></p> <p><b>C. <u>Telecommunications services</u></b></p> <p>a) Voice telephone services (CPC 7521)</p> <p>b) Packet-switched data transmission services (CPC 7523**)</p> <p>c) Circuit-switched data transmission services (CPC 7523**)</p> <p>d) Telex services (CPC 7523**)</p> <p>e) Telegraph services (CPC 7522)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None, other than: shareholding by any single overseas entity in Chorus Limited is limited to 49.9 per cent. At least half of Board directors are required to be New Zealand citizens.</p>	<p>The principles set forth in the attached reference paper are incorporated in this schedule to the extent they are commitments additional to the obligations flowing from Chapter 7 (Trade in Services).</p>



Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>f) Facsimile services (CPC 7521**, 7529**)</p> <p>g) Private leased circuit services (CPC 7522**, 7523**)</p> <p>o) Other Paging services (CPC 75291)</p> <p>Teleconferencing services (CPC 75292)</p> <p>Personal communications services (CPC 75213*)</p> <p>Cellular services (CPC 75213*)</p> <p>Trunked radio system services (CPC 7523**, 75213*)</p> <p>Mobile data services (CPC 7523**)</p> <p>h) Electronic mail (CPC 7523**)</p> <p>i) Voice mail (CPC 7523**)</p> <p>j) Online information and data-base retrieval (CPC 7523**)</p> <p>k) Electronic data interchange (EDI) (CPC 7523**)</p> <p>l) Enhanced/value-added facsimile services (CPC 7523**)</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) The Articles of Association of Chorus Limited limit the shareholding by any single overseas entity to 49.9 per cent. At least half of the Board of Directors are required to be New Zealand citizens.</p>	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>m) Code and protocol conversion n) Online information and/or data processing (CPC 843**)</p> <p>D. <u>Audiovisual Services</u></p> <p>Production, distribution, exhibition and broadcasting of audiovisual works (CPC 9611-9613, 96192**, 7524, 753)</p>	<p>1) None</p>	<p>1), 3) The Broadcasting Commission has a statutory obligation to promote Māori language and culture and allocates a proportion of its funding for this purpose.</p> <p>Te Reo Whakapuaki Irirangi (the Māori Broadcasting Funding Agency) allocates government funding for the promotion of Māori language and culture.</p> <p>Government assistance to the film industry through the New Zealand Film Commission is limited to New Zealand films as defined in Section 18 of the <i>New Zealand Film</i></p>	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	2) None 3) None	<i>Commission Act 1978.</i>  2) None	
<p>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</p> <p>A. <u>General construction work for buildings</u> (CPC 512, 515)</p> <p>B. <u>General construction work for civil engineering</u> (CPC 513)</p> <p>C. <u>Installation and assembly work</u> (CPC 514, 516)</p> <p>D. <u>Building completion and finishing work</u> (CPC 517)</p> <p>E. <u>Other</u></p> <p>Site preparation: new</p>	<p>1) None for consultancy services 2) None 3) None</p> <p>1) None for consultancy services 2) None 3) None</p> <p>1) None for consultancy services 2) None 3) None</p> <p>1) None for consultancy services 2) None 3) None</p> <p>1) None for consultancy services</p>	<p>1) None for consultancy services 2) None 3) None</p> <p>1) None for consultancy services 2) None 3) None</p> <p>1) None for consultancy services 2) None 3) None</p> <p>1) None for consultancy services 2) None 3) None</p> <p>1) None for consultancy services</p>	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>construction(other than pipelines) (CPC 511)</p> <p>Maintenance and repair of fixed structures</p> <p>Renting services related to equipment for construction or demolition of building or civil engineering, with operator (CPC 518)</p>	<p>2) None 3) None</p> <p>1) None for consultancy services 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>2) None 3) None</p> <p>1) None for consultancy services 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>4. DISTRIBUTION SERVICES</p> <p>A. <u>Commission agents' services</u> (CPC 6211, excluding 62111, 62112, and such services relating to 2613-2615)</p> <p>B. <u>Wholesale trade</u> (CPC 622, excluding 6221, 6222 and such services relating to 2613-2615)</p> <p>C. <u>Retail Trade</u> (631, 632, 6111, 6113 and 6121)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None</p>	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	3) None	3) None	
<p>5. EDUCATION SERVICES</p> <p>Primary, Secondary, and Tertiary education in private institutions (CPC 921, 922, 923)</p> <p>Other Education in respect of the following services only:</p> <p>Language training provided in private specialist language institutions;</p> <p>Tuition in subjects taught at the primary and secondary levels, provided by private specialist institutions operating outside the New Zealand compulsory school system.<sup>4</sup></p> <p>(CPC 929**)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

<sup>4</sup> Examples of these services might include the provision of extension or remedial tuition in relation to Maths, Science or History.

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>6. ENVIRONMENTAL SERVICES<sup>5</sup></p> <p>A. <u>Waste water management:</u> (CPC 9401**)</p> <p>i. consultancy relating to waste water management;</p> <p>ii. for all other aspects of this service: those contracted by private industry only.</p> <p>B. <u>Waste Management</u> (CPC 9402**)</p> <p>Refuse disposal services:</p> <p>i. consultancy relating to refuse disposal;</p> <p>ii. for all other aspects of this service: those contracted by private industry only.</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

<sup>5</sup> New Zealand's commitments on environmental services exclude the collection, purification and distribution of water, including water for human use.

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Sanitation and similar services: (CPC 9403**)</p> <p>i. Consultancy relating to sanitation and similar services;</p> <p>ii. for all other aspects of this service: those contracted by private industry only.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>C. <u>Protection of ambient air and climate: consultancy only</u> (CPC 9404**)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>D. <u>Remediation and clean-up of soil and water: consultancy only</u> (CPC 9406**)<sup>6</sup></p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>E. <u>Noise and vibration abatement: consultancy only</u> (CPC 9405**)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>F. <u>Protection of biodiversity and</u></p>	<p>1) None</p>	<p>1) None</p>	

<sup>6</sup> New Zealand's commitments under item 6.D and 6.F combine to cover the entirety of CPC 9406 services with respect to consultancy.

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<u>landscape: consultancy only</u> (CPC 9406**) <sup>7</sup>	2) None 3) None	2) None 3) None	
G. <u>Other environmental and ancillary services: consultancy only</u> (CPC 9409**)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>7. FINANCIAL SERVICES</b>			
<p>New Zealand undertakes its specific commitments on Financial Services in accordance with the provisions of the WTO GATS Understanding on Commitments in Financial Services (the Understanding).</p> <p>These commitments on financial services are subject to the general limitations contained in the Horizontal Commitments section of this Schedule.</p> <p>Market Access and National Treatment commitments in Modes 1 and 2 are bound to the extent of the obligations in paragraphs B.3 and B.4 of the Understanding.</p> <p>The admission to the market of new financial services or products may be subject to the existence of, and consistency with, a regulatory framework aimed at achieving the objectives indicated in Article 4 of Chapter 11 (General Provisions and Exceptions).</p> <p>Mode 3 commitments are subject to the provisions of the <i>Financial Reporting Act 1993</i> and the <i>Companies Act 1993</i>. These require overseas companies to prepare financial statements on an annual basis comprising a balance sheet, a profit and loss statement and (if required by an applicable financial reporting standard approved by the Accounting Standards Review Board) a statement of cash flows. The Acts also require such financial statements in relation to an overseas company's New Zealand business. The Acts require the following</p>			

<sup>7</sup> New Zealand's commitments under items 6.D and 6.F combine to cover the entirety of CPC 9406 services with respect to consultancy.



Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>companies to deliver annual audited financial statements to the Registrar of Companies for registration:</p> <ul style="list-style-type: none"> <li>(a) issuers (i.e. those which have raised investment from the public);</li> <li>(b) overseas companies;</li> <li>(c) subsidiaries of companies or bodies corporate incorporated outside New Zealand; and</li> <li>(d) companies in which 25 per cent or more of the shares are held or controlled by: <ul style="list-style-type: none"> <li>(i) a subsidiary of a company of body corporate incorporated outside New Zealand or a subsidiary of that subsidiary;</li> <li>(ii) a company or body corporate outside New Zealand; or</li> </ul> </li> </ul> <p>(iii) a person not ordinarily resident in New Zealand.</p>			
<p>A. <u>Insurance and insurance-related services</u></p> <p>a) Life insurance services (CPC 8121)</p> <p>b) Non-life insurance services (CPC 8129)</p>	<p>3) None</p> <p>1), 3) The <i>Accident Rehabilitation and Compensation Insurance Act 1992</i> provides for compulsory worker's compensation insurance via levies on vehicle owners, employers and the self-employed. The Act is administered by the Accident Rehabilitation and Compensation Insurance Commission.</p> <p>1), 3) The Earthquake</p>	<p>3) None</p>	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>c) Reinsurance and retrocession (CPC 81299)</p> <p>d) Insurance intermediation, such as brokerage and agency services (CPC 8140**)</p>	<p>Commission is the sole insurer of residential property disaster insurance for replacement cover up to NZ\$100,000 per dwelling and NZ\$20,000 on personal property. These amounts may be increased by regulation.</p> <p>1), 2) &amp; 3) Unbound for marketing and sales related to products covered under CPC 01, 02, 211, 213-216, 22, 2399 and 261.</p> <p>3) None</p> <p>1), 3) The <i>Accident Rehabilitation and Compensation Insurance Act 1992</i> provides for compulsory worker's compensation insurance via levies on vehicle owners, employers, employees and the self-employed. The Act is administered by the Accident</p>	<p>3) None</p> <p>3) None</p>	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>e) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services (CPC 8140*)</p> <p>B. <u>Banking and other financial</u></p>	<p>Rehabilitation and Compensation Insurance Corporation.</p> <p>1), 3) Under the <i>Wheat Producers Levy Act 1987</i> (or regulations enacted under the <i>Commodities Levy Act 1990</i>), United Wheat growers (NZ) Ltd) has the power to organise compulsory disaster insurance on behalf of growers and to require them to pay a levy to recover the premium amount of this insurance.</p> <p>1), 2), 3) Unbound for loss of products covered under CPC 01, 02, 211, 213-216, 22, 2399 and 261.</p> <p>3) None</p> <p>3) None</p>	<p>3) None</p> <p>3) None</p>	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><u>services (excluding insurance)</u></p> <p>a) Acceptance of deposits and other repayable funds from the public; (CPC 81115-81119)</p> <p>b) Lending of all types, including consumer credit, mortgage, credit, factoring and financing of commercial transaction; (CPC 8113)</p> <p>c) Financial leasing; (CPC 8112)</p> <p>d) All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts; (CPC 81339**)</p> <p>e) Guarantees and commitments; (CPC 81199**)</p> <p>f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or</p>			

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>otherwise, the following:</p> <ul style="list-style-type: none"> <li>i) money market instruments (cheques, bills, certificates of deposits etc.); (CPC 81339**)</li> <li>ii) foreign exchange; (CPC 81333)</li> <li>iii) derivative products including, but not limited to, futures and options; (CPC 81339**)</li> <li>iv) exchange rates and interest rate instruments, including products such as swaps, forward rate agreements etc.; (CPC 81339**)</li> <li>v) transferable securities; (CPC 81321)</li> <li>vi) other negotiable instruments and financial assets, including bullion. (CPC 81339**)</li> </ul>			

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>g) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues; (CPC 8132)</p> <p>h) Money broking; (CPC 81339**)</p> <p>i) Asset management, such as cash or portfolio management; all forms of collective investment management, pension fund management, custodial, depository and trust services; (CPC 8119**, 81323*)</p> <p>j) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments; (CPC 81339**, 81319**)</p> <p>k) Provision and transfer of</p>			

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>financial information, and financial data processing and related software by providers of other financial services; (CPC 8131)</p> <p>l) Advisory, intermediation, and other auxiliary financial services on all the activities listed in (a) to (k) above, including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy. (CPC 8131, 8133)</p>			
<p>9. TOURISM AND TRAVEL-RELATED SERVICES</p> <p>A. <u>Hotels and restaurants</u> (CPC 641-643)</p> <p>B./ C. <u>Travel agencies, tour guides and tour operator services</u> (CPC 7471, 7472)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>11. TRANSPORT SERVICES</p> <p>A. <u>Maritime transport services</u></p> <p>International transport (freight and passengers) (CPC 7211 and 7212 less cabotage – as defined in Attachment A)</p> <p><u>Maritime Auxiliary Services</u></p> <p>Storage and warehousing services (CPC 742)</p> <p>Maritime freight forwarding services</p>	<p>General condition applicable to all maritime service sectors: marketing and sales of maritime transport services for products covered under CPC 01, 02, 211, 213-216, 22, 2399 and 261; unbound.</p> <p>1) None 2) None 3) Unbound for establishment of registered company for the purpose of operating a fleet under the New Zealand flag.</p> <p>1) Unbound* 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) Unbound as described in the market access column.</p> <p>1) Unbound* 2) None 3) None</p> <p>1) None 2) None 3) None</p>	



Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>C. <u>Air Transport Services</u></p> <p>Selling and marketing of air transport services<sup>8</sup></p> <p>Computer reservation system services (CPC 7523**) <sup>9</sup></p> <p>Aircraft repair and maintenance services<sup>10</sup></p> <p>Cargo and baggage handling services (CPC 741**)</p>	<p>1) 2) Unbound for products &amp; 3) covered under CPC 01, 02, 211, 213-216, 22, 2399 and 261.</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) Unbound* 2) Unbound* 3) Unbound*</p> <p>1) Unbound* 2) None 3) None</p>	
<p>E. <u>Rail transport services</u> (CPC 711)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>F. <u>Commercial road transport</u></p>	<p>1) None</p>	<p>1) None</p>	

<sup>8</sup> As defined in paragraph 6(b) of the GATS Annex on Air Transport Services.

<sup>9</sup> As defined in paragraph 6(a) of the GATS Annex on Air Transport Services.

<sup>10</sup> As defined in paragraph 6(a) of the GATS Annex on Air Transport Services.

Sector or subsector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<u>services (passenger, goods, rental and vehicle recovery)</u> (CPC 712 except 71235)  G. <u>Pipeline transport</u> (CPC 713)	2) None 3) None  1) None 2) None 3) None	2) None 3) None  1) None 2) None 3) None	
12. OTHER SERVICES NOT INCLUDED ELSEWHERE  A. Other services  Washing, cleaning and dyeing service (CPC 9701)	1) None 2) None 3) None	1) None 2) None 3) None	

\* Unbound due to lack of technical feasibility.

\*\* The service specified constitutes only part of the total range of activities covered by the CPC concordance.

## ATTACHMENT A TO THE SCHEDULE OF NEW ZEALAND

### NOTES TO THE SCHEDULE

1. Specific commitments in this schedule are prepared in accordance with the WTO Secretariat paper entitled "Scheduling of Initial Commitments on Trade in Services: Explanatory Note" (MTN.GNS/W/164). The classification of sectors in this schedule is based on the 1991 provisional Central Product Classification (CPC) of the United Nations Statistical Office, while the ordering reflects the classification system used by the WTO Secretariat in MTN.GNS/W/120. In the context of CPC listings in the schedule, the use of \*\* against individual CPC listings indicates that the service specified constitutes only part of the total range of activities covered by the CPC concordance.

#### Maritime Transport Services

2. Cabotage: for purposes of this schedule only, cabotage is defined as the transportation of passengers or goods between a port located in New Zealand and another port located in New Zealand and traffic originating and terminating in the same port located in New Zealand.
3. Maritime Freight Forwarding Services: the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information.

## REFERENCE PAPER FOR THE SCHEDULE OF NEW ZEALAND

### Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.<sup>1</sup>

### Definitions

**Users** mean service consumers and service suppliers.

**Essential facilities**<sup>2</sup> mean facilities of a public telecommunications transport network or service that

- a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- b) cannot feasibly be economically or technically substituted in order to provide a service.

**A major supplier** is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- a) control over essential facilities; or
- b) use of its position in the market.

### 1. Competitive safeguards

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<sup>1</sup> This applies only to suppliers of basic telecommunications services and not to end-users of such services.

<sup>2</sup> The definition of "essential facilities" will be applied only to the extent consistent with New Zealand's competition policy regime, which regulates the activities of "dominant suppliers".

## 1.1 Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

## 1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- a) engaging in anti-competitive cross-subsidisation;
- b) using information obtained from competitors with anti-competitive results; and
- c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

## 2. Interconnection

2.1 This section applies to linking with suppliers providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier.

### 2.2 Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided:

- a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;

- b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

### 2.3 Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

### 2.4 Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

### 2.5 Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- a) at any time or
- b) after a reasonable period of time which has been made publicly known

to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

## 3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain.

Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

- a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence; and
- b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures<sup>3</sup> for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

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<sup>3</sup> Such procedures may be administered by means of a variety of mechanisms, including laws and regulations, public tendering processes and consultative processes.

## ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)

### SCHEDULE OF NIUE

Modes of Supply:    (1) Cross-border supply      (2) Consumption abroad      (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>1. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN THIS SCHEDULE	3) Foreign enterprises seeking to carry on business activities in Niue require registration by Cabinet. <sup>2</sup> Registration is granted subject to meeting an economic needs test on the basis of established criteria <sup>3</sup> in relevant laws and regulations. <sup>4</sup>		
	3) Investors from other Parties		

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

<sup>2</sup> For the purpose of this limitation, foreign enterprises mean enterprises in which 50 per cent or more of the voting shares or power are not held Niueans, or where 50 per cent or more of the shares are not beneficially owned or controlled by Niueans, or where the enterprise does not have its central management or control in Niue.

<sup>3</sup> The economic needs test is based on the following criteria: impact on local employment and upgrade of local skills; economic impact, including magnitude of local value added and use of local resources, external trade, income, infrastructure demand, and secondary effects on other activities; environmental and cultural impact. For greater clarity, Cabinet approval can be conditional on compliance with aspects of the criteria mentioned above.

<sup>4</sup> This entry in the schedule is in accordance with Niue's foreign investment rules at time of entry into force of the Agreement, which principally consist of the Development Investment Act 1992 and related instruments. Niue has interest in further refining and improving its laws regulating foreign investment. Should Niue adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Trade in Services.



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>must source capital from overseas. Investors from other Parties and their investments are prohibited from accessing the loan facility of the Niue Development Bank.</p>	<p>3) Enterprises that are not wholly-owned by Niueans may be required to provide training to local employees.</p> <p>3) Natural persons who are not Niueans and enterprises that are not wholly-owned by Niueans are prohibited from owning or acquiring land or any interest in land.</p>	
	<p>3) Unbound for measures in relation to the transfer or disposal of government-owned entities or assets.</p>	<p>3) Unbound for measures in relation to the transfer or disposal of government-owned entities or assets.</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>II. Sector-Specific Commitments</b>			
<b>1. BUSINESS SERVICES</b>			
<b>A. Professional Services</b>			
a) Legal Services	1) None 2) None 3) None	1) None 2) None 3) None	
b) Accounting, auditing and bookkeeping services (CPC 862)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Taxation services (CPC 863)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Architectural services (CPC 8671)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Engineering services (CPC 8672)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Integrated engineering	1) None	1) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
services (CPC 8673)	2) None 3) None	2) None 3) None	
g) Urban planning and landscape architectural services (CPC 8674)	1) None 2) None 3) None	1) None 2) None 3) None	
h) Medical and dental services (CPC 9312)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Veterinary services (CPC 932)	1) None 2) None 3) None	1) None 2) None 3) None	
j) Midwives, nurses, physiotherapists and paramedical personnel (CPC 93191)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Computer and Related Services (CPC 84)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Research and Development Services			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>a) R&amp;D services on natural sciences (CPC 851)</p> <p>b) R&amp;D services on social sciences and humanities (CPC 852)</p> <p>c) Interdisciplinary R&amp;D services (CPC 853)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>E. Rental/Leasing Services without Operators</p> <p>a) Relating to ships (CPC 83103)</p> <p>b) Relating to aircraft (CPC 83104)</p> <p>d) Relating to other machinery and equipment (CPC 83106-83109)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
F. Other Business Services			
a) Advertising services (CPC 871)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Market research and public opinion polling services (CPC 864)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Management consulting services (CPC 865)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Services related to management consulting (CPC 866)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Technical testing and analysis services (CPC 8676)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Services incidental to agriculture, hunting and forestry (CPC 881)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Services incidental to	1) None	1) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>fishing (CPC 882**)</p> <p>Consists of specialized consultancy services only, related to fisheries. Does not include fishing.</p> <p>h) Services incidental to mining (CPC 883)</p> <p>i) Services incidental to manufacturing (CPC 884)</p> <p>m) Related scientific and technical consulting services (CPC 8675)</p> <p>j) Services incidental to energy distribution (CPC 997**)</p> <p>Covers specialised consultancy services only, in relation to energy distribution.</p>	<p>2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633+8861-8866)	1) None 2) None 3) None	1) None 2) None 3) None	
o) Building-cleaning services (CPC 874)	1) None 2) None 3) None	1) None 2) None 3) None	
p) Photographic services (CPC 875)	1) None 2) None 3) None	1) None 2) None 3) None	
q) Packaging services (CPC 876)	1) None 2) None 3) None	1) None 2) None 3) None	
r) Printing, publishing (CPC 88442)	1) None 2) None 3) None	1) None 2) None 3) None	
t) Other (CPC 8790)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>2. COMMUNICATION SERVICES</b>			
B. Courier Services (CPC 7512)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Audiovisual services			
a) Motion picture and videotape production and distribution <sup>5</sup> services (CPC 9611)	1) None 2) None 3) None	1) None 2) None 3) Foreign suppliers wishing to film in Niue may be subject to higher permit fees.	
b) Motion picture projection services (CPC 9612)	1) None 2) None 3) None	1) None 2) None 3) Foreign suppliers wishing to film in Niue may be subject to higher permit fees.	
e) Sound recording	1) None 2) None 3) None	1) None 2) None 3) Foreign suppliers wishing to	

<sup>5</sup> For greater clarity, distribution services in this context may include the licensing of motion pictures or video tapes to other service providers for exhibition, broadcasting, or other transmission, rental, sale or other use.



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		film in Niue may be subject to higher permit fees.	
<b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b>  <b>A. General construction work for buildings (CPC 512)</b>  <b>B. General construction work for civil engineering (CPC 513)</b>  <b>C. Installation and assembly work (CPC 514 +516)</b>  <b>D. Building completion and finishing work (CPC 517)</b>  <b>E. Other (CPC 511 + 515 + 518)</b>	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>4. DISTRIBUTION SERVICES</b> (excluding distribution services in relation to alcohol, tobacco, oil, and handicrafts)</p> <p>A. <u>Commission agent's services</u> (CPC 621, 61111**, 6113**, 6121**)</p> <p>B. <u>Wholesale trade services</u> (CPC 622, 61111**, 6113**, 6121** )</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>5. EDUCATIONAL SERVICES</b> (limited to services provided by privately-owned institutions)</p> <p>B. <u>Secondary education services</u> (CPC 922)</p> <p>C. <u>Higher education</u></p>	<p>1) None 2) None 3) None</p> <p>1) None</p>	<p>1) None 2) None 3) None</p> <p>1) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<u>services</u> (CPC 923)  D. <u>Adult education</u> (CPC 924)  E. <u>Other education services</u> (CPC 929)	2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	
6. ENVIRONMENTAL SERVICES  Consultancy related to the provision of the following environmental services:  A. Sewage Services (CPC 9401**)	1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None	
B. Refuse disposal services (CPC 9402**)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
C. Sanitation and similar services (CPC 9403**)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Other (CPC 9404-9409)	1) None 2) None 3) None	1) None 2) None 3) None	
<p>7. FINANCIAL SERVICES</p> <p>Excluding: - activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; - activities forming part of a statutory system of social security or public retirement plans; - and other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.</p>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>A. Insurance and insurance-related services</p> <p>(i) Direct insurance (including co-insurance):</p> <p style="padding-left: 20px;">(A) life</p> <p style="padding-left: 20px;">(B) non-life</p> <p>(ii) Reinsurance and retrocession;</p> <p>(iii) Insurance intermediation, such as brokerage and agency;</p> <p>(iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.</p> <p>B. Banking and other financial services (excl. insurance)</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>8. HEALTH RELATED AND SOCIAL SERVICES (limited to services provided by privately-owned institutions)</p> <p>A. Hospital Services (CPC 9311**)</p> <p>B. Other Human Health Services (CPC 9319**)</p> <p>C. Social Services (CPC 933**)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>9. TOURISM AND TRAVEL RELATED SERVICES</p> <p>A. Hotels and restaurant (incl. catering) (CPC 641, 642, 643)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
B. Travel agencies and tour operators services (CPC 7471)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Tourist guide services (CPC 7472)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>10. RECREATIONAL, CULTURAL AND SPORTING SERVICES</b>			
A. Entertainment Services (CPC 9619)	1) None 2) None 3) None	1) None 2) None 3) None	
B. News agency services (CPC 962)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Libraries, archives, museums, and other cultural services (CPC 963)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Sporting and other recreational	1) None 2) None	1) None 2) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
services (CPC 964**) <ul style="list-style-type: none"> <li>- Excluding gambling and betting</li> </ul>	3) None	3) None	
<b>11. TRANSPORT SERVICES</b>  <b>A. Maritime Transport Services</b>  International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)	1) Conditional on the granting of a license, the issuance of which is based on such criteria as the frequency, type, and price of the services proposed, as well as the impact on the services provided by other transporters. Local agent or registration in Niue required.  2) None  3)(a) Establishment of registered company for the purpose of operating a fleet under the national flag of Niue: unbound  3)(b) Other forms of commercial presence for the supply of international maritime transport	1) None  2) None  3)(a) Unbound  3)(b) None	The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions <ol style="list-style-type: none"> <li>1. Pilotage</li> <li>2. Towing and the tug assistance</li> <li>3. Provisioning, fueling and watering</li> <li>4. Garbage collecting and ballast waste disposal</li> <li>5. Port Captain's services</li> <li>6. Navigation aids</li> <li>7. Shore-based operational services essential to ship operations including communications, water and</li> </ol>



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	services (as defined below - 2): none		electrical supplies 8. Emergency repair facilities 9. Anchorage, berth and berthing services
d) Maintenance and repair of vessels (CPC 8868**)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>MARITIME AUXILIARY SERVICES</b>			
Maritime Freight Forwarding Services (as defined in Annex)	1) None 2) None 3) None	1) None 2) None 3) None	
Maritime Agency Services (as defined in Annex)	1) Suppliers of maritime transport services are required to go through a local agent established in Niue. 2) None 3) None	1) None 2) None 3) None	
<b>C. Air Transport Services<sup>6</sup></b>			

<sup>6</sup> As defined in Article 1 of Chapter 7 (Trade in Services).

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Aircraft repair and maintenance services;</p> <p>Selling and marketing of air transport services;</p> <p>Computer reservation system services;</p> <p>Ground handling services.</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
Specialty air services	<p>1) Unbound 2) None 3) None</p>	<p>1) Unbound 2) None 3) None</p>	
<p>H. Services Auxiliary to All Modes of Transport</p> <p>a) Cargo-handling services,</p>	<p>1) None</p>	<p>1) None</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
except maritime and air cargo handling (CPC 741**)	2) None 3) None	2) None 3) None	
b) Storage and warehouse services (CPC 742)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Freight transport agency services, except maritime freight agency services (CPC 748**)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Other (CPC 749)	1) None 2) None 3) None	1) None 2) None 3) None	

## **ANNEX TO SCHEDULE OF NIUE: DEFINITIONS IN RELATION TO MARITIME TRANSPORT**

1. Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in Niue and another port located in Niue, traffic originating and terminating in the same port located in the Niue provided that this traffic remains within Niue’s territorial waters, and traffic between a port located in the Niue and installations or structures situated in the EEZ or relating to the continental shelf of Niue.
2. “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);

(e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. “Maritime agency services” means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

– marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

– acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

4. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

## ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)

### SCHEDULE OF PALAU

Modes of supply:                    1)      Cross-border supply    2)      Consumption abroad    3)      Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<b>I. HORIZONTAL COMMITMENTS</b>			
<b>ALL SECTORS INCLUDED IN THIS SCHEDULE</b>	3) A foreign investment approval certificate must be obtained pursuant to the Foreign Investment Act 1990 <sup>2</sup> and subsequent amendments before investors of another Party can establish a business enterprise in Palau. Approval of an investment is subject to an economic needs criteria <sup>3</sup>	3) The Palau Constitution prohibits natural persons that are not citizens of Palau and enterprises that are not wholly-owned by Palauans from owning land, or acquiring any interest in or control over land in Palau, whether by purchase, receipt of gift, transfers by operation of law, or any other means	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991

<sup>2</sup> Should Palau adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Trade in Services.

<sup>3</sup> The economic needs test is based on the following criteria: (a) the economic need for the proposed activity; (b) the current availability of the service in the Republic; (c) the likely impact on same or similar activities currently being carried on by citizens; (d) the overall benefit to the national economy; (e) the bona fides, financial capacity, experience and expertise of the applicant; (f) the technical and economic viability of the proposed project; (g) the overall contributions to the national economy; (h) the extent of direct and indirect employment generation; (i) the extent of import earnings or import savings; (j) the extent of utilization of domestic raw materials and natural resources, including the benefits or adverse impact of such utilization; (k) the extent of transfer of managerial and technical skills to citizens, including well-defined training programs for achieving such transfer; (l) the size of the foreign investment as well as the total investment required for the project; (m) the impact of the proposed activity upon the social and cultural values upon the environmental integrity of the Republic, and (n) whether the capital investment and technical and managerial skills required for a business are such as to be within the capacity of citizens.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>and non-discriminatory requirements and the fulfilment of the minimum investment and local ownership requirements in sections 105 and 106 of the Foreign Investment Act 1990 and subsequent amendments.</p>	<p>other than as provided in the following paragraph.</p> <p>Lease of land is limited to 50 years for foreign natural persons and enterprises that are not wholly owned by Palauans.</p> <p>3) Enterprises that are not wholly-owned by Palauans are required to pay a yearly levy for each non-citizen employee.<sup>4</sup></p> <p>3) Palau citizens must constitute 20 per cent of employees of enterprises that are not wholly-owned by Palau citizens when the value of the initial investment is less than US\$500,000 or, in the case of hotel or other short-term lodging facility, US\$5 million.</p> <p>3) Authorities require foreign investors to deposit a stipulated sum of money with a bank in Palau and maintain it there during the validity of the investment.</p>	

<sup>4</sup> For information: in 2015, this levy was of US\$500 per year for each foreign employee. This amount may be adjusted in the future to take account of inflation.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>3) Enterprises engaging solely in the supply of legal services or medicine are exempted from this economic needs test.</p> <p>3) The following business activities are reserved exclusively for citizens and business enterprises in which Palauans have an ownership interest:</p> <ul style="list-style-type: none"> <li>(a) handicraft and gift shops except those located on the premises of hotels or at the Palau International Airport;</li> <li>(b) bakeries;</li> <li>(c) bar services not associated and contained within a restaurant or hotel complex having at least 50 rooms;</li> <li>(d) equipment rentals for both land and water within the Republic, including equipment for purpose of tourism.</li> </ul>		
<p>II. SECTOR-SPECIFIC COMMITMENTS</p>			



Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>1. BUSINESS SERVICES</p> <p>a) <u>Professional Services</u></p> <p>(a) Legal Services (CPC 861)</p> <p>(b) Accounting, auditing and bookkeeping services (CPC 862)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>(c) Taxation Services (CPC 863)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>(d) Architectural Services (CPC 8671)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
(e) Engineering Services (CPC 8672)	1) None 2) None 3) None	1) None 2) None 3) None	
(f) Integrated Engineering Services (CPC 8673)	1) None 2) None 3) None	1) None 2) None 3) None	
(g) Urban Planning and landscape architectural services (CPC 8674)	1) None 2) None 3) None	1) None 2) None 3) None	
(h) Medical and Dental Services (CPC 9312)	1) None 2) None 3) None	1) None 2) None 3) None	
(i) Veterinary Services (CPC 932)	1) None 2) None 3) None	1) None 2) None 3) None	
(j) Midwives, nurses, physiotherapists and paramedical personnel (CPC 93191)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>B. <u>Computer and Related Services</u> (CPC 84)</b>  (a) Consultancy services related to installation of computer hardware (CPC 841)  (b) Software implementation services (CPC 842)  (c) Data processing services (CPC 843)  (d) Database services (CPC 844)  (e) Other (CPC 845 + 849)	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><u>C. Research and Development Services</u></p> <p>(a) R&amp;D Services on natural sciences (CPC 851)</p> <p>(b) R&amp;D Services on social sciences and humanities (CPC 852)</p> <p>(c) Interdisciplinary R&amp;D Services (CPC 853)</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	
<p><u>D. Real Estate Services</u></p> <p>a) Involving own or leased property (CPC 821)</p> <p>b) On a fee or contract basis (CPC 822)</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) None</p> <p>1) Unbound</p> <p>2) Unbound</p> <p>3) None</p>	<p>1) Unbound</p> <p>2) Unbound</p> <p>3) None</p> <p>1) Unbound</p> <p>2) Unbound</p> <p>3) None</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><u>E. Rental/Leasing Services without Operators</u></p> <p>a) Relating to ships: - Limited to rental services of sea- going vessels without operator, for international maritime transport (CPC 83103**)</p> <p>b) Relating to aircraft: limited to rental services of aircraft, excluding spacecraft, without operator, for international air transport (CPC 83104**)</p> <p>d) Relating to other machinery and equipment (CPC 83106-83109)</p> <p>e) Other (CPC 832)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<u>F. Other Business Services</u>			
a) Advertising services (CPC 871)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Market Research and public opinion polling services (CPC 864)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Management consulting services (CPC 865)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Services related to management consulting (CPC 866)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Technical testing and analysis services (CPC 8676)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Services incidental to agriculture, hunting and forestry (CPC 881)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>g) Services incidental to fishing (CPC 882**)</p> <p>Consists of specialized consultancy services only, related to fisheries. Does not include fishing.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>i) Services incidental to manufacturing (CPC 884)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>j) Services incidental to energy distribution (CPC 997**)</p> <p>Covers specialised consultancy services only, in relation to energy distribution.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>k) Placement and supply services and personnel (CPC 872)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>l) Investigation and</p>	<p>1) None</p>	<p>1) None</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
security (CPC 873)	2) None 3) None	2) None 3) None	
m) Related scientific and technical consulting services (CPC 8675)	1) None 2) None 3) None	1) None 2) None 3) None	
n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633+8861-8866**), except repair of footwear.	1) None 2) None 3) None	1) None 2) None 3) None	
o) Building-cleaning services (CPC 874)	1) None 2) None 3) None	1) None 2) None 3) None	
p) Photographic services (CPC 875)	1) None 2) None 3) None	1) None 2) None 3) None	
q) Packaging services (CPC 876)	1) None 2) None 3) None	1) None 2) None 3) None	



Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
s) Convention services (CPC 87909*)	1) None 2) None 3) None	1) None 2) None 3) None	
t) Other (CPC 8790)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>2. COMMUNICATION SERVICES</b>			
B. <u>Courier Services</u> (CPC 7512)	1) None 2) None 3) None	1) None 2) None 3) None	
C. <u>Telecommunication Services</u> <sup>5</sup>	1) Unbound 2) Unbound 3) Unbound	1) Unbound 2) Unbound 3) Unbound	
<u>D. Audiovisual Services</u>	1) None	1) None	

<sup>5</sup> Palau has interest in introducing competition in the telecommunications market and in further developing appropriate regulatory frameworks, including to ensure universal service. Should competition be introduced and adequate regulatory frameworks be introduced in the future, Palau would consider reflecting, where appropriate, these under PACER Plus through an amended schedule of specific commitments on Trade in Services.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
a) Motion picture and video tape production and distribution <sup>6</sup> (CPC 9611)	2) None 3) None	2) None 3) None	
b. Motion picture projection services (CPC 9612)	1) None 2) None 3) None	1) None 2) None 3) None	
e. Sound recording	1) None 2) None 3) None	1) None 2) None 3) None	

<sup>6</sup> For greater clarity, distribution services in this context may include the licensing of motion pictures or video tapes to other service providers for exhibition, broadcasting, or other transmission, rental, sale or other use.

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</p> <p>A. <u>General Construction Work for Buildings</u> (CPC 512)</p> <p>B. <u>General Construction Work for Civil Engineering</u> (CPC 513)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
C. <u>Installation and assembly work</u> (CPC 514+516)  D. <u>Building completion and finishing work</u> (CPC 517)  E. <u>Other</u> (CPC 511+515+518)	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	
4. DISTRIBUTION SERVICES  D. Franchising (CPC 8929)	1) None 2) None 3) None	1) None 2) None 3) None	
5. EDUCATIONAL SERVICES (limited to services provided by privately-owned institutions)			

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
B. Secondary education services (CPC 922**)	1) Subject to approval by authorities on the basis of need. 2) None 3) Subject to approval by authorities on the basis of need.	1) None 2) None 3) None	
C. Higher education services in private institutions (CPC 923**)	1) Subject to approval by authorities on the basis of need. 2) None 3) Subject to approval by authorities on the basis of need.	1) None 2) None 3) None	
D. Adult education (CPC 924)	1) Subject to approval by authorities on the basis of need. 2) None 3) Subject to approval by authorities on the basis of need.	1) None 2) None 3) None	
E. Other education services (CPC 929)	1) Subject to approval by authorities on the basis of need. 2) None 3) Subject to approval by authorities on the basis of need.	1) None 2) None 3) None	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>6. ENVIRONMENTAL SERVICES</p> <p>Consultancy related to the provision of the following environmental services:</p> <p>A. Sewage Services (CPC 9401**)</p> <p>B. Refuse disposal services (CPC 9402**)</p> <p>C. Sanitation and similar services (CPC 9403**)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>D. Other environmental services (CPC 9404-9409)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>7. FINANCIAL SERVICES</p> <p>Excluding: - activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; - activities forming part of a statutory system of social security or public retirement plans; - and other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.</p> <p><u>A. Insurance and insurance-related services</u></p> <p>(i) Direct insurance (including co-insurance) :</p> <p>(A) life</p> <p>(B) non-life, except third party vehicle insurance</p>	<p>1) Unbound, except for international marine, aviation, and transport insurance, where: none.</p> <p>2) Unbound, except for international marine, aviation, and transport insurance, where: none.</p> <p>3) None</p> <p>1) Unbound, except for international</p>	<p>1) Unbound, except for international marine, aviation, and transport insurance, where: none.</p> <p>2) Unbound, except for international marine, aviation, and transport insurance, where: none.</p> <p>3) None</p> <p>1) Unbound, except for international</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(ii) Reinsurance and retrocession;</p> <p>(iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>B. <u>Banking and Other Financial Services</u> (excl. insurance)</b></p> <p>(v) Acceptance of deposits and other repayable funds from the public</p> <p>(vi) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial</p>	<p>1) Unbound, except for 7.B.(xv) and (xvi), where: none. 2) Unbound, except for 7.B.(xv) and (xvi), where: none. 3) None</p>	<p>1) Unbound, except for 7.B.(xv) and (xvi), where: none. 2) Unbound, except for 7.B.(xv) and (xvi), where: none. 3) Higher minimum capital requirements are imposed on enterprises that are not wholly-owned by Palauans. For branches, a minimum capital requirement in Palau is required depending on the deposit insurance extended for activities in Palau.</p>	



Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>transaction</p> <p>(vii) Financial leasing</p> <p>(viii) All payments and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts.</p> <p>(ix) Guarantees and commitments</p> <p>(x) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <ul style="list-style-type: none"> <li>- money market instruments (including cheques, bills, certificate of deposits);</li> <li>- foreign exchange;</li> </ul>			

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<ul style="list-style-type: none"> <li>- derivative products including, but not limited to, futures and options;</li> <li>- exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;</li> <li>- transferable securities;</li> <li>- other negotiable instruments and financial assets, including bullion.</li> </ul> <p>(xi) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues</p> <p>(xii) Money broking</p>			

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>(xiii) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services</p> <p>(xiv) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments</p> <p>(xv) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services</p> <p>(xvi) Advisory, intermediation and other auxiliary financial services</p>			

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>on all the activities listed in the subparagraphs under 7.B. (Banking services and other financial services (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.</p>			
<p>9. TOURISM AND TRAVEL RELATED SERVICES</p> <p>A. <u>Hotel and Restaurants</u> (including catering) (CPC 641-643**), excluding accommodation on ships.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>10. RECREATIONAL, CULTURAL AND</p>			

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>SPORTING SERVICES</p> <p>A. Entertainment Services (CPC 9619)</p> <p>B. News agency services (CPC 962)</p> <p>C. Libraries, archives, museums, and other cultural services (CPC 963)</p> <p>D. Sporting and other Recreational services (CPC 964**)</p> <p>- Excluding: gambling and betting; and fishing and diving guides and tours.</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>11. TRANSPORT SERVICES</p> <p>A. Maritime Transport Services</p> <p>International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)</p>	<p>1)(a) For all international shipping, except passenger transportation and transport of petrol:</p> <ul style="list-style-type: none"> <li>- Conditional on the granting of a license, the issuance of which is based on such criteria as the frequency, type, and price of the services proposed, as well as the impact on the services provided by other transporters.</li> <li>- Licenses granted preferably to carriers owned by Palau citizens, that employ Palauans, and that conduct training for Palauans.</li> <li>- Vessels owned and operated by the Palau government do not require a license to be granted on the basis of the criteria mentioned above.</li> <li>- Local agent in Palau or registration in Palau required.</li> </ul>	<p>1)(a) none</p>	<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions:</p> <ol style="list-style-type: none"> <li>1. Pilotage</li> <li>2. Towing and the tug assistance</li> <li>3. Provisioning, fuelling and watering</li> <li>4. Garbage collecting and ballast waste disposal</li> <li>5. Port Captain's services</li> <li>6. Navigation aids</li> </ol>

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	1)(b) For international passenger transportation and international shipping of petrol: none.  2) None  3) (a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound  3)(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2): none	1)(b) None  2) None  3)(a) Unbound  3)(b) None	7. Shore-based operational services essential to ship operations including communications, water and electrical supplies  8. Emergency repair facilities  9. Anchorage, berth and berthing services
d) Maintenance and repair of vessels (CPC 8868**)	1) None 2) None 3) None	1) None 2) None 3) None	
MARITIME AUXILIARY SERVICES			
Customs Clearance Services (as defined in	1) None 2) None	1) None 2) None	

Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
Annex)	3) None	3) None	
<b>C. Air Transport Services<sup>7</sup></b>			
Aircraft repair and maintenance services	1) None 2) None 3) None	1) None 2) None 3) None	
Selling and marketing of air transport services	1) None 2) None 3) None	1) None 2) None 3) None	
Computer reservation system services	1) None 2) None 3) None	1) None 2) None 3) None	
<b>G. Pipeline Transport (CPC 713)</b>	1) None 2) None 3) None	1) None 2) None 3) None	
<b>H. Services Auxiliary to All Modes of Transport</b>			

<sup>7</sup> As defined in Article 1 of Chapter 7 (Trade in Services).



Modes of supply: 1) Cross-border supply 2) Consumption abroad 3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
a) Cargo-handling services, except maritime and air cargo handling (CPC 741**)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Storage and warehouse services, except maritime storage and warehousing services (CPC 742**)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Freight transport agency services, except maritime freight agency services (CPC 748**)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Other (CPC 749)	1) None 2) None 3) None	1) None 2) None 3) None	

\* Indicates that the service specified is a component of a more aggregated CPC item specified elsewhere in the sectoral classification list on which this schedule is based (See WTO document S/L/92).

\*\* The service specified constitutes only part of the total range of activities covered by the CPC concordance.

## **ANNEX TO THE SCHEDULE OF PALAU: DEFINITIONS IN RELATION TO MARITIME TRANSPORT**

1. Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in the Palau and another port located in the Palau, traffic originating and terminating in the same port located in the Palau provided that this traffic remains within the Palau’s territorial waters, and traffic between a port located in the Palau and installations or structures situated in the EEZ or relating to the continental shelf of Palau.

2. “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);

(e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. “Customs clearance services” (alternatively “customs house brokers’ services”) means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

4. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

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**ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)**

**SCHEDULE OF THE REPUBLIC OF THE MARSHALL ISLANDS**

Modes of supply:	(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence
Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>1. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN THIS SCHEDULE	<p>3) Application for a business license under the Foreign Business License Act is required in order to establish an enterprise that is not wholly-owned by citizens of the Republic of the Marshall Islands, or to acquire an interest in an existing enterprise in the Republic of the Marshall Islands.<sup>2</sup></p> <p>Investors of other Parties must incorporate as a domestic limited company or register as a foreign company.</p> <p>3) The following activities are reserved for the Republic of the</p>	<p>3) Natural persons that are not citizens of the Republic of the Marshall Islands and enterprises that are not wholly-owned by citizens of the Republic of the Marshall Islands are prohibited from owning or acquiring land or any interest in land.</p> <p>3) Foreign owned companies must pay a levy per quarter for each non-resident employee, to be paid into the resident workers training account.</p>	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

<sup>2</sup> Should the Republic of the Marshall Islands adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Trade in Services.

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	Marshall Islands citizens and enterprises wholly-owned by the Republic of the Marshall Islands citizens: Bakeries and pastry shops Motor garages and filling stations Taxis Motor vehicle rental Small retail shops <sup>3</sup> Laundromat and dry cleaning Tailoring / sewing shops Video rental Handicraft shops Delicatessen, Deli shop, and food take-out. <sup>4</sup>		

<sup>3</sup> “Small retail shops” is defined as shops with a turnover of less than US\$1,000 per quarter. This threshold may be adjusted in the future.

<sup>4</sup> For greater certainty, nothing in section II of this schedule (Sector-Specific Commitments) can be taken to somehow lessen or modify the limitations listed in this section.

Modes of supply:			
	(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence
Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>			
<b>1. BUSINESS SERVICES</b>			
<b>A. Professional Services</b>			
a) Legal Services (CPC 861)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Accounting, auditing and bookkeeping services (CPC 862)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Taxation services (CPC 863)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Architectural services (CPC 8671)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Engineering services (CPC 8672) <sup>5</sup> excluding CPC 7421: geologies and prospecting	1) None 2) None 3) None	1) None 2) None 3) None	

<sup>5</sup>The Republic of the Marshall Islands has excluded Geological and Prospecting Activities given that deep sea mining policy and legislation is still in initial stages and thus not feasible to commit. Weather forecasting is excluded as it is provided by Government Agency.

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
activities.  f) Integrated engineering services (CPC 8673)  g) Urban planning and landscape architectural services (CPC 8674)  h) Medical and dental services (CPC 9312)  i) Veterinary services (CPC 932)  j) Midwives, nurses, physiotherapists and paramedical personnel (CPC 93191)	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	
B. Computer and Related Services (CPC 84)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>C. Research and Development Services</p> <p>a) R&amp;D services on natural sciences (CPC 851)</p> <p>b) R&amp;D services on social sciences and humanities (CPC 852)</p> <p>c) Interdisciplinary R&amp;D services (CPC 853)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>E. Rental/Leasing Services without Operators</p> <p>a) Relating to ships (CPC 83103)</p> <p>b) Relating to aircraft (CPC 83104)</p> <p>c) Relating to other transport</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None</p>	



Modes of supply:	(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence
Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
equipment (CPC 83101+83102+83105)	2) None 3) None	2) None 3) None	
d) Relating to other machinery and equipment (CPC 83106-83109)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Other	1) None 2) None 3) None	1) None 2) None 3) None	
<b>F. Other Business Services</b>			
a) Advertising services (CPC 871)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Market research and public opinion polling services (CPC 864)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Management consulting services (CPC 865)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Services related to management consulting (CPC 866)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>e) Technical testing and analysis services (CPC 8676) specific to testing activities in the field of food hygiene, including veterinary testing and control in relation to food production, testing of physical characteristics and performance of materials such as strength, thickness, durability, certification of products for consumer goods including motor vehicles, periodic road-safety testing of motor vehicles etc.</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>f) Services incidental to agriculture, hunting and forestry (CPC 881)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>h) Services incidental to mining (CPC 883) excluding for Deep Sea Mining</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>i) Services incidental to manufacturing (CPC 884)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
k) Placement and supply services and personnel (CPC 872)	1) None 2) None 3) None	1) None 2) None 3) None	
l) Investigation and security (CPC 873) excluding security activities in the field of public transportation such as luggage and passenger inspection at the airports.	1) None 2) None 3) None	1) None 2) None 3) None	
m) Related scientific and technical consulting services (CPC 8675)	1) None 2) None 3) None	1) None 2) None 3) None	
n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633+8861-8866)	1) None 2) None 3) None	1) None 2) None 3) None	
o) Building-cleaning services (CPC 874)	1) None 2) None 3) None	1) None 2) None 3) None	
p) Photographic services (CPC 875)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
q) Packaging services (CPC 876)	1) None 2) None 3) None	1) None 2) None 3) None	
r) Printing, publishing (CPC 88442)	1) None 2) None 3) None	1) None 2) None 3) None	
s) Convention services (CPC 87909*)	1) None 2) None 3) None	1) None 2) None 3) None	
t) Other (CPC 8790) excluding reading of gas, water and electricity meters	1) None 2) None 3) None	1) None 2) None 3) None	
2. COMMUNICATION SERVICES  B. Courier Services (CPC 7512)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:			
	(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence
Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>C. Telecommunication Services<sup>6</sup></b> a) Voice telephone services (CPC 7521) b) Packet-switched data transmission services (CPC7523**) c) Circuit-switched data transmission services (CPC 7523**) d) Telex services (CPC 7523**) e) Telegraph services (CPC 7522) f) Facsimile service (CPC 7521**+7529** ) g) Private leased circuit services (CPC 7522**+7523**) h. Electronic mail (CPC 7523**) i) Voice mail (CPC 7523** ) j) On-line information and data base retrieval (CPC 7523**) k) Electronic data interchange	1) Unbound 2) Unbound 3) Unbound	1) Unbound 2) Unbound 3) Unbound	

<sup>6</sup> The Republic of the Marshall Islands has interest in introducing competition in the telecommunications sector and in further developing appropriate regulatory frameworks, including ensuring universal service. Should competition and adequate regulatory frameworks be introduced in the future, the Republic of the Marshall Islands would reflect these, where appropriate, under PACER Plus through a revised Schedule of Commitments on Trade in Services.

Modes of supply:	(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence
Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(EDI) (CPC 7523**) <ul style="list-style-type: none"> <li>l) Enhanced/value-added facsimile services, incl. store and forward, store and retrieve (CPC 7523**)</li> <li>m) Code and protocol conversion</li> <li>n) Online information and/or data processing (incl. transaction (CPC 834**)</li> <li>o) Other</li> </ul>			
D. Audiovisual services <ul style="list-style-type: none"> <li>a) Motion picture and videotape production and distribution<sup>7</sup> services (CPC 9611)</li> <li>b) Motion picture projection services (CPC 9612)</li> </ul>	<ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) None</li> </ul> <ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) None</li> </ul>	<ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) None</li> </ul> <ul style="list-style-type: none"> <li>1) None</li> <li>2) None</li> <li>3) None</li> </ul>	
<b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b>			

<sup>7</sup> For greater clarity, distribution services in this context may include the licensing of motion pictures or video tapes to other service providers for exhibition, broadcasting, or other transmission, rental, sale or other use.

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
A. General construction work for buildings (CPC 512)	1) None 2) None 3) None	1) None 2) None 3) None	
B. General construction work for civil engineering (CPC 513)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Installation and assembly work (CPC 514+516)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Building completion and finishing work (CPC 517)	1) None 2) None 3) None	1) None 2) None 3) None	
E. Other (CPC 511+515+518)	1) None 2) None 3) None	1) None 2) None 3) None	
4. DISTRIBUTION SERVICES (excluding distribution services in relation to alcohol, tobacco, and handicrafts)			
A. Commission agents' services (CPC 621, 61111**, 6113**,	1) None 2) None	1) None 2) None	

Modes of supply:		(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence
Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments	
6121**)	3) None	3) None		
B. Wholesale trade services (CPC 622, 61111**, 6113**, 6121**)	1) None 2) None 3) None	1) None 2) None 3) None		
C. Retailing services (CPC 631, 632, 61112, 6113**, 6121**)	1) None 2) None 3) None	1) None 2) None 3) None		
- Excluding small retail shops <sup>8</sup> (including mobile retail shops, open air vendors/take-outs), food take-out, delicatessen, deli shop, tailor / sewing shops, bakeries and pastry shops.				
- Excluding retail sale via stall and markets. <sup>9</sup>				
-				
D. Franchising (CPC 8929)	1) None 2) None 3) None	1) None 2) None 3) None		
<b>5. EDUCATIONAL SERVICES</b>				

<sup>8</sup> “Small retail shops” is defined as shops with a turnover of less than US\$1,000 per quarter. This threshold may be adjusted in the future.

<sup>9</sup> Note retail sale of any kind of product usually movable stall along public roads.



Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(limited to services provided by privately-owned institutions)	1) None	1) None	
A. Pre-Primary Education including special education for handicapped students at this level	2) None 3) None	2) None 3) None	
Primary education services (CPC 921**) including special education for handicapped students at this level	1) None 2) None 3) None	1) None 2) None 3) None	
B. Secondary education services (CPC 922**) including special education for handicapped students at this level.	1) None 2) None 3) None	1) None 2) None 3) None	
C. Higher education services in private institutions (CPC 923**)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Adult education (CPC 924**)	1) None 2) None 3) None	1) None 2) None 3) None	
E. Other education services (CPC 929**) including sports,	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
recreational education and cultural education.  F. Technical and Vocational Education (CPC 8522**) including instruction for tourist guides, nautical training, training for hairdressing and cosmetology, instructions for chefs, hoteliers and restaurants, computer repair training, driving schools for occupational drivers e.g. trucks, buses and coaches and also specialized for handicapped students at this level.	1) None 2) None 3) None	1) None 2) None 3) None	
6. ENVIRONMENTAL SERVICES  Consultancy related to the provision of the following environmental services:  A. Sewage Services (CPC 9401**)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Refuse disposal services (CPC	1) None	1) None	

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
9402**)  C. Sanitation and similar services (CPC 9403**)	2) None 3) None  1) None 2) None 3) None	2) None 3) None  1) None 2) None 3) None	
D. Other environmental services (CPC 9404-9409)	1) None 2) None 3) None	1) None 2) None 3) None	
7. FINANCIAL SERVICES  Excluding: - activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; - activities forming part of a statutory system of social security or public retirement plans; - and other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.			

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>A. Insurance and insurance-related services</p> <p>(i) Direct insurance (including co-insurance) :</p> <p style="padding-left: 20px;">(A) life</p> <p style="padding-left: 20px;">(B) non-life</p> <p>(ii) Reinsurance and retrocession;</p> <p>(iii) Insurance intermediation, such as brokerage and agency;</p> <p>(iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.</p>	<p>1) Unbound 2) Unbound 3) None</p> <p>1) Unbound 2) Unbound 3) None</p> <p>1) Unbound 2) Unbound 3) None</p> <p>1) Unbound 2) Unbound 3) None</p>	<p>1) Unbound 2) Unbound 3) None</p> <p>1) Unbound 2) Unbound 3) None</p> <p>1) Unbound 2) Unbound 3) None</p> <p>1) Unbound 2) Unbound 3) None</p>	
<p>B. Banking and other financial services (excluding insurance)</p> <p>(a) Acceptance of deposits and other repayable funds from the</p>	<p>1) None 2) None</p>	<p>1) None 2) None</p>	

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>public;</p> <p>(b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction;</p> <p>(c) Financial leasing;</p> <p>(d) All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;</p> <p>(e) Guarantees and commitments;</p> <p>(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(i) money market instruments (including cheques, bills, certificates of deposits) ;</p> <p>(ii) foreign exchange;</p> <p>(iii) derivative products including, but not limited to, futures and options;</p> <p>(iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;</p> <p>(v) transferable securities;</p> <p>(vi) other negotiable instruments and financial assets, including bullion.</p> <p>(g) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;</p> <p>(h) Money broking;</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(i) Asset management, such as cash or portfolio management, all forms of collective investment management, custodial, depository and trust services	1) None 2) None 3) None	1) None 2) None 3) None	
(j) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;	1) None 2) None 3) None	1) None 2) None 3) None	
(k) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;	1) None 2) None 3) None	1) None 2) None 3) None	
(l) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv) , including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:			
	(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence
Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>8. HEALTH RELATED AND SOCIAL SERVICES</b> (limited to services provided by privately-owned institutions)</p> <p>A. Hospital Services (CPC 9311**)</p> <p>B. Other Human Health Services (CPC 9319**)</p> <p>C. Social Services (CPC 933**)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>9. TOURISM AND TRAVEL RELATED SERVICES</b></p> <p>A. Hotels (four and five star) and specialised restaurants (incl. catering) (CPC 641, 642**, 643), in four and five star hotels. - Excluding small Delicatessen,</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	



Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Deli Shops or Food take-out, bakeries and pastry shops and canteens</p> <p>Bed and Breakfast Services in outer islands</p> <p>B. Travel agencies and tour operators services (CPC 7471)</p> <p>C. Tourist guides services (CPC 7472)</p>	<p>1) None</p> <p>2) None</p> <p>3) Formation of Joint Venture with local Marshallese investor. The share of JV to be negotiated between the local and foreign investors.</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) Formation of Joint Venture with local Marshallese investor. The share of JV to be negotiated between the local and foreign investors.</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>	
<p>10. RECREATIONAL, CULTURAL AND SPORTING SERVICES</p> <p>A. Entertainment Services (CPC 9619)</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	

Modes of supply:			
	(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence
Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
B. News agency services (CPC 962)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Libraries, archives, museums, and other cultural services (CPC 963)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Sporting and other recreational services (CPC 964**) Excluding gambling and betting	1) None 2) None 3) None	1) None 2) None 3) None	
11. TRANSPORT SERVICES	1) 2) (a) Liner shipping:	1) 2) (a) None	The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions
A. Maritime Transport Services	- Conditional on the granting of a license, the issuance of which is based on such criteria as the frequency, type, and price of the services proposed, as well as the impact on the services provided by other transporters.		1. Pilotage
International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)	- Licenses granted preferably		2. Towing and the tug assistance
			3. Provisioning, fuelling and watering
			4. Garbage collecting and

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>to carriers owned by the Republic of the Marshall Islands citizens, and that employ the Republic of the Marshall Islands citizens, and that conduct training for the Republic of the Marshall Islands citizens.</p> <p>- Vessels owned and operated by the the Republic of the Marshall Islands government do not require a license to be granted on the basis of the criteria mentioned above.</p> <p>1), 2)(b) Bulk, tramp, and other international shipping, including passenger transportation: None</p> <p>3)(a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound</p>	<p>1), 2)(b) None</p> <p>3)(a) Unbound</p>	<p>ballast waste disposal</p> <p>5. Port Captain's services</p> <p>6. Navigation aids</p> <p>7. Shore-based operational services essential to ship operations including communications, water and electrical supplies</p> <p>8. Emergency repair facilities</p> <p>9. Anchorage, berth and berthing services</p>

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	3(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2): none	3)(b) None	
d) Maintenance and repair of vessels (CPC 8868**)  f) Supporting services for maritime transport (CPC 745**)	1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None	
MARITIME AUXILIARY SERVICES  Customs Clearance Services (as defined in Annex)  Container Station and Depot Services (as defined in Annex)	1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None	

Modes of supply:			
	(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence
<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<b>C. Air Transport Services<sup>10</sup></b>			
Aircraft repair and maintenance services	1) None 2) None 3) None	1) None 2) None 3) None	
Selling and marketing of air transport services	1) None 2) None 3) None	1) None 2) None 3) None	
Computer reservation system services	1) None 2) None 3) None	1) None 2) None 3) None	
Supporting services for Air Transport (CPC746)	1) None 2) None 3) None	1) None 2) None 3) None	
Airport operation services	1) None 2) None 3) None	1) None 2) None 3) None	
Other supporting services for air transport including ground	1) None 2) None	1) None 2) None	

<sup>10</sup> As defined in Article 1 of Chapter 7 (Trade in Services).

Modes of supply:

(1) Cross-border supply

(2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
handling	3) None	3) None	
<p>F. Road Transport Services</p> <p>a) Passenger transportation (CPC 7121+7122)</p> <p>b) Freight transportation (CPC 7123)</p> <p>c) Rental of commercial vehicles with operator (CPC 7124)</p> <p>d) Maintenance and repair of road transport equipment (CPC 6112+8867)</p> <p>e) Supporting services for road transport services (CPC 744)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>G. Pipeline Transport</p> <p>a) Transportation of fuels</p>	<p>1) Unbound</p>	<p>1) Unbound</p>	

Modes of supply:			
	(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence
<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
(CPC 7131 )	2) Unbound 3) Unbound	2) Unbound 3) Unbound	
b) Transportation of other goods (CPC 7139)	1) Unbound 2) Unbound 3) Unbound	1) Unbound 2) Unbound 3) Unbound	
<b>H. Services Auxiliary to All Modes of Transport</b>			
a) Cargo-handling services, except maritime and air cargo handling (CPC 741**)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Storage and warehouse services, except maritime storage and warehousing services (CPC 742**)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Freight transport agency services, except maritime freight agency services (CPC 748**)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Other (CPC 749)	1) None 2) None 3) None	1) None 2) None 3) None	

\*\* The service specified constitutes only part of the total range of activities covered by the CPC concordance.

## **ANNEX TO THE SCHEDULE OF THE REPUBLIC OF THE MARSHALL ISLANDS: DEFINITIONS IN RELATION TO MARITIME TRANSPORT**

1. Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in the Republic of the Marshall Islands and another port located in the RMI, traffic originating and terminating in the same port located in the Republic of the Marshall Islands provided that this traffic remains within the Republic of the Marshall Islands’s territorial waters, and traffic between a port located in the Republic of the Marshall Islands and installations or structures situated in the EEZ or relating to the continental shelf of the Republic of the Marshall Islands.

2. “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;



(d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);

(e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. "Maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of :

- the loading/discharging of cargo to/from a ship;
- the lashing/unlashing of cargo;
- the reception/delivery and safekeeping of cargoes before shipment or after discharge.

4. "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

5. "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

6. "Maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

- marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;
- acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

7. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

**ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)**

**SCHEDULE OF SAMOA**

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>1. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN THIS SCHEDULE	<p>3) Unbound for measures: a) as part of the act of devolving a service that is provided in the exercise of</p>	<p>3) Non-Samoan natural and juridical persons may lease but not own land. Land may be leased for up to 30 years renewable once in the case of land leased or licensed for industrial purposes or a hotel and 20 years renewable once in the other cases.</p> <p>3) Foreign service suppliers may be required to provide training to local employees.</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>governmental authority at the time the Agreement enters into force; or,  b) regarding the sale or disposal of government-owned entities or assets.</p> <p>1), 2) and 3) Unbound with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, child care, public utilities, public transport and public housing.</p>		

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>II. SECTOR SPECIFIC COMMITMENTS</b>			
<b>1. BUSINESS SERVICES</b>			
<b>A. Professional Services</b>			
(a) Legal Services Legal advisory services on foreign and international law	(1) None (2) None (3) None	(1) None (2) None (3) None	
(b) Accounting and Bookkeeping Services (CPC 862**)¹: Excluding Financial Auditing services (CPC 86211)	(1) None (2) None (3) Joint venture with local partner required	(1) None (2) None (3) None	
(d) Architectural services (CPC 8671)	(1) None (2) None (3) Joint venture with local partner required	(1) None (2) None (3) None	
(e) Engineering services (CPC 8672)	(1) None (2) None (3) Only through incorporation in Samoa	(1) None (2) None (3) None	

¹ For greater transparency, foreign and local accountants must comply with the requirements of the Samoa Institute of Accountants.

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(f) Integrated engineering services (CPC 8673)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(h) Veterinary services (CPC 932)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>B. Computer and Related Services</b>			
Computer and Related Services (CPC 84)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>E. Rental/Leasing Services without Operators</b>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(a) Relating to ships (CPC 83103)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(b) Relating to aircraft (CPC 83104)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(d) Relating to other machinery and equipment (CPC 83106-83109)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(e) Other except leasing or rental of video tapes (CPC 83202)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>F. Other Business Services</b>			
(a) Advertising services (CPC 871)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(b) Market research and public opinion polling services (CPC 864)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(c) Management consulting	(1) None	(1) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
services (CPC 865)	(2) None (3) None	(2) None (3) None	
(d) Services related to management consulting (CPC 866)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(e) Technical testing and analysis services, including ship survey services: - Testing and Analysis Services of Physical Properties (CPC 86762) - Testing and Analysis Services of Integrated Mechanical and Electrical Systems (CPC 86763) - Technical Inspection Services (CPC 86764)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(h) Services incidental to mining (CPC 883+5115)	(1) None (2) None (3) None	(1) None (2) None (3) None	



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(k) Placement and supply services and personnel (CPC 872)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(m) Related scientific and technical consulting services (CPC 8675)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transportation equipment) (CPC 6122, 633+8861-8866)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(o) Building-cleaning services (CPC 874)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(q) Packaging services (CPC 876)	(1) None (2) None (3) None	(1) None (2) None (3) None	
t) Other			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Translation and interpretation services (CPC 87905)	(1) None (2) None (3) None	(1) None (2) None (3) None	
Mailing list compilation and mailing services (CPC 87906)	(1) None (2) None (3) None	(1) None (2) None (3) None	
Convention services (part of CPC 87909)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>2. COMMUNICATION SERVICES</b>			
<b>B. Courier Services</b>			
Courier Services, including express delivery services <sup>2</sup> in all areas except for the following services:  (a) the collection, transport and delivery of domestic and cross-border addressed mail to PO Boxes in the	(1) None (2) None (3) None	(1) None (2) None (3) None	

<sup>2</sup> Express delivery services include the collection, transport and delivery of documents, printed matter, parcels and/or other goods on an expedited basis, while tracking and maintaining control of these items throughout the supply of the service.

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
following categories: (i) addressed letters weighing not more than 100 grams; (ii) small packages weighing up to 2 kg; (b) the collection, transport and delivery to PO Boxes of domestic and international postal parcels weighing up to 20 kg; (c) the provision of PO Boxes; and (d) issuing of postage stamps.			
<b>C. Telecommunication services<sup>3</sup></b>			
Basic Services  (a) Voice telephone services (b) Packet-switched data transmission services (c) Circuit-switched data transmission services	(1) None (2) None (3) None	(1) None (2) None (3) None	The Independent State of Samoa undertakes to adopt the regulatory principles contained in the Reference Paper attached hereto.

<sup>3</sup> Excluding Broadcasting, which is defined as the uninterrupted chain of transmission required for the distribution of television and radio program signals to the general public, but does not cover contribution links between operators.

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(d) Telex services (e) Telegraph services (f) Facsimile services (g) Private leased circuit services			
Value-added 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, including store and forward, store and retrieve (m) Code and protocol conversion (n) On-line information and/or data processing (o) Other	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>D. Audiovisual Services</b>			
(a) Motion picture and video	(1) None	(1) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
distribution services (CPC 96113**)⁴ (b) Motion Picture projection service (CPC 9612) (c) Radio and television programme distribution services (CPC 9613**)⁵ Television and radio broadcasting and transmission services, as well as the production of radio and television programmes, are specifically excluded (d) Sound recording (n.a.)	(2) None (3) None	(2) None (3) None	
<b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b>			

⁴ For the purposes of this commitment, distribution means licensing of motion pictures or video to other enterprises, for exhibition, broadcasting, other transmission, or other use.

⁵ For the purposes of this commitment, distribution means licensing of radio and television programs to other enterprises, for exhibition, broadcasting, other transmission, or other use.

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>A. General construction work for buildings</b> (CPC 512)	(1) None (2) None (3) Incorporation in Samoa required	(1) None (2) None (3) None	
<b>B. General construction work for civil engineering</b> (CPC 513)	(1) None (2) None (3) Incorporation in Samoa required	(1) None (2) None (3) None	
<b>4. DISTRIBUTION SERVICES</b>			
<b>(excluding distribution services in relation to alcohol and tobacco)</b>			
<b>A. Commission agents' services</b> (CPC 621)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>B. Wholesale trade services</b> a) 6224 – wholesale services of household appliances, articles and equipment b) 6228 – wholesale services of machinery, equipment and	(1) None (2) None (3) None	(1) None (2) None (3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
supplies			
<b>D. Franchising (CPC 8929)</b>	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>5. EDUCATIONAL SERVICES IN PRIVATE INSTITUTIONS</b>			
<b>A. Primary education services (CPC 921**)</b>	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>B. Secondary education services (CPC 922**)</b>	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>C. Higher education services (CPC 923**)</b>	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>D. Adult education (CPC 924**)</b>	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>E. Other education services (CPC 929**)</b>	(1) None (2) None (3) None	(1) None (2) None (3) None	
- Training services (e.g.	(1) None (2) None (3) None	(1) None (2) None (3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
language training; driver's education; executive/management training; information technology training); education testing services after-school courses; educational programs offered during school breaks; tutoring and preparatory courses.			
<b>6. ENVIRONMENTAL SERVICES</b>			



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>A. Sewage services</b> (CPC 9401)	(1) None (2) None (3) Joint venture with local partner required	(1) None (2) None (3) None	
<b>B. Refuse disposal services</b> (CPC 9402)	(1) None (2) None (3) Joint venture with local partner required	(1) None (2) None (3) None	
<b>C. Sanitation and similar services</b> (CPC 9403)	(1) None (2) None (3) Joint venture with local partner required	(1) None (2) None (3) None	
<b>D. Other</b> (CPC 9404 - 9406)	(1) None (2) None (3) Joint venture with local partner required	(1) None (2) None (3) None	
<p><b>7. FINANCIAL SERVICES</b></p> <p>Excluding:</p> <ul style="list-style-type: none"> <li>- activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies;</li> <li>- activities forming part of a statutory system of social security or public retirement plans; and</li> <li>- other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.</li> </ul>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>A. All Insurance and Insurance-Related Services</b>			
i. Direct Insurance (including co-insurance)  (a) Life Insurance Services	(1) Unbound (2) Unbound (3) None	(1) Unbound (2) Unbound (3) None	
(b) Non-life Insurance Services	(1) Unbound, except insurance relating to marine shipping and commercial aviation and space launching (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle transporting the goods and any liability arising there from, where none (2) Unbound, except insurance relating to marine shipping and commercial aviation and space launching (including satellites), with such insurance to cover any or all of the following: the goods being transported, the vehicle	(1) Unbound, except as for services covered in the market access column, where none (2) Unbound, except as for services covered in the market access column, where none (3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	transporting the goods and any liability arising there from, where none (3) None		
ii. Reinsurance and retrocession	(1) None (2) None (3) None	(1) None (2) None (3) None	
iii. Insurance intermediation, such as brokerage and agency	(1) Unbound, except insurance services for which commitments have been undertaken under (i) and (ii), where none (2) Unbound (3) None	(1) Unbound, except insurance services for which commitments have been undertaken under (i) and (ii), where none (2) Unbound (3) None	
iv. Services auxiliary to insurance such as consultancy, actuarial, risk assessment and claim settlement services.	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>B. Banking and Other Financial services</b>			
v. Acceptance of deposits and other repayable funds from	(1) Unbound, except for items (xv) and (xvi) listed in the sectors and	(1) Unbound, except for items (xv) and (xvi)	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>the public</p> <p>vi. Lending of all types, including consumer credit, mortgage, credit, factoring and financing of commercial transactions</p> <p>vii. Financial leasing</p> <p>viii. All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts</p> <p>ix. Guarantees and commitments</p>	<p>sub-sectors column, where none.</p> <p>(2) None</p> <p>(3) None</p>	<p>listed in the sectors and sub-sectors column, where none.</p> <p>(2) None</p> <p>(3) None</p>	
<p>x. Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <ul style="list-style-type: none"> <li>- money market instruments (including cheques, bills, certificates of deposits);</li> <li>- foreign exchange;</li> <li>- derivative products including, but not limited to, futures and</li> </ul>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<ul style="list-style-type: none"> <li>options;</li> <li>- exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;</li> <li>- transferable securities; and</li> <li>- other negotiable instruments and financial assets, including bullion.</li> </ul>			
<ul style="list-style-type: none"> <li>xi. Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues</li> <li>xii. Money broking</li> <li>xiii. Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services</li> </ul>			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>xiv. Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments</p> <p>xv. Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services.</p> <p>xvi. Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.</p>			
<b>8. HEALTH RELATED AND SOCIAL SERVICES</b>			
(limited to services provided by privately-owned institutions)			

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>A. Hospital Services (CPC 93110**)</b>	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>9. TOURISM AND TRAVEL RELATED SERVICES</b>			
<b>A. Hotel and Restaurant Services</b> (a) Hotel lodging services (3 and above star hotels only) (CPC 6411) (b) Food serving services (CPC 642) (c) Beverage serving services without entertainment (CPC 6431)	(1) None (2) None (3) Only through incorporation in Samoa	(1) None (2) None (3) None	
<b>B. Tour Operators Services</b> Tour Operator Services are services of organising and arranging package tours (all-inclusive tours). Such a package usually includes passenger and baggage transportation, accommodation, sightseeing arrangements and similar	(1) Unbound (2) None (3) None	(1) Unbound (2) None (3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
services provided during a package tour (part of CPC 7471)			
<b>10. RECREATIONAL, CULTURAL AND SPORTING SERVICES</b>			
<b>A. Cinema theatre operation services</b> (part of CPC 96199)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>B. News agency services</b> (CPC 962)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>C. Libraries, archives, museums</b> - Library and Archive Services (CPC 9631) - Museum services except for historical sites and buildings (CPC 96321)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>D. Sporting and other recreational services</b> (CPC 964**) - Excluding gambling and betting	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>11. TRANSPORT SERVICES</b>			
<b>A. Maritime Transport</b>	1) (a) Liner shipping:	1) (a) None	The following services at the



Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><b>Services</b> International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)</p>	<ul style="list-style-type: none"> <li>- Conditional on the granting of a license, the issuance of which is based on such criteria as the frequency, type, and price of the services proposed, as well as the impact on the services provided by other transporters.</li> <li>- Vessels owned and operated by the Samoa government do not require a license to be granted on the basis of the criteria mentioned above.</li> <li>- Local agent in Samoa, or registration in Samoa, required.</li> </ul> <p>1) (b) Bulk, tramp, and other international shipping, including passenger transportation: Local agent in Samoa, or registration in Samoa, required.</p> <p>2) None</p>	<p>1) (b) None</p> <p>2) None</p>	<p>port are made available to the international maritime transport suppliers on reasonable and non-discriminatory terms and conditions:</p> <ol style="list-style-type: none"> <li>1. Pilotage;</li> <li>2. Towing and tug assistance;</li> <li>3. Provisioning, fuelling and watering;</li> <li>4. Garbage collection;</li> <li>5. Port Captain's Services;</li> <li>6. Navigation Aids;</li> <li>7. Shore-based operational services essential to ship operations including communications, water and electrical supplies; and</li> <li>8. Anchorage, berth and berthing services.</li> </ol>
	<p>3) (a) Establishment of registered company for the purpose of operating a</p>	<p>3) (a) Unbound</p>	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	fleet under the national flag of the State of establishment: unbound  3)(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2): none	3)(b) None	
(d) Maintenance and repair of vessels (CPC 8868**)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>MARITIME AUXILIARY SERVICES</b>  Customs Clearance Services (as defined in Annex)  Container Station and Depot Services (as defined in Annex)  Maritime Freight Forwarding Services (as defined in Annex)	(1) None (2) None (3) None  (1) None (2) None (3) None  (1) None (2) None (3) None	(1) None (2) None (3) None  (1) None (2) None (3) None  (1) None (2) None (3) None	

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Maritime Cargo Handling Services (as defined in Annex)	(1) None (2) None (3) None	(1) None (2) None (3) None	
Storage and Warehousing Services	(1) None (2) None (3) None	(1) None (2) None (3) None	
Maritime Agency Services (as defined in Annex)	(1) Suppliers of maritime transport services are required to go through a local agent established in Samoa (2) None (3) None	(1) None (2) None (3) None	
<b>B. Air Transport Services</b> <sup>6</sup> - Selling and marketing of air transport services - Computer reservation system services - Aircraft repair and maintenance services	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>H. Services Auxiliary to All</b>			

<sup>6</sup> As defined in Article 1 of Chapter 7 (Trade in Services).

Modes of Supply: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Movement of Natural Persons

Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>Modes of Transport</b>  a) Storage and warehouse services, except maritime storage and warehousing services (CPC 742**)  c) Freight transport agency services, except maritime freight agency services (CPC 748**)  d) Other (CPC 7490)	(1) None (2) None (3) None  (1) None (2) None (3) None  (1) None (2) None (3) None	(1) None (2) None (3) None  (1) None (2) None (3) None  (1) None (2) None (3) None	

\*\* Indicates that the service specified constitutes only a part of the total range of activities covered by the CPC concordance. Unless otherwise stated all CPC references correspond to the United Nations Provisional Central Product Classification.

## **ANNEX TO THE SCHEDULE OF SAMOA: DEFINITIONS IN RELATION TO MARITIME TRANSPORT**

1. Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in the Samoa and another port located in the Samoa, traffic originating and terminating in the same port located in the Samoa provided that this traffic remains within the Samoa’s territorial waters, and traffic between a port located in the Samoa and installations or structures situated in the EEZ or relating to the continental shelf of Samoa.

2. “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);
- (e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. "Maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of :

- the loading/discharging of cargo to/from a ship;
- the lashing/unlashing of cargo;
- the reception/delivery and safekeeping of cargoes before shipment or after discharge.

4. "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

5. "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

6. "Maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

- marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;
- acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

7. "Freight forwarding services" means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

## TELECOMMUNICATION REFERENCE PAPER FOR THE SCHEDULE OF SAMOA

### Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

### Definitions

User means service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that:

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) its position in the market.

### 1. Competitive Safeguards

#### 1.1 Prevention of Anti-Competitive Practices in Telecommunications

Appropriate measures shall be maintained for the purposes of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

#### 1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

### 2. Interconnection

This section applies to linking with suppliers providing public telecommunications transport network or services in order to allow the users of one supplier and to access services provided by another supplier, where specific commitments are undertaken.

#### 2.1 Interconnection to be Ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided:

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2.2 Public Availability of the Procedures for Interconnection Negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.3 Transparency of Interconnection Arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

2.4 Interconnection: Dispute Settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time; or
- (b) after a reasonable period of time which has been made publicly known; or
- (c) to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for Interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal Service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public Availability of Licensing Criteria

Where a licence is required, the following will be made publicly available:



(a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence;  
and

(b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent Regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of Scarce Resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

**ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)**

**SCHEDULE OF SOLOMON ISLANDS**

Modes of supply:	(1) Cross-border supply	2) Consumption abroad	(3) Commercial presence
<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<b>1. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN THIS SCHEDULE	(3) Unbound for measures: a) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force; or, b) regarding the sale or disposal of government-owned entities or assets.	3) Pursuant to the <i>Foreign Investment Act 2005</i> and <i>Foreign Investment Regulations 2006</i> , as at the date of signature of the PACER Plus, a certificate of registration must be obtained by investors of another Party that intends to conduct an investment activity. <sup>2</sup>  3) Natural persons that are not citizens of the Solomon Islands and enterprises that are not wholly-owned by citizens of the Solomon	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

<sup>2</sup> Should Solomon Islands adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any changes under PACER Plus through a revised Schedule of Commitments on Trade in Services.

Modes of supply: (1) Cross-border supply 2) Consumption abroad (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		Islands are prohibited from owning or acquiring land or any interest in land. Land may be leased from government and land-holding groups.	
<b>II. Sector-Specific Commitments</b>			
<b>BUSINESS SERVICES</b>			
A. Professional Services			
a) Legal services (CPC 861)	1) None 2) None 3) Commercial presence must take the form of a sole proprietorship or partnership.	1) None 2) None 3) None	
b) Accounting, auditing and bookkeeping services (CPC 862)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Taxation Services (CPC863)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:			
(1) Cross-border supply	(2) Consumption abroad	(3) Commercial presence	
Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
d) Architectural services (CPC 8671)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Engineering services (CPC 8672)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Integrated engineering Services (CPC8673)	1) None 2) None 3) None	1) None 2) None 3) None	
h) Medical and dental services (CPC 9312)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Veterinary services (CPC 932)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Computer and related services (CPC 84)	1) None 2) None	1) None 2) None	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

Modes of supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
	3) None	3) None	
<p>C. Research and Development Services</p> <p>a) R&amp;D services on natural sciences (CPC 851)</p> <p>b) R&amp;D services on social sciences and humanities (CPC 852)</p> <p>c) Interdisciplinary R&amp;D services (CPC 853)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of supply:			
Sector or Sub-sector <sup>1</sup>	(1) Cross-border supply <b>Limitations on Market Access</b>	2) Consumption abroad <b>Limitations on National Treatment</b>	(3) Commercial presence <b>Additional Commitments</b>
<b>F. Other Business Services</b>			
a) Advertising services (CPC 871)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Market research and public opinion polling services (CPC 864)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Management consulting services (CPC 865)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Services related to management consulting (CPC 866)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Technical testing and analysis services (CPC 8676)	1) None 2) None 3) None	1) None 2) None 3) None	
m) Related scientific and technical consulting services	1) None 2) None	1) None 2) None	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

Modes of supply:			
	(1) Cross-border supply	2) Consumption abroad	(3) Commercial presence
<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
(CPC 8675)	3) None	3) None	
p) Photographic services (CPC 875)	1) None 2) None 3) None	1) None 2) None 3) None	
q) Packaging services (CPC 876)	1) None 2) None 3) None	1) None 2) None 3) None	
r) Printing, publishing (CPC 88442)	1) None 2) None 3) None	1) None 2) None 3) None	
s) Convention services (CPC 87909*)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>2. COMMUNICATION SERVICES</b>			
B. Courier Services (CPC 7512)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:		(1) Cross-border supply	2) Consumption abroad	(3) Commercial presence
<b>Sector or Sub-sector<sup>1</sup></b>		<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
C. Telecommunication services				
Basic Services				
a) Voice telephone services		1) None 2) None 3) None	1) None 2) None 3) None	The Solomon Islands undertakes to adopt the regulatory principles contained in the Reference Paper attached hereto.
b) Packet-switched transmission services	data	1) None 2) None 3) None	1) None 2) None 3) None	
c) Circuit-switched transmission services	data	1) None 2) None 3) None	1) None 2) None 3) None	
d) Telex services		1) None 2) None 3) None	1) None 2) None 3) None	
e) Telegraph services		1) None 2) None 3) None	1) None 2) None 3) None	
f) Facsimile services		1) None	1) None	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.



Modes of supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
g) Private leased circuit services	2) None 3) None  1) None 2) None 3) None	2) None 3) None  1) None 2) None 3) None	
Value-added services  h) Electronic mail  i) Voice mail  j) On-line information and data base retrieval  k) Electronic data interchange (EDI)  l) Enhanced/value-added	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None	

Modes of supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
facsimile services, including store and forward, store and retrieve	2) None 3) None	2) None 3) None	
m) Code and protocol conversion	1) None 2) None 3) None	1) None 2) None 3) None	
n) On-line information and/or data processing	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of supply:			
Sector or Sub-sector <sup>1</sup>	(1) Cross-border supply <b>Limitations on Market Access</b>	(2) Consumption abroad <b>Limitations on National Treatment</b>	(3) Commercial presence <b>Additional Commitments</b>
<b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b>			
A. General construction work for buildings (CPC 512)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
B. General construction work for civil engineering (CPC 513)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
C. Installation and assembly work (CPC 514+516)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
D. Building completion and finishing work (CPC 517)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

Modes of supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>4. DISTRIBUTION SERVICES</p> <p>Commitments in this sector exclude:</p> <p>- distribution services relating to alcohol, tobacco, handicrafts and cultural art crafts, and gold.</p> <p>A. Commission agents' services (CPC 621, 61111**, 6113**, 6121**)</p> <p>B. Wholesale trade services (CPC 622, 61111**, 6113**, 6121**)</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p>		

Modes of supply:			
Sector or Sub-sector <sup>1</sup>	(1) Cross-border supply <b>Limitations on Market Access</b>	2) Consumption abroad <b>Limitations on National Treatment</b>	(3) Commercial presence <b>Additional Commitments</b>
5. EDUCATIONAL SERVICES (limited to services provided by privately-owned institutions)			
B. Secondary education services (CPC 922**)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Higher education services in private institutions (CPC 923**)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Adult education (CPC 924)	1) None 2) None 3) None	1) None 2) None 3) None	
E. Other education services (CPC 929)	1) None 2) None 3) None	1) None 2) None 3) None	
6. ENVIRONMENTAL			

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

Modes of supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>SERVICES</p> <p>Consultancy related to the provision of the following environmental services:</p> <p>A. Sewage Services (CPC 9401**)</p> <p>B. Refuse disposal services (CPC 9402**)</p> <p>C. Sanitation and similar services (CPC 9403**)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

	(1) Cross-border supply	2) Consumption abroad	(3) Commercial presence
Modes of supply:			
Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
7. FINANCIAL SERVICES Excluding: - activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; - activities forming part of a statutory system of social security or public retirement plans; - and other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.			
A. <u>All insurance and insurance related services</u> (CPC 812)	1) None 2) None 3) None	1) None 2) None 3) None	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

Modes of supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
B. <u>Banking and other financial services (excl. insurance)</u> (CPC 811-813)	1) None 2) None 3) None	1) None 2) None 3) None	



Modes of supply:			
	(1) Cross-border supply	2) Consumption abroad	(3) Commercial presence
<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
9. TOURISM AND TRAVEL RELATED SERVICES			
A. Hotels and Restaurants (including catering) (CPC 641, 642**, 643**) - Except restaurants, cafes and other eating and drinking establishments of less than 25m <sup>2</sup> .	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	
B. Travel agencies (excluding tour operator services) (CPC 7471**)	1) None 2) None 3) None	1) None 2) None 3) None	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>11. TRANSPORT SERVICES</p> <p>A. Maritime Transport Services</p> <p>International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)</p>	<p>1) Local agent or registration in Solomon Islands required.</p> <p>2) None</p> <p>3)(a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound</p> <p>3(b) Other forms of commercial presence for the supply of international maritime transport services (as defined in paragraph 2 of the Annex below: None</p>	<p>1) None</p> <p>2) None</p> <p>3)(a) unbound</p> <p>3)(b) none</p>	<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions</p> <ol style="list-style-type: none"> <li>1. Pilotage</li> <li>2. Towing and the tug assistance</li> <li>3. Provisioning, fuelling and watering</li> <li>4. Garbage collecting and ballast waste disposal</li> <li>5. Port Captain's services</li> <li>6. Navigation aids</li> <li>7. Shore-based operational services essential to ship operations including communications, water and electrical supplies</li> </ol>

			8. Emergency repair facilities 9. Anchorage, berth and berthing services.
d) Maintenance and repair of vessels (CPC 8868**)	1) Unbound* 2) None 3) None	1) Unbound* 2) None 3) None	

Modes of supply:			
Sector or Sub-sector <sup>1</sup>	(1) Cross-border supply <b>Limitations on Market Access</b>	2) Consumption abroad <b>Limitations on National Treatment</b>	(3) Commercial presence <b>Additional Commitments</b>
<b>MARITIME AUXILIARY SERVICES</b>			
Container Station and Depot Services (as defined in Annex)	1) None 2) None 3) None	1) None 2) None 3) None	
Maritime Freight Forwarding Services (as defined in Annex)	1) None 2) None 3) None	1) None 2) None 3) None	
Storage and Warehousing Services	1) None 2) None 3) None	1) None 2) None 3) None	
Maritime Agency Services (as defined in Annex)	1) Suppliers of maritime transport services are required to go through a local agent established in Solomon Islands. 2) None 3) None	1) None 2) None 3) None	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

Modes of supply:			
	(1) Cross-border supply	2) Consumption abroad	(3) Commercial presence
<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<b>C. Air Transport Services<sup>2</sup></b>			
Aircraft repair and maintenance services	1) None 2) None 3) None	1) None 2) None 3) None	
Selling and marketing of air transport services	1) None 2) None 3) None	1) None 2) None 3) None	
Computer reservation system services	1) None 2) None 3) None	1) None 2) None 3) None	
Ground handling services	1) None 2) None 3) None	1) None 2) None 3) None	
Specialty air services	1) None 2) None 3) None	1) None 2) None 3) None	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

<sup>2</sup> As defined in Article 1 of Chapter 7 (Trade in Services).

Modes of supply:	(1) Cross-border supply	2) Consumption abroad	(3) Commercial presence
<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
H. Services Auxiliary to All Modes of Transport			
a) Cargo-handling services, except maritime and air cargo handling (CPC 741**)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Storage and warehouse services, except maritime storage and warehousing services (CPC 742**)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Freight transport agency services, except maritime freight agency services (CPC 748**)	1) None 2) None 3) None	1) None 2) None 3) None	

\* Unbound due to lack of technical feasibility.

\*\* The service specified constitutes only part of the total range of activities covered by the CPC concordance.

## **ANNEX TO THE SCHEDULE OF SOLOMON ISLANDS: DEFINITIONS IN RELATION TO MARITIME TRANSPORT**

1. Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in the Solomon Islands and another port located in the Solomon Islands, traffic originating and terminating in the same port located in the Solomon Islands provided that this traffic remains within the Solomon Islands’ territorial waters, and traffic between a port located in the Solomon Islands and installations or structures situated in the EEZ or relating to the continental shelf of the Solomon Islands.

2. “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross- border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);

(e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. "Maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of :

- the loading/discharging of cargo to/from a ship;
- the lashing/unlashing of cargo;
- the reception/delivery and safekeeping of cargoes before shipment or after discharge.

4. "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

5. "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

6. "Maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

– marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

– acting on behalf of the companies organising the call of the ship or taking over cargoes when required.



7. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

## TELECOMMUNICATION REFERENCE PAPER FOR THE SCHEDULE OF SOLOMON ISLANDS

### Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services. Definitions

User means service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that:

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in the relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) its position in the market.

### 1. Competitive Safeguards

#### 1.1 Prevention of Anti-Competitive Practices in Telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

#### 1.2 Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and

(c) not making available to other services suppliers on a timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

## 2. Interconnection

This section applies to linking with suppliers providing public telecommunications transport network or services in order to allow the users of one supplier and to access services provided by another supplier, where specific commitments are undertaken.

### 2.1 Interconnection to be Ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided:

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

### 2.2 Public Availability of the Procedures for Interconnection Negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

### 2.3 Transparency of Interconnection Arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

### 2.4 Interconnection: Dispute Settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time; or
- (b) after a reasonable period of time which has been made publicly known; or
- (c) to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for Interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal Service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public Availability of Licensing Criteria

Where a licence is required, the following will be made publicly available:

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence; and
- (b) the terms and conditions of individual licences.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent Regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of Scarce Resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocate frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

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## ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)

### SCHEDULE OF TONGA

1. The inscription ‘none’ means that, for the listed sector or sub-sector, no limitations to the obligations of national treatment are maintained. The inscription ‘unbound’ means that no commitments are taken with respect to a particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>I. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN THIS SCHEDULE		(3) All foreign investors require a Foreign Investment Registration Certificate. <sup>2</sup> For greater certainty, the granting of certificates, as well as their renewal, are not conditional on an economic needs test or the level of foreign ownership.	

<sup>1</sup> The approach to classification and scheduling is generally based on the WTO’s *Guidelines for the Scheduling of Specific Commitments* (S/L/92). As far as possible, Tonga has scheduled its commitments on the basis of the WTO’s Services Sectoral Classification List (MTN.GNS/W/120), and corresponding definitions from the Provisional Central Product Classification, United Nations, 1991 (otherwise commonly referred to as CPC). The inscription “\*\*” means the service specified constitutes only a part of the total range of activities covered by the CPC concordance.

<sup>2</sup> Holders of such certificates notably have to pay related fees and to produce an annual status report for the authorities. This entry in the schedule is in accordance with Tonga's foreign investment rules at time of entry into force of the Agreement, which principally consists of the Foreign Investment Act 2002. Should Tonga adopt, after entry into force, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Trade in Services.

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>(3) Unbound for measures:</p> <ul style="list-style-type: none"> <li>a) a) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force; or,</li> <li>b) b) regarding the sale or disposal of government-owned entities or assets.</li> </ul> <p>(1,2,3) Unbound with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, child care, public utilities, public transport and public housing.</p>	<p>(3) The Tongan Constitution prohibits the sale of land. Foreigners can only attain land through leasing, with the right to lease land for up to 99 years as well as sub-lease property.</p>	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>II. SECTOR SPECIFIC COMMITMENTS</b>			
<b>I. BUSINESS SERVICES</b>			
<b>A. Professional Services</b>			
(a) Legal Services (CPC 861)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(b) Accounting, auditing and bookkeeping services (CPC 862)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(c) Taxation services (CPC 863)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(d) Architectural Services (CPC 8671)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(e) Engineering services (CPC 8672)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(f) Integrated engineering services (CPC 8673)	(1) None (2) None (3) None	(1) None (2) None (3) None	



Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

<b>Sectors and sub-sectors<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
(g) Urban planning and landscape architectural services (CPC 8674)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(h) Medical and dental services(CPC 9312)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(i) Veterinary services (CPC 932)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(j) Midwives, nurses, physiotherapists and paramedical personnel (CPC 93191)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b><u>B. Computer and Related Services</u></b>			
(a) Consultancy services related to installation of computer hardware (CPC 841)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(b) Software implementation service(CPC 842)	(1) None (2) None (3) None	(1) None (2) None (3) None	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
(c) Data processing services (CPC 843)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(d) Database services (CPC 844)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(e) Other (CPC 845 + 849)	(1) None (2) None (3) None	(1) None (2) None (3) None	
<b>C. <u>Research and Development Services</u></b>			
(a) R&D services on natural sciences (CPC 851)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(b) R&D services on social sciences and humanities (CPC 852)	(1) None (2) None (3) None	(1) None (2) None (3) None	
(c) Interdisciplinary R&D services (CPC 853)	(1) None (2) None (3) None	(1) None (2) None (3) None	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>D. <u>Real Estate Services</u>                      (a) Involving own or leased property (CPC 821)                       (b) On a fee or contract basis (CPC 822)</p>	<p>(1) Unbound                      (2) None                      (3) None                       1) Unbound                      (2) None                      (3) None</p>	<p>(1) Unbound                      (2) None                      (3) None                       1) Unbound                      (2) None                      (3) None</p>	
<p>E. <u>Rental/Leasing Services without Operators</u>                       a) Relating to ships (CPC 83103)                       b) Relating to aircraft (CPC 83104)                       d) Relating to other machinery and equipment (CPC 83106-83109)                       e) Other (CPC 832)</p>	<p>(1) None                      (2) None                      (3) None                       (1) None                      (2) None                      (3) None                       (1) None                      (2) None                      (3) None                       (1) None                      (2) None</p>	<p>(1) None                      (2) None                      (3) None                       (1) None                      (2) None                      (3) None                       (1) None                      (2) None                      (3) None                       (1) None                      (2) None</p>	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	(3) None	(3) None	
<b>F. <u>Other Business Services</u></b> a) Advertising services (CPC 871)  b) Market research and public opinion polling services (CPC 864)	(1) None (2) None (3) None  (1) None (2) None (3) None	(1) None (2) None (3) None  (1) None (2) None (3) None	
c) Management consulting services (CPC 865)  d) Services related to management consulting (CPC 866)	(1) None (2) None (3) None  (1) None (2) None (3) None	(1) None (2) None (3) None  (1) None (2) None (3) None	
e) Technical testing and analysis services (CPC 8676)  g) Services incidental to fishing	(1) None (2) None (3) None  (1) None (2) None	(1) None (2) None (3) None  (1) None (2) None	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	(3) None	(3) None	
h) Services incidental to mining(CPC 883)	(1) None (2) None (3) None	(1) None (2) None (3) None	
i) Services incidental to manufacturing (CPC 884)	(1) None (2) None (3) None	(1) None (2) None (3) None	
j) Services incidental to energy distribution (CPC 887)	(1) None (2) None (3) None	(1) None (2) None (3) None	
k) Placement and supply services of personnel (CPC 872)	(1) None (2) None (3) None	(1) None (2) None (3) None	
l) Related scientific and technical consulting services	(1) None (2) None (3) None	(1) None (2) None (3) None	
n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC	(1) None (2) None (3) None	(1) None (2) None (3) None	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
633+8861-8866)  o) Building-cleaning services (CPC 874)  p) Photographic services (CPC 875)	(1) None (2) None (3) None  (1) None (2) None (3) None	(1) None (2) None (3) None  (1) None (2) None (3) None	
q) Packaging services (CPC 876)  r) Printing, publishing (CPC 88442)  s) Convention services (CPC 87909**)  t) Other (CPC 87903-87907)	(1) Unbound (2) None (3) None  (1) Unbound (2) None (3) None  (1) Unbound (2) None (3) None  (1) Unbound (2) None (3) None	(1) Unbound (2) None (3) None  (1) Unbound (2) None (3) None  (1) Unbound (2) None (3) None  (1) Unbound (2) None (3) None	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>2. COMMUNICATION SERVICES</p> <p>A. <u>Postal Services</u>            Consultancy related to the provision of Postal Services (CPC 7511**)</p> <p>B. <u>Courier Services</u>            Courier Services (CPC 7512)</p>	<p>(1) None            (2) None            (3) None</p> <p>(1) None            (2) None            (3) None</p>	<p>(1) None            (2) None            (3) None</p> <p>(1) None            (2) None            (3) None</p>	
<p>C. <u>Telecommunication Services</u></p> <p>Basic telecommunications:</p> <p>(a) Voice telephone services (CPC 7521)</p> <p>(b) Packet-switched data transmission services (CPC 7523**)</p> <p>(c) Circuit-switched data transmission services (CPC 7523**)</p> <p>(d) Telex services (CPC 7523**)</p> <p>(e) Telegraph services (CPC</p>	<p>(1) None            (2) None            (3) None</p>	<p>(1) None            (2) None            (3) None</p>	<p>Tonga subscribes to the principles set forth in the reference paper attached.</p>

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
7522) (f) Facsimile services (CPC 7521**+ 7529**) (g) Private leased circuit services(CPC 7522**+ 7523**)			
Value-added telecommunications services, including: (h) Electronic mail (CPC 7523**) (i) Voice mail (CPC 7523**) (j) On-line information and data base-retrieval (CPC 7523**) (k) Electronic data interchange (EDI) (CPC 7523**) (l) Enhanced/value added facsimile services, incl. store and forward, store and retrieve(CPC 7523**) (m) Code and protocol conversion (n) On-line information and/or data processing (including transaction processing) (CPC 843**) (o) Other	(1) None (2) None (3) None	(1) None (2) None (3) None	Tonga subscribes to the principles set forth in the reference paper attached.



Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>D. <u>Audio-visual Services</u></p> <p>(a) Motion Picture and video tape distribution services (CPC 9611**) to other industries for public entertainment, television broadcasting, or sale or rental to others<sup>3</sup></p> <p>(b) Motion Picture projection service (CPC 9612)</p>	<p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p>	<p>(1) (2) (3) None, except unbound for support programmes established to preserve or promote the cultural identity of Tonga and of countries with which Tonga has bilateral and plurilateral agreements now or in the future.</p> <p>(1) (2) (3) None, except unbound for support programmes established to preserve or promote the cultural identity of Tonga and of countries with which Tonga has bilateral and plurilateral agreements now or in the future.</p>	

<sup>3</sup> For the purpose of this commitment, distribution means licensing of motion pictures or videotapes.

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(c) Radio and television distribution services (CPC 9613**) <sup>4</sup> Broadcasting services for radio and television programs are specifically excluded</p> <p>(e) Sound recording</p>	<p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p>	<p>(1) (2) (3) None, except unbound for support programmes established to preserve or promote the cultural identity of Tonga and of countries with which Tonga has bilateral and plurilateral agreements now or in the future.</p> <p>(1) (2) (3) None, except unbound for support programmes established to preserve or promote the cultural identity of Tonga and of countries with which Tonga has bilateral and plurilateral agreements now or in the future.</p>	

<sup>4</sup> For the purpose of this commitment, distribution means licensing of radio and television programs.

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</p> <p>A. <u>General construction work for buildings</u> (CPC 512)</p> <p>B. <u>General construction work for civil engineering</u> (CPC 513)</p> <p>C. <u>Installation and assembly work</u> (CPC 514 +516)</p> <p>D. <u>Building completion and finishing work</u> (CPC 517)</p> <p>E. <u>Other</u> (CPC 511 + 515 + 518)</p>	<p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p>	<p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p>	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>4. DISTRIBUTION SERVICES</p> <p>(excluding distribution services in relation to alcohol, tobacco, green and mature coconuts, and handicrafts)</p>			
A. <u>Commission agent's services</u> (CPC 621)	(1) Unbound (2) Unbound (3) None	(1) Unbound (2) Unbound (3) None	
B. <u>Wholesale trade services</u> (CPC 622)	(1) None (2) None (3) Unbound	(1) None (2) None (3) Unbound	
C. <u>Retailing services</u> <sup>5</sup>			
Food retailing services (CPC 631) (Food and household provisions for final consumption)	(1) None (2) None (3) Unbound	(1) None (2) None (3) Unbound	
Non-food retailing services (CPC 632**), except sales of used	(1) None (2) None	(1) None (2) None	

<sup>5</sup> Retailing services are here taken to mean the sale of goods for final consumption.

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

<b>Sectors and sub-sectors<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
motor vehicles. (Non-food and non-household provisions for final consumption)	(3) None	(3) None	
D. <u>Franchising</u> (CPC 8929)	(1) None (2) None (3) None	(1) None (2) None (3) None	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>5. EDUCATIONAL SERVICES</p> <p>A. <u>Primary education services</u> (CPC 921)</p> <p>B. <u>Secondary education services</u> (CPC 922)</p> <p>C. <u>Higher education services</u> (CPC 923)</p> <p>D. <u>Adult education</u> (CPC 924)</p> <p>E. <u>Other education services</u> (CPC 929)</p>	<p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p>	<p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p>	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>6. ENVIRONMENTAL SERVICES</p> <p>A. <u>Sewage services / Waste water Services</u> (CPC 9401)</p> <p>B. <u>Refuse disposal service</u> (CPC 9402)</p> <p>C. <u>Sanitation and similar services</u> (CPC 9403)</p> <p>D. <u>Other</u>            Services to reduce exhaust gases and other emissions and improve air quality (CPC 9404)</p> <ul style="list-style-type: none"> <li>- Noise abatement services (CPC 9405)</li> <li>- Treatment, remediation of contaminated/polluted soil and water, Nature and</li> </ul>	<p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p>	<p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p>	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

<b>Sectors and sub-sectors<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
landscape protection services (CPC 9406) - Other environmental protection services not classified elsewhere (CPC 9409)			



Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>7. FINANCIAL SERVICES</p> <p>Excluding: - activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; - activities forming part of a statutory system of social security or public retirement plans; - and other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.</p> <p>A. <u>All insurance and insurance-related services</u></p> <p>(a) Life insurance services</p> <p>(b) Non-life insurance services</p> <p>(c) Reinsurance and retrocession</p> <p>(d) Services auxiliary to insurance, such as consultancy, actuarial, risk</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p>	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>assessment and claim settlement services</p> <p>B. <u>Banking and other financial services, (excluding insurance)</u></p> <p>(a) Acceptance of deposits and other repayable funds from the public</p> <p>(b) Lending of all types, including consumer credit, mortgage credit, factoring and financing of commercial transaction</p> <p>(c) Financial leasing</p> <p>(d) All payment and money transmission services, including credit, charge and debit cards, travellers' cheques and bankers drafts</p> <p>(e) Guarantees and commitments</p> <p>(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <p>(i) money market instruments (including</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p>	<p>(1) None</p> <p>(2) None</p> <p>(3) None</p>	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>cheques, bills, certificates of deposits)</p> <p>(ii) foreign exchange</p> <p>(iii) derivative products including, but not limited to, futures and options</p> <p>(iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements</p> <p>(v) transferable securities</p> <p>(vi) other negotiable instruments and financial assets, including bullion.</p> <p>(g) Participation in issues of all kinds of securities including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues</p> <p>(h) Money broking</p> <p>(i) Asset management, such as cash or portfolio management, all forms of collective</p>			

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>investment management, pension fund management, custodial, depository and trust services</p> <p>(j) Settlement and clearing services for financial assets including securities, derivative products, and other negotiable instruments</p> <p>(k) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.</p> <p>(l) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services.</p>			

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
8. HEALTH RELATED AND SOCIAL SERVICES			
A. <u>Hospital services</u> (CPC 9311)	(1) None (2) None (3) None	(1) None (2) None (3) None	
B. <u>Other Human health services</u>	(1) None (2) None (3) None	(1) None (2) None (3) None	
C. <u>Social Services</u>	(1) None (2) None (3) None	(1) None (2) None (3) None	
9. TOURISM AND TRAVEL RELATED SERVICES			
A. <u>Hotels and Restaurants</u> (including catering) (CPC 641-643)	(1) None (2) None (3) None for investment of TOP 200,000 or more	(1) None (2) None (3) None	
B. <u>Travel Agencies and Tour</u>	(1) None	(1) None	

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<u>Operators Services</u> (CPC 7471)  C. <u>Tourist Guide Services</u> (CPC 7472)	(2) None (3) None  (1) None (2) None (3) None	(2) None (3) None  (1) None (2) None (3) None	
10. RECREATIONAL, CULTURAL AND SPORTING SERVICES Cinema theatre operation services (part of CPC 96199)  C. Libraries, archives, museums, and other cultural services (CPC 963)  D. Sporting and other recreational services (CPC 964**) <ul style="list-style-type: none"> <li>- Excluding gambling and betting</li> </ul>	(1) None (2) None (3) None  (1) None (2) None (3) None  (1) None (2) None (3) None	(1) None (2) None (3) None  (1) None (2) None (3) None  (1) None (2) None (3) None	
11. TRANSPORT SERVICES A. <u>Maritime Transport</u>	1) Local agent or registration in Tonga is required.	1) None	No measures shall be applied which deny reasonable and non-

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p><u>Services</u></p> <p>International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)</p> <p>d) Maintenance and repair of vessels (CPC 8868**)</p> <p>MARITIME AUXILIARY SERVICES</p> <p>Customs Clearance Services (as defined in Annex)</p>	<p>2) None</p> <p>3) (a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound</p> <p>3) (b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2): none</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p>	<p>2) None</p> <p>3) (a) Unbound</p> <p>3) (b) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p>	<p>discriminatory access to the following services:</p> <ol style="list-style-type: none"> <li>1. Towing and tug assistance</li> <li>2. Provisioning, fuelling and watering</li> <li>3. Garbage collecting and ballast waste disposal</li> <li>4. Emergency repair facilities</li> <li>5. Lightering and water taxi services</li> <li>6. Ship agencies</li> <li>7. Custom brokers</li> <li>8. Stevedoring and terminal services</li> <li>9. Surveying and classification services</li> </ol> <p>If road, rail, inland waterways and related auxiliary services are not otherwise fully covered in this schedule, a multimodal transport operator shall have the ability to rent or lease trucks, railway carriages or barges, and related equipment for multimodal</p>

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
Container Station and Depot Services (as defined in Annex)	(1) None (2) None (3) None	(1) None (2) None (3) None	activities on reasonable and non-discriminatory terms and conditions for the purpose of carrying out multimodal transport operations. "Non discriminatory terms and conditions" mean, for the purpose of this additional commitment, the ability of the multimodal transport operator to arrange for the conveyance of its merchandise on a timely basis, including priority over other multimodal transport operator merchandise which has entered the port at a later date.
Maritime Freight Forwarding Services (as defined in Annex)	(1) None (2) None (3) None	(1) None (2) None (3) None	
Maritime Cargo Handling Services (as defined in Annex)	(1) None (2) None (3) None	(1) None (2) None (3) None	
Storage and Warehousing Services	(1) None (2) None (3) None	(1) None (2) None (3) None	
Maritime Agency Services (as defined in Annex)	(1) Suppliers of international maritime transport services are required to go through a local agent established in Tonga. (2) None (3)None	(1) None (2) None (3) None	



Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>C. <u>Air Transport Services</u></p> <p>(d) Aircraft repair and maintenance services<sup>6</sup>;</p> <p>Computer reservation system (CRS) services<sup>5</sup>;</p> <p>(e) Supporting services for air transport</p> <p>Specialty air services<sup>5</sup>;</p> <p>Selling &amp; marketing of air</p>	<p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None</p>	<p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None (2) None (3) None</p> <p>(1) None</p>	

<sup>6</sup> As defined in Article 1 of Chapter 7 (Trade in Services).

Mode of delivery: (1) Cross-border supply (2) Consumption abroad (3) Commercial presence (4) Presence of natural person

Sectors and sub-sectors <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
transport <sup>5</sup>  H. <u>Services auxiliary to all modes of transport</u>  (a) Cargo-handling service excluding maritime services (CPC 741)  (b) Storage and warehouse service excluding maritime services (CPC 742)  (c) Freight transport agency services (CPC 748)	(2) None (3) None  (1) None (2) None (3) None  (1) None (2) None (3) None  (1) None (2) None (3) None	(2) None (3) None  (1) None (2) None (3) None  (1) None (2) None (3) None  (1) None (2) None (3) None	
(d) Other (CPC 749)	(1) None (2) None (3) None	(1) None (2) None (3) None	

## ANNEX TO THE SCHEDULE OF TONGA: DEFINITIONS IN RELATION TO MARITIME TRANSPORT

1. Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in Tonga and another port located in Tonga, traffic originating and terminating in the same port located in Tonga provided that this traffic remains within Tonga’s territorial waters, and traffic between a port located in Tonga and installations or structures situated in the EEZ or relating to the continental shelf of Tonga.
2. “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerized information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);

(e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. "Maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

(a) the loading/discharging of cargo to/from a ship;

(b) the lashing/unlashing of cargo;

(c) the reception/delivery and safekeeping of cargoes before shipment or after discharge.

4. "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

5. "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

6. "Maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

(a) marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

(b) acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

7. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

## REFERENCE PAPER FOR THE SCHEDULE OF TONGA

### Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

### Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that:

- (a) are exclusively or predominantly provided by a single or limited number of suppliers;
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market.

### 1. Competitive safeguards

#### 1.1. Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

#### 1.2. Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

### 2. Interconnection

2.1. This section applies to linking with suppliers, providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken.

#### 2.2. Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is

provided:

- (a) under non-discriminatory terms, conditions (incl. technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms, conditions (incl. technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

2.3. Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

2.4. Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

2.5. Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time or
- (b) after a reasonable period of time which has been made publicly known to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.

4. Public availability of licensing criteria

If a licence is required, the following will be made publicly available:

- (a) all the licensing criteria and the period of time normally required to reach a decision concerning an application for a licence; and
- (b) the terms and conditions of individual licenses.

The reasons for the denial of a licence will be made known to the applicant upon request.

5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

6. Allocation and use of scarce resources

Any procedures for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.



**ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)**

**SCHEDULE OF TUVALU**

Modes of Supply:                      (1) Cross-border supply                      2) Consumption abroad                      (3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<b>I. HORIZONTAL COMMITMENTS</b>			
ALL SECTORS INCLUDED IN THIS SCHEDULE	3) Investment by natural persons who are not Tuvalu citizens and by enterprises of another Party is subject to approval by the Government. Approval shall be granted to investments which are determined by the Government to likely confer economic benefits on Tuvalu. <sup>2</sup>	3) Natural persons who are not citizens of Tuvalu and enterprises that are not wholly-owned by citizens of Tuvalu may be required to provide short-term training to local employees.  3) Natural persons who are not citizens of Tuvalu and enterprises that are not wholly-owned by citizens of Tuvalu are prohibited from owning land. Land may be leased for a period not exceeding 25 years. Leases have to be approved by the	

<sup>1</sup> References to the CPC in the sectoral column refer to the Provisional Central Product Classification, United Nations, 1991.

<sup>2</sup> This entry in the schedule reflects Tuvalu's foreign investment rules at time of entry into force of this Agreement, which includes the *Foreign Direct Investment Act 1996* as amended by the *Foreign Direct Investment Act 2008* (revised edition). Should Tuvalu adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Trade in Services.

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
		Lands Court and by the relevant Minister under a non-discriminatory process.	
<b>II. Sector-Specific Commitments</b>			
<p>BUSINESS SERVICES</p> <p>Professional Services</p> <p>a) Legal Services (CPC 861)</p> <p>b) Accounting, auditing and bookkeeping services (CPC 862)</p> <p>c) Taxation services (CPC 863)</p> <p>d) Architectural services (CPC 8671)</p>	<p>1) None</p> <p>2) None</p> <p>3) Partnership and joint venture with local partner required</p> <p>1) None</p> <p>2) None</p> <p>3) Commercial presence must take the form of a sole proprietorship or partnership</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p> <p>2) None</p>	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>e) Engineering services (CPC 8672)</p> <p>f) Integrated engineering services (CPC 8673)</p> <p>g) Urban planning and landscape architectural services (CPC 8674)</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>h) Medical and dental services (CPC 9312)</p> <p>i) Veterinary services (CPC 932)</p>	<p>1) None 2) None 3) Commercial presence must take the form of a sole proprietorship or partnership</p> <p>1) None 2) None 3) Commercial presence must take the form of a sole proprietorship or partnership</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
j) Midwives, nurses, physiotherapists and paramedical personnel (CPC 93191)	1) None 2) None 3) Commercial presence must take the form of a sole proprietorship or partnership	1) None 2) None 3) None	
B. Computer and Related Services (CPC 84)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Research and Development Services  a) R&D services on natural sciences (CPC 851)  b) R&D services on social sciences and humanities (CPC 852)  c) Interdisciplinary R&D services (CPC 853)	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	
D. Real Estate Services			

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>a) Involving own or leased property (CPC 821)</p> <p>b) On a fee or contract basis (CPC 822)</p>	<p>1) Unbound 2) Unbound 3) None</p> <p>1) Unbound 2) Unbound 3) None</p>	<p>1) Unbound 2) Unbound 3) None</p> <p>1) Unbound 2) Unbound 3) None</p>	
<p>E. Rental/Leasing Services without Operators</p> <p>a) Relating to ships (CPC 83103)</p> <p>b) Relating to aircraft (CPC 83104)</p> <p>c) Relating to other transport equipment (CPC 83101+83102+83105)</p> <p>d) Relating to other machinery and equipment (CPC 83106-83109)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
e) Other (CPC 832).	1) None 2) None 3) None	1) None 2) None 3) None	
<b>F. Other Business Services</b>  a) Advertising services (CPC 871)  b) Market research and public opinion polling services (CPC 864)  c) Management consulting services (CPC 865)  d) Services related to management consulting (CPC 866)  e) Technical testing and analysis services (CPC 8676)	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
f) Services incidental to agriculture, hunting and forestry (CPC 881)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Services incidental to fishing (CPC 882**) (Consists of specialized consultancy services only, related to fisheries. Does not include fishing)	1) None 2) None 3) None	1) None 2) None 3) None	
h) Services incidental to mining (CPC 883)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Services incidental to manufacturing (CPC 884)	1) None 2) None 3) None	1) None 2) None 3) None	
j) Services incidental to energy distribution (CPC 997**) (Covers specialised consultancy services only, in relation to energy distribution)	1) None 2) None 3) None	1) None 2) None 3) None	
k) Placement and supply services and personnel (CPC 872)	1) None 2) None	1) None 2) None	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
l) Investigation and security (CPC 873)	3) None  1) None 2) None 3) None	3) None  1) None 2) None 3) None	
m) Related scientific and technical consulting services (CPC 8675)	1) None 2) None 3) None	1) None 2) None 3) None	
n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633+8861-8866)	1) None 2) None 3) None	1) None 2) None 3) None	
o) Building-cleaning services (CPC 874)	1) None 2) None 3) None	1) None 2) None 3) None	
p) Photographic services (CPC 875)	1) None 2) None 3) None	1) None 2) None 3) None	
q) Packaging services (CPC 876)	1) None 2) None	1) None 2) None	



Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
r) Printing, publishing (CPC 88442)  s) Convention services (CPC 87909*)  t) Other (CPC 8790)	3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	3) None  1) None 2) None 3) None  1) None 2) None 3) None  1) None 2) None 3) None	
<b>2. COMMUNICATION SERVICES</b>  B. Courier Services (CPC 7512)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Audiovisual services  a) Motion picture and videotape production and	1) None 2) None	1) None 2) None	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
distribution <sup>3</sup> services (CPC 9611)  b) Motion picture projection services (CPC 9612)  e) Sound recording services	3) None  1) None 2) None 3) None  1) None 2) None 3) None	3) None  1) None 2) None 3) None  1) None 2) None 3) None	
<b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b>  A. General construction work for buildings (CPC 512)  B. General construction work for civil engineering (CPC 513)	1) None 2) None 3) None  1) None 2) None 3) None	1) None 2) None 3) None  1) None 2) None 3) None	

<sup>3</sup> For greater clarity, distribution services in this context may include the licensing of motion pictures or video tapes to other service providers for exhibition, broadcasting, or other transmission, rental, sale or other use.

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>C. Installation and assembly work (CPC 514+516)</p> <p>D. Building completion and finishing work (CPC 517)</p> <p>E. Other (CPC 511+515+518)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>4. DISTRIBUTION SERVICES (excluding distribution services in relation to alcohol, tobacco, and coconut products)</p> <p>A. Commission agents' services (CPC 621, 61111**, 6113**, 6121**)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>B. Wholesale trade services (CPC 622, 61111**, 6113**, 6121**)</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
C. Retailing services (CPC 631, 632, 61112, 6113**, 6121**)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Franchising (CPC 8929)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>5. EDUCATIONAL SERVICES</b> (limited to services provided by privately-owned institutions)  A. Primary education services (CPC 921**)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Secondary education services (CPC 922**)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Higher education services in private institutions (CPC 923**)	1) None 2) None 3) None	1) None 2) None 3) None	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
D. Adult education (CPC 924)	1) None 2) None 3) None	1) None 2) None 3) None	
E. Other education services (CPC 929)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>6. ENVIRONMENTAL SERVICES</b> Consultancy related to the provision of the following environmental services:  A. Sewage Services (CPC 9401**)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Refuse disposal services (CPC 9402**)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Sanitation and similar services (CPC 9403**)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Other environmental	1) None	1) None	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
services (CPC 9404-9409)	2) None 3) None	2) None 3) None	
<p>7. FINANCIAL SERVICES</p> <p>Excluding: - activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; - activities forming part of a statutory system of social security or public retirement plans; - and other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.</p> <p>A. Insurance and insurance-related services</p> <p>(i) Direct insurance (including co- insurance) :     (A) life</p>	<p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>(b) non-life</p> <p>(ii) Reinsurance and retrocession;</p> <p>(iii) Insurance intermediation, such as brokerage and agency;</p> <p>(iv) Services auxiliary to insurance, such as consultancy, actuarial, risk assessment and claim settlement services.</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>B. Banking and other financial services (excluding insurance)</b></p> <p>(a) Acceptance of deposits and other repayable funds from the public;</p> <p>(b) Lending of all types, including consumer credit, mortgage credit, factoring and</p>	<p>1) Requirement to have a commercial presence in Tuvalu or be represented by an agent that is a natural person resident in Tuvalu. 2) None 3) Incorporation required</p>	<p>1) None 2) None 3) None</p>	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>financing of commercial transaction;</p> <p>(c) Financial leasing;</p> <p>(d) All payment and money transmission services, including credit, charge and debit cards, travellers cheques and bankers drafts;</p> <p>(e) Guarantees and commitments;</p> <p>(f) Trading for own account or for account of customers, whether on an exchange, in an over-the-counter market or otherwise, the following:</p> <p>(i) money market instruments (including cheques, bills, certificates of deposits);</p> <p>(ii) foreign exchange;</p> <p>(iii) derivative products including, but not limited to, futures and options;</p>			



Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>(iv) exchange rate and interest rate instruments, including products such as swaps, forward rate agreements;</p> <p>(v) transferable securities;</p> <p>(vi) other negotiable instruments and financial assets, including bullion.</p> <p>g) Participation in issues of all kinds of securities, including underwriting and placement as agent (whether publicly or privately) and provision of services related to such issues;</p> <p>h) Money broking;</p> <p>i) Asset management, such as cash or portfolio management, all forms of collective investment management, pension fund management, custodial, depository and trust services;</p>			

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
<p>j) Settlement and clearing services for financial assets, including securities, derivative products, and other negotiable instruments;</p> <p>k) Provision and transfer of financial information, and financial data processing and related software by suppliers of other financial services;</p> <p>(l) Advisory, intermediation and other auxiliary financial services on all the activities listed in subparagraphs (v) through (xv), including credit reference and analysis, investment and portfolio research and advice, advice on acquisitions and on corporate restructuring and strategy.</p>			
<p>8. HEALTH RELATED AND SOCIAL SERVICES</p>			

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>(limited to services provided by privately-owned institutions)</p> <p>A. Hospital Services (CPC 9311**)</p> <p>B. Other Human Health Services (CPC 9319**)</p> <p>C. Social Services (CPC 933**)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>9. TOURISM AND TRAVEL SERVICES</p> <p>A. Hotels and restaurants</p> <p>Hotel lodging services (CPC</p>	<p><u>Four- or five-star hotels<sup>4</sup> and</u></p>	<p><u>Four and five-star hotels and</u></p>	

<sup>4</sup> This refers to the ratings by the national accreditation system for lodging services.

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>64110**) Motel lodging services (CPC 64120**)</p>	<p><u>motels</u> 1) Unbound* 2) None 3) None</p> <p><u>Other hotels and motels, with more than 25 rooms</u> 1) Unbound* 2) None 3) None</p> <p><u>Speciality restaurants and restaurants located in areas of touristic interest</u> 1) Unbound* 2) None 3) None</p> <p><u>Other restaurants</u> 1) Unbound 2) Unbound 3) Unbound</p>	<p><u>motels</u> 1) Unbound* 2) None 3) None</p> <p><u>Other hotels and motels, with more than 25 rooms</u> 1) Unbound* 2) None 3) None</p> <p><u>Speciality restaurants and restaurants located in areas of touristic interest</u> 1) Unbound* 2) None 3) None</p> <p><u>Other restaurants</u> 1) Unbound 2) Unbound 3) Unbound</p>	
<p>Meal serving service in self-facilities (CPC 64220**)</p>	<p><u>Self-service facilities in four- or five- star hotels and motels, or in other hotels and motels with</u></p>	<p><u>Self-service facilities in four- or five- star hotels and motels, or in other hotels and motels with</u></p>	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
<p>Beverages serving services for consumption on the premises, without entertainment (CPC 64310**)</p> <p>Beverages serving services for consumption on the premises, with entertainment (CPC 64320**)</p>	<p><u>more than 25 rooms</u></p> <p>1) Unbound* 2) None 3) None</p> <p><u>Beverages serving services in four- or five-star hotels and motels, or in other hotels and motels with more than 25 rooms</u></p> <p>1) Unbound* 2) None 3) None</p>	<p><u>more than 25 rooms</u></p> <p>1) Unbound* 2) None 3) None</p> <p><u>Beverages serving services in four- or five-star hotels and motels, or in other hotels and motels with more than 25 rooms</u></p> <p>1) Unbound* 2) None 3) None</p>	
<p>B. Travel agencies and tour operator services</p> <p>Travel agency services (including sales of travel tickets, lodging and package tours on a fee or contract basis (corresponding to subclass 67811 of CPC Version 1.0)</p>	<p>1) Service must be supplied through a commercial presence 2) None 3) None</p>	<p>1) None 2) None 3) None</p>	
<p>Tour operator services</p>	<p>1) None</p>	<p>1) None</p>	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector<sup>1</sup></b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
(including services of organizing and arranging package tours (all-inclusive tours) – such a package usually includes passenger and baggage transportation, accommodation, sightseeing arrangements and similar services provided during a package tour (corresponding to subclass 67812 of CPC Version 1.1))	2) None 3) None	2) None 3) None	
-Tourist information services (travel information, planning and advice services, accommodation, reservation services, and airline, bus and other reservation services relating to travel (corresponding to subclass 67813 of CPC Version 1.1))	<u>Tourist information services in four- or five-star hotels and motels, or in other hotels and motels with more than 25 rooms</u>  1) None 2) None 3) None  <u>Other tourist information services</u>  1) Services must be supplied through a commercial presence 2) None	<u>Tourist information services in four- or five-star hotels and motels, or in other hotels and motels with more than 25 rooms</u>  1) None 2) None 3) None  <u>Other tourist information services</u>  1) None 2) None 3) None	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

Sector or Sub-sector <sup>1</sup>	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	3) None		
<p>10. RECREATIONAL, CULTURAL AND SPORTING SERVICES</p> <p>A. Entertainment Services (CPC 9619)</p> <p>B. News agency services (CPC 962)</p> <p>C. Libraries, archives, museums, and other cultural services (CPC 963)</p> <p>D. Sporting and other recreational services (CPC 964**)</p> <p>- Excluding gambling and betting</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	

Modes of Supply: <b>Sector or Sub-sector</b>	(1) Cross-border supply <b>Limitations on Market Access</b>	2) Consumption abroad <b>Limitations on National Treatment</b>	(3) Commercial presence <b>Additional Commitments</b>
<p>11. TRANSPORT SERVICES</p> <p>A. Maritime Transport Services</p> <p>International Transport (freight and passengers) (CPC 7211 and 7212), excluding cabotage transport (as defined below)</p>	<p>1)(a) Liner shipping:</p> <p>Local agent in Tuvalu required.</p> <p>Conditional on the granting of a license, the issuance of which is based on such criteria as the frequency, type, and price of the services proposed, as well as the impact on existing service.</p> <p>Licenses granted preferably to carriers owned by Tuvalu citizens, and that employ Tuvalu citizens.</p> <p>Vessels owned and operated by the Tuvalu government do not require a license to be granted on the basis of the criteria mentioned above.</p>	<p>1)(a) None</p>	<p>The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory terms and conditions</p> <ol style="list-style-type: none"> <li>1. Pilotage</li> <li>2. Towing and the tug assistance</li> <li>3. Provisioning, fuelling and watering</li> <li>4. Garbage collecting and ballast waste disposal</li> <li>5. Port Captain's services</li> <li>6. Navigation aids</li> <li>7. Shore-based operational services essential to ship operations including</li> </ol>



Modes of Supply:	(1) Cross-border supply	2) Consumption abroad	(3) Commercial presence
Sector or Sub-sector	Limitations on Market Access	Limitations on National Treatment	Additional Commitments
	<p>1)(b) Bulk, tramp, and other international shipping, including passenger transportation: local agent in Tuvalu required.</p> <p>2) None</p> <p>3) (a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound</p> <p>3) (b) Other forms of commercial presence for the supply of international maritime transport services (as defined below - 2): none</p>	<p>1)(b) None</p> <p>2) None</p> <p>3) (a) Unbound</p> <p>3)(b) None</p>	<p>communications, water and electrical supplies</p> <p>8. Emergency repair facilities</p> <p>9. Anchorage, berth and berthing services</p>
d) Maintenance and repair of vessels (CPC 8868**)	<p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	
<b>MARITIME AUXILIARY SERVICES</b>			
Container Station and Depot Services (as defined in Annex)	1) Suppliers of maritime transport services are required to go	<p>1) None</p> <p>2) None</p>	

Modes of Supply:

(1) Cross-border supply

2) Consumption abroad

(3) Commercial presence

<b>Sector or Sub-sector</b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
Maritime Freight Forwarding Services (as defined in Annex)	through a local agent established in Tuvalu. 2) None 3) None	3) None	
Storage and Warehousing Services (as defined in Annex)	1) Suppliers of maritime transport services are required to go through a local agent established in Tuvalu. 2) None 3) None	1) None 2) None 3) None	
Maritime Agency Services (as defined in Annex)	1) Suppliers of maritime transport services are required to go through a local agent established in Tuvalu. 2) None 3) None	1) None 2) None 3) None	

Modes of Supply:	(1) Cross-border supply	2) Consumption abroad	(3) Commercial presence
<b>Sector or Sub-sector</b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
C. Air Transport Services <sup>1</sup>			
Aircraft repair and maintenance services	1) None 2) None 3) None	1) None 2) None 3) None	
Selling and marketing of air transport services	1) None 2) None 3) None	1) None 2) None 3) None	
Computer reservation system services	1) None 2) None 3) None	1) None 2) None 3) None	
Ground handling services	1) None 2) None 3) None	1) None 2) None 3) None	
Specialty air services	1) Unbound 2) None 3) None	1) Unbound 2) None 3) None	
H. Services Auxiliary to All			

<sup>1</sup> As defined in Article 1 of Chapter 7 (Trade in Services).

Modes of Supply:	(1) Cross-border supply	2) Consumption abroad	(3) Commercial presence
<b>Sector or Sub-sector</b>	<b>Limitations on Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional Commitments</b>
Modes of Transport			
a) Cargo-handling services, except maritime and air cargo handling (CPC 741**)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Storage and warehouse services, except maritime storage and warehousing services (CPC 742**)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Freight transport agency services, except maritime freight agency services (CPC 748**)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Other (CPC 749)	1) None 2) None 3) None	1) None 2) None 3) None	

## **ANNEX TO THE SCHEDULE OF TUVALU: DEFINITIONS IN RELATION TO MARITIME TRANSPORT**

1. Without prejudice to the scope of activities which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in the Tuvalu and another port located in Tuvalu, traffic originating and terminating in the same port located in the Tuvalu provided that this traffic remains within the Tuvalu’s territorial waters, and traffic between a port located in the Tuvalu and installations or structures situated in the EEZ or relating to the continental shelf of Tuvalu.

2. “Other forms of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross- border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);
- (e) the setting up of any business arrangements (including participation in the stock of a company) and the appointment of personnel

recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. "Maritime cargo handling services" means activities exercised by stevedore companies, including terminal operators, but not including the direct activities of dockers, when this workforce is organised independently of the stevedoring or terminal operator companies. The activities covered include the organisation and supervision of:

- the loading/discharging of cargo to/from a ship;
- the lashing/unlashing of cargo;
- the reception/delivery and safekeeping of cargoes before shipment or after discharge.

4. "Customs clearance services" (alternatively "customs house brokers' services") means activities consisting in carrying out on behalf of another party customs formalities concerning import, export or through transport of cargoes, whether this service is the main activity of the service provider or a usual complement of its main activity.

5. "Container station and depot services" means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

6. "Maritime agency services" means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

- marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;
- acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

7. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

**ANNEX 7-A: SCHEDULE OF SPECIFIC SERVICES COMMITMENTS (CHAPTER 7)**

**SCHEDULE OF VANUATU**

Modes of Supply: (1) Cross-border Supply (2) Consumption abroad (3) Commercial Presence (4) Presence of Natural Persons

<b>Sector or Sub-sector</b>	<b>Limitations of Market Access</b>	<b>Limitations on National Treatment</b>	<b>Additional commitments</b>
<b>I. HORIZONTAL COMMITMENTS</b>			
All sectors included in this schedule	<p>3) Granting foreign investor certificates, as well as their renewal, is based on objective published criteria and is not conditional on an economic needs test or the level of foreign ownership.</p> <p>3) Unbound for measures: a) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force; or, b) regarding the sale or disposal of government-owned entities or assets.<sup>1</sup></p> <p>3) Unbound with respect to the provision of law enforcement and correctional services, and the</p>	<p>3) The Vanuatu Constitution prohibits freehold ownership of land. Only indigenous Ni-Vanuatu can own land. Indigenous citizens and expatriates can hold land in leasehold.</p>	

<sup>1</sup> Should Vanuatu adopt after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Trade in Services.



	following services to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, child care, public utilities, public transport and public housing.		
<b>II. SECTOR SPECIFIC COMMITMENTS</b>			
<b>1. BUSINESS SERVICES</b>			
<b>A. Professional Services</b>			
a) Legal services, home and host country law, including international law (CPC 861)	1) None 2) None 3) Commercial presence must take the form of sole proprietorship or partnership.	1) None 2) None 3) None	
b) Accounting, auditing and bookkeeping services (CPC 862)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Taxation Services (CPC 863)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Architectural services (CPC 8671)	1) None 2) None 3) None	1) None 2) None 3) None	

e) Engineering services (CPC 8672)	1) None 2) None 3) None	1) None 2) None 3) None	
f) Integrated engineering services (CPC 8673)	1) None 2) None 3) None	1) None 2) None 3) None	
g) Urban planning and landscape architectural services (CPC 8674)	1) None 2) None 3) None	1) None 2) None 3) None	
h) Medical and dental services (CPC 9312)	1) None 2) None 3) None	1) None 2) None 3) None	
i) Veterinary services (CPC 932)	1) None 2) None 3) None	1) None 2) None 3) None	
j) Midwives, nurses, physiotherapists and paramedical personnel (CPC 93191)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Computer and Related Services (CPC 84)	1) None 2) None 3) None	1) None 2) None 3) None	
C. Research and Development Services			

<p>a) R&amp;D services on natural sciences (CPC 851)</p> <p>b) R&amp;D services on social sciences and humanities (CPC 852)</p> <p>c) Interdisciplinary R&amp;D services (CPC 853)</p>	<p>1) None 2) None 3) Approval is required for the supply of services in Vanuatu's southern maritime borders.</p> <p>1) None 2) None 3) Approval is required for the supply of services in Vanuatu's southern maritime borders.</p> <p>1) None 2) None 3) Approval is required for the supply of services in Vanuatu's southern maritime borders.</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>E. Rental/Leasing Services without Operators</p> <p>a) Relating to ships (CPC 83103)</p> <p>b) Relating to aircraft (CPC 83104)</p> <p>c) Relating to other transport</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None</p>	

equipment (CPC 83101+83102)	2) None 3) None	2) None 3) None	
d) Relating to other machinery and equipment (CPC 83106-83109)	1) None 2) None 3) None	1) None 2) None 3) None	
e) Other (CPC 832)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>F. Other Business Services</b>			
a) Advertising services (CPC 871)	1) None 2) None 3) None	1) None 2) None 3) None	
b) Market research and public opinion polling services (CPC 864)	1) None 2) None 3) None	1) None 2) None 3) None	
(c) Management consulting services (CPC 865)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Services related to management consulting (CPC 866)	1) None 2) None 3) None	1) None 2) None 3) None	
(f) Services incidental to agriculture, hunting and forestry (CPC 88110, 88120)	1) None 2) None 3) None	1) None 2) None 3) None	

<p>(g) Services incidental to fishing (CPC 882**)</p> <p>Consists of specialised consultancy services only, related to fisheries. Does not include fishing.</p> <p>h) Services incidental to mining (CPC 883)</p> <p>i) Services incidental to manufacturing (CPC 884)</p> <p>j) Services incidental to energy distribution (CPC 88110, 88120)</p> <p>Covers specialised consultancy services only, in relation to energy distribution.</p> <p>k) Placement and supply services and personnel (CPC 872)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p>m) Related scientific and technical consulting services</p>	<p>1) None 2) None</p>	<p>1) None 2) None</p>	

(CPC 8675)	3) None	3) None	
n) Maintenance and repair of equipment (not including maritime vessels, aircraft or other transport equipment) (CPC 633+8861-8866)	1) None 2) None 3) None	1) None 2) None 3) None	
o) Building-cleaning services (CPC 874)	1) None 2) None 3) None	1) None 2) None 3) None	
p) Photographic services (CPC 875)	1) None 2) None 3) None	1) None 2) None 3) None	
q) Packaging services (CPC 876)	1) None 2) None 3) None	1) None 2) None 3) None	
r) Printing, publishing (CPC 88442)	1) None 2) None 3) None	1) None 2) None 3) None	
t) Other (CPC 8790) - Including convention services	1) None 2) None 3) None	1) None 2) None 3) None	
<b>2. COMMUNICATION SERVICES</b>			
B. Courier Services	1) None 2) None	1) None 2) None	

C. Telecommunication Services <sup>2</sup>	3) None	3) None	Vanuatu undertakes the obligations contained in the attached Reference Paper.
a) Voice telephone services	1) None 2) None 3) None	1) None 2) None 3) None	
b) Packet-switched data transmission services	1) None 2) None 3) None	1) None 2) None 3) None	
c) Circuit-switched data transmission services	1) None 2) None 3) None	1) None 2) None 3) None	
d) Telex services	1) None 2) None 3) None	1) None 2) None 3) None	
(e) Telegraph services	1) None 2) None 3) None	1) None 2) None 3) None	
(f) Facsimile services	1) None 2) None	1) None 2) None	

<sup>2</sup> Commitments are taken consistent with "Notes for Scheduling Basic Telecom Services Commitments" (S/GBT/W/2/Rev.1) and "Market Access Limitations on Spectrum Availability" (S/GBT/W/3), from the WTO.

	3) None	3) None	
g) Private leased circuit services	1) None 2) None 3) None	1) None 2) None 3) None	
h) Electronic mail	1) None 2) None 3) None	1) None 2) None 3) None	
i) Voice mail	1) None 2) None 3) None	1) None 2) None 3) None	
j) On-line information and data base retrieval	1) None 2) None 3) None	1) None 2) None 3) None	
k) Electronic data interchange	1) None 2) None 3) None	1) None 2) None 3) None	
l) Enhanced/value-added facsimile services (including store and forward, store and retrieve)	1) None 2) None 3) None	1) None 2) None 3) None	
m) Code and protocol conversion	1) None 2) None 3) None	1) None 2) None 3) None	



n) On-line information and/or data processing (including transaction processing)	1) None 2) None 3) None	1) None 2) None 3) None	
o) Other	1) None 2) None 3) None	1) None 2) None 3) None	
Mobile services Analogue/Digital cellular services PCS (Personal Communications Services) Paging services Mobile data services			
<b>D. Audiovisual</b>			
(a) Motion picture and videotape production and distribution services (CPC 9611)	1) None 2) None 3) None	(1), (2), (3) None except support programmes established and funded by the Government of Vanuatu to preserve or promote the cultural identity of Vanuatu	
<b>3. CONSTRUCTION AND RELATED ENGINEERING SERVICES</b>			
A. General construction work for buildings (CPC 512)	1) None 2) None 3) None	1) None 2) None 3) None	
B. General construction for civil engineering (CPC 513)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>4. DISTRIBUTION SERVICES</b>			
Excluding kava bars, open air vendors, mobile shops, door to door sales, local trading of sandalwood, export of sandalwood in stick and chips form, export of seeds and other minor forest products, second hand clothing shops, export of kava in root, chips and stick form.			

A. Commission agents' services (CPC 621)	1) None 2) None 3) None	1) None 2) None 3) None	
B. Wholesale trade services (CPC 622)	1) None 2) None 3) None; except Shops where the annual turnover is less than VT 30 million are reserved to Vanuatu citizens and enterprises wholly-owned by Vanuatu citizens.	1) None 2) None 3) None	
C. Retailing services (CPC 631, 632, 6111, 6113, 6121)	1) None 2) None 3) None; except Shops where the annual turnover is less than VT 30 million are reserved to Vanuatu citizens and enterprises wholly-owned by Vanuatu citizens.) None None; except Shops where the annual turnover is less than VT 30 million are reserved to Vanuatu citizens and enterprises wholly-owned by Vanuatu	1) None 2) None 3) None	
D. Franchising services (CPC 8929)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>5. EDUCATIONAL SERVICES</b>			

(CPC 921-929)	1) None 2) None 3) None except services funded from state resources, and subject to approval by the Government of Vanuatu to ensure adequate standards of qualification of individuals and of organisations.	1) None 2) None 3) None except services funded from state resources.	
<b>6. ENVIRONMENTAL SERVICES</b>			
A. Sewage services (CPC 9401)	1) None 2) None 3) None, except that provision of the service at the Central or local level may be subject to public monopoly or exclusive rights granted to private operators, through for instance concession contracts.	1) None 2) None 3) None, except that provision of the service at the Central or local level may be subject to public monopoly or exclusive rights granted to private operators, through for instance concession contracts.	
B. Refuse disposal services (CPC 9402)	1) None 2) None 3) None, except that provision of the service at the Central or local level may be subject to public monopoly or exclusive rights granted to private operators, through for instance concession contracts.	1) None 2) None 3) None, except that provision of the service at the Central or local level may be subject to public monopoly or exclusive rights granted to private operators, through for instance concession contracts.	
C. Sanitation and similar services	1) None	1) None	

<p>(CPC 9403)</p>          <p>D. Other environmental services (CPC 9404-9409)</p>	<p>2) None 3) None, except that provision of the service at the Central or local level may be subject to public monopoly or exclusive rights granted to private operators, through for instance concession contracts.</p> <p>1) None 2) None 3) None</p>	<p>2) None 3) None, except that provision of the service at the Central or local level may be subject to public monopoly or exclusive rights granted to private operators, through for instance concession contracts.</p> <p>1) None 2) None 3) None</p>	
<p><b>7. FINANCIAL SERVICES</b></p>			
<p>Excluding: - activities conducted by a central bank or monetary authority or by any other public entity in pursuit of monetary or exchange rate policies; - activities forming part of a statutory system of social security or public retirement plans; - and other activities conducted by a public entity for the account or with the guarantee or using the financial resources of the government.</p>			

<p>A. All insurance and related services (CPC 812)</p> <p>B. Banking and other related services (CPC 811-813)</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) Banks must comply with provisions of relevant banking legislation</p>	<p>1) None 2) None 3) None</p> <p>1) None 2) None 3) None</p>	
<p><b>8. HEALTH RELATED AND SOCIAL SERVICES</b></p>			
<p>A. Hospital services (CPC 9311)</p> <p>C. Social services (CPC 933)</p>	<p>1) None 2) None 3) None, except services funded from state resources</p> <p>1) None 2) None 3) None</p>	<p>1) None 2) None 3) None, except services funded from state resources</p> <p>1) None 2) None 3) None</p>	
<p><b>9. TOURISM AND TRAVEL RELATED SERVICES</b></p>			
<p>A. Hotels and restaurants (CPC 641)</p>	<p>1) None 2) None 3) None, except guest houses if the number of beds is less than 50 or less than ten rooms or annual turnover is less than VT 20 million; bungalows if the annual turnover is less than VT 30 million; hotels and motels if the</p>	<p>1) None 2) None 3) None 1) None</p>	

	total value of the investment is less than VT 10 million or the annual turnover is less than VT 20 million; and kava bars.		
B. Travel agencies (excluding tour operating services)	1) None 2) None 3) None	1) None 2) None 3) None	
<b>10. RECREATIONAL, CULTURAL AND SPORTING SERVICES</b>			
A. Entertainment Services (CPC 9619)	1) None 2) None 3) None	1) None 2) None 3) None	
B. News agency services (CPC 962)	1) None 2) None 3) None	1) None 2) None 3) None	
D. Sporting and other recreational services (CPC 964**) - Excluding lottery, gambling betting and any other related activities	1) None 2) None 3) None	1) None 2) None 3) None	
<b>11. TRANSPORT SERVICES</b>			
A. Maritime Transport Services (a),(b) International Transport (passengers and freight) (CPC	1) Local agent in Vanuatu, or registration in Vanuatu, required. 2) None	1) None 2) None	The following services at the port are made available to international maritime transport suppliers on reasonable and non-discriminatory

7211 and 7212), excluding cabotage transport (as defined below)	<p>3)(a) Establishment of registered company for the purpose of operating a fleet under the national flag of the State of establishment: unbound</p> <p>3)(b) Other forms of commercial presence for the supply of international maritime transport services (as defined below – 2): none</p>	<p>3)(a) Unbound</p> <p>3)(b) None</p>	<p>terms and conditions:</p> <ol style="list-style-type: none"> <li>1. Pilotage</li> <li>2. Towing and the tug assistance</li> <li>3. Provisioning, fuelling and watering</li> <li>4. Garbage collecting and ballast waste disposal</li> <li>5. Port Captain's services</li> <li>6. Navigation aids</li> <li>7. Shore-based operational services essential to ship operations including communications, water and electrical supplies</li> <li>8. Emergency repair facilities</li> <li>9. Anchorage, berth and berthing services</li> </ol>
(d) Maintenance and repair of vessels (CPC 8868**)	<p>1) None</p> <p>2) None</p> <p>3) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p>	
<p><b>MARITIME AUXILIARY SERVICES</b></p> <p>Container Station and Depot Services (as defined in Annex)</p> <p>Maritime Freight Forwarding</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p>	<p>1) None</p> <p>2) None</p> <p>3) None</p> <p>1) None</p>	

Services (as defined in Annex)	2) None 3) None	2) None 3) None	
Storage and Warehousing Services	1) None 2) None 3) None	1) None 2) None 3) None	
Maritime Agency Services (as defined in Annex)	1) Suppliers of international maritime transport services are required to go through a local agent established in Vanuatu. 2) None 3) None	1) None 2) None 3) None	
<b>C. Air Transport Services</b>			
(d) Maintenance and repair of aircraft	1) None 2) None 3) None	1) None 2) None 3) None	
(e) Selling and marketing of air transport services	1) None 2) None 3) None	1) None 2) None 3) None	
Computer reservation system services	1) None 2) None 3) None	1) None 2) None 3) None	
Specialty air services	1) Unbound 2) None 3) None	1) Unbound 2) None 3) None	



H. Services Auxiliary to All Modes of Transport			
b) Storage and warehouse services, except maritime storage and warehousing services (CPC 742**)	1) None 2) None 3) None	1) None 2) None 3) None	
c) Freight transport agency services, except maritime freight agency services (CPC 748**)	1) None 2) None 3) None	1) None 2) None 3) None	
d) Other (CPC 749)	1) None 2) None 3) None	1) None 2) None 3) None	

\*\* The service specified constitutes only part of the total range of activities covered by the CPC concordance.

## **ANNEX TO THE SCHEDULE OF VANUATU: DEFINITIONS IN RELATION TO MARITIME TRANSPORT**

1. Without prejudice to the scope of activity which may be considered as “cabotage” under the relevant national legislation, this schedule does not include “maritime cabotage services”, which are assumed to cover transportation of passengers or goods between a port located in Vanuatu and another port located in Vanuatu, traffic originating and terminating in the same port located in Vanuatu provided that this traffic remains within Vanuatu’s territorial waters, and traffic between a port located in Vanuatu and installations or structures situated in the EEZ or relating to the continental shelf of Vanuatu.

2. “Other form of commercial presence for the supply of international maritime transport services” means the ability for international maritime transport service suppliers of other Parties to undertake locally all activities which are necessary for the supply to their customers of a partially or fully integrated transport service, within which the maritime transport constitutes a substantial element. (This commitment shall however not be construed as limiting in any manner the commitments undertaken under the cross-border mode of delivery).

These activities include, but are not limited to:

- (a) marketing and sales of maritime transport and related services through direct contact with customers, from quotation to invoicing, these services being those operated or offered by the service supplier itself or by service suppliers with which the service seller has established standing business arrangements;
- (b) the acquisition, on their own account or on behalf of their customers (and the resale to their customers) of any transport and related services, including inward transport services by any mode, particularly inland waterways, road and rail, necessary for the supply of the integrated services;
- (c) the preparation of documentation concerning transport documents, customs documents, or other documents related to the origin and character of the goods transported;
- (d) the provision of business information by any means, including computerised information systems and electronic data interchange (subject to the provisions of the annex on telecommunications);

(e) the setting up of any business arrangement (including participation in the stock of a company) and the appointment of personnel recruited locally (or, in the case of foreign personnel, subject to the horizontal commitment on movement of personnel) with any locally established shipping agency;

(f) acting on behalf of the companies, organising the call of the ship or taking over cargoes when required.

3. “Container station and depot services” means activities consisting in storing containers, whether in port areas or inland, with a view to their stuffing/stripping, repairing and making them available for shipments.

4. “Maritime agency services” means activities consisting in representing, within a given geographic area, as an agent the business interests of one or more shipping lines or shipping companies, for the following purposes:

– marketing and sales of maritime transport and related services, from quotation to invoicing, and issuance of bills of lading on behalf of the companies, acquisition and resale of the necessary related services, preparation of documentation, and provision of business information;

– acting on behalf of the companies organising the call of the ship or taking over cargoes when required.

5. “Freight forwarding services” means the activity consisting of organising and monitoring shipment operations on behalf of shippers, through the acquisition of transport and related services, preparation of documentation and provision of business information. Freight forwarding services do not include postal services or courier services.

## REFERENCE PAPER FOR THE SCHEDULE OF VANUATU

### Scope

The following are definitions and principles on the regulatory framework for the basic telecommunications services.

### Definitions

Users mean service consumers and service suppliers.

Essential facilities mean facilities of a public telecommunications transport network or service that:

- (a) are exclusively or predominantly provided by a single or limited number of suppliers; and
- (b) cannot feasibly be economically or technically substituted in order to provide a service.

A major supplier is a supplier which has the ability to materially affect the terms of participation (having regard to price and supply) in relevant market for basic telecommunications services as a result of:

- (a) control over essential facilities; or
- (b) use of its position in the market.

### 1. Competitive safeguards

#### 1.1. Prevention of anti-competitive practices in telecommunications

Appropriate measures shall be maintained for the purpose of preventing suppliers who, alone or together, are a major supplier from engaging in or continuing anti-competitive practices.

#### 1.2. Safeguards

The anti-competitive practices referred to above shall include in particular:

- (a) engaging in anti-competitive cross-subsidization;
- (b) using information obtained from competitors with anti-competitive results; and
- (c) not making available to other services suppliers on timely basis technical information about essential facilities and commercially relevant information which are necessary for them to provide services.

## 2. Interconnection

2.1. This section applies to linking with suppliers, providing public telecommunications transport networks or services in order to allow the users of one supplier to communicate with users of another supplier and to access services provided by another supplier, where specific commitments are undertaken. 2.2. Interconnection to be ensured

Interconnection with a major supplier will be ensured at any technically feasible point in the network. Such interconnection is provided:

- (a) under non-discriminatory terms, conditions (including technical standards and specifications) and rates and of a quality no less favourable than that provided for its own like services or for like services of non-affiliated service suppliers or for its subsidiaries or other affiliates;
- (b) in a timely fashion, on terms, conditions (including technical standards and specifications) and cost-oriented rates that are transparent, reasonable, having regard to economic feasibility, and sufficiently unbundled so that the supplier need not pay for network components or facilities that it does not require for the service to be provided; and
- (c) upon request, at points in addition to the network termination points offered to the majority of users, subject to charges that reflect the cost of construction of necessary additional facilities.

## 2.3. Public availability of the procedures for interconnection negotiations

The procedures applicable for interconnection to a major supplier will be made publicly available.

## 2.4. Transparency of interconnection arrangements

It is ensured that a major supplier will make publicly available either its interconnection agreements or a reference interconnection offer.

## 2.5. Interconnection: dispute settlement

A service supplier requesting interconnection with a major supplier will have recourse, either:

- (a) at any time; or
- (b) after a reasonable period of time which has been made publicly known to an independent domestic body, which may be a regulatory body as referred to in paragraph 5 below, to resolve disputes regarding appropriate terms, conditions and rates for interconnection within a reasonable period of time, to the extent that these have not been established previously.

### 3. Universal service

Any Member has the right to define the kind of universal service obligation it wishes to maintain. Such obligations will not be regarded as anti-competitive *per se*, provided they are administered in a transparent, non-discriminatory and competitively neutral manner and are not more burdensome than necessary for the kind of universal service defined by the Member.<sup>4</sup> Public availability of licensing criteria

Where a licence is required, the following will be made publicly available:

- (a) all licensing criteria and the period of time normally required to reach a decision concerning an application for a licence; and
- (b) the terms and conditions of individual licenses.

The reasons for the denial of a licence will be made known to the applicant upon request.

### 5. Independent regulators

The regulatory body is separate from, and not accountable to, any supplier of basic telecommunications services. The decisions of and the procedures used by regulators shall be impartial with respect to all market participants.

### 6. Allocation and use of scarce resources

Any procedure for the allocation and use of scarce resources, including frequencies, numbers and rights of way, will be carried out in an objective, timely, transparent and non-discriminatory manner. The current state of allocated frequency bands will be made publicly available, but detailed identification of frequencies allocated for specific government uses is not required.

## CHAPTER 8

### MOVEMENT OF NATURAL PERSONS

#### Article 1: Definitions

For the purposes of this Chapter:

**temporary entry** means entry into the territory of a Party by a natural person covered by this Chapter, without the intent to establish permanent residence; and

**immigration formality** means a visa, permit, pass or other document or electronic authority granting a natural person of a Party the right to enter, reside or work in the territory of the granting Party.

#### Article 2: Objectives

1. The objectives of this Chapter, which reflect the preferential trading relationship between the Parties, are to:

- (a) provide for rights and obligations additional to those set out in Chapter 7 (Trade in Services) and Chapter 9 (Investment) in relation to the temporary entry of natural persons;
- (b) facilitate the temporary entry of natural persons;
- (c) establish transparent criteria and streamlined immigration formality application procedures for the temporary entry of natural persons to whom this Chapter applies; and
- (d) protect the integrity of the Parties' borders, and protect the domestic labour force and permanent employment in the territories of the Parties.

#### Article 3: Scope

1. This Chapter shall apply, as set out in each Party's schedule of specific commitments in Annex 8-A (Schedules of Commitments on Movement of Natural Persons), to measures affecting the temporary entry of natural persons of a Party into the territory of any other Party.

2. This Chapter shall not apply to measures affecting natural persons seeking access to the employment market of another Party, nor shall it apply to measures regarding citizenship, residence or employment on a permanent basis.

3. Nothing in this Agreement shall prevent a Party from applying measures to regulate the entry or temporary stay of natural persons of any other Party in its territory, including those

measures necessary to protect the integrity of its territory and to ensure the orderly movement of natural persons across its borders, provided such measures are not applied in a manner so as to nullify or impair the benefits accruing to any other Party under this Agreement.<sup>1</sup>

#### **Article 4: Grant of Temporary Entry**

1. Each Party shall set out in Annex 8-A a schedule containing the specific commitments it undertakes for each of the categories of natural persons specified therein. These schedules shall specify the conditions and limitations<sup>2</sup> governing those commitments, including the requirements and length of stay, for each category of natural persons included in each Party's schedule of specific commitments.

2. If a Party makes a commitment under paragraph 1, that Party shall grant temporary entry to natural persons of another Party provided that those natural persons:

- (a) follow the prescribed application procedures for the immigration formality sought; and
- (b) meet all relevant eligibility requirements for entry to the granting Party.

A Party may deny temporary entry to natural persons of another Party who do not comply with paragraph 2(a) and (b).

3. Temporary entry granted pursuant to this Chapter does not replace the requirements needed to carry out a profession or activity according to the domestic laws and regulations, and any applicable mandatory codes of practice made pursuant to domestic law, in force in the territory of the Party authorising the temporary entry.

#### **Article 5: Requirements and Procedures Relating to the Movement of Natural Persons**

1. In relation to the natural persons covered by Article 3, each Party shall endeavour to:

- (a) establish or maintain immigration formalities, which can be granted prior to arrival in its territory, to allow natural persons of another Party entry into and temporary stay in its territory;
- (b) expeditiously process complete applications for immigration formalities received from natural persons of another Party, including further immigration formality requests or extensions thereof;

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<sup>1</sup> The sole fact of requiring a visa for natural persons of a Party and not for those of non-Parties shall not be regarded as nullifying or impairing trade in goods or services or conduct of investment activities under this Agreement.

<sup>2</sup> For greater certainty, the terms 'conditions and limitations' include limitations on the total number of visas or the requirement of a labour market test.



- (c) on request, and within a reasonable period after an application by a natural person of another Party requesting temporary entry is lodged, notify the applicant of:
  - (i) receipt of the application;
  - (ii) the status of the application; and
  - (iii) the decision concerning the application, including:
    - (A) if approved, the period of stay and other conditions; or
    - (B) if refused, the reasons for refusal and any avenues for review.

### **Article 6: Mutual Recognition**

If the requirements for an immigration formality include requirements relating to authorisation, licensing or certification of natural persons, Article 11 of Chapter 7 (Trade in Services) shall apply, *mutatis mutandis*, to such authorisation, licensing or certification, but that obligation shall only apply to a Party in relation to the commitments they have made under Article 4.

### **Article 7: Contact Points**

Each Party shall designate a contact point to facilitate communications between the Parties on any matter covered by this Chapter, and shall provide details of that contact point to the other Parties. The Parties shall notify each other promptly of any amendments to the details of their contact point.

### **Article 8: Application of Chapter 14 (Consultations and Dispute Settlement)**

1. The Parties shall endeavour to settle any differences arising out of the implementation of this Chapter through consultations.
2. A Party shall not have recourse to Chapter 14 (Consultations and Dispute Settlement) regarding a refusal to grant temporary entry under this Chapter unless:
  - (a) the matter involves a pattern of practice on the part of the granting Party; and
  - (b) the natural persons affected have exhausted all available domestic remedies regarding the particular matter.
3. The remedies referred to in paragraph 2(b) shall be deemed to be exhausted if a final determination in the matter has not been issued within one year after the date of the institution of proceedings for such remedy, and the failure to issue a determination is not attributable to delays caused by the natural persons concerned.

### **Article 9: Review of Commitments**

The Parties shall review commitments for the temporary entry of natural persons, with the first review taking place within three years of entry into force of this Agreement and periodically thereafter as determined by the Joint Committee, with the aim of improving the overall commitments undertaken by the Parties under this Chapter so as to progressively liberalise the movement of natural persons among the Parties.

## ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)

### SCHEDULE OF AUSTRALIA

1. The following Schedule sets out Australia's commitments in accordance with Article 4 (Grant of Temporary Entry) of Chapter 8 (Movement of Natural Persons) in respect of the temporary entry of natural persons.

Description of Category	Sector or Sub-Sector	Conditions and Limitations (Including Length of Stay)
<p><u>(A) Intra-Corporate Transferees</u></p> <p>(a) Executives and senior managers being natural persons who are employees of an enterprise of another Party operating lawfully and actively in Australia, and who will be responsible for the entire or a substantial part of the enterprise's operations in Australia, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the enterprise, including directing the enterprise or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the enterprise.</p>	<p>All sectors<sup>1</sup></p>	<p>Entry and temporary stay of such natural persons is subject to employer sponsorship.</p> <p>Employer sponsorship requirements, including the list of eligible occupations, may change from time to time. Full details of employer sponsorship requirements, including the list of eligible occupations, are available on the website of the Australian Government department responsible for immigration matters: <a href="http://www.border.gov.au">www.border.gov.au</a>.</p> <p>Entry is for an initial period of stay of up to four years, with the possibility of further</p>

<sup>1</sup> In relation to maritime cargo handling services, there is an additional requirement for shore labour to undertake loading and unloading of ships under the *Navigation Act 1912* (Cth).

Description of Category	Sector or Sub-Sector	Conditions and Limitations (Including Length of Stay)
<p>(b) Specialists being natural persons with advanced trade, technical or professional skills and are employees of an enterprise of another Party operating lawfully and actively in Australia, and who have been employed by that employer for not less than two years immediately preceding the date of the application for temporary entry.</p> <p>A specialist may include, but is not limited to, members of a licensed profession.</p>		<p>stay.</p> <p>Entry and temporary stay of such natural persons is subject to employer sponsorship.</p> <p>Employer sponsorship requirements including the list of eligible occupations, may change from time to time. Full details of employer sponsorship requirements, including the list of eligible occupations, are available on the website of the Australian Government department responsible for immigration matters: <a href="http://www.border.gov.au">www.border.gov.au</a>.</p> <p>Entry is for periods of stay up to two years, with the possibility of further stay.</p>
<p><u>(B) Independent Executives</u></p> <p>Independent executives being natural persons whose work responsibilities match the description set out below and who intend, or are responsible for, the establishment in Australia, of a new branch or</p>	<p>All sectors<sup>2</sup></p>	<p>Entry and temporary stay of such natural persons is subject to employer sponsorship.</p> <p>Employer sponsorship requirements, including the list of eligible occupations, may change from time to time. Full details</p>

<sup>2</sup> In relation to maritime cargo handling services, there is an additional requirement for shore labour to undertake loading and unloading of ships under the *Navigation Act 1912* (Cth).

Description of Category	Sector or Sub-Sector	Conditions and Limitations (Including Length of Stay)
<p>subsidiary of an enterprise which has its head of operations in the territory of another Party and which has no other representative, branch or subsidiary in Australia. Independent executives will be responsible for the entire or a substantial part of the enterprise's operations in Australia, receiving general supervision or direction principally from higher level executives, the board of directors or stockholders of the enterprise, including directing the enterprise or a department or subdivision of it; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the department or subdivision of the enterprise.</p>		<p>of employer sponsorship requirements, including the list of eligible occupations, are available on the website of the Australian Government department responsible for immigration matters: <a href="http://www.border.gov.au">www.border.gov.au</a>.</p> <p>Entry is for periods of stay up to a maximum of two years.</p>
<p><u>(C) Business Visitors</u></p> <p>Business visitors being natural persons seeking to travel to Australia for business purposes whose remuneration and financial support for the duration of the visit must be derived from sources outside Australia and who must not engage in making direct sales to the general public or in supplying the services themselves. Business visitors comprise:</p>	<p>All sectors<sup>3</sup></p>	

<sup>3</sup> In relation to maritime cargo handling services, there is an additional requirement for shore labour to undertake loading and unloading of ships under the *Navigation Act 1912* (Cth).

Description of Category	Sector or Sub-Sector	Conditions and Limitations (Including Length of Stay)
(a) Service sellers, as business visitors being natural persons not based in Australia who are (sales) representatives of a service supplier and are seeking temporary entry for the purpose of negotiating for the sale of services or entering into agreements to sell services for that service supplier.		Entry is for an initial stay of six months and up to a maximum of twelve months.
(b) Business visitors, being natural persons seeking to travel to Australia for the purpose of participating in business negotiations or meetings.		Entry is for periods of stay up to a maximum of three months.
(c) Business visitors, being natural persons who are seeking to travel to Australia for business purposes, including investment purposes.		Entry is for periods of stay up to a maximum of three months.
(d) Business visitors, being natural persons of a Party who are seeking entry for the purposes of negotiating the sale of goods where such negotiations do not involve direct sales to the general public.		Entry is for periods of stay up to a maximum of three months.
<u>(D) Contractual Service Suppliers</u>  Contractual service suppliers (including independent		All sectors <sup>4</sup>

<sup>4</sup> In relation to maritime cargo handling services, there is an additional requirement for shore labour to undertake loading and unloading of ships under the *Navigation Act 1912* (Cth).

Description of Category	Sector or Sub-Sector	Conditions and Limitations (Including Length of Stay)
<p>professionals/ specialists).</p> <p>Contractual service suppliers (CSS) being natural persons with trade, technical or professional skills and experience who are assessed as having the necessary qualifications, skills and work experience accepted as meeting the domestic standard in Australia for their nominated occupation, and who are:</p> <p>(a) employees of an enterprise of a Party that has concluded a contract for the supply of a service within Australia and that does not have a commercial presence within Australia; or</p> <p>(b) engaged by an enterprise lawfully and actively operating in Australia in order to supply a service under a contract within Australia.</p>		<p>Employer sponsorship requirements, including the list of eligible occupations, may change from time to time. Full details of employer sponsorship requirements, including the list of eligible occupations, are available on the website of the Australian government department responsible for immigration matters: <a href="http://www.border.gov.au">www.border.gov.au</a>.</p> <p>Labour market testing may be required for some occupations, to the extent that this is not inconsistent with Australia's commitments under the WTO and other international trade agreements to which it is a party as at entry into force of this Agreement.</p> <p>Entry is for periods of stay up to twelve months, with the possibility of further stay.</p>
<p><u>Spouses</u></p> <p>Spouses of temporary entrants covered by (A), (B) and (D) are accorded full working rights where stay of those temporary entrants is greater than twelve months.</p>		<p>For such spouses, entry and temporary stay is for the same period as for the temporary entrant.</p>

**ANNEX 8-A SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)**

**SCHEDULE OF THE COOK ISLANDS**

1. The Cook Islands' commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services), the Cook Islands specifies below any terms, conditions, limitations or qualifications.

<b>Category of natural person</b>	<b>Sector or subsector</b>	<b>Conditions and Limitations (including duration of stay)</b>
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule	All sectors	The ownership of freehold interest in land is restricted only to Cook Islanders. Natural persons who are not Cook Islanders or Permanent Residents of the Cook Islands and Enterprises may only acquire a leasehold interest in land to a maximum term of 60 years but subject to approval from the Lease Approval Tribunal pursuant to the Leases Restrictions Act 1976, the Leases Restrictions Regulations 1977 and their amendments under a non-discriminatory process.
<b>II. Category-specific commitments</b>		
<u>Business visitors</u>  Business visitor means a natural person of another Party who is: (a) a service seller being a natural person who is a sales representative of a service supplier of	All sectors	Period of stay of one month, with possibility of extension for an additional two months



<p>that Party and is seeking temporary entry into the Cook Islands for the purpose of negotiating the sale of services for that service supplier, when such representative will not be engaged in making direct sales to the general public or in supplying services directly;</p> <p>(b) an investor of another Party, as defined in Chapter 9 (Investment), or a duly authorized representative of an investor of another Party, seeking temporary entry into the Cook Islands to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person of another Party who is seeking temporary entry into the Cook Islands to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another Party established in the Cook Islands through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in the Cook Islands, who has been in the prior employment of the enterprise of the other Party for a period of not less than six months immediately preceding the date of admission for temporary entry and who comes within one of the</p>	<p>All sectors listed in the Cook Islands' schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	<p>Period of stay of one year, with possibility of renewal of up to an additional two years</p> <p>Conditional on the non-availability of equally qualified Cook Islanders or permanent residents. At the time of establishment in the Cook Islands investments of investors of another Party may transfer an executive and financial officer (or an equivalent specialist in a relevant field) without such labour market testing.</p>

following categories:

Executives:

Definition: Executive means a natural person within an organisation who primarily directs the management of the organisation, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors or shareholders of the business. An executive would not directly perform tasks related to the actual provision of the service nor the operation of an investment;

Managers:

Definition: Manager means a natural person within an organisation who primarily directs the organisation or a department or subdivision of the organisation, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and dismiss or take other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations;

Specialists:

<p>Definition: Specialist means a natural person within an organisation who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organisation's service, research equipment, techniques or management.</p>		
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of another Party who: (a) is an employee of an enterprise that is a service supplier of another Party, whether a company, partnership or firm, who enters the Cook Islands temporarily in order to perform a service pursuant to a contract(s) between his or her employer and an enterprise in the Cook Islands; (b) is employed by an enterprise of the other Party, which has no commercial presence in the Cook Islands; (c) receives his or her remuneration from that employer; (d) is sponsored by that enterprise in the Cook Islands; (e) has a qualification resulting from three or more years of formal post-secondary school education and appropriate experience.</p>	<p>All sectors listed in the Cook Islands' schedule under Annex 7-A (Schedule of Specific Services Commitments), except:  - 1.C. Research and Development Services; - 1.D. Real Estate Services; - 9.C. Tourist Guide Services.</p>	<p>Period of stay of up to a maximum of three months within any one year period.</p>
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of the</p>	<p>The subsectors listed in the Cook Islands' schedule under Annex 7-A (Schedule of Specific Services Commitments), except:  - 1.C. Research and</p>	<p>Period of stay of up to a maximum of three months within any one year period.</p>

<p>Cook Islands pursuant to a contract with an enterprise in the Cook Islands, who has a qualification resulting from three or more years of formal post-secondary school education, is sponsored by the enterprise in the Cook Islands, and has the appropriate experience to provide the service.</p>	<p>Development Services; - 1.D. Real Estate Services; - 9.C. Tourist Guide Services.</p>	
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>	<p>All sectors</p>	<p>Period of stay up to a maximum of three months within any one year period.</p>
<p><u>Skilled or semi-skilled workers</u></p> <p>Skilled or semi-skilled worker means a natural person of another Party who enters the Cook Islands in order to work temporarily under an employment contract with an enterprise of the Cook Islands, is sponsored by the enterprise of the Cook Islands, and who is appropriately qualified or experienced for that employment.</p>	<p>All sectors</p>	<p>Period of stay for one year, with possibility of extension for an additional two years Conditional on the non-availability of equally qualified Cook Islanders or permanent residents.</p>

Limited to occupations for which a post-secondary degree or equivalent is required.		
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**ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)**

**SCHEDULE OF THE FEDERATED STATES OF MICRONESIA**

1. The Federated States of Micronesia’s commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter7 (Trade in Services), the Federated States of Micronesia specifies below any terms, conditions, limitations or qualifications.

<b>Category of natural person</b>	<b>Sector or subsector</b>	<b>Conditions and Limitations (including duration of stay)</b>
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule	All sectors	<p>Foreign natural persons who are employed by enterprises in the Federated States of Micronesia are required to provide training to employees who are citizens of the Federated States of Micronesia.</p> <p>Natural persons who are not citizens of the Federated States of Micronesia are prohibited from owning or acquiring land or any interest in land.</p> <p>Limits to lease of land are:</p> <ul style="list-style-type: none"> <li>○ Up to 99 years in Chuuk State;</li> <li>○ Up to 55 years in Yap State;</li> <li>○ 55 years renewable but no more than 99 years for private land, and 40 years renewable for public land in Kosrae State;</li> <li>○ 55 years renewable up to 99 years in</li> </ul>

		<p>Pohnpei State.</p> <p>The lease of real estate by natural persons who are not citizens of the Federated States of Micronesia requires an authorization by the competent State authority which will consider among other things whether important economic, social or cultural interests are affected.</p> <p>Natural persons who are not citizens of the Federated States of Micronesia cannot sub-lease land.</p> <p>Minimum local employment:</p> <ul style="list-style-type: none"> <li>○ Yap: for enterprises with more than two non-citizen employees, there must be at least one citizen employee for each non-citizen employee.</li> </ul> <p>Natural persons of another Party who provide professional services require a minimum of three years' prior experience.</p>
<b>II. Category-specific commitments</b>		
<p><u>Business visitors</u></p> <p>Business visitor means a natural person of another Party who is:</p> <p>(a) a service seller being a natural person who is a sales representative of a service supplier of another Party and is seeking temporary entry</p>	<p>All sectors</p>	<p>Period of stay of 30 days, which can be extended up to a maximum of 90 days.</p>

<p>into the Federated States of Micronesia for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly;</p> <p>(b) an investor of another Party, as defined in Chapter 9 (Investment), or a duly authorized representative of an investor of another Party, seeking temporary entry into the territory of the Federated States of Micronesia to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person who is seeking temporary entry into the territory of the Federated States of Micronesia to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another Party that has established in the Federated States of Micronesia through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in the Federated States of Micronesia, and who corresponds to the category of senior level management.</p>	<p>All sectors listed in the Federated States of Micronesia's schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	<p>Limited to the following:</p> <ul style="list-style-type: none"> <li>- An enterprise that has been issued a Foreign Investment Permit shall be entitled one Intra corporate transferee (Expatriate Worker Authorization (EWA)) at the level of senior management, as defined by investment laws and regulations, for the period that the foreign investment permit remains valid. Additional EWAs are subject to labour market testing and to the hiring and training of local workers by the enterprise.</li> </ul>



		Minimum of two years' experience in the relevant position.
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of another Party who: (a) is an employee of an enterprise of another Party, whether a company, partnership or firm, who enters the territory of the Federated States of Micronesia temporarily in order to perform a service pursuant to a service contract(s) between his or her employer and an enterprise in the territory of the Federated States of Micronesia; (b) is sponsored by the enterprise in the Federated States of Micronesia; (c) is employed by an enterprise of another Party that has no commercial presence in the territory of the Federated States of Micronesia; (d) receives his or her remuneration from that employer; (d) has qualifications resulting from three or more years of formal post-secondary school education and appropriate experience to provide the service.</p>	<p>All sectors listed in the Federated States of Micronesia's schedule under Annex 7-A (Schedule of Specific Services Commitments)</p>	<p>Period of stay of 30 days, which can be extended up to a maximum total of 90 consecutive days.</p> <p>Stay beyond 90 days up to a maximum of one year is conditional on the non-availability of Federated States of Micronesia citizens or permanent residents with the requisite skills and professional experience for such employment.</p>
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of the</p>	<p>All sectors listed in the Federated States of Micronesia's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of 30 days, which can be extended up to 90 days.</p> <p>Stay beyond 90 days up to a maximum of one year is conditional on the non-availability of Federated States</p>

<p>Federated States of Micronesia pursuant to a contract with an enterprise in the territory of the Federated States of Micronesia, is sponsored by the enterprise in the Federated States of Micronesia, and who has a qualification resulting from three or more years of formal post-secondary school education and has appropriate experience to provide the service.</p>		<p>of Micronesia citizens or permanent residents with the requisite skills and professional experience for such employment.</p>
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>	<p>All sectors</p>	<p>Period of stay of 30 days, which can be extended up to 90 days.</p> <p>Stay beyond 90 days up to a maximum of one year is conditional on the non-availability of Federated States of Micronesia citizens or permanent residents with the requisite skills and professional experience for such employment.</p>
<p><u>Skilled or semi-skilled workers:</u></p> <p>Skilled or semi-skilled worker means a natural person of another Party who enters the territory of the Federated States of Micronesia in order to work temporarily under an employment contract with an enterprise in the Federated States of Micronesia, is sponsored by an enterprise in the</p>	<p>All sectors, except construction services.</p>	<p>For a period of stay of one year, with the possibility of extension for another one year. Period of stay may be further extended if there are no Federated States of Micronesia citizens or permanent residents with the requisite skills and professional experience for such employment</p>

<p>Federated States of Micronesia, and who is appropriately qualified or experienced for that employment.</p>		
<p>Limited to occupations for which a post-secondary degree or equivalent is required.</p>		

**ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)**

**SCHEDULE OF KIRIBATI**

1. Kiribati's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Article 4 (Grant of Temporary Entry) of Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services) and with Chapter 8 (Movement of Natural Persons), Kiribati specifies below any terms, conditions, limitations or qualifications.

<b>Category of natural person</b>	<b>Sector or subsector</b>	<b>Conditions and Limitations (including duration of stay)</b>
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule	All sectors	Natural persons who are not citizens of Kiribati are prohibited from owning land or acquiring land or any interest in land. Such natural persons may lease land in Kiribati, provided that the lease is approved by the Competent Authority. Land may be leased for a period of 30 years, which may be renewed.  Sub-lease of land involving natural persons who are not citizens of Kiribati and enterprises that are not wholly-owned by citizens of Kiribati is not allowed.
<b>II. Category-specific commitments</b>		
<u>Business visitors</u>  Business visitor means a natural person of another Party who is:	All sectors	Period of stay of one month, renewable for up to a maximum of four months within a 12 month period.

<p>(a) a service seller being a natural person who is a sales representative of a service supplier of that Party and is seeking temporary entry into Kiribati for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly;</p> <p>(b) an investor of another Party, as defined in Chapter 9 (Investment), or a duly authorized representative of an investor of another Party, seeking temporary entry into the territory of Kiribati to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person who is seeking temporary entry into the territory of Kiribati to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another party that has been established in Kiribati through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Kiribati and who corresponds to the following categories:</p> <p>Executives:</p> <p>Definition: Executive means a natural person within an organization who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level</p>	<p>All sectors listed in Kiribati's schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment)</p>	<p>Entry and stay of such a natural person is subject to employer sponsorship.</p> <p>Employer sponsorship requirements for this category include minimum skills levels and sponsorship by a bona fide business operating lawfully and actively in Kiribati. Approval is conditional on the non-availability of Kiribati citizens or permanent residents with the requisite skills and professional experience for such employment.</p> <p>Entry is for an initial period of stay for one year with possibility of renewal.</p>

<p>executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service nor the operation of an investment;</p> <p>Managers:</p> <p>Definition: Manager means a natural person within an organization who primarily directs the organization or a department or subdivision of the organization, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations;</p> <p>Specialists:</p> <p>Definition: Specialist means a natural person within an organization who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organization's service, research equipment, techniques or management.</p>		
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of another Party who: (a) is an employee of a service supplier or an enterprise of another Party, who enters the territory of Kiribati temporarily in order to perform a service pursuant to a contract(s)</p>	<p>All sectors listed in Kiribati's schedule under Annex 7-A (Schedule of Specific</p>	<p>Entry is for an initial period of stay of six months with possibility of renewal.</p>

<p>between his or her employer and an enterprise in the territory of Kiribati; (b) is sponsored by the enterprise in Kiribati; (c) is employed by an enterprise which has no commercial presence in the territory of Kiribati; (d) receives his or her remuneration from that employer; (e) has qualifications resulting from three or more years of formal post-secondary school education and has appropriate experience to provide the service.</p>	<p>Services Commitments)</p>	
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of Kiribati pursuant to a contract with an enterprise in the territory of Kiribati, is sponsored by the enterprise in Kiribati, and who has a qualification resulting from three or more years of formal post-secondary school education and has appropriate experience to provide the service.</p>	<p>All sectors listed in Kiribati's schedule under Annex 7-A (Schedule of Specific Services Commitments)</p>	<p>Entry is for an initial period of stay of 6 months with possibility of renewal.</p>
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>	<p>All sectors</p>	<p>Period of stay of up to 6 months.</p>
<p><u>Skilled and semi-skilled workers</u></p>	<p>All sectors</p>	<p>Entry is for an initial period of stay for one year with possibility of renewal for a maximum total</p>

<p>Skilled or semi-skilled worker means a natural person of a Party who enters the territory of Kiribati in order to work temporarily under an employment contract with an enterprise in Kiribati, who is sponsored by the enterprise in Kiribati, and who has qualifications resulting from three or more years of formal post-secondary school education and appropriate experience for that employment.</p>		<p>period of three years.</p> <p>Conditional on the non-availability of Kiribati citizens or permanent residents with the requisite skills and professional experience for such employment.</p>
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## ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)

### SCHEDULE OF NAURU

1. Nauru's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Article 4 (Grant of Temporary Entry) of Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services) and with Chapter 8 (Movement of Natural Persons), Nauru specifies below any terms, conditions, limitations or qualifications.

Category of natural person	Sector or subsector	Conditions and Limitations (including duration of stay)
<b>I. HORIZONTAL COMMITMENTS</b>		
All categories of natural persons included in this schedule	All sectors	Natural persons of another Party and enterprises that are not wholly-owned by citizens of Nauru are prohibited from owning land, or acquiring any interest in or control over land in Nauru, whether by purchase, receipt of gift, transfers by operation of law, or any other means. Lease of land by enterprises established in Nauru is subject to a non-discriminatory approval process.  Legal services: to apply to practise as barrister and solicitor

		in Nauru, it is required to ordinarily reside in Nauru or to have signed an undertaking to establish an office or chambers in Nauru where the natural person will attend and practise for not less than one month in every three months.
<b>II. CATEGORY-SPECIFIC COMMITMENTS</b>		
<p><u>Business visitors</u></p> <p>Business visitor means a natural person of another Party who is:</p> <p>(a) a service seller being a natural person who is a sales representative of a service supplier of that other Party and is seeking temporary entry into Nauru for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly;</p> <p>(b) an investor of another Party, as defined in Chapter 9 (Investment), or a duly authorized representative of an investor of another Party, seeking temporary entry into the territory of Nauru to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person of another Party who is seeking temporary entry into the territory of Nauru to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>	All sectors listed in Nauru's schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).	Entry and temporary stay is limited to a period of 12 months.
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another Party that has established in Nauru through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Nauru, and</p>	All sectors listed in Nauru's schedule under Annex 7-A (Schedule of Specific Services	Period of stay of 12 months. Extensions would be considered on the basis of need.

<p>who corresponds to the following categories:</p> <p>Executives:</p> <p>Definition: Executive means a natural person within an organization who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service nor the operation of an investment;</p> <p>Managers:</p> <p>Definition: Manager means a natural person within an organization who primarily directs the organization or a department or subdivision of the organization, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations;</p> <p>Specialists:</p> <p>Definition: Specialist means a natural person within an organization who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organization's service, research equipment, techniques or management.</p>	<p>Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	
<p><u>Graduate Trainees</u></p> <p>Persons with a university degree or a technical qualification demonstrating</p>	<p>All sectors listed in Nauru's schedule under Annex 7-A</p>	<p>Period of stay of 12 months.</p>

<p>knowledge of an equivalent level, who are transferring for career development purposes or to obtain training in business techniques or methods.</p> <p>This commitment applies to an employee of an enterprise of another Party that has established in Nauru through a branch, subsidiary or affiliate, who is transferred to the branch, subsidiary or affiliate of the enterprise in Nauru.</p> <p>This commitment also applies to natural persons transferring from a branch, subsidiary or affiliate that supplies services in another Party, to its parent juridical person established in Nauru.</p> <p>The recipient service supplier in Nauru may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for training and career development purposes.</p>	<p>(Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of Nauru pursuant to a contract with an enterprise in the territory of Nauru, is sponsored by the enterprise in Nauru, who has a qualification resulting from three or more years of formal post-secondary school education and has the appropriate experience to provide the service.</p>	<p>The subsectors listed in Nauru's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of twelve months. Extensions would be considered on the basis of need.</p>
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of another Party who: (a) is an employee of an enterprise of another Party, who enters the territory of Nauru temporarily in order to perform a service pursuant to a contract(s) between his or her employer and an enterprise in Nauru; (b) is sponsored by the enterprise in Nauru; (c) is employed by an enterprise of the other Party that has no commercial presence in the territory of Nauru; (d) receives his or her remuneration from that employer; (e)</p>	<p>The subsectors listed in Nauru's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of 12 months. Extensions would be considered on the basis of need.</p>

<p>has a qualification resulting from three or more years of formal post-secondary school education and possesses the appropriate experience to provide the service.</p>		
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>	<p>All sectors</p>	<p>Period of stay of 12 months.</p>
<p><u>Skilled or semi-skilled workers:</u></p> <p>Skilled or semi-skilled worker means a natural person of another Party who enters the territory of Nauru in order to work temporarily under an employment contract with an enterprise of Nauru, and who is appropriately qualified or experienced for that employment.</p> <p>Limited to occupations for which a post-secondary degree or equivalent is required.</p>	<p>All sectors</p>	<p>Maximum period of stay two years, subject to the non-availability of Nauru citizens or permanent residents with the requisite skills and professional experience for such employment.</p>

## ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)

### SCHEDULE OF NEW ZEALAND

1. New Zealand's commitments under Chapter 8 (Movement of Natural Persons), and under Article 5 and Article 6 of Chapter 7 (Trade in Services), in relation to the supply by a service supplier of one Party through the presence of natural persons of a Party in the territory of another Party apply only in relation to the categories of persons set out below.
2. In accordance with Article 5 and Article 6 of Chapter 7 (Trade in Services) and Annex 7-A (Schedules of Specific Services Commitments), for the categories of persons set out in this Schedule, New Zealand specifies below any terms, conditions, limitations or qualifications in relation to the supply of a service by a service supplier of a Party through the presence of natural persons of a Party in the territory of New Zealand.

<b>Description of Category</b>	<b>Conditions (including duration of stay)</b>
<b>Business Visitors</b> <u>Definition:</u> a natural person of a Party whose remuneration and financial support is derived entirely from sources outside New Zealand and is seeking temporary entry to New Zealand for business purposes, such as: (i) for the purpose of negotiating and concluding the sale of goods or services but is not engaged in making direct sales to the general public or in supplying goods or services themselves; or (ii) as an investor, or duly authorised representative of an investor, for the purpose of establishing, expanding, monitoring, or disposing of an investment, but not with the intention of establishing or operating any business on the business visitor's own account; who is not seeking to enter the labour market of New Zealand.	Entry for a period not exceeding in aggregate three months in any calendar year.
<b>Intra-corporate transferees</b> <u>Definition:</u> an <b>executive manager</b> or a <b>specialist</b> :	

- (a) who is an employee of a goods supplier, service supplier or investor of a Party with a commercial presence in New Zealand; and
- (b) whose salary and any related payments are paid entirely by the service supplier or enterprise that employs the intra-corporate transferee.

**Executives**

Definition: a natural person of a Party who primarily directs the management of an enterprise, exercises wide latitude in decision-making and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the enterprise. An executive would not directly perform tasks related to the actual provision of the service or the operation of the enterprise.

**Managers**

Definition: a natural person who will be responsible for or directs the entire or a substantial part of the operations of the enterprise in New Zealand, receiving general supervision or direction principally from higher level executives, the board of directors or stock holders of the enterprise; supervising and controlling the work of other supervisory, professional or managerial employees; and having the authority to establish goals and policies of the entire or a substantial part of the operations of the enterprise.

**Specialists**

Definition: a natural person with advanced trade, technical or professional skills within an organisation who possesses knowledge at an advanced level of technical expertise, and who

Entry for a period of initial stay up to a maximum of three years for executives who have been employed by their employer for at least twelve months prior to their proposed transfer to New Zealand.

Entry for a period of initial stay up to a maximum of three years for managers who have been employed by their employer for at least twelve months prior to their proposed transfer to New Zealand.

Entry for a period of initial stay up to a maximum of three years.

<p>possesses proprietary knowledge of the organisation's service, research equipment, techniques or management. Such specialists are responsible for or employed in a particular aspect of an organisation's operations in New Zealand. Skills are assessed in terms of the applicant's employment experience, qualifications, and suitability for the position.</p>	
<p><b>Installers/Serviceicers</b>  <u>Definition:</u> a natural person who is an installer or servicer of machinery and/or equipment, where such installation and/or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>	<p>Entry for periods not exceeding three months in any 12-month period.</p>
<p><b>Independent Service Suppliers</b> (self-employed service suppliers working on a contractual basis, without a requirement for commercial presence).</p> <p>In the following category only:  <b>Independent Professionals:</b>  <u>Definition:</u> self-employed natural persons with advanced technical or professional skills, without the requirement for a commercial presence, working under a valid contract in New Zealand.  Independent professionals must have:  (i) a qualification resulting from three or more years of formal post-secondary school education leading to a recognised degree or diploma; and  (ii) six or more years of experience.</p>	<p>In respect of the service sectors set out in New Zealand's Schedule of Specific Services Commitments (Annex 7-A) only and subject to economic needs tests, entry for a period of stay up to a maximum of 12 months.</p>



Both (i) and (ii) must be in the field of which the Independent Professionals wish to supply their professional services.<sup>1</sup>

1. Notwithstanding the commitments set out above, New Zealand remains unbound in cases of labour/management disputes, and also with respect to ships' crews.
2. With respect to audiovisual services, New Zealand immigration instructions stipulate a special procedure for the granting of visas to entertainers, performing artists and associated support personnel for work purposes. To be eligible for a work visa or work permit, such applicants must come within the policy guidelines agreed to between the Minister of Immigration, independent promoters, agents or producers and the relevant performing artists' unions.
3. For greater clarity, all the commitments in respect of the presence of natural persons made in New Zealand's Schedule of Specific Commitments in the WTO (as currently set out in *GATS/ SC/62*), including any requirements, regulations and additional commitments, apply to the services suppliers of the other Parties that are a Member of the WTO.

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<sup>1</sup> These qualifications must be recognised by the appropriate New Zealand authority where under New Zealand law such recognition is a condition of the provision of that service in New Zealand.

**ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)**

**SCHEDULE OF NIUE**

1. Niue's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services) and with Chapter 8 (Movement of Natural Persons), Niue specifies below any terms, conditions, limitations or qualifications.

<b>Category of natural person</b>	<b>Sector or subsector</b>	<b>Conditions and Limitations (including duration of stay)</b>
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule.	All sectors	Natural persons who are not Niueans are prohibited from owning land.
<b>II. Category-specific commitments</b>		
<u>Business visitors</u>  Business visitor means a natural person of another Party who is: (a) a service seller being a natural person of another Party who is a sales representative of a service supplier of that Party and is seeking temporary entry into Niue for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly; (b) an investor of another Party, as defined in	All sectors	Period of stay of 30 days, with the possibility of an extension for another 30 days.

<p>Chapter 9 (Investment), or a duly authorized representative of an investor of another Party, seeking temporary entry into the territory of Niue to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person of another Party who is seeking temporary entry into the territory of Niue to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another Party that has established in Niue through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Niue, and who corresponds to the following categories:</p> <p>Executives:</p> <p>Definition: Executive means a natural person within an organisation who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the actual provision of</p>	<p>All sectors listed in Niue’s schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	<p>Period of stay of two years. This may be extended for one year, if there are no Niue citizens or permanent residents with the requisite skills and professional experience for such employment.</p>

<p>the service nor the operation of an investment;</p> <p>Managers:</p> <p>Definition: Manager means a natural person within an organization who primarily directs the organization or a department or subdivision of the organization, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations;</p> <p>Specialists:</p> <p>Definition: Specialist means a natural person within an organization who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organization's service, research equipment, techniques or management.</p>		
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of another Party who: (a) is an employee of an enterprise of another Party, whether a company, partnership or firm, who enters the</p>	<p>All subsectors listed in Niue's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of one year. This may be extended for another year, if there are no Niue citizens or permanent residents with the requisite skills and professional experience for such employment.</p>

<p>territory of Niue in order to perform a service pursuant to a contract between his or her employer and an enterprise in the territory of Niue; (b) is employed by an enterprise of another Party, which has no commercial presence in the territory of Niue where the service is to be provided; (c) receives his or her remuneration from that employer; (d) is sponsored by that enterprise in Niue; (e) has a qualification resulting from three or more years of formal post-secondary school education and has the appropriate experience to provide the service.</p>		
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of Niue pursuant to a contract with an enterprise in the territory of Niue, is sponsored by the enterprise in Niue, who has a qualification resulting from three or more years of formal post-secondary school education and has the appropriate experience to provide the service.</p>	<p>All subsectors listed in Niue's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of two years, with the possibility of extension for one year, if there are no Niue citizens or permanent residents with the requisite skills and professional experience for such employment.</p>
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation</p>	<p>All sectors</p>	<p>Period of stay of a maximum of 30 days.</p>

<p>or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>		
<p><u>Skilled and semi-skilled workers:</u></p> <p>Skilled or semi-skilled worker means a natural person of another Party who enters Niue in order to work temporarily under an employment contract with an enterprise in Niue, and who is appropriately qualified or experienced for that employment.</p> <p>Limited to occupations for which a university degree or the equivalent is required.</p>	<p>All sectors</p>	<p>Period of stay of two years. This may be extended for one year, if there are no Niue citizens or permanent residents with the requisite skills and professional experience for such employment.</p>

## ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)

### SCHEDULE OF PALAU

1. Palau's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Article 4 (Grant of Temporary Entry) of Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services) and with Chapter 8 (Movement of Natural Persons), Palau specifies below any terms, conditions, limitations or qualifications.

Category of natural person	Sector or subsector	Conditions and Limitations (including duration of stay)
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule	All sectors	<p>The Palau Constitution prohibits natural persons who are not citizens of Palau from owning land, or acquiring any interest in or control over land in Palau, whether by purchase, receipt of gift, transfers by operation of law, or any other means other than as provided in the following paragraph.</p> <p>Lease of land is limited to 50 years for foreign natural persons and enterprises that are not wholly owned by Palauans.</p> <p>Foreign enterprises are required to pay a levy for each non-citizen employee.<sup>1</sup></p> <p>Palau citizens should constitute 20 per cent of employees</p>

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<sup>1</sup> For information: in 2015, this levy was of US\$500 per year for each foreign employee. This amount may be adjusted in the future to take account of inflation.

		of enterprises that are not wholly-owned by Palau citizens when the value of the initial investment is less than US\$500,000 or, in the case of hotel or other short-term lodging facility, US\$5 million. <sup>23</sup>
<b>II. Category-specific commitments</b>		
<u>Business visitors</u>  Business visitor means a natural person of another Party who is: (a) a service seller being a natural person who is a sales representative of a service supplier of that Party and is seeking temporary entry into Palau for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly; (b) an investor of another Party, as defined in Chapter 9 (Investment), or a duly authorized representative of an investor of another Party, seeking temporary entry into the territory of Palau to establish, expand, monitor, or dispose of an investment of that investor; or (c) a goods seller, being a natural person of another Party who is seeking temporary entry into	All sectors	Period of stay of 30 days, with possibility of extension up to a maximum of 90 days.

<sup>2</sup> This entry in the schedule is in accordance with Palau's foreign investment rules at time of entry into force of the Agreement, which principally consist of the Foreign Investment Act 1990.

<sup>3</sup> This can be adjusted for inflation.



<p>the territory of Palau to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another Party that has established in Palau through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Palau, who has been in the prior employment of the enterprise of the other Party for a period of not less than one year immediately preceding the date of application for admission, and who corresponds to the following categories:</p> <p>Executives:</p> <p>Definition: Executive means a natural person within an organization who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service nor the operation of an investment;</p> <p>Managers:</p>	<p>All sectors listed in Palau’s schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	<p>Period of stay of a maximum of 90 days, with possibility of renewal for up to 180 days.</p> <p>For longer durations of stay, entry is conditional on the non-availability of Palau citizens or permanent residents with the requisite skills and professional experience for such employment.</p> <p>Period of stay of up to two years, with the possibility of renewal.</p>

<p>Definition: Manager means a natural person within an organization who primarily directs the organization or a department or subdivision of the organization, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations;</p> <p>Specialists:</p> <p>Definition: Specialist means a natural person within an organization who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organization's service, research equipment, techniques or management.</p>		
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of another Party who: (a) is an employee of a service supplier or an enterprise of another Party, whether a company, partnership or firm, who enters the territory of Palau temporarily in order to perform a service pursuant to a service contract(s) between his or her employer and an</p>	<p>All sectors listed in Palau's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay a maximum of 90 days, with possibility of renewal for up to 180 days. For longer durations of stay, entry is conditional on the non-availability of Palau citizens or permanent residents with the requisite skills and professional experience for such employment.</p> <p>Stay could be extended for up to two years, with the possibility of renewal.</p>

<p>enterprise in the territory of Palau; (b) is sponsored by the enterprise in Palau; (c) is employed by an enterprise of the other Party, which has no commercial presence in the territory of Palau; (d) receives his or her remuneration from that employer; (e) has qualifications resulting from three or more years of formal post-secondary school education and appropriate experience to provide the service.</p>		<p>Two years of prior experience required.</p>
<p><u>Independent service supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of Palau pursuant to a contract with an enterprise in the territory of Palau, is sponsored by the enterprise in Palau, and who has a qualification resulting from three or more years of formal post-secondary school education and has appropriate experience to provide the service.</p>	<p>All sectors listed in Palau's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of a maximum of 90 days, with possibility of renewal for up to 180 days. For longer durations of stay, entry is conditional on the non-availability of Palau citizens or permanent residents with the requisite skills and professional experience for such employment.</p> <p>Up to a maximum of two years, with possibility of renewal.</p> <p>Two years of prior experience required.</p>
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot</p>	<p>All sectors</p>	<p>Period of stay of a maximum of 90 days, with possibility of renewal for up to 180 days.</p>

<p>perform services which are not related to the service activity which is the subject of the contract.</p>		
<p><u>Skilled and semi-skilled workers:</u></p> <p>Skilled or semi-skilled worker means a natural person of a Party who enters the territory of Palau in order to work temporarily under an employment contract with an enterprise in Palau, is sponsored by an enterprise in Palau and who is appropriately qualified or experienced for that employment.</p> <p>Limited to occupations for which a post-secondary degree or equivalent is required.</p>	<p>All sectors</p>	<p>Period of stay of a maximum of 90 days, with possibility of renewal for up to 180 days.</p> <p>For longer durations of stay, entry is conditional on the non-availability of on the non-availability of Palau citizens or permanent residents with the requisite skills and professional experience for such employment.</p> <p>Stay could be extended for up to two years, with the possibility of renewal.</p> <p>Two years of prior experience required.</p>

**ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)**

**SCHEDULE OF THE REPUBLIC OF THE MARSHALL ISLANDS**

1. The Republic of the Marshall Islands' commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services), the Republic of the Marshall Islands specifies below any terms, conditions, limitations or qualifications.

<b>Category of natural person</b>	<b>Sector or subsector</b>	<b>Conditions and Limitations (including duration of stay)</b>
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule	All sectors	Enterprises are required to pay a levy for each non-citizen employee.  At least half of the employees of enterprises established in the Republic of the Marshall Islands must be Republic of the Marshall Islands citizens  Natural persons who are not citizens of the Republic of the Marshall Islands and enterprises that are not wholly-owned by citizens of the Republic of the Marshall Islands are prohibited from owning or acquiring land or any interest in land. Land may be leased for investment purposes.
<b>II. Category-specific commitments</b>		
<u>Business visitors</u>  Business visitor means a natural person of a Party who is:	All sectors	Period of stay up to a maximum of three months within any one year period

<p>(a) a service seller being a natural person who is a sales representative of a service supplier of that Party and is seeking temporary entry into the other Party for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly;</p> <p>(b) an investor of a Party, as defined in Chapter 9 (Investment), or a duly authorized representative of an investor of a Party, seeking temporary entry into the territory of the other Party to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person who is seeking temporary entry into the territory of the other Party to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another Party that has established in the Republic of the Marshall Islands through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of</p>	<p>All sectors listed in the Republic of the Marshall Islands' schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of</p>	<p>Period of stay up to two years, which may be extended if there are no available Republic of the Marshall Islands citizens with the requisite knowledge and experience.<sup>1</sup></p>

<sup>1</sup> For information: there currently is a shortage in the the Republic of the Marshall Islands of senior managers, specialists, and other highly skilled individuals. Accordingly, work permits would most likely be issued to such individuals provided that they are in good health and of good character.

<p>the enterprise in the Republic of the Marshall Islands, and who corresponds to the following categories:</p> <p>Executives:</p> <p>Definition: Executive means a natural person within an organization who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service nor the operation of an investment;</p> <p>Managers:</p> <p>Definition: Manager means a natural person within an organization who primarily directs the organization or a department or subdivision of the organization, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations;</p> <p>Specialists:</p>	Commitments on Investment)	
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<p>Definition: Specialist means a natural person within an organization who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organization's service, research equipment research equipment, techniques or management.</p>		
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of a Party who: (a) is an employee of a service supplier or an enterprise of a Party, whether a company, partnership or firm, who enters the territory of the other Party temporarily in order to perform a service pursuant to a contract(s) between his or her employer and a service consumer(s) in the territory of the other Party; (b) is employed by a company, partnership or firm of the Party, which has no commercial presence in the territory of the other Party where the service is to be provided; (c) receives his or her remuneration from that employer; (d) is appropriately qualified or experienced to provide the service;</p>	<p>All sectors listed in the Republic of the Marshall Islands' schedule under Annex 7-A (Schedule of Specific Services Commitments)</p>	<p>Period of stay up to a maximum of six months within any one year period.</p>
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of the Republic of the Marshall Islands pursuant to a</p>	<p>All sectors listed in the Republic of the Marshall Islands' schedule under Annex 7-A (Schedule of Specific Services Commitments)</p>	<p>Period of stay up to six months within any one year period.</p>



<p>contract with an enterprise in the territory of the RMI, is sponsored by the enterprise in the RMI, and who has a qualification resulting from three or more years of formal post-secondary school education and has appropriate experience to provide the service.</p>		
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>	<p>All sectors</p>	<p>Period of stay up to a maximum of six months within any one year period.</p>
<p>Skilled or semi-skilled workers:</p> <p>Skilled or semi-skilled worker means a natural person of another Party who enters the territory of the Republic of Marshall Islands in order to work temporarily under an employment contract with an enterprise of the Marshall Islands, is sponsored by the enterprise of the Marshall Islands, and who is</p>	<p>All sectors</p>	<p>Period of stay up to two years, which may be extended if there are no available Republic of the Marshall Islands citizens with the requisite knowledge and experience.<sup>2</sup></p>

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<sup>2</sup> For information: there currently is a shortage in the Republic of the Marshall Islands of senior managers, specialists, and other highly skilled individuals. Accordingly, work permits would most likely be issued to such individuals provided that they are in good health and of good character.

<p>appropriately qualified or experienced for that employment.</p> <p>Limited to occupations for which a post-secondary degree or equivalent is required.</p>		
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**ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)**

**SCHEDULE OF SAMOA**

1. Samoa's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services), Samoa specifies below any terms, conditions, limitations or qualifications.

<b>Category of natural person</b>	<b>Sector or subsector</b>	<b>Conditions and Limitations (including duration of stay)</b>
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule	All sectors	<p>Natural persons who are not citizens of Samoa and enterprises that are not wholly-owned by citizens of Samoa are required to provide training to counterparts, partners and/or employees who are natural persons of Samoa to allow subsequent transfer of skills.</p> <p>Non-Samoan natural persons may lease but not own land. Land may be leased for up to 30 years renewable once in the case of land leased or licensed for industrial purposes or a hotel and 20 years renewable once in the other cases.</p>
<b>II. Category-specific commitments</b>		
<p><u>Business visitors</u></p> <p>Business visitor means a natural person of another Party who is:</p>	All sectors	Period of stay of a maximum of 60 days per year.

<p>(a) a service seller being a natural person who is a sales representative of a service supplier of that Party and is seeking temporary entry into Samoa for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly;</p> <p>(b) an investor of another Party, as defined in Chapter 9 (Investment), or a duly authorized representative of an investor of another Party, seeking temporary entry into the territory of Samoa to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person of another Party who is seeking temporary entry into the territory of Samoa to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Managers, executives and specialists as defined below who are employees of foreign-owned or controlled firms that provide services in Samoa through a branch, subsidiary or affiliate</p>	<p>All sectors listed in Samoa's schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	<p>Period of stay up to a maximum of three years.</p> <p>Admission of more than two intra-corporate transferees at any one point in time will be granted only after consideration of Samoan citizens or permanent residents with the requisite technical skills or</p>

<p>established in Samoa and who have been in the prior employment of their firm outside Samoa for a period of not less than 1 year immediately preceding the date of their application for admission for a transfer and who fall within one of the following categories:</p> <p>Executives:</p> <p>Definition: Executive means a natural person within an organization who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service nor the operation of an investment;</p> <p>Managers:</p> <p>Definition: Manager means a natural person within an organization who primarily directs the organization or a department or subdivision of the organization, supervises and controls the work of other supervisory, professional or managerial</p>		<p>professional experience available for such employment.<sup>1</sup></p>
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<sup>1</sup> The requirement for considering Samoan citizens or permanent residents with the requisite technical skills or professional experience may be fulfilled by advertising the position in a newspaper of broad circulation (or equivalent electronic listing of hiring opportunities commonly consulted in Samoa) for a period of 30 days. If after this period no person with the requisite skills and experience is identified by the company, the request for admission will be granted.

<p>employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations;</p> <p>Specialists:</p> <p>Definition: Specialist means a natural person within an organization who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organization's service, research equipment, techniques or management.</p>		
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person with advanced technical or professional skills, working under a valid contract to perform a service in Samoa, and being the sole recipient of remuneration for the service supplied under the contract.</p>	<p>All sectors listed in Samoa's schedule under Annex 7-A (Schedule of Specific Services Commitments), except:</p> <ul style="list-style-type: none"> <li>- International maritime transport in Samoan flagged vessels.</li> </ul>	<p>Admission will be granted after consideration of Samoan citizens or permanent residents with requisite technical skills or professional experience available for such employment.</p> <p>Entry and stay of persons named in this category is one year maximum.</p>
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An</p>	<p>All sectors</p>	<p>Period of stay of a maximum of 60 days per year.</p>

<p>installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>		
<p><u>Management trainee on professional development</u></p> <p>Management trainee on professional development means a natural person of another Party with a university degree or a technical qualification demonstrating knowledge of an equivalent level, who is transferring for career development purposes or to obtain training in business techniques or methods.</p> <p>This commitment applies to an employee of an enterprise of another Party that has established in Samoa through a branch, subsidiary or affiliate, and who is transferred to the branch, subsidiary or affiliate of the enterprise in Samoa.</p> <p>This commitment also applies to natural persons transferring from a branch, subsidiary or affiliate that supplies services in another Party, to its parent juridical person established in Samoa.</p> <p>The recipient service supplier in Samoa may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for</p>	<p>All sectors listed in Samoa's schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	<p>Conditional on obtaining a work permit, for which the decision is based on the non-availability of Samoan citizens or permanent residents with the requisite technical skills or professional experience available for such employment, the number of Samoan natural persons employed in the industry, the development of the relevant industry, and the employment requirements under the Foreign Investment Act 2000;</p> <p>Period of stay up to a maximum of two years.</p>

training and career development purposes.		
<p><u>Skilled or semi-skilled workers:</u></p> <p>Skilled or semi-skilled worker means a natural person of another Party who enters the territory of Samoa in order to work temporarily under an employment contract with an enterprise in Samoa, and who is appropriately qualified and/or experienced for that employment.</p> <p>Limited to the following occupations:</p> <ul style="list-style-type: none"> <li>- Doctors (general practitioners)</li> <li>- Pathologists</li> <li>- Dermatologists</li> <li>- Ophthalmologists</li> <li>- Vets</li> <li>- Technicians (manufacturing sector)</li> <li>- Mechanics</li> <li>- Counsellors</li> <li>- Chefs</li> <li>- Naval Architects</li> </ul>	<p>All sectors listed in Samoa's schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	<p>Conditional on obtaining a work permit, for which the decision is based after consideration of Samoan citizens or permanent residents with the requisite technical skills or professional experience available for such employment, the number of Samoan natural persons employed in the industry, the development of the relevant industry, and the employment requirements under the Foreign Investment Act 2000;</p> <p>Period of stay up to a maximum of two years.</p>



**ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)**

**SCHEDULE OF SOLOMON ISLANDS**

1. Solomon Islands' commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services), Solomon Islands specifies below any terms, conditions, limitations or qualifications.

<b>Category of natural person</b>	<b>Sector or subsector</b>	<b>Conditions and Limitations (including duration of stay)</b>
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule	All sectors	Natural persons who are not citizens of the Solomon Islands are prohibited from owning or acquiring land. Land may, however, be leased from the Government and land-holding groups.
<b>II. Category-specific commitments</b>		
<u>Business visitors</u>  Business visitor means a natural person of another Party who is: (a) a service seller being a natural person who is a sales representative of a service supplier of that Party and is seeking temporary entry into Solomon Islands for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in	All sectors	Period of stay of 90 days within any one year period.

<p>supplying services directly;</p> <p>(b) an investor of another Party, as defined in Chapter 9 (Investment), or a duly authorised representative of an investor of another Party, seeking temporary entry into the territory of Solomon Islands to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person of another Party who is seeking temporary entry into the Solomon Islands to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another Party that has established in the Solomon Islands through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in the Solomon Islands, and who corresponds to the following categories:</p> <p>Executives:</p> <p>Definition: Executive means a natural person within an organisation who primarily directs the management of the organisation, exercises wide latitude in decision making, and receives only general supervision or direction from higher level</p>	<p>All sectors listed in the Solomon Islands' schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment)</p>	<p>Intra-corporate transferees can stay up to a maximum of two years, provided investment approval has been granted and work permits issued by the Labour Department.</p>

<p>executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service nor the operation of an investment;</p> <p>Managers:</p> <p>Definition: Manager means a natural person within an organisation who primarily directs the organisation or a department or subdivision of the organisation, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorisation), and exercises discretionary authority over day-to-day operations;</p> <p>Specialists:</p> <p>Definition: Specialist means a natural person within an organisation who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organisation's service, research equipment, techniques or management.</p>		
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural</p>	<p>All sectors listed in the Solomon Islands' schedule under Annex 7-A (Schedule of Specific</p>	<p>Period of stay of up to 90 days within any one year period. Stay beyond 90 days, up to a maximum of two years, is conditional on the non-availability of Solomon</p>

<p>person of a Party who: (a) is an employee of a service supplier or an enterprise of a Party, whether a company, partnership or firm, who enters the territory of Solomon Islands temporarily in order to perform a service pursuant to a contract(s) between his or her employer and an enterprise in the territory of Solomon Islands; (b) is sponsored by the enterprise in Solomon Islands; (c) is employed by an enterprise of the other Party, which has no commercial presence in the territory of Solomon Islands; (d) receives his or her remuneration from that employer; (e) has qualifications resulting from three or more years of formal post-secondary school education and appropriate experience to provide the service.</p>	<p>Services Commitments)</p>	<p>Island citizens or permanent residents with the requisite skills and professional experience available for such employment.</p>
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of the Solomon Islands pursuant to a contract with an enterprise in the territory of the Solomon Islands, is sponsored by the enterprise in the Solomon Islands, who has a qualification resulting from three or more years of formal post-secondary school education and has the appropriate experience to provide the service.</p>	<p>All sectors listed in Solomon Islands' schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of up to 90 days within any one year period. Stay beyond 90 days, up to a maximum of two years, is conditional on the non-availability of Solomon Island citizens or permanent residents with the requisite skills and professional experience available for such employment.</p>
<p><u>Installers or Servicers</u></p>	<p>All sectors</p>	<p>Period of stay up to a maximum of 90 days within any</p>

<p>Installer or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>		<p>one year period. Stay beyond 90 days is conditional on the non-availability of Solomon Island citizens or permanent residents with the requisite skills and professional experience available for such employment.</p>
<p><u>Skilled and semi-skilled workers:</u></p> <p>Skilled or semi-skilled worker means a natural person of a Party who enters the territory of Solomon Islands in order to work temporarily under an employment contract with an enterprise of the Solomon Islands, and who has a qualification resulting from three or more years of formal post-secondary school education and appropriate experience for that employment.</p>	<p>All sectors</p>	<p>Period of stay up to a maximum of two years.</p> <p>Approval is conditional on non-availability of Solomon Island citizens or permanent residents with the requisite skills and professional experience available for such employment.</p>

**ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)**

**SCHEDULE OF TONGA**

1. Tonga's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services) and with Chapter 8 (Movement of Natural Persons), Tonga specifies below any terms, conditions, limitations or qualifications.

<b>Category of natural person</b>	<b>Sector or subsector</b>	<b>Conditions and Limitations (including duration of stay)</b>
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule	All sectors	- Natural persons who are not citizens of Tonga are prohibited from owning or acquiring land or any interest in land. Land may be leased.
<b>II. Category-specific commitments</b>		
<u>Business visitors</u>  Business visitor means a natural person of another Party who is: (a) a service seller being a natural person who is a sales representative of a service supplier of that other Party and is seeking temporary entry into Tonga for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly;	All sectors	Period of stay of a maximum of six months in one year.

<p>(b) an investor of another Party, as defined in Chapter 9 (Investment), or a duly authorized representative of an investor of another Party, seeking temporary entry into the territory of Tonga to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person of another Party who is seeking temporary entry into the territory of Tonga to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another Party that has established in Tonga through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Tonga, and who corresponds to the following categories:</p> <p>Executives:  Definition: Executive means a natural person within an organization who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the</p>	<p>All sectors listed in Tonga's schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	<p>Period of stay of up to a maximum of two years.</p> <p>Extension may be granted subject to the non-availability of Tongan citizens or permanent residents with the requisite skills and professional experience for such employment.</p>

<p>actual provision of the service nor the operation of an investment;</p> <p>Managers:  Definition: Manager means a natural person within an organization who primarily directs the organization or a department or subdivision of the organization, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations;</p> <p>Specialists:  Definition: Specialist means a natural person within an organization who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organization's service, research equipment, techniques or management.</p>		
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of another Party who:</p> <p>(a) is an employee of an enterprise of another Party that is a service supplier, whether a</p>	<p>The subsectors listed in Tonga's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of six months, which can be extended for an additional six months.</p> <p>Further stay, up to two additional years, may be granted where there are no Tongan citizens or</p>



<p>company, partnership or firm, who enters the territory of Tonga temporarily in order to perform a service pursuant to a contract(s) between his or her employer and an enterprise in the territory of Tonga; (b) is sponsored by the enterprise in Tonga; (c) is employed by an enterprise of the other Party, which has no commercial presence in the territory of Tonga; (d) receives his or her remuneration from that employer; and (e) has a qualification resulting from three or more years of formal post-secondary school education and appropriate experience in order to provide the service.</p>		<p>permanent residents with the requisite skills and professional experience for such employment.</p>
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of Tonga pursuant to a contract with an enterprise in the territory of Tonga, is sponsored by the enterprise in Tonga, who has a qualification resulting from three or more years of formal post-secondary school education and has the appropriate experience to provide the service.</p>	<p>The subsectors listed in Tonga's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of six months, which can be extended for an additional six months.</p> <p>Further stay, up to two additional years, may be granted where there are no Tongan citizens or permanent residents with the requisite skills and professional experience for such employment.</p>
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person of another Party who is an installer or servicer of</p>	<p>All sectors</p>	<p>Period of stay of a maximum of six months.</p>

<p>machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>		
<p><u>Skilled or semi-skilled workers</u></p> <p>Skilled or semi-skilled worker means a natural person of another Party who enters the territory of Tonga in order to work temporarily under an employment contract with an enterprise in Tonga, that is sponsored by an enterprise in Tonga, and who has a qualification resulting from three or more years of formal post-secondary school education and appropriate experience for that employment.</p>	<p>All sectors</p>	<ul style="list-style-type: none"> <li>- Period of stay of six months, which can be extended for an additional six months.</li> <li>- Further stay, up to two additional years, may be granted where there are no Tongan citizens or permanent residents with the requisite skills and professional experience for such employment.</li> </ul>

**ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)**

**SCHEDULE OF TUVALU**

1. Tuvalu's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services) and with Chapter 8 (Movement of Natural Persons), Tuvalu specifies below any terms, conditions, limitations or qualifications.

Category of natural person	Sector or subsector	Conditions and Limitations (including duration of stay)
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule	All sectors	<p>Natural persons who are not citizens of Tuvalu and enterprises that are not wholly-owned by citizens of Tuvalu are prohibited from owning land. Land may be leased for a period not exceeding 25 years. Leases have to be approved by the Lands Court and by the relevant Minister under a non-discriminatory process.</p> <p>Natural persons who are not citizens of Tuvalu and Enterprises that are not wholly-owned by citizens of Tuvalu may be required to provide short-term training to local employees.</p>
<b>II. Category-specific commitments</b>		
<u>Business visitors</u>  Business visitor means a natural person of another Party who is:	All sectors	Period of stay of one month, with possibility of renewal up to a maximum of three months.

<p>(a) a service seller being a natural person of another Party who is a sales representative of a service supplier of that Party and is seeking temporary entry into Tuvalu for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly;</p> <p>(b) an investor of another Party, as defined in Chapter 9 (Investment), or a duly authorized representative of an investor of another Party, seeking temporary entry into the territory of Tuvalu to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person of another Party who is seeking temporary entry into Tuvalu to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another Party that has established in Tuvalu through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Tuvalu, and who corresponds to the following categories:</p> <p>Executives:</p>	<p>All sectors listed in Tuvalu's schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment)</p>	<p>Period of stay up to a maximum of one year, with possibility of renewal for one additional year.</p>

Definition: Executive means a natural person within an organization who primarily directs the management of the organization, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service nor the operation of an investment;

Managers:

Definition: Manager means a natural person within an organization who primarily directs the organization or a department or subdivision of the organization, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorization), and exercises discretionary authority over day-to-day operations;

Specialists:

Definition: Specialist means a natural person within an organization who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organization's service, research equipment,

<p>techniques or management.</p>		
<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of another Party who: (a) is an employee of an enterprise of another Party that is a service supplier, whether a company, partnership or firm, who enters the territory of Tuvalu temporarily in order to perform a service pursuant to a contract(s) between his or her employer and an enterprise in the territory of Tuvalu; (b) is sponsored by the enterprise in Tuvalu; (c) is employed by an enterprise of the other Party that has no commercial presence in the territory of Tuvalu, where the service is to be provided; (d) receives his or her remuneration from that employer; (e) has a qualification resulting from three or more years of formal post-secondary school education and appropriate experience in order to provide the service.</p>	<p>All sectors listed in Tuvalu's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of one month, with possibility of renewal up to a maximum of three months. Longer period of stay, up to a maximum of one year, is conditional on the non-availability of Tuvalu citizens or permanent residents with the requisite skills and professional experience for such employment.</p>
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of Tuvalu pursuant to a contract with an enterprise in the territory of Tuvalu, is sponsored by the enterprise</p>	<p>All sectors listed in Tuvalu's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay of one month, with possibility of renewal up to a maximum of three months. Longer period of stay, up to a maximum of one year, is conditional on the non-availability of Tuvalu citizens or permanent residents with the requisite skills and professional experience for such employment.</p>

<p>in Tuvalu, who has a qualification resulting from three or more years of formal post-secondary school education and has the appropriate experience to provide the service.</p>		
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>	<p>All sectors</p>	<p>Period of stay of one month, with possibility of renewal up to a maximum of three months.</p>
<p><u>Management trainee on professional development</u></p> <p>Natural person of another Party with a university degree or a technical qualification demonstrating knowledge of an equivalent level, who are transferring for career development purposes or to obtain training in business techniques or methods.</p> <p>This commitment applies to an employee of an enterprise of another Party that has established in Tuvalu through a branch, subsidiary or affiliate, who is transferred to the branch, subsidiary or affiliate of the enterprise in Tuvalu.</p>	<p>All sectors</p>	<p>Period of stay up to one year, with possibility of renewal for one additional year.</p>

<p>This commitment also applies to natural persons transferring from a branch, subsidiary or affiliate that supplies services in another Party, to its parent juridical person established in Tuvalu.</p> <p>The recipient service supplier in Tuvalu may be required to submit a training programme covering the duration of the stay for prior approval, demonstrating that the purpose of the stay is for training and career development purposes.</p>		
<p><u>Skilled and semi-skilled workers:</u></p> <p>Skilled or semi-skilled worker means a natural person of another Party who enters the territory of Tuvalu in order to work temporarily under an employment contract with an enterprise in Tuvalu, that is sponsored by the enterprise in Tuvalu, and who is appropriately qualified or experienced for that employment.</p> <p>Limited to occupations for which a university degree or the equivalent is required.</p>	<p>All sectors</p>	<p>Period of stay up to one year, with possibility of extension for a period not exceeding three years within any five year period.</p> <p>Entry and stay are conditional on the non-availability of Tuvalu citizens or permanent residents with the requisite skills and professional experience for such employment.</p>



**ANNEX 8-A: SCHEDULE OF COMMITMENTS ON MOVEMENT OF NATURAL PERSONS (CHAPTER 8)**

**SCHEDULE OF VANUATU**

1. Vanuatu's commitments under Article 5 (Market Access) and Article 6 (National Treatment) of Chapter 7 (Trade in Services) and under Chapter 8 (Movement of Natural Persons) apply only in relation to the categories of persons set out below. In accordance with Article 5 (Market Access), Article 6 (National Treatment), and Article 8 (Specific Commitments) of Chapter 7 (Trade in Services), Vanuatu specifies below any terms, conditions, limitations or qualifications.

<b>Category of natural person</b>	<b>Sector or subsector</b>	<b>Conditions and Limitations (including duration of stay)</b>
<b>I. Horizontal Commitments</b>		
All categories of natural persons included in this schedule	All sectors	Freehold ownership of land is prohibited. Only indigenous Ni Vanuatu can own land under customary law provisions. Indigenous citizens and expatriates can hold land in leasehold.  Employers of non-Vanuatu citizen workers shall pay an annual tax for each work permit issued. Foreign workers for whom work permits have been issued, as well as their employers, shall provide training to citizens of Vanuatu.
<b>II. Category-specific commitments</b>		
<u>Business visitors</u>  Business visitor means a natural person of another Party who is: (a) a service seller being a natural person who is	All sectors	Period of stay of up to 90 days.

<p>a sales representative of a service supplier of that Party and is seeking temporary entry into Vanuatu for the purpose of negotiating the sale of services for that service supplier, where such representative will not be engaged in making direct sales to the general public or in supplying services directly;</p> <p>(b) an investor of another Party, as defined in Chapter 9 (Investment), or a duly authorized representative of an investor of another Party, seeking temporary entry into the territory of Vanuatu to establish, expand, monitor, or dispose of an investment of that investor; or</p> <p>(c) a goods seller, being a natural person of another Party who is seeking temporary entry into the territory of Vanuatu to negotiate for the sale of goods where such negotiations do not involve direct sales to the general public.</p>		
<p><u>Intra-Corporate Transferees</u></p> <p>Intra-corporate transferee means an employee of an enterprise of another Party that has established in Vanuatu through a branch, subsidiary or affiliate, who is transferred to fill a position in the branch, subsidiary or affiliate of the enterprise in Vanuatu, and who corresponds to the following categories:</p> <p>Executives:</p>	<p>All sectors listed in Vanuatu' schedule under Annex 7-A (Schedule of Specific Services Commitments) and Annex 9-A (Schedule of Commitments on Investment).</p>	<p>Period of stay up to one year. This may be extended upon an assessment of need by Vanuatu's authorities.</p>

<p>Definition: Executive means a natural person within an organisation who primarily directs the management of the organisation, exercises wide latitude in decision making, and receives only general supervision or direction from higher level executives, the board of directors or stockholders of the business. An executive would not directly perform tasks related to the actual provision of the service nor the operation of an investment;</p> <p>Managers:</p> <p>Definition: Manager means a natural person within an organisation who primarily directs the organisation or a department or subdivision of the organisation, supervises and controls the work of other supervisory, professional or managerial employees, has the authority to hire and fire or take other personnel actions (such as promotion or leave authorisation), and exercises discretionary authority over day-to-day operations;</p> <p>Specialists:</p> <p>Definition: Specialist means a natural person within an organisation who possesses knowledge at an advanced level of technical expertise, and who possesses proprietary knowledge of the organization's service, research equipment, techniques or management.</p>		
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<p><u>Contractual service supplier</u></p> <p>A contractual service supplier means a natural person of another Party who: (a) is an employee of a service supplier or an enterprise of another Party, whether a company, partnership or firm, who enters the territory of Vanuatu temporarily in order to perform a service pursuant to a contract(s) between his or her employer and an enterprise in the territory of Vanuatu; (b) is sponsored by the enterprise in Vanuatu; (c) is employed by an enterprise of another Party, which has no commercial presence in the territory of Vanuatu where the service is to be provided; (d) receives his or her remuneration from that employer; (e) has qualifications resulting from three or more years of formal post-secondary school education and appropriate experience to provide the service;</p>	<p>The subsectors listed in Vanuatu's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay up to 90 days within a period of 10 consecutive months. Longer period of stay is conditional on the non-availability of suitably qualified natural persons of Vanuatu.</p>
<p><u>Independent Service Supplier</u></p> <p>Independent service supplier means a self-employed natural person of another Party who is a service supplier entering the territory of Vanuatu pursuant to a contract with an enterprise in the territory of Vanuatu, is sponsored by the enterprise in Vanuatu, and who has a qualification resulting from three or more years of formal post-secondary</p>	<p>The subsectors listed in Vanuatu's schedule under Annex 7-A (Schedule of Specific Services Commitments).</p>	<p>Period of stay up to 90 days over a period of 10 consecutive months. Longer period of stay is conditional on the non-availability of suitably qualified natural persons of Vanuatu.</p>

<p>school education and has appropriate experience to provide the service.</p>		
<p><u>Installers or Servicers</u></p> <p>Installer or servicer means a natural person of another Party who is an installer or servicer of machinery or equipment, where such installation or servicing by the supplying company is a condition of purchase of the said machinery or equipment. An installer or servicer cannot perform services which are not related to the service activity which is the subject of the contract.</p>	<p>All sectors</p>	<p>Period of stay up to 90 days.</p>
<p><u>Skilled and semi-skilled workers:</u></p> <p>Skilled or semi-skilled worker means a natural person of a Party who enters the territory of Vanuatu in order to work temporarily under an employment contract with an enterprise in Vanuatu, and who has qualifications resulting from three or more years of formal post-secondary school education and appropriate experience for that employment.</p>	<p>All sectors</p>	<p>Conditional on the non-availability of suitably qualified natural persons of Vanuatu.</p> <p>Period of stay up to one year.</p>

## CHAPTER 9

### INVESTMENT

#### Article 1: Definitions

For the purposes of this Chapter, the term:

**covered investment** means with respect to a Party, an investment in its territory of an investor of another Party, in existence as of the date of entry into force of this Agreement, or established, acquired or expanded thereafter, which has been admitted by the host Party subject to its relevant laws, regulations and policies;

**freely usable currency** means freely usable currency as determined under the IMF Articles of Agreement and amendments thereafter, or any currency that is used to make international payments and is widely traded in international principal exchange markets;

**investment** means every kind of asset that an investor owns or controls, directly or indirectly, that has the characteristics of an investment, including such characteristics as the commitment of capital or other resources, the expectation of gain or profit, or the assumption of risk. Forms that an investment may take include:

- (a) an enterprise;
- (b) tangible or intangible, movable or immovable property and related property rights such as mortgages, liens or pledges;<sup>1</sup>
- (c) shares, stock and other forms of equity participation in an enterprise;
- (d) bonds, debentures, other debt instruments, and loans;<sup>2</sup>
- (e) futures, options, and other derivatives;
- (f) intellectual property rights;
- (g) turnkey, construction, management, production and revenue sharing contracts, concessions and other similar contracts; and
- (h) licences, authorisations, permits and similar rights conferred pursuant to a Party's domestic law.<sup>3</sup>

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<sup>1</sup> For greater certainty, market share, market access, expected gains and opportunities for profit-making are not, by themselves, investments.

<sup>2</sup> Some forms of debt, such as bonds, debentures, and long-term notes, are more likely to have the characteristics of an investment, while other forms of debt are less likely to have such characteristics. Loans issued by one Party to another Party are not investments.

<sup>3</sup> Whether a particular type of licence, authorisation, permit or similar instrument (including a concession, to the extent that it has the nature of such an instrument) has the characteristics of an investment depends on factors

An investment does not, however, include:

- (a) claims to payment resulting solely from the commercial sale of goods and services unless it is a loan that has the characteristics of an investment;
- (b) a bank letter of credit; or
- (c) the extension of credit in connection with a commercial transaction, such as trade financing.

For the purposes of the definition of investment in this chapter, returns that are invested shall be treated as investments and any alteration of the form in which assets are invested or reinvested shall not affect their character as investments;

**investor** of a Party means a Party, or a natural person or an enterprise of a Party that has made or seeks to make an investment in the territory of another Party;<sup>4</sup>

**measures adopted or maintained** by a Party means any measure taken by:

- (a) central, state, regional or local Government or authorities; or
- (b) non-governmental bodies in the exercise of powers delegated by central, state, regional or local Governments or authorities;

**permanent resident** of a Party means a natural person who has permanent residence status in a Party in accordance with its laws and regulations;

**TRIMS Agreement** means the *Agreement on Trade-Related Investment Measures*, in Annex 1A to the WTO Agreement; and

**TRIPS Agreement** means the *Agreement on Trade-Related Aspects of Intellectual Property*, in Annex 1C to the WTO Agreement.

## Article 2: Objectives

This Chapter is intended to encourage a stable and predictable environment to attract and promote the flow of investment between the Parties with due respect to national policy objectives and to the right of each Party to regulate.

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such as the nature and extent of the rights that the holder has under the law of the Party that granted such rights. Among the licences, authorisations, permits and similar instruments that do not have the characteristics of an investment are those that do not create any rights protected under domestic law. For greater certainty, the foregoing is without prejudice to whether any asset associated with the licence, authorisation, permit or similar instrument has the characteristics of an investment.

<sup>4</sup> For greater certainty, the Parties understand that, for the purposes of the definition of “investor” of a Party, an investor “seeks to make” an investment when that investor has taken concrete action or actions to make an investment, such as channeling resources or capital in order to set up a business, or obtained a permit or licence.

### **Article 3: Scope**

1. This Chapter shall apply to measures adopted or maintained by a Party relating to:
  - (a) investors of other Parties;
  - (b) covered investments; and
  - (c) with respect to Article 11 all investments in the territory of the Party.
2. This Chapter shall not apply to:
  - (a) procurement by a Party; and
  - (b) subsidies or grants provided by a Party, except subsidies provided in connection with measures prohibited under Article 11.

### **Article 4: Relation to Other Chapters**

1. This Chapter shall not apply to measures adopted or maintained by a Party affecting trade in services.<sup>5</sup>
2. Notwithstanding paragraph 1, Article 9, Article 10, Article 12, Article 13, Article 14, and Article 17 shall apply, *mutatis mutandis*, to any measure affecting the supply of service by a service supplier of a Party through commercial presence in the territory of any other Party pursuant to Chapter 7 (Trade in Services), but only to the extent that any such measures relate to a covered investment and an obligation under this Chapter, regardless of whether such a service sector is scheduled in a Party's Schedules of Specific Commitments in Annex 7-A (Schedule of Specific Services Commitments).

### **Article 5: Obligation to Comply with Domestic Law and Corporate Social Responsibility**

1. The Parties acknowledge that investors of a Party and their investments are subject to the laws, regulations and standards of the host state Party.
2. The Parties reaffirm the importance of each Party encouraging enterprises operating within its territory or subject to its jurisdiction to voluntarily incorporate into their internal policies internationally recognised standards, guidelines and principles of corporate social responsibility that have been endorsed or are supported by that Party.

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<sup>5</sup> For the purposes of this Chapter, the definition of Trade in Services in Article 1 of Chapter 7 (Trade in Services) shall apply.



## **Article 6: National Treatment**

1. In the sectors specified in Annex 9-A of this Agreement, and subject to any conditions and qualifications set out therein, each Party shall accord to investors and covered investments of investors of any other Party treatment no less favourable than that it accords, in like circumstances, to investments of its own investors with respect to the acquisition, establishment, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.
2. In respect of intellectual property rights, a Party may derogate from the obligations set out in this Article provided this is not inconsistent with the TRIPS Agreement.

## **Article 7: Most-Favoured-Nation Treatment**

1. Each Party shall accord to investors and covered investments of investors of any other Party treatment no less favourable than that it accords, in like circumstances, to investors of a non-party or to their investments with respect to the acquisition, establishment, expansion, management, conduct, operation, and sale or other disposition of investments in its territory.
2. A Party may maintain a measure inconsistent with paragraph 1 provided that such a measure falls within the scope of exemptions lists in Annex I (Schedule of Most-Favoured-Nation Exemptions on Services and Investment).
3. In respect of intellectual property rights, a Party may derogate from the obligations set out in this Article provided this is not inconsistent with the TRIPS Agreement.

## **Article 8: Scheduling of Commitments**

1. Each Party shall set out in Annex 9-A the sectors where it undertakes specific commitments with respect to Article 6. With respect to sectors where such commitments are undertaken, each Schedule shall specify any conditions or qualifications on national treatment.
2. Schedules of specific commitments are annexed to this Agreement and shall form an integral part thereof.

## **Article 9: Minimum Standard of Treatment**

1. Each Party shall accord to covered investments of investors of any other Party the customary international law minimum standard of treatment of aliens including fair and equitable treatment and full protection and security.

2. For greater certainty, paragraph 1 prescribes the customary international law<sup>6</sup> minimum standard of treatment of aliens as the minimum standard of treatment to be afforded to covered investments. The concepts of “fair and equitable treatment” and “full protection and security” shall not require treatment in addition to or beyond that which is required by that standard, and shall not create additional substantive rights. The obligation in paragraph 1 to provide:

- (a) “fair and equitable treatment” includes the obligation not to deny justice in criminal, civil, or administrative adjudicatory proceedings in accordance with the principle of due process embodied in the principal legal systems of the world; and
- (b) “full protection and security” requires each Party to provide the level of police protection required under customary international law.

3. A determination that there has been a breach of another provision of this Agreement, or of a separate international agreement, does not establish that there has been a breach of this Article.

#### **Article 10: Senior Management and Boards of Directors**

1. No Party may require that an enterprise of that Party that is a covered investment appoint to Senior Management positions natural persons of any particular nationality.

2. No Party may require that a majority of the board of directors, or any committee thereof, of an enterprise of that Party that is a covered investment, be of a particular nationality, or resident in the Party.

3. A Party may maintain a measure inconsistent with this Article provided that such a measure falls within the scope of any exemptions listed in Annex 9-B.

#### **Article 11: Prohibition of Performance Requirements**

1. If a Party is a WTO Member, it shall, in connection with the establishment, acquisition, expansion, management, conduct, operation, sale or other disposition of an investment of an investor of a Party or of a non-Party in its territory, ensure that any measure taken is consistent with the TRIMS Agreement.

2. (a) If a Party is not a WTO Member, it shall, to the extent of its capacity, strive to ensure that, in connection with the establishment, acquisition, expansion, management, conduct, operation, sale or other disposition of an investment of an

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<sup>6</sup>The Parties confirm their shared understanding that “customary international law” generally and as specifically referenced in Article 9 results from a general and consistent practice of States that they follow from a sense of legal obligation. With regard to Article 9, the customary international law minimum standard of treatment of aliens refers to all customary international law principles that protect the economic rights and interests of aliens.

investor of a Party or of a non-Party in its territory, any measure taken is consistent with the TRIMS Agreement.

- (b) For greater certainty, if a Party is not a WTO Member, a list of that Party's measures that do not comply with the TRIMS Agreement shall be listed in Annex 9-D within two years of the date of entry into force of this Agreement. After the expiry of this date, new measures that are inconsistent with the TRIMS Agreement may not be introduced.

### **Article 12: Compensation for Losses**

1. Each Party shall accord to investors of any other Party and to their covered investments, with respect to measures it adopts or maintains relating to losses suffered by investments in its territory owing to armed conflict, civil strife or state of emergency, treatment no less favourable than that it accords, in like circumstances, to:

- (a) its own investors and their investments; and
- (b) investors of any other Party or non-Party and their investments.

2. Notwithstanding paragraph 1, if an investor of a Party, in the situations referred to in paragraph 1, suffers a loss in the territory of another Party resulting from:

- (a) requisitioning of its covered investment or part thereof by the latter's forces or authorities; or
- (b) destruction of its covered investment or part thereof by the latter's forces or authorities, which was not required by the necessity of the situation,

the latter Party shall provide the investor with restitution, compensation, or both as appropriate, for such loss.<sup>7</sup> Any compensation shall be made in accordance with Articles 13.2, 13.3 and 13.4 which shall apply *mutatis mutandis*.

### **Article 13: Expropriation and Compensation**

1. A Party shall not expropriate or nationalise a covered investment of an investor from another Party, either directly or indirectly through measures equivalent to expropriation or nationalisation, except:

- (a) for a public purpose;
- (b) in a non-discriminatory manner;

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<sup>7</sup> For greater certainty, in the event of providing both restitution and compensation, their combined value shall not exceed the loss suffered.

- (c) in accordance with due process of law; and
- (d) upon payment of prompt, adequate and effective compensation pursuant to paragraphs 2, 3 and 4.

2. Compensation shall be equivalent to the fair market value of the expropriated investment at the time when the expropriation was publicly announced or when the expropriation occurred, whichever is the earlier. Compensation shall be determined in accordance with the generally recognised principles of valuation and equitable principles, taking into account, *inter alia*, the capital invested, depreciation, capital already repatriated, replacement value and other relevant factors. Compensation shall not reflect any change in value occurring because the expropriation had become publicly known earlier.

3. The compensation shall be paid without undue delay. Such compensation shall be in a freely usable currency and include interest at a commercially reasonable rate, taking into account the length of time before payment occurs. It shall be effectively realisable and freely transferable.

4. An investor of a Party affected by a direct expropriation may seek, under the law of the host state making the expropriation, a review, by a judicial or other independent authority of the host country, of the decision to expropriate and of the valuation of its investment in accordance with the principles set out in this Article.

5. For those Parties that are WTO Members, this Article does not apply to the issuance of compulsory licences granted in relation to intellectual property rights in accordance with the TRIPS Agreement or the revocation, limitation, or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is consistent with the TRIPS Agreement.

6. For those Parties that are not currently WTO Members, this Article does not apply to the issuance of compulsory licences granted in relation to intellectual property rights in accordance with relevant international agreements or the revocation, limitation, or creation of intellectual property rights, to the extent that such issuance, revocation, limitation or creation is in accordance with relevant international agreements on intellectual property rights.

#### **Article 14: Free Transfer of Funds**

1. Each Party shall allow all transfers relating to a covered investment to be made freely and without delay into and out of its territory. Such transfers include:

- (a) contributions to capital, including the initial contribution;
- (b) profits, capital gains, dividends, royalties, licence fees, technical assistance and technical and management fees, interest and other current income accruing from any covered investment;
- (c) proceeds from the total or partial sale or liquidation of any covered investment;

- (d) payments made under a contract, including a loan agreement;
  - (e) payments made pursuant to Article 12 and Article 13;
  - (f) payments arising out of the settlement of a dispute or an agreement between the disputing parties; and
  - (g) earnings and other remuneration of personnel engaged from abroad in connection with that investment.
2. Each Party shall allow such transfers relating to a covered investment to be made in a freely usable currency at the market rate of exchange prevailing at the time of transfer.
3. Notwithstanding paragraphs 1 and 2, a Party may prevent or delay a transfer through the equitable, non-discriminatory, and good faith application of its laws and regulations relating to:
- (a) bankruptcy, insolvency, or the protection of the rights of creditors;
  - (b) issuing, trading, or dealing in securities, futures, options, or derivatives;
  - (c) criminal or penal offences and the recovery of the proceeds of crime;
  - (d) financial reporting or record keeping of transfers when necessary to assist law enforcement or financial regulatory authorities;
  - (e) ensuring compliance with orders or judgments in judicial or administrative proceedings;
  - (f) taxation;
  - (g) social security, public retirement, or compulsory savings schemes; and
  - (h) severance entitlements of employees.

### **Article 15: Transparency**

1. On request by a Party, information shall be exchanged relating to measures of another Party that may have a material impact on any covered investment under this Chapter.
2. A Party may request, in writing, consultations with another Party regarding any actual or proposed measure or any other matter that it considers might materially affect the operation of this Chapter. The other Party shall engage in consultations in accordance with Article 5 of Chapter 14 (Consultations and Dispute Settlement).

## **Article 16: Special Formalities and Disclosure of Information**

1. Nothing in Article 6 or Article 7 shall be construed to prevent a Party from adopting or maintaining a measure that prescribes special formalities in connection with covered investments, including a requirement that covered investments be legally constituted under the laws or regulations of the Party, provided that such formalities do not substantially impair the protections afforded by a Party to investors of any other Party and covered investments pursuant to this Chapter.
2. Notwithstanding Article 6, a Party may require an investor of another Party to provide information concerning an investment solely for informational or statistical purposes. The Party shall protect, to the extent possible, any confidential information which has been provided from any disclosure that would prejudice legitimate commercial interests of the investor or the covered investment. Nothing in this paragraph shall be construed to prevent a Party from otherwise obtaining or disclosing information in connection with the equitable and good faith application of its law.

## **Article 17: Subrogation**

1. If a Party or an agency of a Party makes a payment to an investor of that Party under a guarantee, a contract of insurance or other form of indemnity it has granted on non-commercial risk in respect of an investment, other Parties shall recognise the subrogation or transfer of any right or claim in respect of such investment. The subrogated or transferred right or claim shall not be greater than the original right or claim of the investor.
2. If a Party or an agency of a Party has made a payment to an investor of that Party and has taken over the investor's rights and claims, that investor shall not, unless authorised to act on behalf of the Party or the agency making the payment, pursue those rights and claims against any other Party.
3. In any proceedings involving an investment dispute, a Party shall not assert, as a defence, counter-claim, right of set-off or otherwise, that the investor or the covered investment has received or will receive, pursuant to an insurance or guarantee contract, indemnification or other compensation for all or part of any alleged loss.

## **Article 18: Denial of Benefits**

1. Following notification through the contact point of a Party, a Party may deny the benefits of this Chapter:
  - (a) to an investor of another Party where the covered investment is being made by an enterprise that is owned or controlled by persons of a non-party and the enterprise has no substantive business operations in the territory of any other Party; or

- (b) to an investor of another Party where the covered investment is being made by an enterprise that is owned or controlled by persons of the denying Party and the enterprise has no substantive business operation in the territory of any other Party.

### **Article 19: Investment and Environment, Health and Other Regulatory Objectives**

1 Parties recognise that it is inappropriate to encourage investment by investors of another Party and of non-Parties by not enforcing their own environmental, health, labour, safety or other regulatory standards.

2 Nothing in this Chapter shall be construed to prevent a Party from adopting or maintaining any measure otherwise consistent with this Agreement that it considers appropriate to ensure that investment activity in its territory is undertaken in a manner sensitive to its environmental, health, or other regulatory objectives.

### **Article 20: Promotion and Facilitation of Investment**

Taking into account the different levels of economic development of the Parties, the developed country Parties shall aim to assist the developing country Parties in the promotion and facilitation of foreign investment to their countries. In that regard, the Parties shall aim to explore through Chapter 10 (Development and Economic Cooperation) and the *Implementing Arrangement for Development And Economic Cooperation under the Pacific Agreement on Closer Economic Relations Plus* how the developing country Parties may be assisted to attract investment into their territories.

### **Article 21: Competent Authorities and Contact Points**

1. Each Party shall provide all other Parties with a description of its competent authorities and their division of responsibilities.
2. Each Party shall provide all other Parties with a Contact Point to facilitate distribution of requests and notifications made in accordance with this Chapter.
3. Each Party shall ensure that the information provided under paragraphs 1 and 2 is kept up to date.

### **Article 22: Technical Discussions**

1. A Party may, through Contact Points, request technical discussions with another Party on any measure affecting investment between them. The Party to which the request was made shall respond promptly to any such request. The Parties shall seek to clarify any measure at issue and, where there is any remaining difference of view, they shall endeavour to find a mutually acceptable solution, taking into account the objectives of this Chapter. In the case of

measures affecting the investment interests of a developing country Party, the Parties shall endeavour to resolve any concerns in a timely manner.

2. A Party may, through Contact Points, arrange to undertake technical discussions with other Parties on investment matters of mutual interest. Technical discussions should be conducted using electronic means. If this is not possible, they may be conducted in person or by any other means, as mutually determined by the Parties.

3. The Parties participating in technical discussions pursuant to this Chapter may mutually agree to invite another Party or a relevant international or regional organisation in the field of investment to participate for the purpose of providing technical advice.

### **Article 23: Review of Commitments**

1. The Parties shall review commitments on investment, with the first review to be undertaken within three years of the date of entry into force of this Agreement and periodically thereafter as determined by the Joint Committee, with the aim of improving the overall commitments undertaken by the Parties under this Chapter.

2. The Parties recognise the limited capacities of developing country Parties which will be taken into account in the review process.



## ANNEX 9- A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF AUSTRALIA

1. Unless otherwise indicated, the classification of investment sectors is based on the 2002 International Standard Industrial Classification of All Economic Activities (ISIC) Revision 3.1 of the United Nations Statistical Office.
2. Australia's commitments apply only in relation to the sectors set out below and, in accordance with Article 4 (Relation to Other Chapters) of Chapter 9 (Investment), limited to measures not affecting trade in services. Australia specifies below any limitations to Article 6 (National Treatment) in accordance with Article 8 (Scheduling of Commitments) of Chapter 9 (Investment).
3. For clarity, an entry of 'none' means no limitations except as listed elsewhere in the schedule, including in either or all of Part I or Limitations on National Treatment column. The inscription 'unbound' means that no commitments are taken with respect to particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
4. Australia reserves the right to maintain and to add to this schedule any measure at the regional level of government that existed at 1 January 2005, but was not listed in this schedule, including by the date of entry into force of this Agreement, against Article 6 (National Treatment) of Chapter 9 (Investment).

Sector or Sub-sector	National Treatment Limitations
<b>PART I. HORIZONTAL COMMITMENTS</b>	
ALL SECTORS INCLUDED IN PART II OF THIS SCHEDULE	Under Australia's Foreign Investment Framework, which comprises Australia's Foreign Investment Policy, the <i>Foreign Acquisitions and Takeovers Act 1975</i> (Cth) (FATA); Foreign Acquisitions and Takeovers Regulations 2015 (Cth); <i>Foreign Acquisitions and Takeovers Fees Imposition Act 2015</i> (Cth);

Sector or Sub-sector	National Treatment Limitations
	<p>Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Cth); <i>Financial Sector (Shareholdings) Act 1998</i> (Cth); and Ministerial Statements, the following investments<sup>1</sup> are subject to approval by the Australian Government and may also require notification<sup>2</sup> to the Government:</p> <ul style="list-style-type: none"> <li>– a proposed investment by a ‘foreign person’* in an entity or Australian business valued above A\$252 million<sup>†</sup>;</li> <li>– a proposed direct investment by a ‘foreign government investor’<sup>3</sup> of any interest regardless of value;</li> <li>– a proposed investment by a foreign person* of 5 per cent or more in the media sector, regardless of the value of the investment;</li> <li>– a proposed acquisition by a foreign person* of an interest in developed commercial land<sup>4</sup> where the value of the interest is more than A\$252 million<sup>†</sup>, unless the land meets the conditions for the lower developed commercial land threshold of A\$55million<sup>‡5</sup>;</li> </ul> <p>Investments may be refused, subject to orders, and/or approved subject to conditions. Foreign persons* that do not comply with the foreign investment framework may be subject to civil and criminal penalties.</p>

<sup>1</sup> “Investment” means activities covered by Part II of the *Foreign Acquisitions and Takeovers Act 1975*(Cth) or, where applicable, ministerial statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

<sup>2</sup>The *Foreign Acquisitions and Takeovers Fees Imposition Act 2015* (Cth) and the Foreign Acquisitions and Takeovers Fees Imposition Regulation 2015 (Cth) sets the fees for foreign investment applications and notices. Fees are indexed annually on 1 July.

\* The term “foreign person” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

<sup>†</sup> This is the figure as at 1 January 2016. To be indexed on 1 January each year to the GDP implicit price deflator in the Australian National Accounts for the previous financial year.

<sup>3</sup>The term “foreign government investor” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>4</sup> The term “developed commercial land” means commercial land that is not vacant within the meaning of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

<sup>5</sup> The conditions for the lower threshold are those set out in *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

Sector or Sub-sector	National Treatment Limitations
	<p>The acquisition of a stake in an existing financial sector company by a foreign investor, or entry into an arrangement by a foreign investor, that would lead to an unacceptable shareholding situation or to practical control<sup>6</sup> of an existing financial sector company, may be refused, or be subject to certain conditions<sup>7</sup>;</p> <p>Unbound with respect to the proposed acquisition by a foreign person* of an interest in agricultural land<sup>8</sup> where the cumulative value of agricultural land owned by the foreign person* alone or together with associates, including the proposed acquisition, is above A\$15 million;</p> <p>Unbound with respect to the proposed acquisition by a foreign person* of an interest in an agribusiness<sup>9</sup> where the cumulative value of the interest held the foreign person* in that agribusiness, alone or together with associates, including the proposed acquisition, is above A\$55 million<sup>†</sup>;</p> <p>Unbound with respect to proposed acquisitions by a foreign person* of an interest in Australian land<sup>10</sup>, other than developed commercial land or land that is used wholly and exclusively for a primary production business;</p> <p>For greater certainty, where an investment could qualify for the application of one or more of the above screening thresholds, approval and/or notification requirements apply from the lowest applicable threshold.</p>

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

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

<sup>8</sup> The term “agricultural land” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

<sup>9</sup> The term “agribusiness” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

<sup>10</sup> The terms “Australian land” and “interest in Australian land” have the meanings set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and Foreign Acquisitions and Takeovers Regulation 2015 (Cth).

<b>Sector or Sub-sector</b>	<b>National Treatment Limitations</b>
	<p>Unbound for any measure that Australia considers necessary for the protection of its essential security interests with respect to proposals by foreign persons* to invest in Australia.</p> <p>For greater certainty, terms used in the above entries should be interpreted in accordance with Australia's Foreign Investment Framework as at the date of entry into force of this Agreement.</p> <p>Unbound for any measure with respect to investment that accords preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation. For the purpose of this Schedule, an Indigenous person means a person of the Aboriginal and Torres Strait Islander peoples.</p> <p>Unbound for any measure with respect to:</p> <ul style="list-style-type: none"> <li>– the privatisation of government owned entities or assets; and</li> <li>– the devolution to the private sector of services provided in the exercise of governmental authority at the date of entry into force of this Agreement.</li> </ul>
<b>PART II. SECTOR-SPECIFIC COMMITMENTS</b>	
<p>A. AGRICULTURE, HUNTING AND FORESTRY (excluding related and incidental services) (ISIC rev. 3.1: 01 and 02)</p>	<p>None, except as indicated in the horizontal section.</p>

Sector or Sub-sector	National Treatment Limitations
<p>B. FISHING (excluding related and incidental services) (ISIC rev.3.1: 05)</p>	<p>Foreign fishing vessels<sup>11</sup> seeking to undertake fishing activity, including any activity in support of or in preparation for any fishing activity or the processing, carrying or transshipment of fish, in the Australian Fishing Zone must be authorised. Where foreign fishing vessels are authorised they may be subject to a levy<sup>12</sup>.</p> <p>A foreign person or a foreign-owned body is not permitted to hold shares in a share management fishery in New South Wales.</p> <p>In Victoria, a fishery access licence or aquaculture licence can only be issued to:</p> <ul style="list-style-type: none"> <li>(a) an individual who is an Australian resident;</li> <li>(b) a single corporation that has a registered office in Australia; or</li> <li>(c) a co-operative that has a registered office in a jurisdiction that administers the Co-operatives National Law (currently New South Wales, Victoria, South Australia, the Northern Territory and Tasmania).</li> </ul> <p>In Western Australia, only an individual who is an Australian citizen or permanent resident may be a licensee within the Western Australian pearling industry. In the case of corporations, partnerships or trusts holding licences, these must be Australian owned and/or controlled (at least 51 per cent of the issued share capital, partnership interest or trust property must be owned by Australians; the chairman, majority of the board of directors and all the company officers must be Australians and must be nominated by, and represent, Australian interests).</p>
<p>C. MINING AND QUARRYING (excluding related and incidental services) (ISIC rev. 3.1: 10 through 14)</p>	<p>None, except as indicated in the horizontal section.</p>

<sup>11</sup> For the purposes of this reservation, a “foreign fishing vessel” is one that does not meet the definition of an Australian boat under the *Fisheries Management Act 1991* (Cth), that is, an Australian flagged boat (not owned by a foreign resident) or a boat owned by an Australian resident or corporation and built, and whose operations are based in, Australia

<sup>12</sup> The levy charged will be in accordance with the *Foreign Fishing Licences Levy Act 1991* (Cth) or any amendments thereto.

Sector or Sub-sector	National Treatment Limitations
D. MANUFACTURING (excluding related and incidental services) (ISIC rev. 3.1.: 15 through 37)	None, except as indicated in the horizontal section.
E. ELECTRICITY, GAS AND WATER SUPPLY (excluding related and incidental services) (ISIC rev. 3.1: 40 and 41)	None, except as indicated in the horizontal section.

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF THE COOK ISLANDS

1. The Cook Islands' commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), the Cook Islands specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' for the listed sector or sub-sector, means no limitations to the obligation of national treatment are maintained. The inscription 'unbound' means that no commitments are taken with respect to a particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.
4. Sectoral entries have been scheduled on the basis of ISIC rev 3.1, which means the International Standard Industrial Classification of all Economic Activities as set out in the Statistical Office of the United Nations.

Sector	Limitations
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	Investment in the Cook Islands by a natural person or by an enterprise of another Party requires approval from the Business Trade Investment Board (BTIB). <sup>1</sup> The BTIB shall approve a foreign enterprise to carry on

<sup>1</sup> This entry in the schedule is in accordance with the Cook Islands' foreign investment rules at time of entry into force, which principally consists of the *Development Investment Act 1995-96*, the *Development Investment (Investment Code) Order 2003*, the *Development Investment Regulations 1996*. The Cook Islands has interest in further refining and improving its laws regulating foreign investment. Should the Cook Islands adopt, after entry into force, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Investment.

	<p>business in the Cook Islands if it is satisfied that the investment would likely result in a net benefit to the Cook Islands.<sup>2</sup></p> <p>Investments in the following areas are reserved to Cook Islanders and to enterprises fully-owned by Cook Islanders: commercial agricultural or food production; pearl farming; commercial aquaculture or harvesting of pearl shell, shell fish or other reef or lagoon products; fresh fish processing; fresh fish exporting; fish bait production; food processing including freezing and drying, or drink bottling; screen printing of fabrics or other piece goods; garment manufacture; making of traditional or cultural handicrafts and artifacts (including commercial reproductions); recordings of cultural performances; jewelry; bakeries or pastry shops<sup>3</sup></p> <p>However, investments in the reserved areas may be approved if: - Cook Islanders or enterprises owned by Cook Islanders are not providing the service, or; - the foreign investor brings a capital investment of, in the case of Rarotonga, not less than NZ\$1 million, and, in the case of other islands, of not less than NZ\$500,000. Approval shall also be based on the criteria indicated above.</p>
<p>All sectors included in this schedule</p>	<p>The ownership of freehold interest in land is restricted only to Cook Islanders. Natural persons who are not Cook Islanders or Permanent Residents of the Cook Islands and Enterprises may only acquire a leasehold interest in land to a maximum term of 60 years but subject to approval from the Leases Approval Tribunal pursuant to the <i>Leases Restrictions Act 1976</i>, the <i>Leases Restrictions Regulations 1977</i> and their amendments, under a non-discriminatory process.</p>
<p><b>II. SECTOR-SPECIFIC COMMITMENTS</b></p>	

<sup>2</sup> The criteria on which this decision will be based include: (a) the demand for the product to be provided; (b) whether the product to be provided is currently available in the Cook Islands; (c) the participation by Cook Islanders in the enterprise; (d) the employment of Cook Islanders in the enterprise; (e) training to be provided to Cook Islanders; (f) the degree of innovations, new processes or products, or new skills and technology associated with the proposed activity; (g) whether a significant proportion of financing for the enterprise would be sourced from outside the Cook Islands; (h) whether a significant proportion of the capital expenditure proposed in relation to the enterprise would be spent on businesses in the Cook Islands; (i) whether the activities concerned would be carried out in an island other than Rarotonga; (j) whether the activities concerned would generate a demonstrable net economic benefit to the Cook Islands or to at least one island in the Cook Islands; (k) whether the activities concerned would have a significant adverse effect on the social and cultural fabric of the Cook Islands, or the island or community where the activities would be carried out.

<sup>3</sup> For greater certainty, nothing in section II of this schedule (sector-specific commitments) can be taken to somehow lessen or modify the limitations listed in this section.



<p>AGRICULTURE, HUNTING AND FORESTRY (excluding related and incidental services) (ISIC rev. 3.1: 01 and 02)</p>	<p>None</p>
<p>MINING AND QUARRYING (excluding related and incidental services) (ISIC rev. 3.1: 10-14)</p>	<p>Unbound with respect to measures that reserve blocks of seabed mineral activity for situations where the government wishes to enter into sponsorship arrangements or where the government has a financial or operational stake or benefit.</p>
<p>FISHING (excluding incidental services) -Limited to Aquaculture</p>	<p>None</p>
<p>MANUFACTURING (excluding related and incidental services) (ISIC rev. 3.1.: 15 through 37)</p>	<p>None</p>

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF THE FEDERATED STATES OF MICRONESIA

1. The Federated States of Micronesia's commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), the Federated States of Micronesia specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligations of national treatment are maintained. The inscription 'unbound' means that no commitments are taken with respect to particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

Sector or Sub-Sector	National Treatment Limitations
<b>PART I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	Investment by an investor of another Party requires a Foreign Investment Permit in relation to economic sectors under national jurisdiction, and State Foreign Investment Permits from any state in which it wants to conduct business in relation to sectors under the jurisdiction of states. <sup>1</sup>

<sup>1</sup> This entry in the schedule is in accordance with the Federated States of Micronesia's foreign investment rules at time of entry into force of the Agreement, which principally consists of the *FSM Investment Law 2005*, the *Pohnpei Foreign Investment Act 2011*, the *Yap Foreign Investment Act 2012*, the *Chuuk State Foreign Investment Act 1998*, *Kosrae Foreign Investment Act 1998*, and related instruments. Should the Federated States of Micronesia adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Investment. Permits may be refused to applicants who have criminal records, carry outstanding debts to the Federated States of Micronesia persons or governments, or who have had a Foreign Investment Permit revoked in the past. For the purpose of this schedule, no discriminatory economic needs tests are applied at the national level. Investment for the purpose of this entry is defined as per the relevant laws at time of entry into force of the Agreement.

Foreign Investment Permits are subject to the following additional limitations in the following States:

Chuuk State:

Issuance of permits is subject to an economic needs test which is based on the following criteria:

- the value of the investment and its economic benefits for Chuuk;
- effect on competition; and
- impact on employment of locals.

Kosrae State:

For real property brokering, tourism other than eco-tourism, and live reef fish trade or coral harvesting, maintenance of a minimum investment of US\$5,000 is required.

Yap State:

All foreign investments in which total capital is less than US\$3 million shall require a partner who is Yapese by birth.

Pohnpei State:

Issuance of permits is subject to an economic needs test which is based on the following criteria:

- the value of the investment and its economic benefits for Pohnpei;
- the degree of domestic ownership; and
- impact on employment of locals.

This economic needs test will not apply when these conditions are met:

- A) (i) the proposed investment is a joint venture where at least 60 per cent of the total equity is beneficially held by citizens of FSM; and  
(ii) the initial capital of the foreign investment is greater than US\$250,000.

or

- B) (i) the proposed investment is a joint venture where at least 51 per cent of the total equity is beneficially held by citizens of FSM;
- (ii) the initial capital of the foreign investment is greater than US\$250,000; and
- (iii) the foreign investment relates to one of the following sectors:
- the exploration, development and extraction of land-based mineral resources and of marine-based resources within the jurisdiction of the state;
  - the exploration, cutting and milling of timber resources.

A foreign investor applying for a Foreign Investment Permit shall designate a person residing within FSM as a designated agent upon whom relevant documents can be served. Holders of Foreign Investment Permits are required to produce an annual report to the competent authorities.

Natural persons who are not citizens of FSM and enterprises that are not wholly-owned by citizens of FSM are prohibited from owning or acquiring land or any interest in land.

Limits to lease of land are:

- Up to 99 years in Chuuk State;
- Up to 55 years in Yap State;
- 55 years renewable but no more than 99 years for private land, and 40 years renewable for public land in Kosrae State; and
- 55 years renewable up to 99 years in Pohnpei State.

Natural persons who are not citizens of FSM and enterprises that are not wholly-owned by citizens of FSM cannot sub-lease land.

The lease of real estate by natural persons who are not citizens of FSM and by enterprises that are not wholly-owned by citizens of FSM requires an authorization by the competent State authority which will consider among other things whether important economic, social or cultural interests

	<p>are affected or not.</p> <p>Foreign investors and their investments are required to provide training to local employees.</p> <p>Unbound for measures: a) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force; or, b) regarding the sale or disposal of government-owned entities or assets.</p>
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
<p><b>A. AGRICULTURE, HUNTING AND FORESTRY</b>  (excluding related and incidental services)  (ISIC rev. 3.1: 01 and 02), except activities relating to copra.</p>	None
<p><b>B. FISHING</b>  (excluding related and incidental services)  - Limited to Aquaculture (ISIC rev. 3.1: 0502)</p>	None
<p><b>C. MINING AND QUARRYING</b>  (excluding related and incidental services)  (ISIC rev. 3.1: 10-14).</p>	None
<p><b>D. MANUFACTURING</b>  (excluding related and incidental services)</p>	None

(ISIC rev. 3.1.: 15-37), except:

- activities of vessels engaged in the processing and preservation of fish (ISIC rev. 3.1: 1512\*\*)

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF KIRIBATI

1. Kiribati's commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), Kiribati specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligation of national treatment are maintained. The inscription 'unbound' means that no commitments are taken with respect to particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

Sector or Sub-Sector	National Treatment Limitations
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	Natural persons who are not citizens of Kiribati and enterprises that are not wholly-owned by citizens of Kiribati are prohibited from owning or acquiring land or any interest in land.  Such natural persons and enterprises may lease land in Kiribati, provided that the lease is approved by the Competent Authority. Land may be leased for a period of 25 years which is renewable. Sub-lease of land involving natural persons that are not citizens of Kiribati and enterprises that are not wholly-owned by citizens of Kiribati is not allowed

	Investment by natural persons who are not I-Kiribati and by enterprises of another Party requires approval from the Foreign Investment Commission <sup>1</sup> . Approval is granted subject to meeting an economic needs test on the basis of established criteria. <sup>2</sup>
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
A. AGRICULTURE, HUNTING AND FORESTRY (excluding related and incidental services) Growing of crops, market gardening, livestock and horticulture for large commercial purposes	None
B. FISHING (excluding related and incidental services) - Aquaculture (ISIC rev.3.1: 0502)	None
C. MINING AND QUARRYING (excluding related and incidental services) (ISIC rev. 3.1: 10-14)	None
D. MANUFACTURING (excluding related and incidental services) (ISIC rev. 3.1: 15 through 37) except for	A joint venture with a local partner is required for manufacturing activities in relation to coconut virgin oil and salt.

<sup>1</sup> This entry in the schedule is in accordance with Kiribati's foreign investment rules at the time of entry into force of the Agreement, which principally consists of the *Foreign Investment Act 1985*, the *Foreign Investment (Amendment) Act 1989*, the *Foreign Investment (Amendment) Act of 1992*, the *Foreign Investment (Amendment) Act 1997*, and the *Foreign Investment (Amendment) Act 2000*. Kiribati has interest in further refining and improving its laws regulating the admission of foreign investment. Should Kiribati adopt, after entry into force of the Agreement, new or revised laws and regulations as a result, it would positively consider reflecting, where appropriate, such better treatment under PACER Plus through a revised Schedule of Commitments on Investment.

<sup>2</sup> The economic needs test is set out in Article 10(1) of the *Foreign Investment Act 1985* as at the time of entry into force of the Agreement.



- Saw Milling
- Traditional Garment Designing and Production.



## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF NAURU

1. Nauru's commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), Nauru specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligation of national treatment are maintained. The inscription 'unbound' means that no commitments are taken with respect to a particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

<b>Sector or Sub-Sector</b>	<b>National Treatment Limitations</b>
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	The establishment or acquisition of an enterprise in Nauru by natural persons who are not Nauruan citizens or by enterprises that are not wholly owned by Nauruan citizens requires approval from Cabinet. Approval is granted subject to meeting the economic needs criteria administered by Cabinet at the time the application is made. <sup>1</sup>

<sup>1</sup>Nauru has interest in further refining and improving its laws regulating foreign investment. Should Nauru adopt after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Investment.

	Natural persons of another Party and enterprises that are not wholly-owned by citizens of Nauru are prohibited from owning land, or acquiring any interest in or control over land in Nauru, whether by purchase, receipt of gift, transfers by operation of law, or any other means. Lease of land by enterprises established in Nauru is subject to a non-discriminatory approval process.
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
A. AGRICULTURE, HUNTING AND FORESTRY (excluding related and incidental services) (ISIC rev. 3.1: 01 and 02) - Excluding: small scale agriculture for local markets	None
B. FISHING (excluding related and incidental services) - Only Aquaculture (ISIC rev. 3.1: 0502)	None
D. MANUFACTURING (excluding related and incidental services) (ISIC rev. 3.1: 15- 37), except: - activities of vessels engaged in the processing and preservation of fish (part of ISIC rev. 3.1: 1512)	None

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF NEW ZEALAND

1. Unless otherwise indicated, the classification of investment sectors is based on the 2002 International Standard Industrial Classification of All Economic Activities (ISIC) Revision 3.1 of the United Nations Statistical Office.
2. New Zealand's commitments apply only in relation to the sectors as set out in the table below, and in accordance with Article 4 (Relation to Other Chapters) of Chapter 9 (Investment), limited to measures not affecting trade in services.
3. Any limitations to Article 6 (National Treatment) in accordance with Article 8 (Scheduling of Commitments) of Chapter 9 (Investment) are specified in the table below.
4. For clarity, the inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligations of national treatment are maintained. The inscription 'unbound' means that no commitments are taken with respect to particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.

Sector or subsector	National Treatment Limitations
<b>PART I. HORIZONTAL COMMITMENTS</b>	
ALL SECTORS	Overseas Investment Office (OIO) approval is required for the following investments by an 'overseas person': <sup>1</sup> (a) acquisition or control of 25 per cent or more of any class of shares <sup>2</sup> or voting power <sup>3</sup> in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ\$10 million; (b) commencement of business operations or acquisition of an existing business, including business assets, in

<sup>1</sup> An "overseas person" is defined as an individual not normally resident in New Zealand; a company not incorporated in New Zealand; a New Zealand-incorporated company in which 25 per cent or more of any class of shares or 25 per cent or more of the voting power is held by overseas persons; or a nominee of the overseas person, whether or not the nominee is himself/herself an overseas person.

<sup>2</sup> For greater certainty, the term 'shares' includes shares and other types of securities.

<sup>3</sup> For greater certainty, 'voting power' includes the power to control the composition of 25 percent or more of the governing body of the New Zealand entity.

Sector or subsector	National Treatment Limitations
	<p>New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceeds NZ\$10 million;</p> <p>(c) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand's Overseas Investment legislation; and</p> <p>(d) acquisition, regardless of the dollar value, of 25 per cent or more of any class of shares or voting power in a New Zealand entity that owns commercial fishing quota or annual catch entitlement, or the acquisition of commercial fishing quota or annual catch entitlement.</p> <p>Overseas investors must comply with the criteria set out in the overseas investment regime and any conditions specified by the Regulator and the relevant Minister or Ministers.</p> <p>Unbound for enterprises currently in State ownership.</p>
	<p>New Zealand reserves the right to accord different treatment to investments by an overseas person formed in accordance with the laws and regulations in relation to the control, management or use of:</p> <p>(a) protected areas, including resources on land, interests in land or water, that are set up for heritage management purposes (both historic and natural heritage), public recreation and scenery preservation; or</p> <p>(b) species owned under enactments by the Crown or that are protected by or under an enactment.</p>
	<p>New Zealand reserves the right to accord different treatment to investments by an overseas person formed in accordance with the laws and regulations in relation to:</p> <p>(a) animal welfare; and</p> <p>(b) the preservation of plant, animal and human life and health; including in particular:</p> <p>(i) food safety of domestic and exported foods;</p> <p>(ii) animal feeds;</p> <p>(iii) food standards;</p> <p>(iv) biosecurity; and</p> <p>(v) certification of the plant or animal health status of goods.</p>

Sector or subsector	National Treatment Limitations
	<p>Nothing in this limitation shall be construed to derogate from the obligations of Chapter 5 (Sanitary and Phytosanitary Measures), or the obligations of the SPS Agreement.</p> <p>Nothing in this reservation shall be construed to derogate from the obligations of Chapter 6 (Technical Regulations, Standards and Conformity Assessment Procedures), or the obligations of the TBT Agreement.</p>
	<p>New Zealand reserves the right to accord different treatment to investments by an overseas person formed in accordance with the laws and regulations in respect of the foreshore and seabed, internal waters as defined in international law (including the beds, subsoil and margins of such internal waters), territorial sea, the Exclusive Economic Zone and the continental shelf, including for the issuance of maritime concessions in the continental shelf.</p>
	<p>Consistent with New Zealand's financial reporting regime established under the <i>Companies Act 1993</i> and <i>Financial Reporting Act 1993</i>, the following overseas non-issuer companies are required to file audited financial statements with the Registrar of Companies:</p> <ul style="list-style-type: none"> <li>(a) any company that is incorporated outside New Zealand that carries on business in New Zealand;</li> <li>(b) any large company incorporated in New Zealand in which shares that carry the right to exercise or control the exercise of 25 per cent or more of the voting power are held by: <ul style="list-style-type: none"> <li>(i) a subsidiary of a company or body corporate incorporated outside New Zealand;</li> <li>(ii) a company or body corporate incorporated outside New Zealand; or</li> <li>(iii) a person not ordinarily resident in New Zealand;</li> </ul> </li> <li>(c) any company that is a subsidiary of a company or body corporate incorporated outside New Zealand.</li> </ul> <p>A company is 'large' if it meets at least two of the following criteria:</p> <ul style="list-style-type: none"> <li>(a) the total assets of the company and its subsidiaries exceeds NZ\$10 million;</li> <li>(b) the company and its subsidiaries have a total turnover of NZ\$10 million or more; and</li> <li>(c) the company and its subsidiaries have 50 or more full-time equivalent employees.</li> </ul> <p>These requirements do not apply if the overseas company is a subsidiary of a New Zealand company that has</p>

Sector or subsector	National Treatment Limitations
	already filed audited group financial statements with the Registrar.
	New Zealand reserves the right to accord different treatment to investments by an overseas person formed in accordance with the laws and regulations in relation to water, including the allocation, collection, treatment and distribution of drinking water.
	Where the New Zealand Government wholly owns or has effective control over an enterprise, New Zealand reserves the right to accord different treatment to investments by an overseas person formed in accordance with the laws and regulations in relation to the sale of any shares in that enterprise or any assets of that enterprise to any person, including according more favourable treatment to New Zealand nationals.
	New Zealand reserves the right to accord different treatment to New Zealand nationals and permanent residents in the form of incentives or other programmes to help develop local entrepreneurs and assist local companies to expand and upgrade their operations.
ENERGY	New Zealand reserves the right to accord different treatment to investments by an overseas person in order to prohibit, regulate, manage or control the production, use, distribution or retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so.
AGRICULTURE	<p>The <i>Dairy Industry Restructuring Act 2001</i> (DIRA) and regulations provide for the New Zealand to acquire, free of charge and without condition, a copy of a regulated database held by the Livestock Improvement Corporation Ltd (LIC) in the event of its demutualisation or certain other events.</p> <p>Furthermore, should LIC be liquidated or removed from New Zealand's register of companies or should the New Zealand government receive a copy of the database as specified above, the New Zealand government may determine arrangements for the database to be managed by another dairy industry entity. In doing so it may take into account nationality and residency considerations, including in relation to senior management and composition of the board of directors.</p>

Sector or subsector	National Treatment Limitations
	<p>In addition, the DIRA sets out data reporting obligations to the LIC applying to those engaged in herd testing of dairy cattle.</p> <p>The DIRA also provides for access to the data held in the core database to be denied if access is not beneficial, or is harmful, to the New Zealand dairy industry, which could take into account nationality or residency considerations and the intended use of the data. Conditions may also be applied to data use.</p> <p>The DIRA restricts who may hold shares in LIC, and this regime may not be amended without the consent of the responsible Minister.</p>
	<p>New Zealand reserves the right to accord different treatment to investments by an overseas person in relation to:</p> <ul style="list-style-type: none"> <li>– the holding of shares in co-operative dairy company arising from the amalgamation authorised by section 7(1)(a) of the <i>Dairy Industry Restructuring Act 2001</i> (DIRA) (or any successor body); and</li> <li>– the disposition of assets of that dairy company or its successor bodies.</li> </ul>
	<p>Under the <i>Primary Products Marketing Act 1953</i>, the New Zealand Government may impose regulations necessary to enable producers of products derived from beekeeping; fruit growing; deer farming or game deer; or of goats, being the fur bristles or fibres grown by the goat (“primary products”) to control the marketing of primary products. In particular, the <i>Primary Products Marketing Act 1953</i> provides for the establishment of statutory marketing authorities with monopoly marketing and acquisition powers (or lesser powers), and provision of a range of measures relating to such aspects as:</p> <ul style="list-style-type: none"> <li>– the functions, powers, appointment, membership, and dissolution of the marketing authorities;</li> <li>– the management of the affairs of the marketing authorities;</li> <li>– the acquisition of primary products by the marketing authorities and matters relating to the pricing and method of payment for primary products so acquired;</li> <li>– matters relating to the production, distribution, licensing, and sale of primary products;</li> <li>– matters relating to the payment of fees and levies on primary products;</li> <li>– the acquisition of information required of fees and levies on primary products;</li> <li>– the acquisition of information required for the purposes of the marketing authorities; and</li> </ul>



Sector or subsector	National Treatment Limitations
	<ul style="list-style-type: none"> <li>- the prescription of offences and penalties relating to the <i>Primary Products Marketing Act 1953</i>.</li> </ul>
	<p>New Zealand reserves the right to accord different treatment to investments by an overseas person necessary to give effect to the establishment or the implementation of mandatory marketing plans (also referred to as “export marketing strategies”) for the export marketing of products derived from:</p> <ul style="list-style-type: none"> <li>- agriculture;</li> <li>- beekeeping;</li> <li>- horticulture;</li> <li>- arboriculture;</li> <li>- arable farming; and</li> <li>- the farming of animals,</li> </ul> <p>where there is support within the relevant industry that a mandatory collective marketing plan should be adopted or activated.</p> <p>For the avoidance of doubt, mandatory marketing plans in the context of this reservation exclude measures limiting the number of market participants or limiting the volume of exports.</p>
FISHERIES	<p>Under the <i>Fisheries Act 1996</i>, no vessel owned or operated by an overseas person may be registered to carry out commercial fishing or fishing carrying activities without the permission of the Minister of Fisheries, and subject to any conditions that he or she thinks fit to impose.</p> <p>No vessel that is not a New Zealand ship will be used for commercial fishing within the territorial sea of New Zealand.</p> <p>Foreign fishing vessels or fish carriers are required to obtain the approval of the Minister of Fisheries before entering New Zealand internal waters. If the Minister of Fisheries is satisfied that the vessel has undermined international convention and management measures he or she may deny the vessel approval to enter New Zealand internal waters.</p>

Sector or subsector	National Treatment Limitations
	Ministerial approval is required before any overseas person may be allocated, purchase or own any provisional catch history, quota or annual catch entitlement.
	Treatment less favourable may be accorded to investments by an overseas person in relation to the activities of foreign fishing, including fishing landing, first landing of fish processed at sea, and access to New Zealand ports (port privileges) consistent with the provisions of the <i>United Nations Convention on the Law of the Sea</i> .
BUSINESS SERVICES Research and Development	New Zealand reserves the right to accord different treatment to investments by an overseas person in relation to: (a) the entry on Research and Development services carried out by State funded tertiary institutions or by research organisations that are part of the New Zealand State sector when such research is conducted for a public purpose; and (b) research and experimental development services on physical sciences, chemistry, biology, engineering and technology, agricultural sciences, medical, pharmaceutical and other natural sciences i.e., CPC 8510.
<b>PART II. SECTOR-SPECIFIC COMMITMENTS</b>	
A. AGRICULTURE, HUNTING AND FORESTRY (ISIC rev. 3.1: 01)	
Agriculture and hunting (ISIC rev. 3.1: 011-013)	None, except as indicated in the horizontal section.
Growing of fruit, nuts, beverage and spice crops (ISIC rev. 3.1: 0113)	Unbound with respect to the export marketing of fresh kiwifruit to all markets other than Australia.
Forestry and logging (ISIC rev. 3.1: 02)	None, except as indicated in the horizontal section.
B. FISHING (ISIC rev. 3.1: 05)	

<b>Sector or subsector</b>	<b>National Treatment Limitations</b>
Fisheries and aquaculture (ISIC rev. 3.1: 05)	None, except as indicated in the horizontal section.
<b>C. MINING AND QUARRYING</b> (ISIC rev. 3.1: 10-14)	
Mining and quarrying (ISIC rev. 3.1: 10, 13-14)	None, except as indicated in the horizontal section.
<b>D. MANUFACTURING</b> (ISIC rev. 3.1: 15-36)	
Manufacturing (ISIC rev. 3.1: 15-16, 18-21, 24-36)	None, except as indicated in the horizontal section.
Manufacture of textiles (ISIC rev. 3.1: 17)	Unbound with respect to: <ul style="list-style-type: none"> <li>– wool, degreased or carbonised, not carded or combed;</li> <li>– noils of wool or of fine animal hair;</li> <li>– wool and fine or coarse animal hair, carded or combed.</li> </ul>

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF NIUE

1. Niue's commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), Niue specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligation of national treatment are maintained. The inscription 'unbound' means that no commitments are taken with respect to a particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

<b>Sector or Sub-Sector</b>	<b>National Treatment Limitations</b>
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	Natural persons who are not Niueans and enterprises that are not wholly-owned by Niueans are prohibited from owning or acquiring land or any interest in land.  Investors from other Parties must source capital from overseas. Investors from other Parties and their investments are prohibited from accessing the loan facility of the Niue Development Bank.

Sector or Sub-Sector	National Treatment Limitations
	<p>Foreign enterprises seeking to carry on business activities in Niue require registration by Cabinet.<sup>1</sup> Registration is granted subject to meeting an economic needs test on the basis of established criteria reflected in relevant laws and regulations.<sup>23</sup></p> <p>Unbound for measures in relation to the transfer or disposal of government-owned entities or assets.</p>
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
<p>A. AGRICULTURE, HUNTING AND FORESTRY (excluding related and incidental services) (ISIC rev. 3.1: 01 and 02)</p>	None
<p>B. FISHING (excluding related and incidental services) Only Aquaculture (ISIC rev. 3.1: 0502)</p>	None
<p>C. MINING AND QUARRYING (excluding related and incidental services) (ISIC rev. 3.1: 10-14).</p>	None

<sup>1</sup> For the purpose of this limitation, foreign enterprises mean enterprises in which 50 per cent or more of the voting shares or power are not held by Niueans, or where 50 per cent or more of the shares are not beneficially owned or controlled by Niueans, or where the enterprise does not have its central management or control in Niue.

<sup>2</sup> The economic needs test is based on the following criteria: impact on local employment and upgrade of local skills; economic impact, including magnitude of local value added and use of local resources, external trade, income, infrastructure demand, and secondary effects on other activities; environmental and cultural impact. For greater clarity, Cabinet approval can be conditional on compliance with aspects of the criteria mentioned above.

<sup>3</sup> This entry in the schedule is in accordance with Niue's foreign investment rules at time of entry into force of the Agreement, which principally consist of the *Development Investment Act 1992* and related instruments. Should Niue adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Investment.

<b>Sector or Sub-Sector</b>	<b>National Treatment Limitations</b>
D. MANUFACTURING (excluding related and incidental services) (ISIC rev. 3.1.: 15-37), except: Activities of vessels engaged in the processing and preservation of fish (ISIC rev. 3.1: 1512**)	None

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF PALAU

1. Palau's commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), Palau specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligations of national treatment and senior management and boards of directors are maintained. The inscription 'unbound' means that no commitments are taken with respect to particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

<b>Sector or Sub-Sector</b>	<b>National Treatment Limitations</b>
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	The Palau Constitution prohibits natural persons that are not citizens of Palau and enterprises that are not wholly-owned by citizens of Palau from owning land, or acquiring any interest in or control over land in Palau, whether by purchase, receipt of gift, transfers by operation of law, or any other means other than as provided in the following paragraph.  Lease of land is limited to 50 years for foreign natural persons and enterprises that are not wholly owned by Palauans.

	<p>Enterprises that are not wholly-owned by Palauans are required to pay a yearly levy for each non-citizen employee<sup>1</sup> and may be required to provide training to Palauan employees.</p> <p>Palau citizens must constitute 20 per cent of employees of enterprises that are not wholly-owned by Palau citizens when the value of the initial investment is less than US\$500,000 or, in the case of hotel or other short-term lodging facility, US\$5 million.<sup>2</sup></p> <p>A foreign investment approval certificate must be obtained pursuant to the <i>Foreign Investment Act 1990</i> and subsequent amendments before investors of another Party can establish a business enterprise in Palau. Approval of an investment is subject to an economic needs criteria<sup>3</sup> and non-discriminatory requirements, and the fulfilment of the minimum investment and local ownership requirements in sections 105 and 106 of the <i>Foreign Investment Act 1990</i> and subsequent amendments.</p> <p>Foreign investors are required to deposit a stipulated sum of money with a bank in Palau and maintain it there during the validity of the investment.</p>
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<sup>1</sup> For information: in 2015, this levy was of US\$500 per year for each foreign employee. This amount may be adjusted in the future to take account of inflation.

<sup>2</sup> This entry in the schedule is in accordance with Palau's foreign investment rules at time of entry into force of the Agreement, which principally consists of the *Foreign Investment Act 1990*. Palau has an interest in further refining and improving its laws regulating foreign investment. Should Palau adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Investment.

<sup>3</sup> The economic needs test is based on the following criteria: (a) the economic need for the proposed activity; (b) the extent of the current availability of the service in the Republic; (c) the likely impact on same or similar activities currently being carried on by citizens; (d) the overall benefit to the national economy; (e) the bona fides, financial capacity, experience and expertise of the applicant; (f) the technical and economic viability of the proposed project; (g) the overall contributions to the national economy; (h) the extent of direct and indirect employment generation; (i) the extent of import earnings or import savings; (j) the extent of utilization of domestic raw materials and natural resources, including the benefits or adverse impact of such utilization; (k) the extent of transfer of managerial and technical skills to citizens, including well-defined training programs for achieving such transfer; (l) the size of the foreign investment as well as the total investment required for the project; (m) the impact of the proposed activity upon the social and cultural values upon the environmental integrity of the Republic, and (n) whether the capital investment and technical and managerial skills required for a business are such as to be within the capacity of citizens.



<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
A. AGRICULTURE AND FORESTRY (excluding related and incidental services) (ISIC rev. 3.1: 011-014, and 02)	None
B. FISHING (excluding related and incidental services) - Limited to Aquaculture (ISIC rev. 3.1: 0502)	None
D. MANUFACTURING (excluding related and incidental services) (ISIC rev. 3.1.: 15-37)	The following business activity is reserved exclusively for citizens and business enterprises in which Palauans have an ownership interest: - Production of goods already produced by wholly-owned Palauan enterprises.

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF THE REPUBLIC OF THE MARSHALL ISLANDS

1. The Republic of the Marshall Islands' commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), RMI specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligations of national treatment and senior management and boards of directors are maintained. The inscription 'unbound' means that no commitments are taken with respect to particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

Sector or Sub-Sector	National Treatment Limitations
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule. <sup>1</sup>	Natural persons who are not citizens of the Republic of the Marshall Islands and enterprises that are not wholly-owned by citizens of RMI are prohibited from owning land. Land may, however, be leased for investment purposes.  Enterprises that are not wholly-owned by Republic of the Marshall Islands citizens are required to incorporate as a domestic limited company or register as a foreign company.

<sup>1</sup> Should the Republic of the Marshall Islands adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Investment.

	<p>The following activities are reserved for Republic of the Marshall Islands citizens and enterprises wholly-owned by Republic of the Marshall Islands citizens:<sup>2</sup></p> <ul style="list-style-type: none"> <li>- Small scale mariculture for local markets</li> <li>- Bakeries and pastry shops</li> <li>- Tailoring / sewing shops.</li> </ul> <p>Application for a business license is required in order to establish an enterprise that is not wholly-owned by citizens of RMI, or to acquire an interest in an existing enterprise in RMI. Investors of other Parties must incorporate as a domestic limited company or register as a foreign company.</p>
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
<p><b>A. AGRICULTURE, HUNTING AND FORESTRY</b> (excluding related and incidental services)</p>	<p>None except that a joint venture with local investors is required in the following activities:</p> <ul style="list-style-type: none"> <li>011: Growing of Crops, Market Gardening, Horticulture</li> <li>012: Farming of Animals</li> <li>013: Growing of Crops combined with farming of animals (mixed farming)</li> <li>014: Agricultural and Animal Husbandry services except for Veterinary Services</li> </ul> <p>The shares in the investment to be agreed between the local and foreign investors.</p>
<p><b>B. FISHING</b> (excluding related and incidental services) Applicable to Aquaculture (ISIC rev 3.1: 0502)</p>	<p>A joint venture is required with local investors. The shares in the investment are to be agreed between the local and foreign investors.</p>
<p><b>C. MINING AND QUARRYING</b> (excluding related and incidental services) (ISIC rev. 3.1: 10-14)</p>	<p>None, except that a joint venture may be required for certain activities. The shares in the investment to be agreed between the local and foreign investors.</p>

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<p>D. MANUFACTURING (excluding related and incidental services) (ISIC rev. 3.1.: 15-37), except:</p> <ul style="list-style-type: none"><li>- activities of vessels engaged in the processing and preservation of fish (part of ISIC rev. 3.1: 1512)</li></ul>	<p>None, except that a joint venture is required in the manufacture of pandanus juice, coconut drink and noni drink. The shares in the investment are to be agreed between the local and foreign investors.</p>
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## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF SAMOA

1. Samoa's commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), Samoa specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligations of national treatment are maintained. The inscription 'unbound' means that no commitments are taken with respect to a particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

<b>Sector or Sub-Sector</b>	<b>National Treatment Limitations</b>
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	Non-Samoan natural persons and enterprises that are not wholly-owned by natural persons of Samoa are prohibited from owning or acquiring land or any interest in land. Land may be leased for up to 30 years renewable once in the case of land leased or licensed for industrial purposes or a hotel and 20 years renewable once in the other cases.  Foreign invested enterprises may be required to provide training to local employees.  Unbound for measures: a) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force; or, b) regarding the sale or disposal of government-owned entities or assets.

<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
<p><b>A. AGRICULTURE, HUNTING AND FORESTRY</b>  (excluding related and incidental services)  - Limited to growing of crops, market gardening, and horticulture, except for subsistence purposes (part of ISIC rev. 3.1: 011)</p>	None
<p><b>B. FISHING</b>  (excluding related and incidental services)  - Limited to Aquaculture (ISIC rev. 3.1: 0502)</p>	None
<p><b>C. MINING AND QUARRYING</b>  (excluding related and incidental services)  (ISIC rev. 3.1: 10-14)</p>	None
<p><b>D. MANUFACTURING</b>  (excluding related and incidental services)  (ISIC rev. 3.1: 15-37), except:  - Saw milling (ISIC rev. 3.1.: 2010)  - Traditional elei garment designing and printing  - Activities of vessels engaged in the processing and preservation of fish (ISIC rev. 3.1: 1512)</p>	Joint venture with a local partner is required for manufacturing activities in relation to <i>nonu</i> or virgin coconut oil.

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF SOLOMON ISLANDS

1. Solomon Islands' commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), Solomon Islands specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligations of national treatment and senior management and boards of directors are maintained. The inscription 'unbound' means that no commitments are taken with respect to particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

<b>Sector or Sub-Sector</b>	<b>National Treatment Limitations</b>
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	Natural persons who are not citizens of the Solomon Islands and enterprises that are not wholly-owned by citizens of the Solomon Islands are prohibited from owning or acquiring land or any interest in land. Land may be leased from government and land-holding groups.

	<p>Pursuant to the <i>Foreign Investment Act 2005</i> and <i>Foreign Investment Regulations 2006</i>, as at the date of signature of the PACER Plus, a certificate of registration must be obtained by investors of another Party that intends to conduct an investment activity.<sup>1</sup></p> <p>Unbound for measures: a) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force; or, b) regarding the sale or disposal of government-owned entities or assets.</p>
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
<p><b>A. AGRICULTURE, HUNTING AND FORESTRY</b> (excluding related and incidental services) (part of ISIC rev. 3.1: 01 and 02), except:</p> <ul style="list-style-type: none"> <li>- Cultivating plant crops exclusively for sale on the domestic market;</li> <li>- Farming of livestock for sale exclusively on the domestic market;</li> <li>- Gathering of wild forest products for sale exclusively on the domestic market.</li> </ul>	None
<p><b>B. FISHING</b> (excluding related and incidental services)</p>	None

<sup>1</sup> Should Solomon Islands adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any changes under PACER Plus through a revised Schedule of Commitments on Trade in Services.



<ul style="list-style-type: none"> <li>- Limited to Aquaculture (ISIC rev. 3.1: 0502)</li> </ul>	
<p><b>C. MINING AND QUARRYING</b> (excluding related and incidental services) (ISIC rev. 3.1: 10-14), except:</p> <ul style="list-style-type: none"> <li>- Alluvial mining.<sup>2</sup></li> </ul>	None
<p><b>D. MANUFACTURING</b> (excluding related and incidental services) (ISIC rev. 3.1: 151-192, 202-372), except:</p> <ul style="list-style-type: none"> <li>- Timber milling operations producing not more than 2,500m<sup>3</sup> sawn per year;</li> <li>- Production of handicrafts and cultural artifacts.</li> </ul>	None

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<sup>2</sup> Alluvial mining as defined in the *Mines and Minerals (Amendment) Act 2008*, especially part VI, paras 53-54.

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF TONGA

1. Tonga's commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), Tonga specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligations of national treatment are maintained. The inscription 'unbound' means that no commitments are taken with respect to a particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

<b>Sector or Sub-Sector</b>	<b>National Treatment Limitations</b>
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	Natural persons who are not citizens of Tonga and enterprises that are not wholly-owned by citizens of Tonga are prohibited from owning or acquiring land or any interest in land. Land may be leased.  All foreign investors are required to register and obtain a Foreign Investment Registration Certificate. <sup>1</sup> For greater certainty, the granting of certificates, as well as their renewal, are not

<sup>1</sup> Holders of such certificates notably have to pay related fees and to produce an annual status report for authorities. This entry in the schedule is in accordance with Tonga's foreign investment rules at time of entry into force of the Agreement, which principally consists of the *Foreign Investment Act 2002*. Should Tonga adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Investment.

	<p>conditional on discriminatory economic needs tests or the level of foreign ownership. However, for the activities listed in this paragraph, foreign investors are not allowed to own or acquire more than 25 per cent of voting shares in such enterprises.<sup>2</sup></p> <p>The reserved activities are:</p> <ul style="list-style-type: none"> <li>- Baking of white loaf bread;</li> <li>- Tongan cultural activities, including: folktales, folk poetry, and folk riddles; folk songs and instrumental folk music; folk dances, and folk plays; production of folk arts in particular, drawings, paintings, carvings, sculptures, woodwork, jewelry, handicrafts, costumes, and indigenous textile;</li> <li>- Raising of chickens for the production of eggs;</li> <li>- Export of green and mature coconuts;</li> <li>- Production/farming of: (a) root crops (yams, taro, sweet potato, cassava); (b) squash; (c) paper mulberry; (d) pandanus; and (e) kava;</li> </ul> <p>Unbound for measures: a) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force; or, b) regarding the sale or disposal of government-owned entities or assets.</p>
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
<p><b>A. AGRICULTURE, HUNTING AND FORESTRY</b> (excluding related and incidental services) (ISIC rev. 3.1: 01 and 02).</p>	None
<p><b>B. FISHING</b></p>	None

<sup>2</sup> 'Foreign investors' means: natural persons that are not citizens of Tonga, enterprises incorporated outside of Tonga, and enterprises incorporated in Tonga that are not wholly-owned by citizens of Tonga.

<p>(excluding related and incidental services)  - Limited to Aquaculture (ISIC rev. 3.1: 0502)</p>	
<p><b>C. MINING AND QUARRYING</b>  (excluding related and incidental services)  (ISIC rev. 3.1: 10-14).</p>	None
<p><b>D. MANUFACTURING</b>  (excluding related and incidental services)  (ISIC rev. 3.1.: 15-37), except:  - activities of vessels engaged in the processing and preservation of fish (part of ISIC rev. 3.1: 1512)</p>	None

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF TUVALU

1. Tuvalu's commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), Tuvalu specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligation of national treatment are maintained. The inscription 'unbound' means that no commitments are taken with respect to a particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

Sector or Sub-Sector	National Treatment Limitations
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	Investment by natural persons that are not Tuvalu citizens and by enterprises of another Party is subject to approval by the Government. Approval shall be granted to investments which are determined by the Government to likely confer economic benefits on Tuvalu. <sup>1</sup>  Natural persons who are not citizens of Tuvalu and enterprises that are not wholly-owned by

<sup>1</sup> This entry in the schedule reflects Tuvalu's foreign investment rules at time of entry into force of this Agreement, which includes the *Foreign Direct Investment Act 1996* as amended by the *Foreign Direct Investment Act 2008* (revised edition). Should Tuvalu adopt, after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Investment.

	<p>citizens of Tuvalu may be required to provide short-term training to local employees.</p> <p>Investors of another Party are prohibited from owning land. Land may be leased for a period not exceeding 25 years. Leases have to be approved by the Lands Court and by the relevant Minister under a non-discriminatory process.</p> <p>Land leases are for a duration of up to 25 years. Leases have to be approved by Lands Courts and the Minister responsible under a non-discriminatory process.</p>
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
<p><b>A. AGRICULTURE, HUNTING AND FORESTRY</b> (excluding related and incidental services) (ISIC rev. 3.1: 01 and 02)</p>	Unbound for measures in relation to the export of copra and related products.
<p><b>B. FISHING</b> (excluding related and incidental services) - Limited to Aquaculture (ISIC rev. 3.1: 0502)</p>	None
<p><b>C. MINING AND QUARRYING</b> (excluding related and incidental services) (ISIC rev. 3.1: 10-14)</p>	None
<p><b>D. MANUFACTURING</b> (excluding related and incidental services) (ISIC rev. 3.1: 15-37)</p>	None

## ANNEX 9-A: SCHEDULE OF COMMITMENTS ON INVESTMENT (CHAPTER 9)

### SCHEDULE OF VANUATU

1. Vanuatu's commitments under Article 6 (National Treatment) of Chapter 9 (Investment) apply only in relation to the sectors set out below. In accordance with Article 6 (National Treatment) and Article 8 (Scheduling of Commitments) of Chapter 9 (Investment), Vanuatu specifies below any terms, conditions, limitations or qualifications.
2. The inscription 'none' indicates that, for the listed sector or sub-sector, no limitations to the obligation of national treatment are maintained. The inscription 'unbound' means that no commitments are taken with respect to a particular subsector or area. Limitations listed in the horizontal section condition all sector-specific commitments.
3. Commitments on national treatment in this schedule shall not prevent a Party from imposing a requirement, in connection with an investment in its territory of an investor of another Party, to locate production, establish an enterprise, train or employ workers, construct or expand particular facilities, or carry out research and development, in its territory, provided this is also applied, in like circumstances, to investments of its own investors.

<b>Sector or Sub-Sector</b>	<b>National Treatment Limitations<sup>1</sup></b>
<b>I. HORIZONTAL COMMITMENTS</b>	
All sectors included in this schedule	The Vanuatu Constitution prohibits freehold ownership of land. Only indigenous Ni-Vanuatu can own land under customary law provisions. Indigenous citizens and expatriates can hold land in leasehold.  Unbound for measures: a) as part of the act of devolving a service that is provided in the

<sup>1</sup> Should Vanuatu adopt after entry into force of the Agreement, new or revised laws and regulations on foreign investment, it would consider reflecting, where appropriate, any better treatment under PACER Plus through a revised Schedule of Commitments on Investment.

	exercise of governmental authority at the time the Agreement enters into force; or, b) regarding the sale or disposal of government-owned entities or assets.
<b>II. SECTOR-SPECIFIC COMMITMENTS</b>	
<b>A. AGRICULTURE, HUNTING AND FORESTRY</b> (excluding related and incidental services) (ISIC rev. 3.1: 01 and 02**), excluding: - Export of sandalwood in stick and chips form; - Local trading of sandalwood; - Export of seeds and other minor forest products; - Production of kava and export of kava in root, chips and stick form; - Small scale production of sawn timber from natural forest using portable sawmills.	None
<b>B. FISHING</b> (excluding related and incidental services) - Aquaculture (ISIC rev. 3.1: 0502)	None
<b>C. MINING AND QUARRYING</b> (excluding related and incidental services) (ISIC rev. 3.1: 10-14)	None
<b>D. MANUFACTURING</b> (excluding related and incidental services) (ISIC rev. 3.1.: 15-37), excluding:	None



- |  |  |
|--|--|
| <ul style="list-style-type: none"><li>- Small scale production of sawn timber from natural forest using a portable sawmill;</li><li>- Production of handcrafts and artefacts;</li><li>- Small scale production of coconut oil.</li></ul> |  |
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## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF AUSTRALIA

1. Australia specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Board of Directors) of Chapter 9 (Investment).
2. Limitations are listed in the horizontal and sector-specific sections, using references that correspond to the International Standard Industrial Classification of all Economic Activities as set out by the Statistical Office of the United Nations (ISIC Rev.3.1), unless otherwise stated.

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	Australia reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in Australia provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	Australia reserves the right to adopt or maintain any measure according preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation in relation to acquisition, establishment or operation of any commercial or industrial undertaking in the service sector. Australia reserves the right to adopt or maintain any measure with respect to investment that accords preferences to any Indigenous person or organisation or providing for the favourable treatment of any Indigenous person or organisation. For the purpose of this Schedule, an Indigenous person means a person of the Aboriginal and Torres Strait Islander peoples.
All sectors	Australia reserves the right to maintain any existing measure at the regional level of government.
All sectors	Australia reserves the right to adopt or maintain any measure with respect to gambling and betting.

Sector	Exemption
All sectors	Australia reserves the right to adopt or maintain any measure with respect to: <ul style="list-style-type: none"> <li>(a) the creative arts<sup>1</sup>, cultural heritage<sup>2</sup> and other cultural industries, including audio-visual services, entertainment services and libraries, archives, museums and other cultural services; and</li> <li>(b) broadcasting and audio-visual services, including measures with respect to planning, licensing and spectrum management, and including:               <ul style="list-style-type: none"> <li>i) services offered in Australia; and</li> <li>ii) international services originating from Australia.</li> </ul> </li> </ul>
All sectors	Australia reserves the right to adopt or maintain any measure with respect to proposed investments by foreign persons* that are subject to approval by the Australian Government and may also require notification under Australia's Schedule of Commitments on Investment (National Treatment) or its Schedule of Specific Commitments on Trade in Services.
All sectors	Australia reserves the right to adopt or maintain any measure that it considers necessary for the protection of its essential security interests with respect to proposals by foreign persons* to invest in Australia.
All sectors	Australia reserves the right to adopt or maintain any measure with respect to the provision of law enforcement and correctional services, and the following services <sup>3</sup> to the extent that they are social

<sup>1</sup> "Creative arts" include: the performing arts – including theatre, dance and music – visual arts and craft, literature, film, television, video, radio, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid arts work which uses new technologies to transcend discrete artform divisions.

<sup>2</sup> "Cultural heritage" includes: ethnological, archaeological, historical, literary, artistic, scientific or technological moveable or built heritage, including the collections which are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions.

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

Sector	Exemption
	services established or maintained for a public purpose: income security or insurance; social security or insurance; social welfare; public education; public training; health; child care; public utilities; public transport; and public housing.
All sectors	Australia reserves the right to adopt or maintain any measure with respect to: <ul style="list-style-type: none"> <li>– the privatisation of government owned entities or assets; and</li> <li>– the devolution to the private sector of services provided in the exercise of governmental authority at the date of entry into force of this Agreement.</li> </ul>
<b>PART II. SECTOR-SPECIFIC LIMITATIONS</b>	
A. AGRICULTURE, HUNTING AND FORESTRY (ISIC rev. 3.1: 01 and 02)	<p>Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person* of an interest in agricultural land<sup>4</sup> where the cumulative value of agricultural land owned by the foreign person* alone or together with associates, including the proposed acquisition, is above A\$15 million.</p> <p>Australia reserves the right to adopt or maintain any measure with respect to the proposed acquisition by a foreign person* of an interest in an agribusiness<sup>5</sup> where the cumulative value of the interest held by the foreign person* in that agribusiness, alone or together with associates, including the proposed acquisition, is above A\$55 million.</p> <p>Australia reserves the right to adopt or maintain any measure with respect to marketing boards or</p>

<sup>3</sup> This includes any measure with respect to: the collection of blood and its components; the distribution of blood and blood-related products, including plasma derived products; plasma fractionation services; and the procurement of blood and blood-related products and services.

<sup>4</sup> The term “agricultural land” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* and *Foreign Acquisitions and Takeovers Regulation 2015* (Commonwealth).

<sup>5</sup> The term “agribusiness” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* and *Foreign Acquisitions and Takeovers Regulation 2015* (Commonwealth).

Sector	Exemption
	similar arrangements.
<p data-bbox="190 359 696 430"><b>I. TRANSPORT, STORAGE AND COMMUNICATIONS</b></p> <p data-bbox="190 454 696 526">Water Transport (ISIC rev. 3.1: 61)</p> <p data-bbox="190 566 696 638">Air Transport (ISIC rev. 3.1: 62)</p> <p data-bbox="190 1053 696 1125">Post and telecommunications (ISIC rev. 3.1: 64)</p>	<p data-bbox="696 454 2033 566">Australia reserves the right to adopt or maintain any measure with respect to the registration of vessels in Australia. Australia reserves the right to adopt or maintain any measure with respect to maritime cabotage<sup>6</sup> services and offshore transport services.</p> <p data-bbox="696 566 2033 638">Australia reserves the right to adopt or maintain any measure with respect to investment in federal leased airports.</p> <p data-bbox="696 678 2033 829">Total foreign ownership of Qantas Airways Ltd is restricted to a maximum of 49 per cent. In addition:</p> <ul data-bbox="696 718 2033 829" style="list-style-type: none"> <li>– at all times, at least two thirds of the directors of Qantas must be Australian citizens; and</li> <li>– at a meeting of the board of directors of Qantas, the director presiding at the meeting (however described) must be an Australian citizen.</li> </ul> <p data-bbox="696 869 2033 941">Total foreign ownership of individual Australian international airlines (other than Qantas) is restricted to a maximum of 49 per cent. Furthermore, it is required that:</p> <ul data-bbox="696 941 2033 1021" style="list-style-type: none"> <li>– at least two-thirds of the Board members must be Australian citizens;</li> <li>– the Chairperson of the Board must be an Australian citizen.</li> </ul> <p data-bbox="696 1053 2033 1165">The Chairperson and a majority of directors of Telstra must be Australian citizens and Telstra is required to maintain its head office, main base of operations and place of incorporation in Australia. The maximum aggregate foreign ownership allowed in Telstra is 35 per cent. The maximum individual</p>

<sup>6</sup> For the purposes of this reservation, cabotage is defined as the transportation of passengers or goods between a port located in Australia and another port located in Australia and traffic originating and terminating in the same port located in Australia. Offshore transport refers to shipping services involving the transportation of passengers or goods between a port located in Australia and any location associated with or incidental to the exploration or exploitation of natural resources of the continental shelf of Australia, the seabed of the Australian coastal sea and the subsoil of that seabed.

Sector	Exemption
	foreign ownership allowed in Telstra is 5 per cent.
M. EDUCATION (ISIC rev. 3.1: 80)	Australia reserves the right to adopt or maintain any measure with respect to primary education or the supply of educational services through commercial presence.
N. HEALTH AND SOCIAL WORK (ISIC rev. 3.1: 85)	The votes attached to significant foreign shareholdings <sup>7</sup> may not be counted in respect of the appointment, replacement or removal of more than one third of the directors of Commonwealth Serum Laboratories (CSL) who hold office at a particular time. The head office, principal facilities used by CSL and any CSL subsidiaries used to produce products derived from human plasma collected from blood or plasma donated by individuals in Australia must remain in Australia. Two-thirds of the directors of the board of CSL and the chairperson of any meeting must be Australian citizens. CSL must not seek incorporation outside of Australia.

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<sup>7</sup> For the purposes of this entry, “significant foreign shareholding” means a holding of voting shares in CSL in which a foreign person has a relevant interest, if the foreign person has relevant interests in at least 5 per cent of the voting shares in CSL.

## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF THE COOK ISLANDS

1. The Cook Islands specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).
2. Limitations are listed in the horizontal and sector-specific sections, using references that correspond to the International Standard Industrial Classification of all Economic Activities as set out by the Statistical Office of the United Nations (ISIC Rev.3.1), unless otherwise stated.

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	The Cook Islands reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in the Cook Islands provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	The Cook Islands reserves the right to adopt or maintain any measure in sectors in which it has not undertaken sector-specific commitments in its Schedule of Commitments on Investment or in its Schedule of Specific Services Commitments.
All sectors	The Cook Islands reserves the right to adopt or maintain any measure: a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or, b) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.
All sectors	The Cook Islands reserves the right to adopt or maintain any measure in relation to the control, management or use of protected areas, including resources on land, interests in land or sea, that are set up for heritage or conservation management purposes (both historic and natural heritage), public recreation, and scenery

	preservation.
All sectors	The Cook Islands reserves the right to adopt or maintain any measure in respect of the foreshore and seabed, internal waters as defined in international law (including the beds, subsoil and margins of such internal waters), territorial sea, the Exclusive Economic Zone, and the continental shelf, including for the issuance of maritime concessions in the continental shelf.
All sectors	Where the Cook Islands Government wholly owns or has effective control over an enterprise then the Cook Islands reserves the right to adopt or maintain any measures in relation to the sale of any shares in that enterprise or any assets of that enterprise to any person, including according more favourable treatment to Cook Islanders.
<b>PART II. SECTOR-SPECIFIC EXEMPTIONS</b>	
B. FISHING (ISIC Rev 3.1: 0501)	The Cook Islands reserves the right to maintain or adopt any measures in relation to the control of the activities of foreign fishing, including fishing landing, first landing of fish processed at sea, and access to the Cook Islands (port privileges) consistent with the provisions of the United Nations Convention on the Law of the Sea.
C. MINING AND QUARRYING (ISIC Rev 3.1: 101-142)	The Cook Islands reserves the right to adopt any measure in order to prohibit, regulate, manage or control the production, use, distribution, or retail of minerals or mineraloids or the like (including crystalline and abiogenic or of like makeup or composition that may include an aggregate of non minerals) in origin, including setting conditions for natural persons or juridical persons to do so.



**ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS**

**SCHEDULE OF THE FEDERATED STATES OF MICRONESIA**

1. The Federated States of Micronesia specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).

<b>Sector</b>	<b>Exemption</b>
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	The Federated States of Micronesia reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in the Federated States of Micronesia provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	The Federated States of Micronesia reserves the right to adopt or maintain any measure in sectors in which it has not undertaken sector-specific commitments in its Schedule of Commitments on Investment or in its Schedule of Specific Services Commitments.
All sectors	The Federated States of Micronesia reserves the right to adopt or maintain any measure: a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or, b) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.

## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF KIRIBATI

1. Kiribati specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	Kiribati reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in Kiribati provided that the requirement that does not materially impair the ability of the investor to exercise control over its investment.
All sectors	With respect to paragraph 1 of Article 10 of Chapter 9 (Investment), Kiribati reserves the right to adopt or maintain any measure in sectors in which it has not undertaken sector-specific commitments in its Schedule of Commitments on Investment or in its Schedule of Specific Services Commitments.
All sectors	Kiribati reserves the right to adopt or maintain any measure a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; b) as part of the act devolving a service that is provided in the exercise of government authority at the time the agreement enters into force.

## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF NAURU

1. Nauru specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	Nauru reserves the right to adopt or maintain any measure requiring that a majority of the Board of Directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in Nauru, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	Nauru reserves the right to adopt or maintain any measure in sectors in which no sector-specific commitments have been undertaken in its Schedule of Commitments on Investment or in its Schedule of Specific Services Commitments.
All sectors	Nauru reserves the right to adopt or maintain any measure: a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or, b) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.

## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF NEW ZEALAND

1. New Zealand specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Board of Directors) of Chapter 9 (Investment).
2. Unless otherwise indicated, the classification of investment sectors is based on the 2002 International Standard Industrial Classification of All Economic Activities (ISIC) Revision 3.1 of the United Nations Statistical Office.

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	<p>New Zealand reserves the right to adopt or maintain any measure that requires the following investment activities to receive prior approval by the New Zealand Government under its overseas investment regime:</p> <ul style="list-style-type: none"> <li>(a) acquisition or control of 25 per cent or more of any class of shares<sup>1</sup> or voting power<sup>2</sup> in a New Zealand entity where either the consideration for the transfer or the value of the assets exceeds NZ\$10 million;</li> <li>(b) commencement of business operations or acquisition of an existing business, including business assets, in New Zealand, where the total expenditures to be incurred in setting up or acquiring that business or those assets exceed NZ\$10 million;</li> <li>(c) acquisition or control, regardless of dollar value, of certain categories of land that are regarded as sensitive or require specific approval according to New Zealand's overseas investment legislation; and</li> <li>(d) acquisition, regardless of the dollar value, of 25 per cent or more of any class of shares or voting power in a New Zealand entity that owns commercial fishing quota or annual catch entitlement,</li> </ul>

<sup>1</sup> For greater certainty, the term 'shares' includes shares and other types of securities.

<sup>2</sup> For greater certainty, 'voting power' includes the power to control the composition of 25 percent or more of the governing body of the New Zealand entity.

Sector	Exemption
	<p>or the acquisition of commercial fishing quota or annual catch entitlement.</p> <p>New Zealand reserves the right to adopt or maintain any measure that sets out the approval criteria to be applied to the categories of transactions that require approval under New Zealand's overseas investment regime.</p>
All sectors	<p>New Zealand reserves the right to adopt or maintain any measures in relation to the control, management or use of:</p> <ul style="list-style-type: none"> <li>– protected areas, including resources on land, interests in land or water, that are set up for heritage management purposes (both historic and natural heritage), public recreation and scenery preservation; or</li> <li>– species owned under enactments by the Crown or that are protected by or under an enactment.</li> </ul>
All sectors	<p>New Zealand reserves the right to adopt or maintain any nationality or residency measures in relation to the management of:</p> <ul style="list-style-type: none"> <li>– animal welfare; and</li> <li>– the preservation of plant, animal and human life and health; including in particular: <ul style="list-style-type: none"> <li>– food safety of domestic and exported foods;</li> <li>– animal feeds;</li> <li>– food standards;</li> <li>– biosecurity; and</li> <li>– certification of the plant or animal health status of goods.</li> </ul> </li> </ul> <p>Nothing in this limitation shall be construed to derogate from the obligations of Chapter 5 (Sanitary and Phytosanitary Measures), or the obligations of the SPS Agreement.</p> <p>Nothing in this reservation shall be construed to derogate from the obligations of Chapter 6 (Technical Regulations, Standards and Conformity Assessment Procedures), or the obligations of the TBT Agreement.</p>

Sector	Exemption
All sectors	New Zealand reserves the right to adopt or maintain any measures in relation to water, including the allocation, collection, treatment and distribution of drinking water.
All sectors	New Zealand reserves the right to maintain or adopt any measures made by or under an enactment in respect of the foreshore and seabed, internal waters as defined in international law (including the beds, subsoil and margins of such internal waters), territorial sea, the Exclusive Economic Zone and the continental shelf, including for the issuance of maritime concessions in the continental shelf.
All sectors	Where the New Zealand Government wholly owns or has effective control over an enterprise then New Zealand reserves the right to adopt or maintain any measures in relation to the sale of any shares in that enterprise or any assets of that enterprise to any person, including according more favourable treatment to New Zealand nationals.
All sectors	New Zealand reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in New Zealand provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
<b>PART II. SECTOR-SPECIFIC EXEMPTIONS</b>	
A. AGRICULTURE (ISIC rev. 3.1: 01)	<p>The <i>Dairy Industry Restructuring Act 2001</i> (DIRA) and regulations provide for the New Zealand government to acquire, free of charge, and without condition, a copy of a regulated database held by the Livestock Improvement Corporation Ltd (LIC) in the event of its demutualisation or certain other events.</p> <p>Furthermore, should LIC be liquidated or removed from New Zealand's register of companies, or the New Zealand government receives a copy of the database as specified above, the New Zealand government may determine arrangements for the database to be managed by another dairy industry entity. In doing so it may take into account nationality and residency considerations, including in relation to senior management and composition of the board of directors.</p>

Sector	Exemption
	<p>In addition, the DIRA sets out data reporting obligations to the LIC applying to those engaged in herd testing of dairy cattle.</p> <p>The DIRA also provides for access to the data held in the core database to be denied if access is not beneficial, or is harmful, to the New Zealand dairy industry, which could take into account nationality or residency considerations and the intended use of the data. Conditions may also be applied to data use.</p> <p>The DIRA restricts who may hold shares in LIC, and this regime may not be amended without the consent of the responsible Minister.</p>
	<p>Under the <i>Primary Products Marketing Act 1953</i>, the New Zealand government may impose regulations necessary to enable producers of products derived from beekeeping; fruit growing; deer farming or game deer; or of goats, being the fur bristles or fibres grown by the goat (“primary products”) to control the marketing of primary products. In particular, the <i>Primary Products Marketing Act 1953</i> provides for the establishment of statutory marketing authorities with monopoly marketing and acquisition powers (or lesser powers), and provision of a range of measures relating to such aspects as:</p> <ul style="list-style-type: none"> <li>– the functions, powers, appointment, membership and dissolution of the marketing authorities;</li> <li>– the management of the affairs of the marketing authorities;</li> <li>– the acquisition of primary products by the marketing authorities and matters relating to the pricing and method of payment for primary products so acquired;</li> <li>– matters relating to the production, distribution, licensing and sale of primary products;</li> <li>– matters relating to the payment of fees and levies on primary products;</li> <li>– the acquisition of information required of fees and levies on primary products;</li> <li>– the acquisition of information required for the purposes of the marketing authorities; and</li> <li>– the prescription of offences and penalties relating to the <i>Primary Products Marketing Act 1953</i>.</li> </ul>
	<p>New Zealand reserves the right to adopt or maintain any measures in relation to:</p> <ul style="list-style-type: none"> <li>– the holding of shares in co-operative dairy company arising from the amalgamation authorised by section 7(1)(a) of the <i>Dairy Industry Restructuring Act 2001</i> (DIRA) (or any successor body); and</li> </ul>

Sector	Exemption
	<ul style="list-style-type: none"> <li>- the disposition of assets of that company or its successor bodies.</li> </ul>
	<p>New Zealand reserves the right to adopt or maintain any measures in relation to the export marketing of fresh kiwifruit to all markets other than Australia.</p>
	<p>New Zealand reserves the right to maintain or adopt any measures necessary to give effect to the establishment or the implementation of mandatory marketing plans (also referred to as “export marketing strategies”) for the export marketing of products derived from:</p> <ul style="list-style-type: none"> <li>- agriculture;</li> <li>- beekeeping;</li> <li>- horticulture;</li> <li>- arboriculture;</li> <li>- arable farming; and</li> <li>- the farming of animals,</li> </ul> <p>where there is support within the relevant industry that a mandatory collective marketing plan should be adopted or activated.</p> <p>For the avoidance of doubt, mandatory marketing plans in the context of this reservation exclude measures limiting the number of market participants or limiting the volume of exports.</p>
<p><b>B. FISHING</b> (ISIC rev. 3.1: 05)</p>	<p>New Zealand reserves the right to maintain or adopt any measures in relation to the control the activities of foreign fishing, including fishing landing, first landing of fish processed at sea, and access to New Zealand ports (port privileges) consistent with the provisions of the <i>United Nations Convention on the Law of the Sea</i>.</p>
<p><b>C. MINING AND QUARRYING</b> (ISIC rev. 3.1: 10-12)</p> <p><b>D. MANUFACTURING</b> (ISIC rev.</p>	<p>New Zealand reserves the right to adopt any measures in order to prohibit, regulate, manage or control the production, use, distribution, or retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so.</p>



<b>Sector</b>	<b>Exemption</b>
3.1: 23)	
I. TRANSPORT, STORAGE AND COMMUNICATIONS (ISIC rev. 3.1: 62)	<p>No one foreign national may hold more than 10 per cent of shares which confer voting rights in Air New Zealand unless they have the permission of the Kiwi Shareholder.<sup>3</sup> In addition:</p> <ul style="list-style-type: none"> <li>– at least three members of the Board of Directors must be ordinarily resident in New Zealand;</li> <li>– more than half of the Board of Directors must be New Zealand citizens; and</li> <li>– the Chairperson of the Board of Directors must be a New Zealand citizen.</li> </ul>

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<sup>3</sup> The Kiwi Share in Air New Zealand is a single NZ\$1 special rights convertible preference share issued to the Crown. The Kiwi Shareholder is Her Majesty the Queen in Right of New Zealand.

## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF NIUE

1. Niue specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	Niue reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in Niue, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	Niue reserves the right to adopt or maintain any measure in sectors in which no sector-specific commitments have been undertaken in its Schedule of Commitments on Investment or in its Schedule of Specific Services Commitments.
All sectors	Niue reserves the right to adopt or maintain any measure: a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or, b) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.

## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF PALAU

1. Palau specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).
2. Limitations are listed in the horizontal and sector-specific sections, using references that correspond to the International Standard Industrial Classification of all Economic Activities as set out by the Statistical Office of the United Nations (ISIC Rev.3.1), unless otherwise stated.

<b>Sector or Sub-sector</b>	<b>Exemption</b>
All	Palau reserves the right to adopt or maintain any measure requiring that a majority of the Board of Directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in Palau, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	With respect to Article 10.1 of Chapter 9 (Investment), Palau reserves the right to adopt or maintain any measure:  (i) in sectors in which no sector-specific commitments have been undertaken in its Schedule of Commitments on Investment or in its Schedule of Specific Services Commitments; and  (ii) activities reserved to Palauans, as listed in the horizontal sections of the Schedule of Specific Commitments on Trade in Services.
All sectors	Palau citizens should constitute 20 per cent of employees of enterprises that are not wholly-owned by Palau citizens when the value of the initial investment is less than US\$500,000 or, in the case of hotel or other short-term lodging facility, US\$5 million.

All sectors	Palau reserves the right to adopt or maintain any measure: a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or b) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.
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**ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS**

**SCHEDULE OF THE REPUBLIC OF THE MARSHALL ISLANDS**

1. The Republic of Marshall Islands specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).

<b>Sector</b>	<b>Exemption</b>
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	The Republic of the Marshall Islands reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in the Republic of the Marshall Islands, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	The Republic of the Marshall Islands reserves the right to adopt or maintain any measure in: (i) sectors in which no sector-specific commitments have been undertaken in its Schedule of Commitments on Investment or in its Schedule of Specific Commitments on Trade in Services; (ii) areas reserved to the citizens of the Republic of the Marshall Islands, as listed in the horizontal sections of the Schedule of Commitments on Investment (National Treatment) or of the Schedule of Specific Services Commitments.
All sectors	The Republic of the Marshall Islands reserves the right to adopt or maintain any measure: a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or b) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.

## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF SAMOA

1. Samoa specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	Samoa reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in Samoa, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	Samoa reserves the right to adopt or maintain any measure in sectors in which no sector-specific commitments have been undertaken in its Schedule of Commitments on Investment or in its Schedule of Specific Services Commitments.
All sectors	Samoa reserves the right to adopt or maintain any measure: a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or b) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.

## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF SOLOMON ISLANDS

1. Solomon Islands specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	Solomon Islands reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in Solomon Islands provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	Solomon Islands reserves the right to adopt or maintain any measure in sectors in which no sector-specific commitments have been undertaken in its Schedule of Commitments on Investment or its Schedule of Specific Services Commitments.
All sectors	Solomon Islands reserves the right to adopt or maintain any measure: a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or, b) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.

## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF TONGA

1. Tonga specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	Tonga reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in Tonga, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	Tonga reserves the right to adopt or maintain any measure in sectors in which no sector- specific commitments have been undertaken in its Schedule of Commitments on Investment or its Schedule of Specific Services Commitments.
All sectors	Tonga reserves the right to adopt or maintain any measure: a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or b) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.



## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF TUVALU

1. Tuvalu specifies below a list of exemptions from commitments under Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	Tuvalu reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in Tuvalu, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	Tuvalu reserves the right to adopt or maintain any measure in sectors in which no sector-specific commitments have been undertaken in its Schedule of Commitments on Investment or in its Schedule of Specific Services Commitments.
All sectors	Tuvalu reserves the right to adopt or maintain any measure: a) where the state wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or, b) as part of the act of devolving a service that is provided in the exercise of governmental authority.at the time the Agreement enters into force.

## ANNEX 9-B: SCHEDULE OF COMMITMENTS ON SENIOR MANAGEMENT AND BOARD OF DIRECTORS EXEMPTIONS

### SCHEDULE OF VANUATU

1. Vanuatu specifies below a list of exemptions from the obligation of Article 10.3 (Senior Management and Boards of Directors) of Chapter 9 (Investment).

Sector	Exemption
<b>PART I. HORIZONTAL EXEMPTIONS</b>	
All sectors	Vanuatu reserves the right to adopt or maintain any measure requiring that a majority of the board of directors, or any committee thereof of an enterprise that is a covered investment, be of a particular nationality or resident in Vanuatu, provided that the requirement does not materially impair the ability of the investor to exercise control over its investment.
All sectors	Vanuatu reserves the right to adopt or maintain any measure in: (i) sectors in which no sector-specific commitments have been undertaken in its Schedule of Commitments on Investment or in its Schedule of Specific Services Commitments; (ii) areas reserved to the citizens of Vanuatu, as listed in the horizontal sections of the Schedule of Commitments on Investment (National Treatment) or of the Schedule of Specific Services Commitments on Trade in Services.
All sectors	Vanuatu reserves the right to adopt or maintain any measure: a) where it wholly owns or has effective control over an enterprise, as well as in relation to the transfer or disposal of government-owned entities or assets; or b) as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.

## ANNEX 9-C

### EXPROPRIATION AND COMPENSATION

1. An action or a series of related actions by a Party cannot constitute an expropriation, unless it interferes with a tangible or intangible property right or property interest in a covered investment.
2. Article 13 of Chapter 9 (Investment) addresses two situations:
  - (a) direct expropriation, where a covered investment is nationalised or otherwise directly expropriated through formal transfer of title or outright seizure; and
  - (b) where an action or series of related actions by a Party has an effect equivalent to direct expropriation without formal transfer of title or outright seizure.
3. The determination of whether an action or series of related actions by a Party, in a specific fact situation, constitutes an expropriation of the type referred to in paragraph 2(b), requires a case-by-case, fact-based inquiry that considers, among other factors:
  - (a) the economic impact of the government action, although the sole fact that an action or series of related actions by a Party has an adverse effect on the economic value of an investment does not establish that such an expropriation has occurred;
  - (b) whether the government action breaches the government's prior binding written commitment to the investor whether by contract or licence; and
  - (c) the character of the government action, including its objective and rationale.
4. Non-discriminatory regulatory actions by a Party that are designed and applied to achieve legitimate public welfare objectives, such as the protection of public health, safety and the environment do not constitute expropriation of the type referred to in paragraph 2(b).

## ANNEX 9-D: LIST OF MEASURES NOT COMPLIANT WITH TRIMS AGREEMENT

1. In accordance with the obligation in Article 11.2(b) of Chapter 9 (Investment), a list of measures of [name of Party] that do not comply with the TRIMS Agreement are included in the template below.<sup>1</sup>

<p><b>(i) Description of the measures and of their main features</b></p> <p>[The notification should clearly identify the measures. Any more general information about the programme of which the measures form a part and which the notifying Party wishes to communicate should be provided under point (ii) below.</p> <p>The measures and their main features should be described in sufficient detail to enable the nature and scope of the measures to be clearly defined. In particular, along with each measure, the following principal features should be described whenever relevant:</p> <ol style="list-style-type: none"><li>1. The category in the illustrative list under which the measure falls.</li><li>2. Whether the TRIM is applied by the government of the Party under discretionary authority or mandatory legislation. In the former case, each specific application shall be notified and enterprises subject to the measure identified.</li><li>3. Where the TRIM is general in nature, the criteria for determining to which enterprises it applies in sufficient detail to enable those enterprises to be identified.</li></ol>	
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<sup>1</sup> This template accords with the guidance in the WTO *Technical Cooperation Handbook On Notification Requirements* WT/TC/NOTIF/TRIMS/1 (15 October 1996).

<p>4. Where the TRIM is applied pursuant to mandatory legislation, whether the legislation requires the measure to be applied to new enterprises or new investments of existing enterprises.</p> <p>5. Whether compliance with the measure by the enterprise is (a) mandatory or enforceable under domestic law or administrative rulings or (b) necessary to obtain an advantage. In the latter case, the nature of the advantage should be described.<sup>2</sup></p> <p>6. When the TRIM relates to specific products, sufficient detail on these products to define the scope of the measure.</p> <p>7. The date of implementation of the TRIM.</p> <p>8. Whether the TRIM, as applied under domestic law, includes provision for its phasing-down and/or elimination. If so, details should be given.</p> <p>9. The domestic law, regulation or administrative guideline under which the TRIM is applied.</p> <p>10. The level of government applying the TRIM, the name of the implementing agency and any information on the procedures.]</p>	
<p><b>(ii) General information on the programme in question</b></p> <p>[Where appropriate, Parties should provide more general information about the programme of which the notified TRIM forms a part.]</p>	

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<sup>2</sup> Information that would prejudice the legitimate commercial interests of particular enterprises need not be notified.

## CHAPTER 10

### DEVELOPMENT AND ECONOMIC COOPERATION

#### Article 1: Definitions

For the purposes of this Chapter:

**development assistance coordination agency** means the agency of a Party with primary responsibility for the coordination and management of Official Development Assistance within that Party;

**implementing Party** or **implementing Parties** means, for each component of the Work Programme, the Party or Parties primarily responsible for the implementation of that component;

**participating Party** or **participating Parties** means, for each component of the Work Programme, the Party or Parties participating in that component; and

**Work Programme** means the programme of development and economic cooperation activities mutually prioritised and determined by the Parties taking into account the needs identified by the developing country Parties, under the relevant components.

#### Article 2: Scope and Objectives

1. The Parties reaffirm the importance of ongoing development and economic cooperation between them, including existing bilateral and regional cooperation through the Australian and New Zealand Aid Programmes that support the Forum Island Countries' increased participation in international trade, including the expansion and diversification of their exports.

2. The Parties agree to improve and complement their existing development and economic cooperative partnerships in trade and investment related areas, taking into account the needs that are identified by the developing country Parties; and mutually prioritised and determined by the participating Parties. In elaborating areas of partnership, the Parties shall take account of the different levels of development and capacities of the Parties.

3. The Parties take due note of the provisions in various Chapters of this Agreement that encourage and facilitate cooperation and consultation. The Parties agree to adopt targeted measures to address the capacity constraints of the developing country Parties through cooperation and consultation as determined in the various Chapters.

4. The development and economic cooperation objectives under this Chapter will be achieved through the Work Programme and broader trade and investment related assistance as set out in the *Implementing Arrangement for Development and Economic Cooperation under Pacific Agreement on Closer Economic Relations Plus*, in particular, paragraph 6 thereof.

### **Article 3: Resources for the Work Programme**

1. The Parties shall contribute appropriately to the implementation of the Work Programme. In that regard, the financial resources to be provided by the developed country Parties are set out in the *Implementing Arrangement for Development and Economic Cooperation under Pacific Agreement on Closer Economic Relations Plus*.
2. In determining the appropriate level of contribution to the Work Programme, the Parties shall take into account:
  - (a) the different levels of development and capacities of the Parties;
  - (b) any in-kind contributions that Parties are able to make to Work Programme components;
  - (c) any contributions that non-Parties are able to make to Work Programme components, directly or indirectly; and
  - (d) that the appropriate level of contribution enhances the relevance and sustainability of cooperation, strengthens partnerships between Parties and builds Parties' shared commitment to the effective implementation and oversight of Work Programme components.

### **Article 4: Development and Economic Cooperation Work Programme**

1. Each Work Programme component shall:
  - (a) be trade- or investment-related and support the implementation of this Agreement,
  - (b) be specified in the Work Programme;
  - (c) involve a minimum of two Forum Island Countries, and Australia or New Zealand;
  - (d) address the needs of the developing country Parties as mutually prioritised and determined by the participating Parties; and
  - (e) wherever possible, avoid duplication in relation to, and build on and complement, existing economic cooperation activities and delivery mechanisms.
2. The description of each Work Programme component shall specify the details necessary to provide clarity to the Parties regarding the scope and purpose of such component.

### **Article 5: Focal Points for Implementation**

1. Each Party shall designate a focal point for all matters relating to the implementation of the Work Programme and shall keep all Parties updated on its focal point's details.
2. The focal points shall be responsible for overseeing and reporting on the implementation of the Work Programme in accordance with Article 6 and Article 7 and for responding to enquiries from any Party regarding the Work Programme.
3. The focal point of a Party shall coordinate the Work Programme with the development assistance coordination agency of that Party.

### **Article 6: Implementation and Evaluation of Work Programme Components**

1. Prior to the commencement of each Work Programme component, the implementing Party or Parties, in consultation with the relevant participating Parties, shall develop an implementation plan for that Work Programme component and provide that plan to each Party.
2. The implementing Party or Parties for a Work Programme component shall use existing mechanisms for the implementation of that component, unless otherwise agreed by those Parties.
3. Until the completion of a Work Programme component, the implementing Party or Parties shall regularly monitor and evaluate the relevant component and provide periodic reports to each Party including a final component completion report.

### **Article 7: Review and Modification of Work Programme**

1. At the direction of the Joint Committee, the Work Programme shall be reviewed within three years of the commencement of its implementation, and thereafter at regular intervals to assess its overall effectiveness in terms of assisting the developing country Parties to implement their PACER Plus obligations.
2. The Joint Committee shall, where appropriate, modify, renew or terminate the Work Programme, taking into account outcomes of reviews and the needs of the developing country Parties as mutually prioritised and determined by Participating Parties and available resources.



**Article 8: Non-Application of Chapter 14 (Consultations and Dispute Settlement)**

Chapter 14 (Consultations and Dispute Settlement) shall not apply to any matter arising under this Chapter.

## CHAPTER 11

### GENERAL PROVISIONS AND EXCEPTIONS

#### Article 1: General Exceptions

1. For the purposes of Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin and Verification Procedures), Chapter 4 (Customs Procedures), Chapter 5 (Sanitary and Phytosanitary Measures) and Chapter 6 (Technical Regulations, Standards and Conformity Assessment Procedures), Article XX of the GATT 1994 shall be incorporated into and shall form part of this Agreement, *mutatis mutandis*.

2. The Parties understand that the measures referred to in Article XX(b) of the GATT 1994 include environmental measures necessary to protect human, animal or plant life or health, that measures referred to in Article XX(f) of the GATT 1994 include measures necessary to protect national works or specific sites of historical or archaeological value, or measures necessary to support creative arts of national value,<sup>1</sup> and that Article XX(g) of the GATT 1994 applies to measures relating to the conservation of living and non-living exhaustible natural resources.

3. For the purposes of Chapter 7 (Trade in Services), Article XIV of the GATS including its footnotes shall be incorporated into and shall form part of this Agreement, *mutatis mutandis*.

4. The Parties understand that the measures referred to in Article XIV(b) of the GATS include environmental measures necessary to protect human, animal or plant life or health.

5. For the purposes of Chapter 9 (Investment), subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between investments and investors of the Parties or of a non-Party where like conditions prevail, or a disguised restriction on international trade or investment flows, nothing in this Agreement shall be construed to prevent a Party from adopting or enforcing measures:

- (a) necessary to protect public morals or to maintain public order;<sup>2</sup>
- (b) necessary to protect human, animal or plant life or health;

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<sup>1</sup> “Creative arts” include: the performing arts – including theatre, dance and music – visual arts and craft, literature, film and video, language arts, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term encompasses those activities involved in the presentation, execution and interpretation of the arts; and the study and technical development of these art forms and activities.

<sup>2</sup> The public order exception may be invoked only where a genuine and sufficiently serious threat is posed to one of the fundamental interests of society.

- (c) necessary to ensure compliance with laws and regulations that are not inconsistent with this Agreement, including those relating to:
  - (i) the prevention of deceptive and fraudulent practices or to deal with the effects of a default on a contract;
  - (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts; or
  - (iii) safety; or
- (d) relating to the conservation of living or non-living exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption.

6. The Parties understand that the measures referred to in paragraph 5(b) of this Article include environmental measures to protect human, animal or plant life or health, and that the measures referred to in paragraph 5(d) of this Article include environmental measures relating to the conservation of living and non-living exhaustible natural resources.

7. For the purposes of Chapter 7 (Trade in Services) and Chapter 9 (Investment), and subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade in services or investment, nothing in this Agreement shall be construed to prevent a Party from adopting or enforcing measures:

- (a) necessary to protect national works or specific sites of historical or archaeological value, or measures necessary to support creative arts of national value;<sup>3</sup> or
- (b) relating to the conservation of living or non-living exhaustible natural resources.

## **Article 2: Security Exceptions**

1. Nothing in this Agreement shall be construed:

- (a) to require any Party to furnish any information the disclosure of which it considers contrary to its essential security interests; or

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<sup>3</sup> “Creative arts” include: the performing arts – including theatre, dance and music – visual arts and craft, literature, film and video, language arts, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid art work, including those that use new technologies to transcend discrete art form divisions. The term encompasses those activities involved in the presentation, execution and interpretation of the arts; and the study and technical development of these art forms and activities.

- (b) to prevent any Party from taking any action which it considers necessary for the protection of its essential security interests:
  - (i) relating to fissionable and fusionable materials or the materials from which they are derived;
  - (ii) relating to the traffic in arms, ammunition, and implements of war and to such traffic in other goods and materials, or relating to the supply of services, as carried on directly or indirectly for the purpose of supplying or provisioning a military establishment;
  - (iii) taken so as to protect critical public infrastructures<sup>4</sup> including communications, power and water infrastructures from deliberate attempts intended to disable or degrade such infrastructures;
  - (iv) taken in time of war or other emergency in international relations; or
- (c) to prevent any Party from taking any action in pursuance of its obligations under the United Nations Charter for the maintenance of international peace and security.

2. A Party taking action under this Article shall, to the fullest extent possible, inform the Joint Committee of measures that have been taken and of their termination.

### **Article 3: Measures to Safeguard the Balance of Payments**

1. Where a Party is in serious balance of payments and external financial difficulties or under threat thereof, it may:

- (a) in the case of trade in goods, in accordance with the GATT 1994, including Article XVIII:B, and the WTO Understanding on the Balance-of-Payments Provisions of the General Agreement on Tariffs and Trade 1994 in Annex 1A to the WTO Agreement, adopt restrictive import measures;
- (b) in the case of trade in services, adopt or maintain restrictions on trade in services for which it has undertaken commitments, including payments or transfers for transactions related to such commitments; and
- (c) in the case of investments, adopt or maintain restrictions on payments or transfers related to covered investments as defined in Article 1 (Definitions) of Chapter 9 (Investment).

2. Restrictions adopted or maintained under paragraph 1(b) or 1(c) shall:

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<sup>4</sup> For greater certainty, this includes critical public infrastructures whether publicly or privately owned.

- (a) be consistent with the IMF Articles of Agreement;
- (b) avoid unnecessary damage to the commercial, economic and financial interests of the other Parties;
- (c) not exceed those necessary to deal with the circumstances described in paragraph 1 of this Article;
- (d) be temporary and be phased out progressively as the situation specified in paragraph 1 of this Article improves;
- (e) be applied on a non-discriminatory basis such that the other Parties are treated no less favourably than any non-Party; and
- (f) take into account that particular pressures on the balance of payments of a Party in the process of economic development may necessitate the use of restrictions to ensure, *inter alia*, the maintenance of a level of financial reserves adequate for the implementation of its programme of economic development.

3. In determining the incidence of such restrictions, the Parties may give priority to economic sectors which are more essential to their economic development. However, such restrictions shall not be adopted or maintained for the purpose of protecting a particular sector.

4. Any restrictions adopted or maintained by a Party under paragraph 1 of this Article, or any changes therein, shall be notified promptly to the other Parties from the date such measures are taken.

5. The Party adopting or maintaining any restrictions under paragraph 1 of this Article shall promptly commence consultations with any interested Parties if requested in order to review the restrictions adopted or maintained by it.

#### **Article 4: Prudential Measures**

Notwithstanding any other provisions of this Agreement, a Party shall not be prevented from taking measures for prudential reasons,<sup>5</sup> including for the protection of investors, depositors, policy holders or persons to whom a fiduciary duty is owed by a financial service supplier, or to ensure the integrity and stability of the financial system. If such measures do not conform with the provisions of the Agreement, they shall not be used as a means of avoiding the Party's commitments or obligations under the Agreement.

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<sup>5</sup> For greater certainty, it is understood that the term "prudential reasons" includes the maintenance of the safety, soundness, integrity, or financial responsibility of individual financial institutions or cross-border financial service suppliers as well as the safety and financial and operational integrity of payment and clearing systems.

## **Article 5: Taxation Measures**

1. Except as provided in this Article, nothing in this Agreement shall apply to taxation measures. For the purposes of this Article, taxes and taxation measures include excise duties, but do not include:

- (a) a “Customs duty” as defined in Article 2 of Chapter 1 (Initial Provisions and General Definitions); or
- (b) the measures listed in subparagraphs (ii) and (iii) of that definition.

2. This Agreement shall only grant rights or impose obligations with respect to taxation measures where:

- (a) corresponding rights and obligations are also granted or imposed under the WTO Agreement; or
- (b) they are granted or imposed under Article 11 of Chapter 9 (Investment).

3. Notwithstanding paragraph 2, nothing in the Articles referred to in that paragraph shall apply to:

- (a) any non-conforming provision of any existing taxation measure;
- (b) the continuation or prompt renewal of any non-conforming provision of any existing taxation measure;
- (c) an amendment to any non-conforming provision of any existing taxation measure, provided that the amendment does not decrease the conformity of the measure, as it existed immediately before the amendment, with any of those Articles;
- (d) the adoption or enforcement of any new taxation measure aimed at ensuring the equitable or effective imposition or collection of taxes including any taxation measure that differentiates between persons based on their place of residence or incorporation, provided that the taxation measure does not arbitrarily discriminate between persons, goods or services of the Parties;<sup>6</sup> or
- (e) a provision that conditions the receipt, or continued receipt, of an advantage relating to the contributions to, or income of, a pension trust, superannuation fund, or other arrangement to provide pension, superannuation, or similar benefits on a requirement that the Party maintain continuous jurisdiction, regulation, or supervision over such trust, fund, or other arrangement.

4. Article 13 of Chapter 9 (Investment) shall apply to taxation measures.

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<sup>6</sup>The Parties understand that this paragraph must be interpreted by reference to the footnote to Article XIV(d) of GATS as if the Article was not restricted to services or direct taxes.

5. Nothing in this Agreement shall affect the rights and obligations of any Party under any tax convention.<sup>7</sup> In the event of any inconsistency relating to a taxation measure between this Agreement and any such tax convention that convention shall prevail to the extent of the inconsistency.

6. If an issue arises as to whether any inconsistency exists between this Agreement and a tax convention between two or more Parties, the issue shall be referred to the competent authorities of the Parties. The competent authorities of the Parties shall have six months from the date of referral of the issue to make a determination as to the existence and extent of the inconsistency. If the competent authorities agree, such a period may be extended up to twelve months from the date of referral of the issue. No procedure concerning the measure giving rise to the issue may be initiated under Chapter 14 (Consultations and Dispute Settlement) or Chapter 9 (Investment) until the expiry of the six month period, or such other period as may have been agreed by the competent authorities pursuant to the previous sentence. A panel established to consider a dispute related to a taxation measure shall accept as binding a determination of the competent authorities of the Parties made under this paragraph. For the purpose of this Article, competent authorities shall include representatives of the tax administration of each Party.

7. Nothing in this Agreement shall oblige a Party to extend to any other Party the benefit of any treatment, preference or privilege arising from any tax convention by which the Party is bound.

### **Article 6: Treaty of Waitangi**

1. Provided that such measures are not used as a means of arbitrary or unjustified discrimination against persons of any other Party or as a disguised restriction on trade in goods and services, nothing in this Agreement shall preclude the adoption by New Zealand of measures it deems necessary to accord more favourable treatment to Māori in respect of matters covered by this Agreement including in fulfilment of its obligations under the Treaty of Waitangi.

2. The Parties agree that the interpretation of the Treaty of Waitangi, including as to the nature of the rights and obligations arising under it, shall not be subject to the dispute settlement provisions of this Agreement. Chapter 14 (Consultations and Dispute Settlement) shall otherwise apply to this Article. A panel established under Article 11 of Chapter 14 (Consultations and Dispute Settlement) may be requested by any other Party to determine only whether any measure (referred to in paragraph 1 of this Article) is inconsistent with its rights under this Agreement.

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<sup>7</sup> For greater certainty, “tax convention” means a convention for the avoidance of double taxation or other international taxation agreement.

## CHAPTER 12

### INSTITUTIONAL PROVISIONS

#### Article 1: PACER Plus Joint Committee

1. The Parties hereby establish a Joint Committee consisting of representatives of the Parties.
2. The functions of the Joint Committee shall be to:
  - (a) consider any matter relating to the implementation and operation of this Agreement and the associated Development and Economic Work Programme;
  - (b) consider and recommend to the Parties any amendments to this Agreement;
  - (c) supervise and coordinate the work of all subsidiary bodies established pursuant to this Agreement;
  - (d) adopt, where appropriate, decisions and recommendations of subsidiary bodies established pursuant to this Agreement;
  - (e) identify areas to be improved for promoting and facilitating trade in goods, services and investment among the Parties;
  - (f) adopt procedures for the transposition of the tariff schedules in Annex 2-A (Schedules of Commitments on Tariffs) and technical revisions to Annex 3-B (Schedule of Product Specific Rules);
  - (g) adopt recommendations on modifications of the rules of origin under Chapter 3 (Rules of Origin and Verification Procedures);
  - (h) as appropriate, decide on specific matters relating to the operation, application and implementation of this Agreement;
  - (i) consider any other matter that may affect the operation of this Agreement or that is entrusted to the Joint Committee by the Parties;
  - (j) carry out any other functions as the Parties may agree; and
  - (k) undertake a general review of this Agreement with a view to furthering its objectives in three years from the date of entry into force, and every five years thereafter, unless otherwise agreed by the Parties.
3. The Joint Committee shall establish its rules and procedures at its first meeting.



4. Unless the Parties agree otherwise, the Joint Committee shall convene its first meeting within one year after the date of entry into force of this Agreement. Its subsequent meetings shall be convened at such frequency as the Parties may mutually determine, and as necessary to discharge its functions under this Agreement. Special meetings of the Joint Committee may be convened, as mutually agreed by the Parties within 60 days of the request of a Party.

5. The Joint Committee shall report regularly to relevant Ministers of Parties to this Agreement.

## **Article 2: Subsidiary Bodies**

1. (a) The Parties hereby establish:

- (i) a Committee on Trade in Goods, Rules of Origin and Customs Procedures to consider any matter arising under Chapter 2 (Trade in Goods), Chapter 3 (Rules of Origin and Verification Procedures) and Chapter 4 (Customs Procedures);
- (ii) a Committee on Sanitary and Phytosanitary Measures and Technical Barriers to Trade to consider any matter arising under Chapter 5 (Sanitary and Phytosanitary Measures) and Chapter 6 (Technical Regulations, Standards and Conformity Assessment Procedures); and
- (iii) a Committee on Services, Movement of Natural Persons and Investment to consider any matter arising under Chapter 7 (Trade in Services), Chapter 8 (Movement of Natural Persons) and Chapter 9 (Investment);

that shall comprise representatives of the Parties including those who retain the technical skills relevant to the matters under discussion.

- (b) The terms of reference of each Committee shall be proposed by that Committee, in accordance with the Chapter(s) or Annexes of the Agreement within its mandate and be subject to the approval of and review by the Joint Committee.
- (c) The Joint Committee may delegate any of its functions outlined in Article 1.2 to any of the Committees established under paragraph 1(a). Such delegated functions shall be added to the relevant Committee's terms of reference.
- (d) Each Committee shall review the implementation by the Parties of the relevant Chapters or Annexes as that Committee considers appropriate and shall make recommendations to the Joint Committee to support the implementation of this Agreement through the Development and Economic Cooperation Work Programme.
- (e) Unless otherwise provided for in this Agreement, each Committee shall commence an initial review of the relevant Chapters and Annexes within two years of the date of entry into force of this Agreement and submit a final report to

the Joint Committee, including any recommendations, within three years of the date of entry into force of this Agreement.

2. In the fulfilment of its functions, the Joint Committee may establish additional subsidiary bodies, including ad hoc bodies, and assign them with tasks on specific matters, or delegate its responsibilities to any subsidiary body established pursuant to this Agreement.

3. Unless the Parties agree otherwise, each subsidiary body established under this Article shall meet within one year of the date of entry into force of this Agreement or the establishment of that body, and thereafter, as and when required, as determined by the Joint Committee or by mutual agreement of the Parties. Meetings shall, wherever possible, be held in the margins of other relevant regional meetings, or following the meetings of the Joint Committee. Meetings may be held by teleconference or through any other means as mutually determined by the Parties.

### **Article 3: Mutual Agreement**

1. All decisions of the Joint Committee and any subsidiary bodies shall be taken by mutual agreement.

2. Except as otherwise provided in this Agreement, the Joint Committee or subsidiary body shall be deemed to have acted by mutual agreement if no Party present at any meeting when a decision is taken formally objects to the proposed decision.

### **Article 4: Support for Attendance at Meetings**

Consistent with the commitment of the developed country Parties to support the implementation of this Agreement, appropriate funding will be made available under Chapter 10 (Development and Economic Cooperation) for the participation of officials from Forum Island Countries to attend meetings of the Joint Committee and other subsidiary bodies. In determining the number of officials to be funded from the Forum Island Countries, account shall be taken of the issues on the agenda to be considered by the Joint Committee or the subsidiary bodies.

### **Article 5: Communications**

1. Each Party shall designate a contact point to facilitate communications among the Parties on any matter relating to this Agreement. All official communications in this regard shall be in the English language.

2. On the request of another Party, the contact point shall identify the office or official responsible for the matter and assist, as necessary, in facilitating communication with the requesting Party.

## **ANNEX 12-A: SUBSIDIARY BODIES**

### **Committee on Trade In Goods, Rules of Origin and Customs Procedures**

The functions of the Committee on Trade in Goods, Rules of Origin and Customs Procedures may include:

- (a) reviewing the implementation of, and measures taken pursuant to, the Chapters referred to in Article 2.1(a)(i);
- (b) considering any matter related to the implementation of the Chapters referred to in Article 2.1(a)(i) or of interest to a Party;
- (c) identifying and recommending measures to promote and facilitate improved market access;
- (d) reviewing, where appropriate, the implementation of the Development and Economic Cooperation Work Programme for the Chapters listed in Article 2.1(a)(i);
- (e) adopting procedures for the technical revision of the tariff schedules in Annex 2-A (Schedules of Commitments on Tariffs) and technical revisions to Annex 3-B (Schedule of Product Specific Rules);
- (f) discussing any proposed modifications of the rules of origin under Chapter 3 (Rules of Origin and Verification Procedures);
- (g) consulting on issues relating to rules of origin, customs procedures and administrative cooperation; and
- (h) reporting outcomes of discussions to the Joint Committee within a reasonable time after the conclusion of each meeting.

### **Committee on Sanitary and Phytosanitary Measures and Technical Barriers to Trade**

The functions of the Committee on Sanitary and Phytosanitary Measures and Technical Barriers to Trade may include:

- (a) reviewing the implementation of, and measures taken pursuant to, the Chapters referred to in Article 2.1(a)(ii);
- (b) considering any matter related to the implementation of the Chapters referred to in Article 2.1(a)(ii);
- (c) reviewing, where appropriate, the implementation of the Work Programme for the Chapters listed in Article 2.1(a)(ii); and

- (d) reporting outcomes of discussions to the Joint Committee within a reasonable time after the conclusion of each meeting.

### **Committee on Trade in Services, Movement of Natural Persons and Investment**

The functions of the Committee on Trade in Services, Investment, and the Movement of Natural Persons may include:

- (a) reviewing the implementation of, and measures taken pursuant to, the Chapters referred to in Article 2.1(a)(iii);
- (b) considering any matter related to the implementation of the Chapters referred to in Article 2.1(a)(iii), or of interest to a Party;
- (c) identifying and recommending measures to promote further expansion of cross-border trade in services, investment, and the movement of natural persons among the Parties;
- (d) reviewing, where appropriate, the implementation of the Development and Economic Cooperation Work Programme for the Chapters listed in Article 2.1(a)(iii); and
- (e) reporting outcomes of discussions to the Joint Committee within a reasonable time after the conclusion of each meeting.

**CHAPTER 13**  
**TRANSPARENCY**

**Article 1: Scope**

1. This Chapter provides minimum standards on transparency that shall apply to any matters covered by this Agreement. Other Chapters may include higher or more specific standards that apply to their subject matter.
2. Any provisions in other Chapters addressing the same subject matter as this Chapter shall apply in addition to and shall supplement the provisions of this Chapter.

**Article 2: Publication**

1. Each Party shall ensure, wherever possible, that its laws, regulations, procedures, and administrative rulings of general application relating to any matter covered by this Agreement are promptly published or otherwise made publicly accessible to interested persons.
2. To the extent possible, each Party shall make the measures referred to in paragraph 1 available in electronic form, or online.
3. To the extent possible, each Party shall:
  - (a) publish in advance any measure referred to in paragraph 1 that it proposes to adopt; and
  - (b) where appropriate, provide all Parties with a reasonable opportunity to comment on such proposed measures.<sup>1</sup>

**Article 3: Notification and Provision of Information**

1. To the extent possible, each Party shall notify the other Parties of any proposed or actual measure that the Party considers might materially affect the operation of this Agreement or otherwise substantially affect another Party's interests under this Agreement.
2. On request of another Party, a Party shall provide information and respond to questions pertaining to any actual or proposed measure that the requesting Party considers might materially affect the operation of this Agreement or otherwise substantially affect its interests under this Agreement, regardless of whether the requesting Party has been previously notified of that measure.

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<sup>1</sup> For greater certainty, a proposed measure may include a policy discussion document, a summary of proposed regulations or the draft text of a law or regulation.

3. Parties shall provide any notification, request, information or response made under this Article to the other Party through the relevant contact points.

4. Any notification, information or response provided under this Article shall be without prejudice as to whether the measure in question is consistent with this Agreement.

**CHAPTER 14**  
**CONSULTATIONS AND DISPUTE SETTLEMENT**

**Article 1: Definitions**

For the purposes of this Chapter:

**Parties to the dispute** means the complaining Party or Parties and the Party complained against; and

**third Party** means any Party which has joined the proceedings under Article 5.8 or Article 10.1.

**Article 2: Objectives**

The objective of this Chapter is to provide an effective, efficient and transparent process for consultations and the settlement of disputes arising under this Agreement.

**Article 3: Scope**

1. Except as otherwise provided in this Agreement, this Chapter shall apply with respect to the avoidance or settlement of disputes between the Parties concerning the operation, implementation or application of this Agreement including wherever a Party considers that:

- (a) a measure of another Party is inconsistent with its obligations under this Agreement;
- (b) another Party has failed to carry out its obligations under this Agreement; or
- (c) a benefit that the Party could reasonably have expected to accrue to it directly or indirectly under this Agreement is being nullified or impaired.

2. This Chapter shall not apply to the settlement of disputes arising under Chapter 10 (Development and Economic Cooperation).

**Article 4: General Provisions**

1. This Agreement shall be interpreted in accordance with the customary rules of treaty interpretation of public international law.

2. All notifications, requests and replies made pursuant to this Chapter shall be in writing.

3. The Parties to the dispute shall, at every stage of a dispute, make every effort to reach a mutually satisfactory solution. Where a mutually satisfactory solution is reached, the terms and conditions of the agreement shall be notified to the other Parties.

4. In consultations and the settlement of disputes involving developing country Parties, particular consideration shall be given to the special situation of those Parties. In this regard, Parties shall exercise due restraint in raising matters under this Chapter.

5. Any time periods or other rules provided for in this Chapter, including Annex 14-A on Model Rules of Procedure, may be modified by mutual agreement of the Parties to the dispute. In this regard, special consideration shall be given to requests for the extension of timeframes by developing country Parties.

### **Article 5: Consultations**

1. Any Party may request consultations with any other Party with respect to any matter referred to in Article 3.

2. During consultations, Parties should give special attention to the particular problems and interests of developing country Parties.

3. Any request for consultations shall give the reasons for the request, including identification of the measures at issue and an indication of the legal basis for the complaint.

4. A copy of all requests for consultations shall be simultaneously provided to all Parties.

5. If a Party requests consultations, the other Party shall reply to the request for consultations and circulate the reply to all Parties within 10 days of the request for consultations, and enter into the consultations in good faith within 30 days of the request. In cases of urgency, including perishable goods, the other Party shall reply and circulate the reply to all Parties within 10 days, and enter into consultations in good faith within 10 days.

6. Consultations may be held in person or by any technological means available to the consulting Parties. If in person, consultations shall be held in the capital of the Party to which the request for consultations was made under paragraph 1, unless the consulting Parties agree otherwise.

7. The Parties shall make every effort to reach a mutually satisfactory solution through consultations. To this end, the Parties shall:

- (a) provide sufficient information to enable a full examination of the matter, including how the measures at issue might affect the implementation or application of this Agreement;
- (b) treat any confidential or proprietary information exchanged in the course of consultations confidentially, in accordance with each Party's domestic legislative



requirements;

and

- (c) endeavour to make personnel from its government agencies or other regulatory bodies who have responsibility for or expertise in the matter under consultation available for the consultations.

8. If a Party other than the Parties engaged in the consultations (Third Party) considers that it has a substantial or systemic interest in the consultations, it may be joined in the consultations upon notifying the Parties engaged in the consultations within 10 days of the request for consultations of its desire to be joined in the consultations. Such notification shall include an explanation of the Party's substantial or systemic interest in the matter and be provided simultaneously to all Parties. Such Party shall be joined in the consultations if the consulting Parties agree.

9. Consultations shall be confidential and without prejudice to any proceedings under this Chapter.

#### **Article 6: Good Offices, Conciliation and Mediation**

1. The Parties to the dispute may at any time agree to good offices, conciliation or mediation. Procedures for good offices, conciliation or mediation may begin at any time and be terminated at any time.

2. If the Parties to the dispute agree, procedures for good offices, conciliation or mediation may continue while the matter is being examined by a Panel established or re-convened under this Chapter.

3. Proceedings involving good offices, conciliation or mediation and positions taken by the Parties to the dispute during these proceedings shall be confidential and without prejudice to the rights of any Parties to the dispute in any further or other proceedings.

4. The Secretary-General of the Pacific Islands Forum Secretariat or their nominee may, acting in an *ex officio* capacity, offer good offices, conciliation or mediation with a view to assisting Parties to reach a mutually satisfactory solution.

#### **Article 7: Choice of Forum**

1. Where a dispute concerning any matter arises under this Agreement and under another international agreement to which the Parties to the dispute are party, the complaining Party may select the forum in which to address that matter and that forum shall be used to the exclusion of other possible fora in respect of that matter.

2. For the purposes of this Article, the complaining Party shall be deemed to have selected the forum in which to settle the dispute when it has requested the establishment of a Panel pursuant to Article 8.1 or requested the establishment of, or referred a matter to, a similar dispute settlement panel under another international agreement.

### **Article 8: Request for the Establishment of a Panel**

1. The complaining Party may make a request to the Party complained against for the establishment of a Panel to consider the dispute if:
  - (a) the Party complained against does not enter into consultations in accordance with Article 5; or
  - (b) the consultations fail to resolve a dispute within 60 days, or 20 days in cases of urgency including perishable goods, or such other period as the Parties may agree.
2. A request made pursuant to paragraph 1 shall identify the specific measures at issue and provide details of the factual and legal basis of the complaint (including the provisions of this Agreement to be addressed by the Panel) to present the problem clearly.
3. A copy of all such requests shall be provided simultaneously to all Parties. The Party complained against shall immediately acknowledge receipt of the request by way of notification to all Parties indicating the date on which the request was received.

### **Article 9: Procedures for Multiple Complainants**

1. Where more than one Party requests the establishment of a Panel related to the same dispute, a single Panel shall be established to examine these complaints, unless the Parties to the dispute agree otherwise.
2. The single Panel shall organise its examination and present its findings in such a manner that the rights which the Parties to the dispute would have enjoyed, had separate panels examined the complaints, are in no way impaired.

### **Article 10: Third Parties**

1. Any Party having a substantial interest in a matter before a Panel may notify the Parties to the dispute of this interest within 14 days of the date of receipt by the Party complained against of the request for the establishment of the Panel or the date of a request for a Compliance Review Panel pursuant to Article 16. Such notification shall be simultaneously provided to all Parties. Any Party notifying its substantial interest shall have the rights and obligations of a Third Party as outlined in Annex 14-A on Model Rules of Procedure.
2. The Parties to the dispute may agree to provide additional or supplemental rights to Third Parties regarding participation in Panel proceedings. In providing additional or supplemental rights, the Parties to the dispute may impose agreed conditions. Unless agreed otherwise by the Parties to the dispute, the Panel shall not grant any additional or supplemental rights to any Third Parties regarding participation in Panel proceedings.

## **Article 11: Establishment of Panels**

1. Unless the Parties agree otherwise, a Panel requested pursuant to Article 8.1 shall be established in accordance with this Article.
2. The Panel shall consist of three panellists, including a chair.
3. Each Party to the dispute shall within 30 days of the date of the request for the establishment of a Panel under Article 8.1, appoint one panellist who may be a national of the Party to the dispute and propose up to three candidates to serve as the chair. If there is more than one complaining Party, the complaining Parties shall jointly appoint one panellist. The complaining Parties shall jointly propose up to three candidates to serve as the chair. The chair of the Panel shall not be a national of a Party to the dispute and shall not have their usual place of residence in the territory of a Party to the dispute.
4. The Parties to the dispute shall agree on and appoint the chair within 45 days of the date of the request for the establishment of a Panel, taking into account the candidates proposed in accordance with paragraph 3. If appropriate, the Parties to the dispute may jointly consult the panellists appointed in accordance with paragraph 3.
5. If any of the three appointments have not been made within 45 days of the date of the request for the establishment of a Panel, on request of any Party to the dispute, any remaining panellists shall be appointed by lot from the list of the candidates proposed in accordance with paragraph 3. The appointment by lot shall be undertaken within seven days of the date of the request for appointment by lot, unless the Parties to the dispute agree otherwise. If more than one panellist including a chair is to be selected by lot, the chair shall be selected first.
6. The date of establishment of the Panel shall be the date on which the last panellist is appointed.
7. All panellists shall:
  - (a) have expertise or experience in law, international trade, other matters covered by this Agreement, or the resolution of disputes arising under international trade agreements;
  - (b) be chosen strictly on the basis of objectivity, reliability, and sound judgement;
  - (c) be independent of, and not be employed by, affiliated with or take instructions from, any Party to the dispute or Third Party;
  - (d) not have dealt with the matter in any capacity;
  - (e) disclose, to the Parties to the dispute or Third Party, information which may give rise to justifiable doubts as to their independence or impartiality; and

- (f) serve in their individual capacities and not as government representatives, nor as representatives of any organisation.

8. If a panellist appointed under this Article resigns or becomes unable to act, a successor panellist shall be appointed in the same manner as prescribed for the appointment of the original panellist and shall have all the powers and duties of the original panellist. The work of the Panel shall be suspended during the appointment of the successor panellist.

9. If a Panel is reconvened under Article 16 or Article 17 the reconvened Panel shall, if possible, have the same panellists as the original Panel. If this is not possible, the replacement panellist(s) shall be appointed in the same manner as prescribed for the appointment of the original panellist(s), and shall have all the powers and duties of the original panellist(s).

### **Article 12: Functions of Panels**

1. The Panel shall consult the Parties to the dispute, as appropriate, and provide adequate opportunities for the development of a mutually satisfactory solution.

2. The Panel shall make an objective assessment of the dispute before it, including an objective assessment of:

- (a) the facts of the case;
- (b) the applicability of the provisions of this Agreement cited by the Parties to the dispute;
- (c) whether:
  - (i) the Party complained against has failed to carry out its obligations under this Agreement;
  - (ii) the measure at issue is inconsistent with the obligations of this Agreement;
  - (iii) the measure at issue applied by the Party complained against is causing the nullification or impairment of any benefit described in Article 3.1(c); and
- (d) any other matter that the Parties to the dispute have jointly requested that the Panel address.

3. If the Panel makes a finding under paragraph 2(c), it shall issue a determination of the reasonable period of time that the Party complained against shall have to comply with the finding of the Panel, and the reasons for its determination, in accordance with Article 15.4.

4. The Panel shall take into account the interests of Third Parties as presented during written or oral submissions.

5. Any Panel established or reconvened under this Chapter shall:
  - (a) make its findings by consensus; except where a Panel is unable to reach consensus, it may make its findings by majority vote; and
  - (b) report its findings and recommendations in writing in accordance with this Agreement. The findings and recommendations of the Panel cannot add to or diminish the rights and obligations provided in this Agreement or any other international agreement.
6. Unless the Parties agree otherwise within 20 days of the date of the delivery of the request for the establishment of the Panel, the Panel's terms of reference shall be:

“To examine, in light of the relevant provisions of this Agreement cited by the Parties, the matter referenced in the request for the establishment of the Panel, to make findings as provided by Article 12.5(a) and to report its findings and recommendations in writing in accordance with Article 12.5(b).”

### **Article 13: Panel Procedures**

1. The Panel proceedings shall be conducted in accordance with the provisions of this Chapter and, unless the Parties to the dispute agree otherwise, shall follow the Model Rules of Procedure set out in Annex 14-A.
2. In examining a complaint against a developing country Party, the Panel shall accord sufficient time for the developing country Party to prepare and present its arguments.
3. The Panel may, in consultation with the Parties to the dispute, adopt additional rules of procedure which do not conflict with this Chapter or with Annex 14-A (Model Rules of Procedure).
4. A Panel reconvened under Article 16 or Article 17 may establish its own procedures, in consultation with the Parties to the dispute, which do not conflict with this Chapter or Annex 14-A.

### **Article 14: Suspension and Termination of Proceedings**

1. The Parties to the dispute may at any time agree that the Panel suspend its work for a period not exceeding 12 months from the date of such agreement. In such an event the Parties to the dispute shall jointly notify the chair of the Panel. The suspended Panel proceeding shall be resumed on the request of any Party to the dispute. If the work of the Panel has been continuously suspended for more than 12 months, the authority for establishment of the Panel shall lapse, unless the Parties to the dispute agree otherwise.

2. The Parties to the dispute may agree to terminate the proceedings of a Panel in the event that a mutually satisfactory solution has been found. In such event the Parties shall jointly notify the chair of the Panel.

### **Article 14bis: Interim Reports**

1. The Panel shall circulate the entirety of its interim report to the Parties to the dispute, with a view to the correction of factual or clerical errors, 30 days prior to the presentation of the final report of the Panel, or a period otherwise agreed by the Panel and the Parties to the dispute. The Parties to the dispute shall provide written submissions to the Panel 30 days after the interim report has been circulated if necessary.

2. After written submissions have been lodged with the Panel, a Party to the dispute may request that the Panel hold meetings with the Parties to the dispute on the interim report within 60 days, unless agreed otherwise by the Parties to the dispute. The Panel shall meet with the Parties to the dispute at a time to be agreed by the Parties to the dispute.

3. The Panel shall consider the submissions by the Parties to the dispute and the outcomes of any meetings before proceeding to finalise the report in accordance with Article 15. The findings of the final report shall include a discussion of any comments made by the Parties to the dispute.

### **Article 15: Implementation**

1. The findings of the Panel shall be final and binding on the Parties to the dispute.

2. If the report of a Panel finds that:

(a) a measure is inconsistent with the obligations of this Agreement or the Party complained against has failed to carry out its obligations under this Agreement, the Party complained against has an obligation to bring that measure into conformity with the Agreement; or

(b) the measure is causing nullification and impairment in the sense of Article 3.1(c), the Party complained against has an obligation to eliminate the nullification and impairment or reach a mutually satisfactory solution with the complaining Party.

3. When implementing the findings of the Panel, particular attention should be paid to matters affecting the interests<sup>1</sup> of developing country Parties with respect to measures which have been subject to dispute settlement.

4. Within 30 days of the date of the presentation of the Panel's final report to the Parties to the dispute, the Party complained against shall notify the complaining Party:

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<sup>1</sup>For greater certainty, interest may include the essential export interests of a developing country Party.

- (a) of its intentions with respect to implementation, including an indication of possible actions it may take to comply with the obligations in paragraph 1; and
- (b) whether such implementation can take place immediately.

5. Unless the Parties to the dispute agree otherwise within 45 days of the presentation of the final report, the determination made by the Panel in respect of the reasonable period of time shall apply.

6. If a Party which requested the establishment of a Panel considers that an action proposed or subsequently taken by the Party complained against does not comply with the findings and recommendations of the Panel, the Parties shall enter into consultations with a view to developing a mutually satisfactory solution.

### **Article 16: Compliance Review**

1. If the Parties have entered into consultations in accordance with Article 15.6 and have failed to agree on a mutually satisfactory solution within 30 days, or the Parties have not entered into such consultations within 30 days of the request for consultations, the dispute shall be decided through recourse to a Panel reconvened for this purpose (Compliance Review Panel) in accordance with Article 11.10.

2. A Compliance Review Panel shall consult the Parties to the dispute, as appropriate, and provide adequate opportunities for the development of a mutually satisfactory solution.

3. A Compliance Review Panel shall make an objective assessment of the matter or complaint before it, including an objective assessment of:

- (a) the factual aspects of any implementation action taken by the Party complained against; and
- (b) whether the Party complained against has complied with the obligation in Article 15.1.

4. If a Compliance Review Panel is requested to reconvene in accordance with paragraph 1, it shall reconvene within 30 days of the date of the request and fix the timetable for the compliance review process, taking into account the time periods specified in this Chapter and Annex 14-A.

### **Article 17: Compensation and Suspension of Concessions or Other Obligations**

1. Neither compensation nor the suspension of concessions or other obligations is preferred to compliance with the obligation under Article 15.1. Compensation is voluntary and, if granted, shall be consistent with this Agreement.

2. The Party complained against shall, if so requested by the complaining Party, enter into negotiations within 20 days of the date of the request with a view to agreeing upon mutually satisfactory compensation if:

- (a) the Party complained against has notified the complaining Party under Article 15.2 that it does not intend to comply with the obligation in Article 15.1;
- (b) the Party complained against has not implemented the obligation in Article 15.1 within a reasonable period of time in accordance with Article 15.3; or
- (c) a failure to comply with the obligation in Article 15.1 has been established in accordance with Article 16.

3. If no satisfactory compensation has been agreed within 30 days of the date of a request made under paragraph 2, the complaining Party may at any time thereafter notify the Party complained against that it intends to suspend the application to the Party complained against of concessions or other obligations, and shall have the right to begin suspending concessions or other obligations 30 days after the date of notification.

4. The right to suspend concessions or other obligations arising under paragraph 3 shall not be exercised if:

- (a) a review is being undertaken pursuant to paragraph 9; or
- (b) a mutually satisfactory solution has been agreed.

5. A notification made under paragraph 3 shall specify the level of concessions or other obligations that the complaining Party proposes to suspend, and the relevant Chapter and sector or sectors to which the concessions or other obligations are related. Any suspension of benefits shall be restricted to benefits accruing to the Party complained against under this Agreement.

6. In considering which concessions or other obligations to suspend, the complaining Party shall apply the following principles:

- (a) the complaining Party should first seek to suspend concessions or other obligations in the same sector or sectors affected by the measure; and
- (b) if the complaining Party considers that it is not practicable or effective to suspend concessions or other obligations in the same sector, it may suspend concessions or other obligations in other sectors.

7. The level of suspension of concessions or other obligations shall be equivalent to the level of nullification and impairment that is attributable to the failure of the Party complained against to implement the obligation in Article 15.1.



8. The suspension of concessions or other obligations shall be temporary and shall only be applied until such time as the obligation in Article 15.1 has been complied with or a mutually satisfactory solution is reached between the Parties to the dispute.

9. If the right to suspend concessions or other obligations has been exercised under this Article, and the Party complained against considers that:

- (a) the level of concessions or other obligations suspended by the complaining Party is not equivalent to the level of the nullification and impairment; or
- (b) any measure it has taken subsequent to the notification of the suspension of benefits in paragraph 3 complies with the obligation in Article 15.1,

it may request the Panel to reconvene to examine the matter. The Panel shall reconvene within 15 days of the date of the request, unless the original panellists are unavailable, in which case the Panel shall reconvene in accordance with the procedure in Article 11.10.

10. If the Panel determines that the level of benefits suspended is excessive, it shall determine the level of benefits it considers to be of equivalent effect to the level of nullification or impairment found by the Panel, adjusted to reflect any loss sustained by a Party as a result of excessive suspension. A report under Article 17.10 shall be final and binding on the Parties.

### **Article 18: Expenses**

1. Unless the Parties to the dispute agree otherwise, each Party to the dispute shall bear the costs of its own expenses and legal costs.

2. Unless the Parties to the dispute agree otherwise, the expenses of a Panel, including the remuneration of the panellists, the costs of the chair, and other expenses associated with the conduct of the proceedings shall be borne by the Parties to the dispute in equal shares.

## **ANNEX 14-A:**

### **MODEL RULES OF PROCEDURE**

1. Any reference made in these Rules to an Article is a reference to the appropriate Article in Chapter 14 (Consultations and Dispute Settlement).

#### *Timetable*

2. After consulting the Parties to the dispute, a Panel shall, as soon as practicable and whenever possible within 15 days of the establishment of the Panel, fix the timetable for the Panel process. The Panel process, from the date of establishment until the date of the final report shall, as a general rule, not exceed a period of 270 days, unless the Parties to the dispute agree otherwise.

3. In determining the timetable for the Panel process, the Panel shall provide sufficient time for the Parties to the dispute to prepare their respective submissions and for at least one hearing for the Parties to present their case to the Panel. The Panel shall set precise deadlines for written submissions by the Parties to the dispute and the Parties shall respect those deadlines.

4. Any time period applicable to the Panel proceeding shall be suspended for a period that begins on the date on which any panellist resigns or becomes unable to act and ends on the date on which the successor panellist is appointed.

*4bis.* In fixing the timetable, positive consideration shall be given to requests by any developing country Parties to the dispute for an extension of the time frames to enable them to adequately prepare their submissions.

5. A Panel may, in consultation with the Parties to the dispute, modify any time period applicable in the Panel proceeding and make such other procedural or administrative adjustments as may be required in the proceeding, unless agreed otherwise by the Parties.

#### *Operation of Panels*

6. The chair of the Panel shall preside at all of its meetings. A Panel may delegate to the chair authority to make administrative and procedural decisions.

7. Except as otherwise provided in these Rules, the Panel may conduct its business by any means, including by telephone, facsimile, email and any other means of electronic communication.

8. Only panellists may take part in the deliberations of the Panel. The Panel may, in consultation with the Parties to the dispute, retain such number of assistants or designated note takers as may be required for the proceeding and permit them to be present during its deliberations. Any such arrangements established by the Panel may be modified by the agreement of the Parties to the dispute.

9. The Panel's deliberations shall be confidential. The panellists and the persons retained by the Panel shall maintain the confidentiality of Panel proceedings and deliberations. There shall be no *ex parte* communications with the Panel concerning matters under consideration by it.

10. If a procedural question arises that is not addressed by these Rules, a Panel may, after consulting the Parties, adopt an appropriate procedure that is consistent with this Agreement.

11. The interests of Third Parties and other Parties shall be fully taken into account during the Panel proceedings. Any information or written submissions provided to the Panel by a Party to the dispute or a Third Party shall be made available to the other Parties to the dispute.

#### *Written Submissions and Other Documents*

12. Each Party to the dispute shall deliver to the Panel a first submission in writing setting out the facts of its case and its arguments. Unless the Parties to the dispute otherwise agree, a complaining Party shall deliver its first submission to the Panel and to the Party complained against within 14 days of the date of the establishment of the Panel. The Party complained against shall deliver its first submission to the Panel and to the complaining Party within 21 days of the date of receipt of the first submission of the complaining Party. Any subsequent written submissions shall be submitted simultaneously.

13. Any Third Party shall have an opportunity to make written submissions to the panel. These submissions shall also be given to the parties to the dispute and shall be reflected in the panel report.

14. A Party to the dispute shall deliver no less than four copies of its written submissions to the Panel and one copy to the other Parties to the dispute. Third Parties shall receive the submissions of the Parties to the dispute prior to the first substantive hearing.

15. In respect of any request, notice or other document related to the Panel proceeding that is not covered by Rules 12 and 14, each Party to the dispute may deliver a copy of the document to the other Party to the dispute by facsimile, email or other means of electronic transmission.

16. A Party to the dispute may at any time correct minor errors of a clerical nature in any request, notice, written submission or other document related to the Panel proceeding by delivering a new document clearly indicating the changes.

#### *Hearings*

17. At the first substantive hearing of the Panel, each Party to the dispute shall present the facts of its case and its arguments. The complaining Party shall present its position first. The Parties to the dispute shall be given an opportunity for final statements, with the complaining Party presenting its statement first.

18. All Third Parties shall be invited to present their views during a separate session of the first substantive hearing of the Panel set aside for that purpose. All Third Parties may be present during the entirety of this session.

19. The Parties to the dispute and Third Parties shall make available to the Panel written versions of their oral statements and responses to questions made in hearings with the Panel.

20. A Panel shall hold its hearings in open session, unless the Parties to the dispute agree otherwise.

#### *Availability of Information*

21. Subject to Rules 22 and 23, each Party's written submissions, written versions of its oral statements, and written responses to questions from the Panel may be made available to the public by the Parties to the dispute.

22. A Party may designate, for confidential treatment, specific information it includes in its submissions, to the extent it considers strictly necessary to protect privacy or legitimate commercial interests of particular enterprises, public or private, or to address essential confidentiality concerns.

23. The Parties to the dispute shall treat as confidential information submitted by another Party which that Party has designated as confidential. If a Party designates information as confidential, that Party shall, on request of another Party, provide the Panel and other Parties to the dispute with a non-confidential summary of the information contained in its written submissions that could be disclosed to the public.

24. The report presented to the Parties to the dispute in accordance with Article 12.2 and any comments on it shall be confidential.

25. Each Party shall take such reasonable steps as are necessary to ensure that its individuals involved in Panel proceedings, including its experts, interpreters, translators, and court reporters (designated note takers) maintain the confidentiality of the Panel proceedings.

#### *Information Gathering*

26. The Parties to the dispute and Third Parties shall respond promptly and fully to any request by the Panel for any information the Panel considers necessary and appropriate.

27. On the request of a Party to the dispute, or on its own initiative, the Panel may seek information and technical advice from any individual or body which it deems appropriate. However, before doing so the Panel shall seek the views of the Parties to the dispute. If the Parties to the dispute agree that the Panel should not seek the additional information or technical advice, the Panel shall not proceed to seek such information or technical advice. The Panel shall provide the Parties to the dispute with any information or technical advice it receives and an opportunity to provide comments.

## *Reports*

28. Unless the Parties to the dispute agree otherwise, a Panel shall base its report solely on the relevant provisions of this Agreement, the submissions and arguments of the Parties to the dispute, and other information provided to it in accordance with Rule 24. A Panel shall only make the findings and recommendations provided for in this Agreement.

29. A Panel established in accordance with Article 11 shall set out in its report: a descriptive section summarising the arguments of the Parties to the dispute and Third Parties; and its findings, and reasons for its findings, under each relevant subparagraph of Article 12.2. The Panel may suggest ways in which the Party complained against could implement the findings. Unless the Parties to the dispute agree otherwise, the Panel shall present to the Parties to the dispute an interim report containing its initial assessment within 90 days of its establishment, or within 45 days in cases of urgency, and a final report to the Parties to the dispute within 30 days of presentation of the interim report. If the Panel finds that the Party complained against is not in compliance with its obligations under this Agreement, the Panel shall make a determination as to what constitutes a reasonable period of time for the Party complained against to implement its obligations under this Agreement.

30. The interim report and final report of the Panel shall be drafted without the presence of the Parties to the dispute. Opinions expressed in the reports of the Panel by its individual members shall be anonymous.

31. The Parties to the dispute shall release the final report to the public within 15 days of its presentation, subject to the protection of confidential information.

32. A Panel reconvened in accordance with Article 17 shall set out in its report: a descriptive section summarising the arguments of the Parties to the dispute and Third Parties; and its findings, and reasons for its findings, under each subparagraph of Article 16.3. Unless the Parties to the dispute agree otherwise, the Panel shall present to the Parties to the dispute an interim report containing its initial assessment within 60 days of the date it reconvened and a final report to the Parties to the dispute within 30 days of presentation of the interim report.

32. A Panel reconvened in accordance with Article 18.9(a) shall provide its assessment to the Parties to the dispute within 30 days of the date it reconvened, unless the Parties to the dispute agree otherwise. Where a Panel reconvenes pursuant to Article 18.9(b), Article 17.2 and 17.3 shall apply.

## *Venue*

33. The venue for the Panel hearings shall be decided by mutual agreement between the Parties to the dispute. If there is no agreement, the venue shall alternate between the capitals of the Parties to the dispute with the first hearing to be held in the capital of the Party complained against.

*Remuneration and Payment of Expenses*

34. The Panel shall keep a record and render a final account of all general expenses incurred in connection with the proceedings, including those paid to its assistants, designated note takers or other individuals that it retains pursuant to Rule 8.

## CHAPTER 15

### FINAL PROVISIONS

#### **Article 1: Annexes, Appendices and Footnotes**

The annexes, appendices and footnotes to this Agreement shall constitute an integral part of this Agreement.

#### **Article 2: Application**

Each Party is fully responsible for the observance of all provisions in this Agreement and shall take such reasonable measures as may be available to it to ensure their observance by its regional and local governments and authorities and non-governmental bodies (in the exercise of governmental powers delegated to them) within its territory.

#### **Article 3: Relation to Other Agreements**

1. In respect of matters within the scope of this Agreement, each Party reaffirms its rights and obligations under other agreements to which one or more other Parties are party, including under the WTO Agreement in the case of a WTO Member.
2. Nothing in this Agreement shall be construed to derogate from any right or obligation a Party has under existing agreements to which one or more other Parties are party, including under the WTO Agreement in the case of a WTO Member.
3. In the event of any inconsistency between this Agreement and any other agreement to which two or more Parties are party, such Parties shall consult with a view to finding a mutually satisfactory solution, taking into account applicable principles of international law. Notwithstanding the preceding sentence, the provisions of this Agreement, upon entry into force, shall, as between the Parties hereto, prevail to the extent of any inconsistency over the provisions of the *South Pacific Regional Trade and Economic Cooperation Agreement* (SPARTECA).<sup>1</sup>
4. Nothing in this Agreement shall prevent any Party from entering into any agreement with one or more other Parties relating to trade in goods, trade in services, investment or other areas of economic cooperation.

#### **Article 4: Amended or Successor International Agreements**

If any international agreement, or a provision therein, referred to in this Agreement (or

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<sup>1</sup> For greater certainty, the purpose of this article is to ensure consistency with Article 30 of the *Vienna Convention on the Law of Treaties* (Application of Successive Treaties Relating to the Same Subject Matter).

incorporated into this Agreement) is amended, the Parties shall consult on whether it is necessary to amend this Agreement, unless this Agreement provides otherwise.

### **Article 5: Disclosure of Information**

Unless otherwise provided in this Agreement, nothing in this Agreement shall be construed to require any Party to provide or allow access to information, the disclosure of which it considers would be contrary to the public interest as determined by its domestic law, be contrary to any of its legislation, impede law enforcement, or prejudice legitimate commercial interests of particular enterprises, public or private.

### **Article 6: Confidentiality**

Unless otherwise provided in this Agreement, where a Party provides information to another Party in accordance with this Agreement and designates the information as confidential, the other Party shall maintain the confidentiality of the information. Such information shall be used only for the purposes specified, and shall not be otherwise disclosed without the specific permission of the Party providing the information, except to the extent that the Party receiving the information is required to provide the information under its domestic law.

### **Article 7: Amendments**

This Agreement may be amended by agreement in writing by the Parties and such amendments shall come into force on such date or dates as may be agreed among them.

### **Article 8: Entry into Force**

1. This Agreement shall enter into force 60 days after the date on which no fewer than eight negotiating Parties have notified the Depository in writing of the completion of their internal requirements.<sup>2</sup>

2. After the date of entry into force of this Agreement in accordance with paragraph 1, this Agreement shall enter into force for any other signatory 60 days after the date on which such signatory has notified the Depository in writing of the completion of its internal requirements.

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<sup>2</sup>For greater certainty, the term “internal requirements” may include obtaining governmental approval or parliamentary approval in accordance with domestic law.



### **Article 9: Accession**

1. This Agreement shall be open to accession or association by a State, separate customs territory or self-governing entity as the Parties may agree.
2. An applicant for accession shall accept all of the provisions of this Agreement and its Annexes.
3. The applicant for accession shall enter into negotiations with the Parties on Schedules of Commitments on Tariffs (Chapter 2), Trade in Services (Chapter 7), Movement of Natural Persons (Chapter 8) and Investment (Chapter 9) on terms to be agreed between the Parties.
4. The Agreement shall enter into force for an accession applicant 60 days after it has deposited an instrument of accession with the Depositary indicating that it accepts the terms and conditions for the accession, and the Parties have notified the Depositary in writing of the completion of their internal requirements with respect to the accession.
5. Notwithstanding paragraphs 2 and 3, Forum Island Countries which had participated in the PACER Plus negotiations but were unable to sign by the time that the Agreement entered into force, can accede to it on an expedited basis following agreement with the Parties on its Schedules of Commitments on Tariffs (Chapter 2), Trade in Services (Chapter 7), Movement of Natural Persons (Chapter 8) and Investment (Chapter 9).

### **Article 10: Depositary**

1. Tonga shall be the Depositary for this Agreement.
2. The Depositary shall:
  - (a) register this Agreement pursuant to Article 102 of the Charter of the United Nations Charter;
  - (b) transmit certified copies of this Agreement to all of the Parties; and
  - (c) notify all of the Parties of signatures, acceptances, ratifications, accessions to, and withdrawals from, this Agreement.

### **Article 11: Withdrawal and Termination**

1. Any Party may withdraw from this Agreement by giving six months advance notice in writing to the other Parties.
2. This Agreement shall terminate if, pursuant to paragraph 1, more than half of the Parties have notified their withdrawal from it.

In witness whereof the undersigned, being duly authorised by their respective Governments, have signed this Agreement.

DONE at [ ] the [ ] day of [ ], two thousand and seventeen, in one copy in the English language.

Australia

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The Cook Islands

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The Federated States of Micronesia

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The Independent and Sovereign Republic of Kiribati

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The Republic of Nauru

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New Zealand

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Niue

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The Republic of Palau

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The Republic of the Marshall Islands

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The Independent State of Samoa

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Solomon Islands

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The Kingdom of Tonga

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Tuvalu

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The Republic of Vanuatu

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**ANNEX I: LIST OF MOST-FAVOURLED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF AUSTRALIA**

1. Australia specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector</b>	<b>Exemption</b>	<b>Applicable Countries</b>	<b>Conditions creating the need for the exemption</b>
All sectors	Any measure that accords more favourable treatment to any service supplier or investor under any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement. <sup>1</sup>	Any country which is Party to a bilateral or multilateral agreement in force or signed prior to the date of entry into force of this Agreement.	Management of existing regulations or reservations as specified in such agreements for policy flexibility.
All sectors	Any measure that accords more favourable treatment to any service supplier or investor under any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.	Any country which is Party to a bilateral or multilateral agreement in force or signed prior to entry into force of this Agreement or signed after entry into force of this Agreement.	Management of existing and future measures involving aviation, fisheries and maritime matters.

<sup>1</sup> For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral or multilateral international agreement. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the *Australia New Zealand Closer Economic Relations - Trade Agreement* (ANZCERTA) done at Canberra on March 28, 1983.

Sector	Exemption	Applicable Countries	Conditions creating the need for the exemption
All Sectors	Australia's foreign investment framework <sup>2</sup> , with respect only to monetary thresholds below which investments <sup>3</sup> do not require notification to or approval from the Australian Government.	Any country to which Australia accords more favourable treatment in this area.	Management of Australia's foreign investment framework with respect to specific monetary thresholds.
All Sectors	<p>Any measure with respect to the proposed acquisition by a foreign person* of an interest in agricultural land<sup>4</sup> where the cumulative value of agricultural land owned by the foreign person* alone or together with associates, including the proposed acquisition, is above A\$15 million.</p> <p>Any measure with respect to the proposed acquisition by a foreign person* of an interest in an agribusiness<sup>5</sup> where the cumulative value of the interest held by the foreign person* in that agribusiness, alone or together with associates, including the proposed acquisition, is above A\$55 million.</p>	Any country to which Australia accords more favourable treatment in this area.	Management of measures with respect to investment in agricultural land or agribusinesses.

<sup>2</sup>Australia's foreign investment framework comprises: Australia's Foreign Investment Policy; *Foreign Acquisitions and Takeovers Act 1975* (Cth) (FATA); *Foreign Acquisitions and Takeovers Regulation 2015* (Cth); *Foreign Acquisitions Fees Imposition Act 2015* (Cth); *Foreign Acquisitions Fees Imposition Regulation 2015* (Cth); *Financial Sector (Shareholdings) Act 1998* (Cth); and Ministerial Statements.

<sup>3</sup> "Investment" means activities covered by Part II of the *Foreign Acquisitions and Takeovers Act 1975* (Cth) or, where applicable, ministerial statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

<sup>4</sup> The term "agricultural land" has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

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

<b>Sector</b>	<b>Exemption</b>	<b>Applicable Countries</b>	<b>Conditions creating the need for the exemption</b>
All Sectors	Any measure that Australia considers necessary for the protection of its essential security interests with respect to proposals by foreign persons* to invest in Australia.	Any country to which Australia accords more favourable treatment in this area.	Management of essential security interests.
All Sectors	Any measure with respect to the provision of law enforcement and correctional services, and the following services <sup>6</sup> to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, child care, public utilities, public transport and public housing.	Any country to which Australia accords more favourable treatment in this area.	Management of law enforcement, correctional and other social services.
All Sectors	Any measure with respect to: (c) the creative arts <sup>7</sup> , cultural heritage <sup>8</sup> and other cultural industries, including audio-	Any country to which Australia accords more favourable treatment in this area.	Management of cultural industries, and to promote collaborative efforts between

\* The term “foreign person” has the meaning set out in the *Foreign Acquisitions and Takeovers Act 1975* (Cth) and *Foreign Acquisitions and Takeovers Regulation 2015* (Cth).

<sup>6</sup> For greater certainty, this includes any measure with respect to: the collection of blood and its components; the distribution of blood and blood-related products, including plasma derived products; plasma fractionation services; and the procurement of blood and blood-related products and services.

<sup>7</sup> “Creative arts” include: the performing arts – including theatre, dance and music – visual arts and craft, literature, film, television, video, radio, creative on-line content, indigenous traditional practice and contemporary cultural expression, and digital interactive media and hybrid arts work which uses new technologies to transcend discrete artform divisions.

<sup>8</sup> “Cultural heritage” includes: ethnological, archaeological, historical, literary, artistic, scientific or technological moveable or built heritage, including the collections which are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions.

<b>Sector</b>	<b>Exemption</b>	<b>Applicable Countries</b>	<b>Conditions creating the need for the exemption</b>
	<p>visual services, entertainment services and libraries, archives, museums and other cultural services; and</p> <p>(d) broadcasting and audio-visual services, including measures with respect to planning, licensing and spectrum management, and including:</p> <p>iii) services offered in Australia; and</p> <p>iv) international services originating from Australia.</p>		<p>Australian and foreign film and other artistic producers and general cultural links.</p>
<p>All sectors</p>	<p>All existing non-conforming measures at the regional level of government.</p>	<p>Any country to which Australia accords more favourable treatment in this area.</p>	<p>Management of regional government measures.</p>
<p>Business Services</p>	<p>To practise as a migration agent in Australia a person must be an Australian citizen or permanent resident or a citizen of New Zealand with a special category visa.</p>	<p>New Zealand</p>	<p>Management of migration measures and agents.</p>
<p>Education</p>	<p>Any measure with respect to primary education or the supply of educational services through commercial presence.</p>	<p>Any country to which Australia accords more favourable treatment in this area.</p>	<p>Management of education policies and regulations, including primary education services.</p>

**ANNEX I: LIST OF MOST-FAVoured-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF THE COOK ISLANDS**

1. The Cook Islands specifies below a list of Most-Favoured-Nation exemptions from the obligations of Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement</i> (PICTA).</p>	Any country to which the Cook Islands accords more favourable treatment in this area.	Management of existing trade agreements.
All sectors	Any measure that accords more favourable	Any country to which the	Management of existing and future



	treatment to parties to any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; (c) maritime matters, including salvage.	Cook Islands accords more favourable treatment in this area	measures involving aviation, fisheries, maritime matters.
All sectors	Any measures as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.	Any country to which the Cook Islands accords more favourable treatment in this area.	The management of core government functions.
All sectors	Any measures with respect to: (a) the provision of public law enforcement and correctional services; and (b) the following, to the extent that they are social services established for a public purpose: - health; - income security and insurance; - public education; - public training; - public utilities; and - social welfare.	Any country to which the Cook Islands accords more favourable treatment in this area.	The management of core government functions.
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this	Management of regional integration.

<sup>1</sup> This includes American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau, and Wallis and Futuna.

	next column and that is signed after the entry into force of this Agreement.	Agreement and countries classified as Least Developed Countries by the United Nations.	
All sectors (movement of natural persons)	A longer period of stay may be granted to natural persons of New Zealand citizenship.	Countries to which the Cook Islands accords more favourable treatment in this area.	Shared citizenship
All sectors	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including audiovisual and broadcasting services, entertainment services and libraries, archives, museums and other cultural services.	Any country to which the Cook Islands accords more favourable treatment in this area.	Management of cultural industries.

**ANNEX I - LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF THE FEDERATED STATES OF MICRONESIA**

1. The Federated States of Micronesia specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured Nation Treatment) of Chapter 7 (Trade in Services) and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement or in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement (PICTA)</i>, the Compact of Free Association, and the <i>Treaty on Micronesian Trade and Economic Community</i>.</p>	Any country to which the Federated States of Micronesia accords more favourable treatment in this area.	Management of existing trade agreements.

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.	Any country to which the Federated States of Micronesia accords more favourable treatment in this area.	Management of existing and future measures involving aviation, fisheries, and maritime matters.
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this Agreement and countries classified as least-developed countries by the United Nations.	Management of regional integration.
All sectors	Citizens of the United States and its territories are exempt from certain labour and immigration requirements.	United States and its territories (Guam and the Commonwealth of Northern Mariana Islands).	Historical links with the United States.
All sectors	Citizens of the Palau and the Republic of the Marshall Islands are exempt from certain labour	Palau and the Republic of the Marshall Islands.	Regional integration.

<sup>1</sup> American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau and Wallis and Futuna.

Sector or Sub-Sector	Exemption	Applicable countries and territories	Conditions creating the need for the exemption
	and immigration requirements.		
All sectors	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including audiovisual and broadcasting services, entertainment services and libraries, archives, museums and other cultural services.	Any country to which the Federated States of Micronesia accords more favourable treatment in this area.	Management of cultural industries.
Maritime transport	<p>Transport between Palau, the Republic of the Marshall Islands and the Federated States of Micronesia is not subject to approval and issuance of an Entry Assurance Certificate by the Micronesian Shipping Commission.</p> <p>Priority consideration for the issuance of Entry Assurance Certificate is given to carriers that are wholly-owned by citizens of the Republic of the Marshall Islands and Palau that use vessels registered in the Republic of the Marshall Islands and Palau, and that employ citizens of the Republic of the Marshall Islands and Palau.</p> <p>Preferences may also be granted with respect to freight forwarders.</p>	Members of the Micronesia Shipping Commission (the Republic of the Marshall Islands and Palau)	The Micronesian Shipping Commission regulates international shipping to and from the Republic of the Marshall Islands, Palau, and the Federated States of Micronesia.
All sectors	In Pohnpei State, citizens of the United States who have maintained their principal place of residency	United States and its territories (Guam and the	Historical links with the United States.

Sector or Sub-Sector	Exemption	Applicable countries and territories	Conditions creating the need for the exemption
	<p>in the Federated States of Micronesia for at least five consecutive years are exempted from the requirements to obtain a foreign investment permit from Pohnpei State for the purpose of establishing an enterprise wholly-owned by such US citizen or jointly owned by such citizen with Federated States of Micronesia citizens.</p>	<p>Commonwealth of Northern Mariana Islands).</p>	
<p>Health and Social Services</p>	<p>Any measure with respect to the provision of law enforcement and correctional services and the following services to the extent that they are social services established or maintained for a public purpose:</p> <ul style="list-style-type: none"> <li>- income security or insurance;</li> <li>- social security or insurance;</li> <li>- social welfare;</li> <li>- public education;</li> <li>- public training;</li> <li>- health;</li> <li>- child care;</li> <li>- public utilities;</li> <li>- public transport; and</li> <li>- public housing.</li> </ul>	<p>Any country to which the Federated States of Micronesia grants more favourable treatment in these areas.</p>	<p>Management of core government functions.</p>

## ANNEX I - LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)

### SCHEDULE OF KIRIBATI

1. Kiribati specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services) and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement or in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement</i> (PICTA).</p>	Any country to which Kiribati accords more favourable treatment in this area.	Management of existing trade agreements.

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) distribution; (b) aviation; (c) fisheries; or (d) maritime matters, including salvage.	Any country or party to which Kiribati accords more favourable treatment in this area.	Management of existing and future measures involving distribution, aviation, fisheries, and maritime matters.
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this Agreement and countries classified as least-developed countries by the United Nations.	Management of regional integration.
Recreational, cultural and sporting services	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including: audiovisual services, entertainment services, libraries, archives, museums services for the preservation of historical and sacred sites and other cultural services.	Countries with which bilateral or plurilateral agreements are in force, now or in the future.	Management of cultural industries.
Maritime transport	Priority consideration for the issuance of	Members of the Central Pacific	The Central Pacific Shipping

<sup>1</sup> American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau and Wallis and Futuna.



Sector or Sub-Sector	Exemption	Applicable countries and territories	Conditions creating the need for the exemption
	Entry Assurance Certificate is given to carriers that are wholly-owned by citizens of countries that are parties to the Central Pacific Shipping Commission that use vessels registered in member countries, and that employ citizens of member countries.	Shipping Commission (currently: the Republic of the Marshall Islands, Tuvalu, Nauru).	Commission regulates international shipping involving its Member countries.
Health and social services	Any measure with respect to the provision of law enforcement and correctional services and the following services to the extent that they are social services established or maintained for a public purpose: <ul style="list-style-type: none"> <li>- income security and insurance;</li> <li>- social security and insurance;</li> <li>- social welfare;</li> <li>- public education;</li> <li>- public training;</li> <li>- health;</li> <li>- child care;</li> <li>- public utilities;</li> <li>- public transport; and</li> <li>- public housing.</li> </ul>	Any country to which Kiribati grants more favourable treatment in these areas.	Management of core government functions.

**ANNEX I - LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF NAURU**

1. Nauru specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement or in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement</i> (PICTA).</p>	Any country to which Nauru accords more favourable treatment in this area.	Management of existing trade agreements.
All sectors	Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed after the	Any country to which Nauru accords more favourable treatment in	Management of existing and future measures involving aviation, fisheries, and maritime matters.

Sector or Sub-Sector	Exemption	Applicable countries and territories	Conditions creating the need for the exemption
	date of entry into force of this Agreement involving: <ul style="list-style-type: none"> <li>(a) aviation;</li> <li>(b) fisheries; or</li> <li>(c) maritime matters, including salvage.</li> </ul>	this area.	
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this Agreement and countries classified as least-developed countries by the United Nations.	Management of regional integration.
All sectors	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including audiovisual and broadcasting services, entertainment services and libraries, archives, museums and other cultural services.	Any country to which Nauru accords more favourable treatment in this area.	Management of cultural industries.
Maritime transport	Priority consideration for the issuance of Entry Assurance Certificate is given to carriers that are wholly-owned by citizens of countries that are parties to the Central Pacific Shipping Commission that use vessels registered in member countries,	Members of the Central Pacific Shipping Commission (currently: Kiribati, the Republic of the Marshall Islands,	The Central Pacific Shipping Commission regulates international shipping among its members.

<sup>1</sup> This includes American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau and Wallis and Futuna.

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
	and that employ citizens of member countries.	Nauru).	
Health and social services	<p>Any measure with respect to the provision of law enforcement and correctional services and the following services to the extent that they are social services established or maintained for a public purpose:</p> <ul style="list-style-type: none"> <li>- income security and insurance;</li> <li>- social security and insurance;</li> <li>- social welfare;</li> <li>- public education;</li> <li>- public training;</li> <li>- health;</li> <li>- child care;</li> <li>- public utilities;</li> <li>- public transport; and</li> <li>- public housing.</li> </ul>	Any country to which Nauru grants more favourable treatment in these areas.	Management of core government functions

**ANNEX I: LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF NEW ZEALAND**

1. New Zealand specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).
2. Unless otherwise indicated, the classification of services sectors is based on the 1991 Provisional Central Product Classification of the United Nations Statistical Office and the ordering reflects the services sectoral classification list used in the WTO document MTN.GNS/W/120, dated 10 July 1991.

<b>Sector</b>	<b>Exemption</b>	<b>Applicable Countries</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to Parties and non-Parties to any bilateral or multilateral international agreement in force or signed prior to the date of entry into the force of this Agreement.</p> <p>For greater certainty, this includes, in respect of agreements on the liberalisation of trade in goods or services or investment, any measures taken as part of a wider process of economic integration or trade liberalisation between the parties to such agreements.</p> <p>New Zealand reserves the right to adopt or maintain any measure that accords differential treatment to parties to any international agreement in force or signed after the date of entry into force of this Agreement involving:</p>	Any country to which New Zealand accords more favourable treatment in this area.	Management of New Zealand's foreign investment policy.

Sector	Exemption	Applicable Countries	Conditions creating the need for the exemption
	<p>(a) aviation;  (b) fisheries; and  (c) maritime matters.</p> <p>New Zealand reserves the right to adopt and maintain any measures as part of the act of devolving a service that is provided in the exercise of governmental authority at the time the Agreement enters into force.</p>	Any country to which New Zealand accords more favourable treatment in this area.	The management of core government function.
All sectors	<p>New Zealand reserves the right to adopt or maintain any measures with respect to:</p> <p>(a) the provision of public law enforcement and correctional services; and  (b) the following, to the extent that they are social services established for a public purpose:</p> <p>(i) childcare;  (ii) health;  (iii) income security and insurance;  (iv) public education;  (v) public housing;  (vi) public training;  (vii) public transport;  (viii) public utilities;  (ix) social security and insurance; or  (x) social welfare.</p>	Any country to which New Zealand accords more favourable treatment in this area.	The management of core government function.
All sectors	Where the New Zealand Government wholly owns or has effective control over an enterprise, New Zealand	Any country to which New Zealand accords more	The management of core government function.

Sector	Exemption	Applicable Countries	Conditions creating the need for the exemption
	reserves the right to adopt or maintain any measures with respect to the sale of any shares in that enterprise, or any assets of that enterprise, to any person, including according more favourable treatment to New Zealand nationals.	favourable treatment in this area.	
Research and development	<p>New Zealand reserves the right to adopt or maintain any measures with respect to:</p> <ul style="list-style-type: none"> <li>(a) Research and Development services carried out by State funded tertiary institutions or by research organisations that are part of the New Zealand State sector when such research is conducted for a public purpose; and</li> <li>(b) research and experimental development services on physical sciences, chemistry, biology, engineering and technology, agricultural sciences, medical, pharmaceutical and other natural sciences i.e. CPC 8510.</li> </ul>	Any country to which New Zealand accords more favourable treatment in this area.	The management of core government function.
Technical testing and analysis services	<p>New Zealand reserves the right to adopt or maintain any measures with respect to:</p> <ul style="list-style-type: none"> <li>(a) composition and purity testing and analysis services;</li> <li>(b) technical inspection services;</li> <li>(c) other technical testing and analysis services;</li> <li>(d) geological, geophysical, and other scientific prospecting services; and</li> <li>(e) drug testing services.</li> </ul>	Any country to which New Zealand accords more favourable treatment in this area.	The management of core government function.

Sector	Exemption	Applicable Countries	Conditions creating the need for the exemption
Fisheries and aquaculture	New Zealand reserves the right to maintain or adopt any measures with respect to activities of foreign fishing, including fishing landing, first landing of fish processed at sea, and access to New Zealand ports (port privileges) consistent with the provisions of the <i>United Nations Convention on the Law of the Sea</i> .	Any country to which New Zealand accords more favourable treatment in this area.	<p><i>Fisheries Act 1996</i> <i>Aquaculture Reform Act 2004</i></p> <p>For greater transparency, examples of existing measures contained in the <i>Fisheries Act 1996</i> and the <i>Aquaculture Reform Act 2004</i> include:</p> <ul style="list-style-type: none"> <li>(a) No vessel owned or operated by an overseas person may be registered to carry out commercial fishing or fish carrying activities without the permission of the Chief Executive of the Ministry of Fisheries, and subject to any conditions that he or she thinks fit to impose.</li> <li>(b) Foreign fishing vessels or fish carriers are required to obtain the approval of the Chief Executive before entering New Zealand internal waters or ports. If the Chief Executive is satisfied that the vessel has</li> </ul>



Sector	Exemption	Applicable Countries	Conditions creating the need for the exemption
			<p>undermined international conservation and management measures, he or she may deny the vessel approval to enter New Zealand internal waters.</p> <p>(c) Ministerial approval is required before any overseas person may be allocated, purchase or own any provisional catch history, quota, or annual catch entitlement.</p> <p>(d) As set out in section 296B of the <i>Fisheries Act 1996</i>, certain specified functions, duties or powers can only be transferred to approved service delivery organisations that comply with specified criteria.</p> <p>(e) Foreign research vessels require the permission of the Minister of Fisheries to take fish, seaweed or aquatic life within the New Zealand Exclusive Economic Zone.</p>

Sector	Exemption	Applicable Countries	Conditions creating the need for the exemption
Services incidental to mining	New Zealand reserves the right to adopt any measures with respect to services incidental to mining.	Any country to which New Zealand accords more favourable treatment in this area.	Management of New Zealand's mining sector.
Energy Manufacturing Wholesale Trade Retail	New Zealand reserves the right to adopt any measures in order to prohibit, regulate, manage or control the production, use, distribution, or retail of nuclear energy, including setting conditions for natural persons or juridical persons to do so.	Any country to which New Zealand accords more favourable treatment in this area.	Management of New Zealand's nuclear energy policy.
Immigration services	<p data-bbox="405 759 1155 970">New Zealand reserves the right to adopt any measures with respect to licensing requirements and the enforcement of those requirements, including through information sharing, in respect of natural persons who provide immigration advice, to a person in regards to any immigration matter relating to New Zealand.</p> <p data-bbox="405 1018 1155 1228">For greater transparency, this exemption applies in respect of the most-favoured-nation treatment obligation to the extent that New Zealand enters into a reciprocal agreement about information sharing or enforcement of New Zealand's licensing requirements within the country with whom the agreement is made.</p> <p data-bbox="405 1276 1155 1342">This exemption does not apply to a national or permanent resident of another Party who is authorised to practice law</p>	Any country to which New Zealand accords more favourable treatment in this area.	Management of New Zealand's immigration system and regulations.

<b>Sector</b>	<b>Exemption</b>	<b>Applicable Countries</b>	<b>Conditions creating the need for the exemption</b>
	in New Zealand.		
Interpretation services	More favourable entry conditions possible for nationals of countries listed in column (3) with requisite skills as interpreters for employment for up to two years in tourism-related industries.	Japan and other countries with whom such arrangements may be desirable.	New Zealand's tourism development policies.
COMMUNICATION SERVICES  Postal services	New Zealand reserves the right to adopt any measures with respect to the supply of postal services.	Any country to which New Zealand accords more favourable treatment in this area.	The management of core government function.
Audiovisual services	National treatment, in the form of access to finance and tax concessions and simplified requirements for the temporary entry of skilled personnel into New Zealand for the purposes of the co-production of films and television programmes, is extended to audiovisual works covered under Film Co-Production Agreements with the countries indicated in column (3).	Canada*, France*, UK* <sup>1</sup> and any other country where cultural cooperation might be desirable and which is prepared to exchange preferential treatment on the terms and conditions specified in such arrangements or agreements.	To support the development of the New Zealand film industry for cultural reasons and to share benefits with others with similar policies.
	New Zealand reserves the right to adopt or maintain	Any country to which	Section 18 of the <i>New Zealand</i>

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\* These Agreements provide New Zealand with reciprocal access to Co-Production Agreements signed with Third Countries/Parties.

Sector	Exemption	Applicable Countries	Conditions creating the need for the exemption
	<p>preferential co-production arrangements with respect to film and television productions. Official co-production status, which may be granted to a co-production produced under preferential co-production arrangements, confers national treatment on works covered by such arrangements.</p>	<p>New Zealand accords more favourable treatment in this area.</p>	<p><i>Film Commission Act 1978</i></p> <p>For greater transparency, section 18 of the <i>New Zealand Film Commission Act 1978</i> limits New Zealand Film Commission funding to films with a “significant New Zealand content”. This criterion is deemed to be satisfied if made pursuant to a co-production agreement or arrangement with the partner country in question.</p>
<p>HEALTH RELATED AND SOCIAL SERVICES</p>	<p>New Zealand reserves the right to adopt or maintain any measures with respect to the supply of adoption services.</p>	<p>Any country to which New Zealand accords more favourable treatment in this area.</p>	<p><i>Adoption Act 1955</i> <i>Adoption (Intercountry) Act 1997</i></p>
	<p>New Zealand reserves the right to adopt or maintain any measures with respect to the following services to the extent that they are provided by the private sector:</p> <ul style="list-style-type: none"> <li>– hospital services; and</li> <li>– maternity deliveries and related services, including services provided by midwives.</li> </ul> <p>New Zealand reserves the right to adopt or maintain any measures with respect to pharmaceutical services to the extent that they are provided by the private sector.</p>	<p>Any country to which New Zealand accords more favourable treatment in this area.</p>	<p>The management of core government function.</p>

Sector	Exemption	Applicable Countries	Conditions creating the need for the exemption
<p>RECREATIONAL, CULTURAL AND SPORTING SERVICES (other than audiovisual services)</p> <p>Library, archive, museum and other cultural services</p>	<p>New Zealand reserves the right to adopt or maintain any measures with respect to:</p> <ul style="list-style-type: none"> <li>– cultural heritage of national value; including ethnological, archaeological, historical, literary, artistic, scientific or technological heritage, as well as collections that are documented, preserved and exhibited by museums, galleries, libraries, archives and other heritage collecting institutions;</li> <li>– public archives;</li> <li>– library and museum services; and</li> <li>– services for the preservation of historical or sacred sites or historical buildings.</li> </ul>	<p>Any country to which New Zealand accords more favourable treatment in this area.</p>	<p>The management of core government function relating to national heritage.</p>
<p>TRANSPORT SERVICES</p> <p>Maritime transport services</p>	<p>New Zealand reserves the right to adopt or maintain any measures with respect to:</p> <ul style="list-style-type: none"> <li>– the carriage by sea of passengers and/or cargo between a port located in New Zealand and traffic originating and terminating in the same port in New Zealand (“maritime cabotage”);</li> <li>– provision of certain Port Services (pilotage, towing and tug assistance provisioning, fuelling and watering, garbage collecting and ballast waste disposal, port captains’ services, navigation aids, emergency repair facilities, anchorage, other shore-based operational services essential to ship operations,</li> </ul>	<p>Any country to which New Zealand accords more favourable treatment in this area.</p>	<p><i>Commerce Act 1986</i>  <i>Shipping Act 1987</i>  <i>Ship Registration Act 1992</i>  <i>Maritime Transport Act 1994</i>  <i>Maritime Security Act 2004</i>  <i>Port Companies Act 1988</i></p>

Sector	Exemption	Applicable Countries	Conditions creating the need for the exemption
	<p>including communications, water and electrical supplies). However no measures shall be applied which deny international maritime transport suppliers reasonable and non-discriminatory access to the above port services;</p> <ul style="list-style-type: none"> <li>– the establishment of registered companies for the purpose of operating a fleet under the New Zealand flag;</li> <li>– the registration of vessels in New Zealand; and</li> <li>– the regulation and entry of ships crews to New Zealand through the presence of natural person mode of supply.</li> </ul>		
Maritime transport services (passenger and freight)	The supply of services by officers on New Zealand ships may be limited to citizens with requisite qualifications, from either New Zealand or the other countries listed in column (3).	Any country to which New Zealand accords more favourable treatment in this area.	To promote local maritime recruitment and maintain maritime training standards.

**ANNEX I: LIST OF MOST-FAVOURED NATION-EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF NIUE**

1. Niue specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement or in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement</i> (PICTA).</p>	Any country to which Niue accords more favourable treatment in this area.	Management of existing trade agreements.
All sectors	Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement	Any country to which Niue accords more favourable treatment in this area.	Management of existing and future measures involving aviation, fisheries, and maritime matters.

	involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.		
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this Agreement and countries classified as least-developed countries by the United Nations.	Management of regional integration.
All sectors (movement of natural persons)	A longer period of stay may be granted to natural persons of New Zealand citizenship.	Countries to which Niue accords more favourable treatment in this area.	Shared citizenship.
All sectors	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including audiovisual and broadcasting services, entertainment services and libraries, archives, museums and other cultural services.	Any country to which Niue accords more favourable treatment in this area.	Management of cultural industries.
Health and social services	Any measure with respect to the provision of law enforcement and correctional services and the following services to the extent that they are social services established or maintained for a public purpose:	Any country to which Niue grants more favourable treatment in these areas.	Management of core government functions.

<sup>1</sup> American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau, and Wallis and Futuna.



	<ul style="list-style-type: none"><li>- income security and insurance;</li><li>- social security and insurance;</li><li>- social welfare;</li><li>- public education;</li><li>- public training;</li><li>- health;</li><li>- child care;</li><li>- public utilities;</li><li>- public transport; and</li><li>- public housing.</li></ul>		
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**ANNEX I - LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF PALAU**

1. Palau specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement</i> (PICTA), the Compact of Free Association, and the <i>Treaty on Micronesian Trade and Economic Community</i>.</p>	Any country to which Palau accords more favourable treatment in this area.	Management of existing trade agreements.
All sectors	Any measure that accords more favourable	Any country to which	Management of existing and future

Sector or Sub-Sector	Exemption	Applicable countries and territories	Conditions creating the need for the exemption
	<p>treatment to parties to any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving:</p> <ul style="list-style-type: none"> <li>(a) aviation;</li> <li>(b) fisheries; or</li> <li>(c) maritime matters, including salvage.</li> </ul>	<p>Palau accords more favourable treatment in this area.</p>	<p>measures involving aviation, fisheries, and maritime matters.</p>
<p>All sectors</p>	<p>Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.</p>	<p>Pacific Island Countries and territories<sup>1</sup> that are not Parties to this Agreement and countries classified as least-developed countries by the United Nations.</p>	<p>Management of regional integration.</p>
<p>All sectors</p>	<p>Citizens and nationals of the United States and its territories are exempt from certain labour and immigration requirements.</p>	<p>United States and its territories (American Samoa, Commonwealth of Northern Mariana Islands, Guam, Puerto Rico and United States Virgin Islands).</p>	<p>Pursuant to Compact of Free Association Treaty with the United States of America.</p>
<p>All sectors</p>	<p>Citizens of the Federated State of Micronesia and</p>	<p>The Federated States of</p>	<p>Regional integration.</p>

<sup>1</sup> American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau and Wallis and Futuna.

Sector or Sub-Sector	Exemption	Applicable countries and territories	Conditions creating the need for the exemption
	the Republic of the Marshall Islands are exempt from certain labour and immigration requirements	Micronesia and the Republic of the Marshall Islands.	
All sectors	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including audiovisual and broadcasting services, entertainment services and libraries, archives, museums and other cultural services.	Any country to which Palau accords more favourable treatment in this area.	Management of cultural industries.
Maritime transport	Priority consideration for the issuance of Entry Assurance Certificate is given to carriers that are wholly-owned by citizens of the Republic of the Marshall Islands and the Federated States of Micronesia that use vessels registered in the Republic of the Marshall Islands and the Federated States of Micronesia, and that employ citizens of the Republic of the Marshall Islands and the Federated States of Micronesia.	Members of the Micronesian Shipping Commission (the Republic of the Marshall Islands and the Federated States of Micronesia).	The Micronesian Shipping Commission regulates international shipping to and from the Republic of the Marshall Islands, Palau, and the Federation States of Micronesia.
Health and social services	Any measure with respect to the provision of law enforcement and correctional services and the following services to the extent that they are social services established or maintained for a public purpose: - income security and insurance; - social security and insurance;	Any country to which Palau grants more favourable treatment in these areas.	Management of core government functions.

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
	<ul style="list-style-type: none"><li>- social welfare;</li><li>- public education;</li><li>- public training;</li><li>- health;</li><li>- child care;</li><li>- public utilities;</li><li>- public transport; and</li><li>- public housing.</li></ul>		

**ANNEX I - LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF THE REPUBLIC OF THE MARSHALL ISLANDS**

1. The Republic of the Marshall Islands specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services) and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement or in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement</i> (PICTA), the Compact of Free Association, and the <i>Treaty on Micronesian Trade and Economic Community</i>.</p>	Any country to which the Republic of the Marshall Islands accords more favourable treatment in this area.	Management of existing trade agreements.
All sectors	Any measure that accords more favourable treatment to parties to any bilateral or multilateral	Any country to which the Republic of the Marshall	Management of existing and future measures involving aviation, fisheries, and

	international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.	Islands accords more favourable treatment in this area.	maritime matters.
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this Agreement and countries classified as least-developed countries by the United Nations.	Management of regional integration.
All sectors	Citizens of the United States and its territories are exempt from certain labour and immigration requirements.	United States and its territories (Guam and the Commonwealth of Northern Mariana Islands).	Historical links to the United States.
All sectors	Citizens of the Federated States of Micronesia and Palau are exempt from certain labour and immigration requirements.	The Federated States of Micronesia and Palau	Regional integration.
All sectors	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including audiovisual and broadcasting services,	Any country to which the Republic of the Marshall Islands accords more	Management of cultural industries.

<sup>1</sup> American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau and Wallis and Futuna.

	entertainment services and libraries, archives, museums and other cultural services.	favourable treatment in this area.	
Maritime transport	<p>Transport between the Republic of the Marshall Islands, Palau, and the Federated States of Micronesia is not subject to approval and issuance of an Entry Assurance Certificate by the Micronesian Shipping Commission.</p> <p>Priority consideration for the issuance of Entry Assurance Certificate is given to carriers that are wholly-owned by citizens of Palau and the Federated States of Micronesia that use vessels registered in Palau and the Federated States of Micronesia, and that employ citizens of Palau and the Federated States of Micronesia.</p> <p>Preferences may also be granted with respect to freight forwarders.</p>	Members of the Micronesia Shipping Commission (Palau and the Federated States of Micronesia).	The Micronesian Shipping Commission regulates international shipping to and from the Republic of the Marshall Islands, Palau, and the Federation of Micronesian States.
Maritime transport	Priority consideration for the issuance of Entry Assurance Certificate is given to carriers that are wholly-owned by citizens of countries that are parties to the Central Pacific Shipping Commission that use vessels registered in member countries, and that employ citizens of member countries.	Members of the Central Pacific Shipping Commission (currently: Kiribati, Tuvalu, Nauru).	The Central Pacific Shipping Commission regulates international shipping to and from the Republic of the Marshall Islands, Kiribati, Tuvalu and Nauru.
Health and Social Services	Any measure with respect to the provision of law enforcement and correctional services and the following services to the extent that they are social	Any country to which the Republic of the Marshall Islands grants more	Management of core government functions.



	<p>services established or maintained for a public purpose:</p> <ul style="list-style-type: none"><li>- income security and insurance;</li><li>- social security and insurance;</li><li>- social welfare;</li><li>- public education;</li><li>- public training;</li><li>- health;</li><li>- child care;</li><li>- public utilities;</li><li>- public transport; and</li><li>- public housing.</li></ul>	<p>favourable treatment in these areas.</p>	
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**ANNEX I - LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF SAMOA**

1. Samoa specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement</i> (PICTA).</p>	Any country to which Samoa accords more favourable treatment in this area.	Management of existing trade agreements.
All sectors	Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement	Any country to which Samoa accords more favourable treatment in this area.	Management of existing and future measures involving aviation, fisheries, and maritime matters.

Sector or Sub-Sector	Exemption	Applicable countries and territories	Conditions creating the need for the exemption
	involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.		
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this Agreement and countries classified as least-developed countries by the United Nations.	Management of regional integration.
All sectors	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including audiovisual and broadcasting services, entertainment services and libraries, archives, museums and other cultural services.	Any country to which Samoa accords more favourable treatment in this area.	Management of cultural industries.
Audiovisual services	Measures based upon co-production agreements of audiovisual works, which confer National Treatment to audiovisual works covered by such agreements.	Countries with which bilateral or plurilateral agreements are in force, now or in the future.	The aim of these agreements is to promote cultural links between the countries concerned.

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<sup>1</sup> American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau, and Wallis and Futuna.

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
Audiovisual services	Measures granting the benefit of support programmes to audiovisual works and suppliers of such works meeting certain origin criteria.	Countries with which bilateral and plurilateral agreements are in force, now or in the future.	These programmes aim at preserving and promoting the cultural identity of countries with which Samoa has long-standing cultural links.
Audiovisual services	Measures which extend National Treatment to audiovisual works which meet certain origin criteria regarding access to broadcasting transmission.	Countries with which bilateral or plurilateral agreements are in force, now or in the future.	These measures aim, within the sector, to promote cultural values both within Samoa and with other countries, including in the region.
Health and social services	<p>Any measure with respect to the provision of law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose:</p> <ul style="list-style-type: none"> <li>- income security or insurance;</li> <li>- social security or insurance;</li> <li>- social welfare;</li> <li>- public education;</li> <li>- public training;</li> <li>- health;</li> <li>- child care;</li> <li>- public utilities;</li> <li>- public transport; and</li> <li>- public housing.</li> </ul>	Any country to which Samoa accords more favourable treatment in this area.	Management of core government functions.

**ANNEX I - LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF SOLOMON ISLANDS**

1. Solomon Islands specifies below a list of most-favoured-nation exemptions from for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement (PICTA)</i> and the <i>Melanesian Spearhead Group (MSG) Agreement</i>.</p>	Any country to which Solomon Islands accords more favourable treatment in this area.	Management of existing trade agreements.
All sectors	Any measure that accords more favourable	Any country to which	Management of existing and future

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
	treatment to parties to any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.	Solomon Islands accords more favourable treatment in this area	measures involving aviation, fisheries, and maritime matters.
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this Agreement and countries and territories classified as least-developed countries by the United Nations.	Management of regional integration.
All sectors	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including audiovisual and broadcasting services, entertainment services and libraries, archives, museums and other cultural services.	Any country to which Solomon Islands accords more favourable treatment in this area.	Management of cultural industries.
All sectors	Any measure with respect to the provision of law	Any country to which	Management of law enforcement,

<sup>1</sup> American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau and Wallis and Futuna.

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
	enforcement and correctional services, and the following services to the extent that they are social services established or maintained for a public purpose: income security or insurance, social security or insurance, social welfare, public education, public training, health, child care, public utilities, public transport and public housing.	Solomon Islands accords more favourable treatment in this area.	correctional and other social services.
Health and social services	Any measure with respect to the provision of law enforcement and correctional services and the following services to the extent that they are social services established or maintained for a public purpose: <ul style="list-style-type: none"> <li>- income security and insurance;</li> <li>- social security and insurance;</li> <li>- social welfare;</li> <li>- public education;</li> <li>- public training;</li> <li>- health;</li> <li>- child care;</li> <li>- public utilities;</li> <li>- public transport; and</li> <li>- public housing.</li> </ul>	Any country to which Solomon Islands grants more favourable treatment in these areas.	Management of core government functions.

**ANNEX I - LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF TONGA**

1. Tonga specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7, paragraph 2 (Most-Favoured Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the Pacific Island Countries Trade Agreement (PICTA).</p>	Any country to which Tonga accords more favourable treatment in this area.	Management of existing trade agreements.
All sectors	Any measure that accords more favourable treatment to parties to any bilateral or multilateral	Any country to which Tonga accords more	Management of existing and future measures involving aviation, fisheries, and



<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
	international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.	favourable treatment in this area.	maritime matters.
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this Agreement and countries classified as least-developed countries by the United Nations.	Management of regional integration.
Audiovisual services - Production and distribution of television programmes and cinematographic works	Measures based upon co-production agreements of audio-visual works, which confer National Treatment to audio-visual works covered by such agreements.	Countries with which such bilateral or plurilateral agreements are in force, now or in the future.	The aim of these agreements is to promote cultural links between the countries concerned.

<sup>1</sup> American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau, and Wallis and Futuna.

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
Audiovisual Services - Production and distribution of television programmes and cinematographic works	Measures granting the benefit of support programmes to audio-visual works, and suppliers of such works meeting origin criteria.	Countries with which bilateral and plurilateral agreements are in force, now or in the future, in the area of cultural cooperation.	These programmes aim at preserving and promoting the cultural identity of countries with which Tonga has a long-standing cultural links.
Audiovisual services - Production and distribution of audio-visual works through broadcasting transmission to the public	Measures which extend National Treatment to audiovisual works which meet certain origin criteria regarding access to broadcasting transmission.	Countries with which bilateral or plurilateral agreements are in force, now or in the future, in the area of cultural cooperation.	These measures aim, within the sector, to promote cultural values both within Tonga, and with other countries, including in the region.
Health and Social Services	Any measure with respect to the provision of law enforcement and correctional services and the following services to the extent that they are social services established or maintained for a public purpose: - income security and insurance; - social security and insurance;	Any country to which Tonga grants more favourable treatment in these areas.	Management of core government functions.

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
	<ul style="list-style-type: none"><li>- social welfare;</li><li>- public education;</li><li>- public training;</li><li>- health;</li><li>- child care;</li><li>- public utilities;</li><li>- public transport; and</li><li>- public housing.</li></ul>		

**ANNEX I - LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF TUVALU**

1. Tuvalu specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement</i> (PICTA).</p>	Any country to which Tuvalu accords more favourable treatment in this area.	Management of existing trade agreements.
All sectors	Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed after the	Any country to which Tuvalu accords more favourable treatment in	Management of existing and future measures involving aviation, fisheries, and maritime matters.

	date of entry into force of this Agreement involving: (a) aviation (b) fisheries; or (c) maritime matters, including salvage.	this area.	
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this Agreement and countries classified as least-developed countries by the United Nations	Management of regional integration.
All sectors	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including audiovisual and broadcasting services, entertainment services and libraries, archives, museums and other cultural services.	Any country to which Tuvalu accords more favourable treatment in this area.	Management of cultural industries.
Maritime transport	Priority consideration for the issuance of Entry Assurance Certificate is given to carriers that are wholly-owned by citizens of countries that are parties to the Central Pacific Shipping Commission at the time of signature of, and after entry into force of this agreement, that use vessels registered in member countries, and that employ citizens of member countries.	Members of the Central Pacific Shipping Commission (currently: Kiribati, the Republic of the Marshall Islands, Nauru, and Tuvalu).	The Central Pacific Shipping Commission regulates international shipping among its member countries.

<sup>1</sup> American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau and Wallis and Futuna.

<p>Health and social services</p>	<p>Any measure with respect to the provision of law enforcement and correctional services and the following services to the extent that they are social services established or maintained for a public purpose:</p> <ul style="list-style-type: none"> <li>- income security and insurance;</li> <li>- social security and insurance;</li> <li>- social welfare;</li> <li>- public education;</li> <li>- public training;</li> <li>- health;</li> <li>- child care;</li> <li>- public utilities;</li> <li>- public transport; and</li> <li>- public housing.</li> </ul>	<p>Any country to which Tuvalu grants more favourable treatment in these areas.</p>	<p>Management of core government functions.</p>
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**ANNEX I - LIST OF MOST-FAVOURED-NATION EXEMPTIONS (CHAPTER 7 AND CHAPTER 9)**

**SCHEDULE OF VANUATU**

1. Vanuatu specifies below a list of most-favoured-nation exemptions for commitments under Article 3, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 7 (Trade in Services), and under Article 7, paragraph 2 (Most-Favoured-Nation Treatment) of Chapter 9 (Investment).

<b>Sector or Sub-Sector</b>	<b>Exemption</b>	<b>Applicable countries and territories</b>	<b>Conditions creating the need for the exemption</b>
All sectors	<p>Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed prior to the date of entry into force of this Agreement.</p> <p>For greater certainty, this right extends to any differential treatment accorded pursuant to a subsequent review or amendment of the relevant bilateral, regional or multilateral international agreement, including the expansion of an agreement covering only trade in goods to trade in services or investment. For the avoidance of doubt, this includes measures adopted or maintained under any existing or future protocol to the <i>Pacific Island Countries Trade Agreement (PICTA)</i>, the <i>Melanesian Spearhead Group (MSG) Agreement</i>, and any bilateral arrangement with the state of New Caledonia.</p>	Any country to which Vanuatu accords more favourable treatment in this area.	Management of existing trade agreements.

All sectors	Any measure that accords more favourable treatment to parties to any bilateral or multilateral international agreement in force or signed after the date of entry into force of this Agreement involving: (a) aviation; (b) fisheries; or (c) maritime matters, including salvage.	Any country to which Vanuatu accords more favourable treatment in this area.	Management of existing and future measures involving aviation, fisheries, and maritime matters.
All sectors	Any measure that accords more favourable treatment under any bilateral or regional agreement with the countries and territories specified in the next column and that is signed after the entry into force of this Agreement.	Pacific Island Countries and territories <sup>1</sup> that are not Parties to this Agreement and countries classified as least-developed countries by the United Nations.	Management of regional integration.
All sectors	Any measure with respect to the creative arts, cultural heritage and other cultural industries, including audiovisual and broadcasting services, entertainment services and libraries, archives, museums and other cultural services.	Any country to which Vanuatu accords more favourable treatment in this area.	Management of cultural industries.
All sectors	Any measure with respect to the provision of law enforcement and correctional services and the following services to the extent that they are	Any country to which Vanuatu grants more favourable treatment in	Management of core government functions.

<sup>1</sup> American Samoa, Commonwealth of the Northern Mariana Islands, French Polynesia, Guam, New Caledonia, Pitcairn, Tokelau and Wallis and Futuna.



	<p>social services established or maintained for a public purpose:</p> <ul style="list-style-type: none"><li>- income security or insurance;</li><li>- social security or insurance;</li><li>- social welfare;</li><li>- public education;</li><li>- public training;</li><li>- health;</li><li>- child care;</li><li>- public utilities;</li><li>- public transport; and</li><li>- public housing.</li></ul>	<p>these areas.</p>	
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