

Annex III

Schedule of Australia

Non-Conforming Measures of Australia with respect to Financial Services

Introductory Note for the Schedule of Australia

1. The Schedule of Australia to Annex III sets out:
 - (a) headnotes that limit or clarify the commitments of Australia with respect to the obligations described in subparagraphs (b) and (c);
 - (b) in Section 1, pursuant to Article 12.10.1 (Non-Conforming Measures – Financial Services), the existing measures of Australia that do not conform with some or all of the obligations imposed by:
 - (i) Article 12.3 (National Treatment – Financial Services);
 - (ii) Article 12.4 (Most-Favoured-Nation Treatment – Financial Services);
 - (iii) Article 12.5 (Market Access for Financial Institutions– Financial Services);
 - (iv) Article 12.6 (Cross-Border Trade – Financial Services); or
 - (v) Article 12.9 (Senior Management and Boards of Directors – Financial Services); and
 - (c) in Section 2, pursuant to Article 12.10.2 (Non-Conforming Measures – Financial Services), the specific sectors, sub-sectors or activities for which Australia may maintain existing, or adopt new or more restrictive, measures that do not conform with the obligations imposed by:
 - (i) Article 12.3 (National Treatment);
 - (ii) Article 12.4 (Most-Favoured-Nation Treatment);
 - (iii) Article 12.5 (Market Access for Financial Institutions);
 - (iv) Article 12.6 (Cross-Border Trade); or
 - (v) Article 12.9 (Senior Management and Boards of Directors);
2. Each entry in Section 1 as described in subparagraph 1(b) sets out the following elements:
 - (a) **Sector** refers to the general sector for which the entry is made;

- (b) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1(b) that, pursuant to Article 12.10.1 (Non-Conforming Measures – Financial Services), do not apply to the listed measure(s);
- (c) **Level of Government** indicates the level of government maintaining the listed measure(s);
- (d) **Source of Measure** identifies the laws, regulations or other measures that are the source of the non-conforming measure for which the entry is made. A measure cited in the Source of Measure element:
 - (i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and
 - (ii) includes any subordinate measure adopted or maintained thereunder; and
- (e) **Description** sets out the non-conforming aspects of the measure for which the entry is made.

3. Each entry in Section 2 as described in subparagraph 1(c) sets out the following elements:

- (a) **Sector** refers to the general sector for which the entry is made;
- (b) **Obligations Concerned** specifies the obligation(s) referred to in paragraph 1(c) that, pursuant to Article 12.10.2 (Non-Conforming Measures – Financial Services), do not apply to the sectors, sub-sectors, or activities listed in the entry;
- (c) **Level of Government** indicates the level of government maintaining the listed measure(s); and
- (d) **Description** sets out the scope of the sectors, subsectors, or activities covered by the entry.

4. For entries in Section 1, in accordance with Article 12.10.1(a) (Non-Conforming Measures – Financial Services), the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the measures identified in the **Description** element of that entry except to the extent the measure identified in the **Description** element is inconsistent with a Specific Commitment in Annex 12-B (Annex on Specific Commitments, Section C Portfolio Management).

5. For entries in Section 2, in accordance with Article 12.10.2, the articles of this Agreement specified in the **Obligations Concerned** element of an entry do not apply to the sectors, sub-sectors and activities identified in the **Description** element of that entry.

6. Where Australia maintains a measure that requires that a service supplier be a citizen, permanent resident or resident of its territory as a condition to the provision of a service in its territory, a listing for that measure taken in Annex III with respect to Articles 12.3, 12.4, 12.5 or 12.6 shall operate as a non-conforming measure with

respect to Articles 10.3 (National Treatment, Investment Chapter), 10.4 (Most-Favoured-Nation Treatment, Investment Chapter) and Article 10.7 (Performance Requirements, Investment Chapter), to the extent of that measure.

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

- (i) Article 12.3 (National Treatment – Financial Services);
- (ii) Article 12.4 (Most-Favoured-Nation Treatment – Financial Services);
- (iii) Article 12.6 (Cross-Border Trade – Financial Services); or
- (iv) Article 12.9 (Senior Management and Boards of Directors – Financial Services).

Annex III
Non-Conforming Measures of Australia with Respect to Financial Services

Headnotes

1. Commitments under this Chapter are undertaken subject to the limitations and conditions set forth in these headnotes and the Schedule below.
2. To clarify Australia's commitment with respect to Article 12.5 (Market Access for Financial Institutions – Financial Services), juridical persons supplying financial services and constituted under the laws of Australia are subject to non-discriminatory limitations on juridical form.^{III-1}
3. A foreign bank that operates a representative office in Australia is not permitted to undertake any banking business, including advertising for deposits, in Australia. Such a representative office is only permitted to act as a liaison point. Such requirements are consistent with Article 12.3 (National Treatment – Financial Services).

^{III-1} For example, partnerships and sole proprietorships are generally not acceptable juridical forms for authorised depository institutions in Australia. This headnote is not itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

Annex III

Schedule of Australia Section 1

Sector:	Financial Services
Obligations Concerned:	National Treatment (Article 12.3)
Level of Government:	Central
Source of Measure:	<i>Banking Act 1959 (Cth)</i> <i>Payment Systems (Regulation) Act 1998 (Cth)</i>
Description:	A branch of a foreign bank that is authorised as a deposit taking institution in Australia (foreign ADI) is not permitted to accept initial deposits (and other funds) from individuals and non-corporate institutions of less than \$A250,000.

Sector:	Financial Services
Obligations Concerned:	Senior Management and Boards of Directors (Article 12.9)
Level of Government:	Central
Source of Measure:	<i>Corporations Act 2001</i> (Cth)
Description:	At least two of the directors of a public company must be ordinarily resident in Australia.

Sector:	Financial Services
Obligations Concerned:	National Treatment (Article 12.3)
Level of Government:	Central
Source of Measure:	<i>Commonwealth Banks Act 1959</i> (Cth) <i>AIDC Sale Act 1997</i> (Cth) <i>Australian Industry Development Corporation Act 1970</i> (Cth)
Description:	Liabilities of the Commonwealth Bank and the Australian Industry Development Corporation (AIDC), previously Commonwealth Government-owned, are covered by transitional guarantee arrangements.

Sector	Financial services
Obligations Concerned:	National Treatment (Article 12.3)
Level of Government:	Central
Source of Measure:	<i>Life Insurance Act 1995</i> (Cth)
Description:	Approval of non-resident life insurers is restricted to subsidiaries incorporated under Australian law.

Sector:	Financial services
Sub-sector:	Credit providers, debt collectors, and finance brokers
Obligations Concerned:	National Treatment (Article 12.3)
Source of Measure:	<i>Credit (Administration) Act 1984 (WA)</i> Credit (Administration) Regulations 1985 (WA) <i>Debt Collectors Licensing Act 1964 (WA)</i> Debt Collectors Licensing Regulations 1964 (WA) <i>Finance Brokers Control Act 1975 (WA)</i> Finance Brokers (General) Regulations 1977 (WA)
Description:	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 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.

Sector:	Credit Providers, Debt Collectors and Finance Brokers
Obligations concerned:	National Treatment (Article 12.3)
Level of Government:	Regional
Source of Measure:	<i>Second-hand Dealers Pawnbrokers Act 2003 (Qld)</i>
Description:	A person operating as a second-hand dealer or as a pawnbroker must have a principal place of business in Queensland where a document can be served personally. A post office box does not suffice.

Annex III

Schedule of Australia

Section 2

Sector	Financial Services
Obligations Concerned:	Market Access for Financial Institutions (Article 12.5)
Description	Australia reserves the right to adopt or maintain any measure relating to Article 12.5 (Market Access for Financial Institutions), except for the following sectors and sub-sectors subject to the limitations and conditions listed below:

Subsector	Limitation on Market Access
A. <u>Insurance and insurance-related services</u>	Approval of non-resident life insurers is restricted to subsidiaries.
	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: Compulsory Third Party Motor Vehicle Accident: VIC, WA, TAS, NT (monopolies); NSW, QLD, SA, ACT (licensing, premiums/policy terms). Workers Compensation: SA, VIC, QLD (monopolies); NSW, WA, TAS (licensing, premiums/policy terms). Comcare is the monopoly provider of workers' compensation insurance to Commonwealth Government employees.
B. <u>Banking and other financial services (excluding insurance)</u>	A foreign bank located overseas is able to offer its services to Australian enterprises, but is not allowed to raise deposit funds in Australia or undertake business within Australia unless it is an authorised bank (or establishes a money market corporation, subsidiary, etc.). Foreign banks located overseas may, however, raise funds in Australia through the issue of debt securities provided that those securities are offered/traded in parcels of not less than \$A500,000 and the securities and any information memoranda clearly state the issuing bank is not

	authorised under the <i>Banking Act 1959</i> (Cth) in Australia.
	Foreign banks may undertake banking operations in Australia through locally incorporated subsidiaries and/or an authorised branch. However, a branch may not accept “retail” deposits. A foreign bank wishing to accept “retail” deposits must seek authorisation as a locally incorporated subsidiary for that purpose. Foreign bank branches may accept deposits (and other funds) in any amount from incorporated entities, non-residents and their own employees. Deposits (and other funds) may only be accepted from other sources where the initial deposit (or other funds) is greater than \$A250,000. Deposit-taking outside of this is considered to be “retail” banking business.
	A number of State and Territory Governments operate central financing authorities through which the Government's wholly or partly-owned statutory authorities and business enterprises are obliged to borrow (and in some cases invest) their funds, or otherwise obtain certain financial services: SA - South Australian Government Financing Authority, Local Government Finance Authority of South Australia TAS - Tascorp NSW - NSW Treasury Corporation VIC - Treasury Corporation of Victoria QLD - Queensland Treasury Corporation, Queensland Investment Corporation NT - Northern Territory Treasury Corporation WA - Western Australian Treasury Corporation
	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.

Sector:	Financial Services
Obligations Concerned:	National Treatment (Article 12.3)
Level of Government	Central and regional
Description:	Australia reserves the right to adopt or maintain any measure^{III-2} with respect to the guarantee by government of government-owned entities, including guarantees related to the privatisation of such entities, which may conduct financial operations. <i>Queensland Investment Corporation Act 1991 (Qld)</i> <i>Queensland Treasury Corporation Act 1988 (Qld)</i> <i>State Financial Institutions and Metway Merger Facilitation Act 1996 (Qld)</i>

^{III-2} That is, measures that would be excluded from the application of Chapter 12 (Financial Services) under Article 12.2.3(b), except for the application of Australia's policy on competitive neutrality which in general allows competition and avoids providing a net competitive advantage to an entity by virtue of its public sector ownership.

Annex III

Schedule of Chile

Non-Conforming Measures of Chile with respect to Financial Services

Introductory Note for the Schedule of Chile

1. The Schedule of Chile to Annex III sets out:
 - (a) in the headnotes, the limitations or clarifications to the commitments of Chile with respect to the obligations described in Sections 1 and 2;
 - (b) in Section 1, pursuant to Article 12.10.1 (Non-Conforming Measures), the existing measures of Chile that are not subject to some or all of the obligations imposed by:
 - (i) Article 12.3 (National Treatment – Financial Services);
 - (ii) Article 12.4 (Most-Favoured-Nation Treatment – Financial Services);
 - (iii) Article 12.5 (Market Access for Financial Institutions – Financial Services);
 - (iv) Article 12.6 (Cross-Border Trade – Financial Services); or
 - (iv) Article 12.9 (Senior Management and Boards of Directors – Financial Services); and
 - (c) in Section 2, pursuant to Article 12.10.2 (Non-Conforming Measures), the existing and future measures of Chile that are not subject to some or all of the obligations imposed by:
 - (i) Article 12.3 (National Treatment – Financial Services);
 - (ii) Article 12.4 (Most-Favoured-Nation Treatment – Financial Services);
 - (iii) Article 12.5 (Market Access for Financial Institutions – Financial Services);
 - (iv) Article 12.6 (Cross-Border Trade – Financial Services); or
 - (v) Article 12.9 (Senior Management and Boards of Directors – Financial Services).
2. Each entry in Section 1 as described in subparagraph 1(b) sets out the following elements:
 - (a) **Sector** to which the non-conforming measure applies;

- (b) **Subsector** of the financial services sector to which the non-conforming measure applies;
- (c) **Obligations Concerned** specifies the obligation(s) referred to in subparagraph 1(b) that, pursuant to Article 12.10.1, do not apply to the listed measures;
- (d) **Measures** identifies the laws, regulations or other measures for which the entry is made. A measure cited in the **Measures** element:
 - (i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure;
- (e) **Description** provides a general, non-binding description of the **Measures**.

3. Each entry in Section 2 as described in subparagraph 1(c) sets out the following elements:

- (a) **Sector** to which the non-conforming measure applies or will apply;
- (b) **Subsector** of the financial services sector to which the non-conforming measure applies or will apply;
- (c) **Obligations Concerned** specifies the obligation(s) referred to in subparagraph 1(c) that, pursuant to Article 12.10.2, do not or will not apply to the listed measures;
- (d) **Measures**, as applicable, identifies the laws, regulations or other measures for which the entry is made. A measure cited in the **Measures** element:
 - (i) means the measure as amended, continued or renewed as of the date of entry into force of this Agreement, and
 - (ii) includes any subordinate measure adopted or maintained under the authority of and consistent with the measure;
- (e) **Description** provides a general, non-binding description of the **Measures**.

4. In accordance with Article 12.10.1(a) and 12.10.2, the articles of this Agreement specified in the Obligations Concerned element of an entry do not apply to the laws, regulations or other measures identified in the Measure or in the Description element of that entry.

Annex III
Non-Conforming Measures of Chile with Respect to Financial Services

Headnotes

1. Commitments in the financial services sector under this Agreement are undertaken subject to the limitations and conditions set forth in these headnotes and the schedule below.
2. Juridical persons supplying financial services and constituted under the laws of Chile are subject to non-discriminatory limitations on juridical form.^{III-3}

^{III-3} For example, partnerships (*sociedades de personas*) are generally not acceptable juridical forms for financial institutions in Chile. This headnote is not in and of itself intended to affect, or otherwise limit, a choice by a financial institution of the other Party between branches or subsidiaries.

Annex III
Schedule of Chile
Section 1

Sector:	Financial Services
Subsector:	Banking and Other Financial Services
Obligations Concerned:	Senior Management and Boards of Directors (Article 12.9)
Measures:	<i>Ley N° 18.045</i> , Official Gazette of October 22, 1981, <i>Ley de Mercado de Valores</i> , Titles VI and VII, Articles 24, 26 and 27.
Description:	The directors, administrators, managers or legal representatives of legal entities performing the activities of stockbroker and securities agent must be Chileans or foreigners with a residence permit.

Sector:	Financial Services
Subsector:	Banking and Other Financial Services
Obligations Concerned:	National Treatment (Article 12.3)
Measures:	<i>Ley N° 18.657</i> , Official Gazette of September 29, 1987, <i>Ley de Fondos de Inversión de Capital Extranjero</i> , Title II, Article 14.
Description:	The capital of a foreign capital investment fund may not be remitted abroad until five years from the date in which the contribution was made.

Sector:	Financial Services
Subsector:	Banking and other Financial Services
Obligations Concerned:	National Treatment (Article 12.3)
Measures:	<i>Ley N° 18.045</i> , Official Gazette of October 22, 1981, <i>Ley de Mercado de Valores</i> , Titles VI and VII, Articles 24 and 26.
Description:	Natural persons performing the activity of stockbroker and securities agent in Chile must be Chileans or foreigners with a residence permit.

Sector:	Financial Services
Subsector:	Insurance and Insurance-related Services
Obligations Concerned:	Senior Management and Boards of Directors (Article 12.9)
Measures:	<i>Decreto con Fuerza de Ley N° 251</i>, Official Gazette of May 22, 1931, <i>Ley de Seguros</i>, Title III, Article 58. <i>Decreto Supremo N° 863 de 1989 del Ministerio de Hacienda</i>, Official Gazette of April 5, 1990, <i>Reglamento de los Auxiliares del Comercio de Seguros</i>, Title I, Article 2, letter c).
Description:	Administrators and legal representatives of legal entities performing the activity of insurance brokerage must be Chileans or foreigners with a residence permit.

Sector:	Financial Services
Subsector:	Insurance and Insurance-related Services
Obligations Concerned:	National Treatment (Article 12.3)
Measures:	<i>Decreto con Fuerza de Ley N° 251</i> , Official Gazette of May 22, 1931, <i>Ley de Seguros</i> , Title I, Article 16.
Description:	Reinsurance brokerage can be performed by foreign reinsurance brokers. These brokers shall be juridical persons, demonstrate that the entity is legally established in its country of origin and authorised to intermediate risks ceded from abroad, and provide the date that such authorisation was granted. Such entities shall designate a representative in Chile to represent them with broad powers. The representative may be subject to summons and must have residence in Chile.

Sector:	Financial Services
Subsector:	Insurance and Insurance-related Services
Obligations Concerned:	Senior Management and Boards of Directors (Article 12.9)
Measures:	<i>Decreto con Fuerza de Ley 251</i> , Official Gazette of May 22, 1931, <i>Ley de Seguros</i> , Title III, Article 62.
Description:	The administrators and legal representatives of legal entities performing the activity of claim settlement must be Chileans or foreigners with a residence permit.

Sector:	Financial Services
Subsector:	Insurance and Insurance-related Services
Obligations Concerned:	National Treatment (Article 12.3)
Measures:	<i>Decreto con Fuerza de Ley N° 251</i> , Official Gazette of May 22, 1931, <i>Ley de Seguros</i> , Title I, Article 20.
Description:	In the case of the types of insurance covered in <i>Decreto Ley 3.500</i> , involving the cession of reinsurance to foreign reinsurers, the deduction for reinsurance cannot exceed 40 per cent of the total of the technical reserves associated with those types of insurance or a higher percentage if set by the <i>Superintendencia de Valores y Seguros</i> .

Sector:	Financial Services
Subsector:	Insurance and Insurance-related Services
Obligations Concerned:	National Treatment (Article 12.3)
Measures:	<i>Decreto con Fuerza de Ley N° 251</i>, Official Gazette of May 22, 1931, <i>Ley de Seguros</i>, Title I, Articles 58 and 62. <i>Decreto Supremo N° 863 de 1989 del Ministerio de Hacienda</i>, Official Gazette of April 5, 1990, <i>Reglamento de los Auxiliares del Comercio de Seguros</i>, Title I, Article 2, letter c).
Description:	Natural persons performing the activity of insurance brokerage and claim settlement must be Chileans or foreigners with a residence permit.

Annex III

Schedule of Chile Section 2

Sector:	Financial Services
Subsector:	All Subsectors
Obligations Concerned:	Market Access for Financial Institutions (Article 12.5)
Description:	Chile reserves the right to adopt measures that restrict or require specific types of juridical form or establishment, such as subsidiaries, with respect to financial conglomerates, including the entities forming part of it.

Sector:	Financial Services
Subsector:	All Subsectors
Obligations Concerned:	Cross-Border Trade (Article 12.6)
Measures:	<i>Ley 18.840</i> , Official Gazette of October 10, 1989, <i>Ley Orgánica Constitucional del Banco Central de Chile</i> , Title III.
Description:	The purchase of financial services, by persons located in the territory of Chile and its nationals wherever located, from financial services suppliers of Australia shall be subject to the exchange rate regulations adopted or maintained by the <i>Banco Central de Chile</i> in accordance with its Organic Law (<i>Ley 18.840</i>).

Sector:	Financial Services
Subsector:	All Subsectors
Obligations Concerned:	National Treatment (Article 12.3) Senior Management and Boards of Directors (Article 12.9)
Description:	In the transfer or disposal of any interest in stock or asset held in an existing state enterprise or governmental entity, Chile reserves the right to prohibit or impose limitations on the ownership of said interest or asset, and on the right of foreign investors or their investment to control any State company created thereby or investments made by the same. In connection with any such transfer or disposal, Chile may adopt or maintain any measure related to the nationality of senior management and member of the board of directors. A “State company” shall mean any company owned or controlled by Chile by means of an interest share in the ownership thereof, and it shall include any company created after the entry into force of this Agreement for the sole purpose of selling or disposing of its interest share in the capital or assets of an existing state enterprise governmental entity.

Sector:	Financial Services
Subsector:	Banking and other Financial Services
Obligations Concerned:	National Treatment (Article 12.3)
Measures:	<i>Decreto Ley N° 2.079, Official Gazette of January 18, 1978, Ley Orgánica del Banco del Estado de Chile.</i> <i>Decreto Ley N° 1.263, Official Gazette of November 28, 1975, Decreto Ley Orgánico de Administración Financiera del Estado, Article 6.</i>
Description:	Chile may grant advantages or exclusive rights to <i>Banco del Estado de Chile</i> , a Chilean state owned bank, including but not limited to the following: the management of the Chilean government financial resources is made only through deposits in the <i>Cuenta Única Fiscal</i> and in its subsidiary accounts, all of which must be kept at <i>Banco del Estado de Chile</i> .

Sector:	Financial Services
Subsector:	Insurance and Insurance-related Services
Obligations Concerned:	Cross-Border Trade (Article 12.6)
Measures:	<i>Decreto con Fuerza de Ley N° 251</i> , Official Gazette of May 22, 1931, <i>Ley de Seguros</i> , Title I, Article 4.
Description:	All types of insurance that Chilean law makes or may make compulsory, and all insurance related to social security, cannot be contracted outside Chile. This non-conforming measure shall not apply to the types of insurance included in Chile's commitments listed in subparagraphs 2(a)(i) and 2(a)(ii) of Annex 12-A (Cross-Border Trade).

Sector:	Financial Services
Subsector:	Social Services
Obligations Concerned:	National Treatment (Article 12.3) Most-Favoured-Nation Treatment (Article 12.4) Market Access for Financial Institutions (Article 12.5) Cross-Border Trade (Article 12.6) Senior Management and Boards of Directors (Article 12.9)
Description:	Chile reserves the right to adopt or maintain any measure with respect to the provision of public law enforcement and correctional services, and the following services to the extent that they are social services established or maintained for reasons of public interest: income security or insurance, social security or insurance, social welfare, public education, public training, health care and child care.

Sector:	Financial Services
Subsector:	All Subsectors
Obligations Concerned:	Market Access for Financial Institutions (Article 12.5)
Description:	Chile reserves the right to adopt or maintain any measure with respect to Article 12.5 (Market Access for Financial Institutions), except for the following sectors, subsectors and financial services defined in accordance with the relevant Chilean legislation, subject to the terms, limitations and conditions specified below.

All Subsectors	
1. The Chilean financial services sector is partially compartmentalised, that is to say the institutions, domestic and foreign, authorised to operate as banks may not participate directly in the insurance and securities business and vice versa. However, subject to authorisation from the <i>Superintendencia de Bancos e Instituciones Financieras, SBIF</i> (Superintendency of Banks and Financial Institutions), domestic and foreign banks operating in Chile may set up subsidiaries, with their own and separate capital, to supply other financial services in addition to their main line of business. The main business of banks is accepting or receiving money from the public on a regular basis and granting money credits represented by securities or commercial paper or any other credit instrument. 2. The term “CPC” means the Provisional Central Product Classification (Statistical paper Series M, No. 77, Department of International Economic and Social Affairs, Statistical Office of the United Nations, New York, (1991)).	
Subsector	Limitation on Market Access
a) Banking services:	
a.1) Core banking services and bank operations: Acceptance of deposits (includes only current bank accounts (<i>cuentas corrientes bancarias</i>), sight deposits, time deposits, savings accounts, financial instruments with repurchase agreements, and warranty deposits or surety bonds); Credit granting (includes only ordinary loans, consumer credit, loans in letters of credit, mortgage loans, mortgage loans in letters of credit,	Foreign banking institutions must be banking companies (<i>sociedades bancarias</i>) legally constituted in their country of origin and must put up the capital required by Chilean law. Foreign banking institutions may only operate: (i) through shareholdings in Chilean banks established as corporations in Chile; (ii) by becoming established as a corporation in Chile; (iii) as branches of foreign corporations, in which case the legal personality in the country of origin is recognised. For the purposes of foreign bank branch

purchase of financial instruments with resale agreements, credit for issue of bank surety bonds or other types of financing, issue and negotiation of letters of credit for imports and exports, issue and confirmation of stand-by letters of credit); Purchase of publicly-offered securities (includes only purchase of bonds, purchase of letters of credit, subscription and placement as agents of shares, bonds and letters of credit (underwriting)); Issue and operation of credit cards (CPC 81133) (includes only credit cards issued in Chile); Issue and operation of debit cards; Travellers' cheques; Transfer of funds (bank drafts); Discounting or acquisition of bills of exchange and promissory notes; Endorsement and guarantee of third party liabilities in Chilean currency and foreign currency; Securities custody; Exchange market operations carried out according to the regulations issued or to be issued by the Central Bank of Chile; Operations with derivatives authorised or to be authorised by the Central Bank of Chile (includes only forwards and swaps of currency and interest rate); and Acceptance and execution of fiduciary operations.	operations in Chile, the capital effectively invested in Chile is considered, and not that of the main office. The increases of capital or reserves that do not come from capitalisation of other reserves, will have the same treatment as the initial capital and reserves. In the transactions between a branch and its main office abroad, both will be considered as independent entities. No foreign bank will be able to invoke rights derived from its nationality regarding transactions that its branch may carry out in Chile. No national or foreign, natural or legal, person may acquire directly or through third parties shares in a bank which, alone or added to the shares such a person already possesses, represent more than 10 per cent of the bank's capital without having first obtained the authorisation of the SBIF. In addition, the partners or shareholders of a financial institution may not transfer a percentage of rights or shares in their company in excess of 10 per cent without having obtained authorisation from the SBIF.
a.2) Complementary banking services:	The supply of financial services that complement core banking services may be provided directly by these institutions, with prior authorisation from the SBIF, or through subsidiaries which the SBIF shall determine.
Financial leasing (CPC 81120)	Financial leasing services are regarded as

(includes only leasing contracts for goods acquired at the client's request, i.e. they cannot acquire goods in order to stock them and offer them for leasing).	complementary banking services and, consequently, the SBIF is empowered to extend or restrict the operation of the financial leasing services which these institutions may offer, and these institutions may only offer the services expressly authorised by the SBIF.
Advisory and other auxiliary financial services (CPC 8133) (includes only services indicated in the banking sector in this schedule).	None.
Factoring.	Factoring services are regarded as complementary banking services and, consequently, the SBIF is empowered to extend or restrict the operation of the financial factoring services which these institutions may offer, and these institutions may only offer the services expressly authorised by the SBIF.
Management of funds of third parties performed by: (in no circumstances does this include management of pension funds and voluntary pension savings plans (<i>Planes de Ahorro Previsional Voluntario</i>)) i) Mutual funds management companies; ii) Investment funds management companies; iii) Foreign capital investment funds management companies; and iv) General funds management companies.	The management of funds of third parties is regarded as a complementary banking service and, therefore, in the case of banks can only be offered through subsidiaries as established in the General Banking Act and with prior authorisation of both the SBIF and the <i>Superintendencia de Valores y Seguros</i> , SVS (Securities and Insurance Commission).
Intermediation of publicly offered securities (CPC 81321).	Banks can provide the services of intermediation of publicly offered securities through subsidiaries as established in the General Banking Act, either as securities agents and/or as stockbrokers. The description of agents and stockbrokers in horizontal note 1 of the securities services section of this schedule apply in this case. Except for the requirement to enrol in the relevant register of the SVS, in order to provide these services bank subsidiaries must comply with the securities laws and the norms issued by the SVS. Prior authorisation from both the SVS and the SBIF is required.
Securitisation.	Banks can provide the services of securitisation through subsidiaries as established in the General

	Banking Act. The description of securitisation corporations in horizontal note 9 of the securities services section of this schedule apply in this case. In order to provide these services, bank subsidiaries must comply with the securities laws and the norms issued by the SVS. Prior authorisation from both the SVS and the SBIF is required.
a.3) Representative offices of foreign banks.	The SBIF may authorise foreign banks to maintain representative offices acting as business agents for their main offices, and shall exercise upon them the same inspection authority granted upon the Superintendent by the <i>Ley General de Bancos</i> with respect to banking enterprises. Under no circumstances shall these representative offices have the right to perform any acts which pertain to the banking business. The authorisation given by the SBIF to representative offices is subject to revocation if its maintenance is found to be inconvenient, as expressed in the <i>Ley General de Bancos</i> . This is not intended to limit any remedies that the investor affected by the revocation of the authorisation may have under Chilean law to challenge the measure.

b) <u>Insurance and insurance-related services:</u>	
1. In Chile, the insurance business is divided into two groups: the first group comprises companies that insure goods or property (<i>patrimonio</i>) against the risk of loss or damage, while the second comprises those that cover personal risks or guarantee, within or at the end of a certain term, a capital sum, a paid-up policy or an income for the insured or his/her beneficiaries. The same insurance company may not be constituted in such a way as to cover both categories of risk. 2. Credit insurance companies, even though classified in the first group, must be established as legal entities with the sole purpose of covering this type of risk, i.e. loss of or damage to the goods or property (<i>patrimonio</i>) of the insured as a result of the non-payment of a money debt or loan, being also permitted to cover guarantee and fidelity risks.	
Subsector	Limitation on Market Access
<u>Insurance:</u> Sale of direct life insurance (does not include insurance related to the social security system) (CPC 81211), and Sale of direct general insurance (CPC 8129, except for CPC 81299)	Insurance services can be provided only by insurance companies established in Chile as corporations or as branches of foreign corporations with the sole purpose of developing this line of business, either direct life insurance or direct general insurance. In the case of general credit insurance (81296), they must be established as corporations or branches with the sole

(excluding the <i>Instituciones de Salud Previsional</i>, ISAPRES (social security health institutions) i.e. legal persons set up for the purpose of providing health benefits to persons who opt to become members and financed through the statutory contribution of a percentage of taxable income fixed by law or a higher amount, as the case may be. It also excludes the <i>Fondo Nacional de Salud</i>, FONASA (National Health Fund), a public agency financed by the government and the statutory contribution of a percentage of taxable income fixed by law, which is jointly responsible for paying benefits under the optional health scheme which persons not members of an ISAPRE may join. Does not include sale of insurance for international maritime transport, international commercial aviation and goods in international transit).	purpose of covering this type of risk. Insurance corporations can be legally constituted only in accordance with the provisions of the law on corporations. For the purposes of foreign insurance branch operations in Chile, the capital and reserves (<i>patrimonio</i>) effectively invested in Chile is considered, and not that of the main office. Such capital and reserves (<i>patrimonio</i>) must be effectively transferred and converted into domestic currency in conformity with any of the systems authorised by Law or by the <i>Banco Central de Chile</i>. The increases in capital that do not come from the capitalisation of reserves will have the same treatment as the initial capital. In transactions between a branch and its main office or other related companies abroad they will be considered as independent entities. No foreign insurance company will be able to invoke rights derived from its nationality regarding transactions that its branch may carry out in Chile. Insurance may be issued directly or through insurance brokers who, to engage in that activity, must be enrolled in the Register maintained by the SVS, and must satisfy the requirements of the law.
Sale of insurance for international maritime transport, international commercial aviation and goods in international transit (includes goods transported, the vehicle transporting the goods and any civil responsibility deriving therefrom. Does not include national transport (cabotage)).	Insurance services for international maritime transport, international commercial aviation and goods in international transit may be offered by insurance corporations constituted in Chile and which have the sole purpose of developing the business of direct general insurance.
Insurance brokers (excludes insurance for international maritime transport, international commercial aviation and goods in international transit).	Must be enrolled in the Register maintained by the SVS and fulfil the requirements established by the SVS. Only legal persons legally constituted in Chile for this specific purpose may provide this service.
Brokers of insurance for international maritime transport, international commercial aviation and goods in international transit (includes goods transported, the vehicle transporting the goods and any civil responsibility deriving therefrom. Does not include national transport (cabotage)).	Must be enrolled in the Register maintained by the SVS and fulfil the requirements established by the SVS. Only legal persons legally constituted in Chile for this specific purpose may provide this service.
Reinsurance and retrocession	Reinsurance services are provided by reinsurance

(includes reinsurance brokers).	corporations and branches established in Chile in accordance with the provisions of the law on corporations and authorised by the SVS. Insurance corporations may also provide reinsurance services as a complement to their insurance business if their articles of association so allow. Reinsurance services may also be provided by foreign reinsurers and foreign reinsurance brokers enrolled in the Register maintained by the SVS.
Claim settlement services.	Claim settlement services may be offered directly by insurance companies established in Chile or by legal persons constituted in Chile and registered with the SVS.
Auxiliary insurance services (includes only consultancy, actuarial services and risk assessment).	Auxiliary insurance services may only be provided by legal persons constituted in Chile and registered with the SVS.

c) Securities services:

1. Publicly offered securities may be traded by legal persons established under Chilean law, whose sole purpose is securities brokerage, either as members of a stock exchange (stockbrokers) or outside the stock exchange (securities agents), and these institutions must be registered with the *Superintendencia de Valores y Seguros*, SVS (Securities and Insurance Commission). However, only stockbrokers may trade shares or their derivatives (subscription options) on the stock exchange. Non-share securities may be traded by stockbrokers or securities agents registered with the SVS.
2. The purpose of financial portfolio management is to diversify investments, on behalf of third parties, over a range of instruments and may be provided by securities traders (stockbrokers and securities agents) as a complementary activity for their clients.
3. Publicly offered securities risk rating services are provided by rating agencies established for the sole purpose of rating publicly offered securities, and they must be enrolled in the *Registro de Entidades Clasificadoras de Riesgo* (Register of Risk Rating Agencies) maintained by the SVS. They are inspected and controlled by the SVS. On the other hand, the inspection of rating agencies with respect to the rating of securities issued by banks and financial companies is the responsibility of the *Superintendencia de Bancos e Instituciones Financieras*, SBIF (Superintendency of Banks and Financial Institutions).
4. Securities custody consists of the physical safe-keeping of securities' certificates and may be undertaken by securities intermediaries (stockbrokers and securities agents) as an activity complementary to their sole purpose. It may also be undertaken by entities that provide depository and custodial services for securities which should be established as special purpose corporations (*sociedades anónimas especiales*) with the sole purpose of receiving in deposit publicly offered securities from entities authorised by law and to facilitate operations for the transfer of such securities (centralised securities depositories, *depósitos centralizados de valores*).

5. Financial advisory services, which involve giving financial advice on financing alternatives, investment appraisal, investment possibilities and debt rescheduling strategies may be undertaken by securities intermediaries (stockbrokers and securities agents) as an activity complementary to their sole purpose.

6. Securities services that may be provided by banking institutions either directly or through subsidiaries are listed in the banking services sector of this Schedule and are excluded from the securities services section of this Schedule.

7. The service of managing third parties' funds may be undertaken by the following:

(a) Mutual funds management companies are those corporations whose sole purpose is the management of mutual funds;

(b) Investment funds management companies are those corporations whose sole purpose is the management of investment funds. Without prejudice to the above, those corporations may also manage foreign capital investment funds;

(c) Foreign capital investment funds management companies are those corporations whose sole purpose is the management of foreign capital investment funds. The capital brought into those funds may be remitted abroad only after five years from the date on which the capital contribution was made; and

(d) General funds management companies are those corporations created for the purpose of managing mutual funds, investment funds, foreign capital investment funds, housing funds or any other fund supervised by the SVS.

8. The service of clearing houses for stock exchange derivative products may be undertaken by corporations established in Chile with that sole purpose. They have the purpose of being the counterpart for all purchases and sales of contracts for futures, securities options and others of similar nature authorised by the SVS.

9. Securitisation services may only be provided by legal persons whose sole purpose is to provide such services. These entities must be registered with the SVS.

10.- Stock exchanges are entities established for the sole purpose of furnishing its members with the installations needed to efficiently engage in securities trading by continuous public auction methods, in the premises they provide, and to perform the other securities intermediation activities allowed by the law.

11.- Cattle and agricultural commodities exchanges are special purpose corporations (*sociedades anónimas especiales*) that have as sole purpose to provide its members with the premises and infrastructure needed to efficiently engage in products trading by continuous public auction methods, in the premises provided, ensuring the existence of an equitable, competitive and transparent market.

Subsector	Limitation on Market Access
Stock exchanges.	Stock exchanges must be established as special purpose corporations (<i>sociedades anónimas especiales</i>) under Chilean law.
Intermediation of publicly offered securities, except shares (CPC 81321) Subscription and placement as agents (underwriting).	Brokerage activities must be supplied through a legal person established in Chile and require prior enrolment in the Register of stockbrokers and securities agents kept by the SVS. In addition to the legal requirement concerning capital and reserves (<i>patrimonio</i>), the SVS may impose more stringent non-discriminatory requirements regarding economic solvency on the intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated and the category of intermediaries to which they apply.
Intermediation of publicly offered shares of corporations (CPC 81321) (includes subscription and placement as agents, underwriting).	In order to trade on the stock exchange, intermediaries (stockbrokers) must be constituted as a legal person in Chile. They must acquire a share in the respective stock exchange and be accepted as members of this exchange. Prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS is required for brokerage activities. In addition to the legal requirement concerning capital and reserves (<i>patrimonio</i>), the SVS may impose more stringent non-discriminatory requirements regarding economic solvency on intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated, and the category of intermediaries to which they apply.
Operations in stock exchange derivatives authorised by the <i>Superintendencia de Valores y Seguros</i> (Securities and Insurance Commission) (includes only dollar and interest rate futures, and options on shares. Shares must fulfill the requirements established by the respective clearing house, <i>cámara de compensación</i>).	In order to trade on the stock exchange, intermediaries (stockbrokers) must be constituted as legal persons in Chile. They must acquire a share in their respective stock exchange and be accepted as members of this exchange. Prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS is required for brokerage activities. In addition to the legal requirement concerning capital and reserves (<i>patrimonio</i>), the SVS may impose more stringent non-discriminatory requirements regarding economic solvency on intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated and the category of intermediaries to which they apply.

Trading in metals on the stock exchange (includes only gold and silver).	Trading in gold and silver may be carried out by stockbrokers on their own account and for third parties in the stock exchange in accordance with stock exchange regulations. In order to trade on the stock exchange, intermediaries (stockbrokers) must be constituted as legal persons in Chile. They must acquire a share in their respective stock exchange and be accepted as members of this exchange. Prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS is required for brokerage activities. In addition to the legal requirement concerning capital and reserves (<i>patrimonio</i>), the SVS may impose more stringent non-discriminatory requirements regarding economic solvency on intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated and the category of intermediaries to which they apply.
Securities risk rating (relates solely to rating or giving an opinion on publicly offered securities).	They must be established in Chile as a partnership (<i>sociedad de personas</i>). One of the specific requirements to be fulfilled is that not less than 60 per cent of the company's capital must be held by the principal partners (natural or legal persons in this line of business holding a minimum of five per cent of the membership rights in the rating agency). They must enrol in the register of risk rating agents kept by the SVS.
Securities custody undertaken by securities intermediaries (CPC 81319) (does not include the services offered by suppliers who combine custody, securities clearance and settlement (securities depositories, <i>depósitos de valores</i>)).	For securities custody, intermediaries (stockbrokers and agents) must be constituted in Chile as a legal person. In addition to the legal requirement concerning capital and reserves (<i>patrimonio</i>), the SVS may impose more stringent non-discriminatory requirements regarding economic solvency on intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated and the category of intermediaries to which they apply.
Custody undertaken by entities for the deposit and custody of securities.	Securities deposit and custody entities must be constituted in Chile as corporations set up for that sole purpose and require authorisation from the SVS.
Financial advisory services supplied by securities intermediaries (CPC 81332).	Financial advisory services supplied by securities intermediaries established as legal persons in Chile require prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS. In addition to the legal requirement concerning capital and reserves (<i>patrimonio</i>), the SVS may impose more

	stringent non-discriminatory provisions regarding economic solvency on the intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated and the category of intermediaries to which they apply.
Financial portfolio management supplied by security intermediaries (this does not under any circumstances include the following: management of mutual funds, foreign capital investment funds, investment funds and pension funds).	Financial portfolio management services supplied by securities intermediaries established as legal persons in Chile require prior enrolment in the Register of stockbrokers and securities agents maintained by the SVS. In addition to the legal requirement concerning capital and reserves (<i>patrimonio</i>), the SVS may impose more stringent non-discriminatory provisions regarding economic solvency on the intermediaries, taking into account the nature of their operations, the amounts involved, the type of instrument negotiated and the category of intermediaries to which they apply.
Management of funds of third parties performed by: (in no circumstances does this include management of pension funds and voluntary pension savings plans (<i>Planes de Ahorro Previsional Voluntario</i>)) i) Mutual funds management companies; ii) Investment funds management companies; iii) Foreign capital investment funds management companies; and iv) General funds management companies.	The Fund management service may be carried out by corporations set up for that sole purpose or by general funds management companies, constituted in Chile, with authorisation from the SVS. Foreign capital investment funds may also be managed by investment funds management companies.
Service of clearing houses for derivatives (contracts for futures and options on securities).	Clearing houses for futures contracts and options on securities must be established in Chile as corporations for that sole purpose and with an authorisation from the SVS. They may only be constituted by stock exchanges and their stockbrokers.
Cattle and agricultural commodities exchanges.	Cattle and agricultural commodities exchanges must be established as special purpose corporations (<i>sociedades anónimas especiales</i>) under Chilean law.
Cattle and agricultural commodities brokerage.	The activity of cattle and agricultural commodities broker must be performed by legal entities established under Chilean law.

Service of clearing houses of futures and options on cattle and agricultural commodities.	Clearing houses of futures and options on cattle and agricultural commodities must be established as corporations for that sole purpose and with an authorisation from the SVS.
General deposit warehouses (warrants) (corresponds to merchandise warehousing services accompanied by the issue of a deposit certificate and a chattel mortgage receipt (<i>vale de prenda</i>)).	Provision of warrant services may be carried out only by legal persons duly constituted in Chile who have the supply of warrant services as their sole purpose.
Securities issue and registration services (CPC 81322)(does not include deposit and custody of securities services).	None
d) <u>Other financial services</u> :	
Provision and transfer of financial information and financial data processing and related software by suppliers of other financial services.	None.
Exchange market operations carried out according to the regulations issued or to be issued by the Central Bank of Chile.	Only banks, juridical persons, stockbrokers and securities agents, all of which must be established in Chile as legal entities, can operate in the Formal Exchange Market. Juridical persons, stockbrokers and securities agents require prior authorisation from the <i>Banco Central de Chile</i> to operate in the Formal Exchange Market.
Management of mortgage loans as established in <i>Decreto con Fuerza de Ley N° 251, Ley de Seguros</i> , Title V.	Mortgage Loans Management Agencies must be established as corporations (<i>sociedades anónimas</i>) under Chilean law. For greater certainty, according to <i>Decreto con Fuerza de Ley N° 251, Ley de Seguros</i> , Title V, Article 88.

30 July 2008

Honourable
Alejandro Foxley Rioseco
Ministry of Foreign Affairs
Teatinos 180
Santiago
Chile

Dear Minister Foxley

In connection with the signing on this date of the Australia – Chile Free Trade Agreement (the “Agreement”), I have the honour to confirm the following understanding reached by the Governments of Australia and the Republic of Chile during the course of the negotiation of the Agreement.

1. Australia and Chile shall negotiate a memorandum of understanding (MoU) affirming that Chile recognises that the Australian Meat Industry Classification System (AUS-MEAT Language) meets the aims and objectives of the Chile Beef Grading Scheme. Moreover, this MoU will formalise Chile’s recognition of the AUS-MEAT language, and AUS-MEAT Limited as the certifying body of this system, to grade beef for the purpose of marketing beef in Chile.
2. This MoU shall be negotiated within one year of the Agreement entering into force.

I have the honour to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an integral part of the Agreement.

Yours sincerely

[signed]

Simon Crean
Minister for Trade

30 July 2008

The Honourable Simon Crean MP
Minister for Trade
Parliament House
Canberra ACT 2600

Dear Minister Crean

I have the honour to acknowledge receipt of your letter of this date, which reads as follows:

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2. This MoU shall be negotiated within one year of the Agreement entering into force.

I have the honour to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an integral part of the Agreement.”

I have the further honour to confirm that my Government shares this understanding and that your letter and this letter in reply shall constitute an integral part of the Australia – Chile Free Trade Agreement.

Yours sincerely

[signed]

Alejandro Foxley Rioseco
Minister for Foreign Affairs

30 July 2008

Honourable
Alejandro Foxley Rioseco
Ministry of Foreign Affairs
Teatinos 180
Santiago
Chile

Dear Minister Foxley

In connection with the signing on this date of the Australia-Chile Free Trade Agreement (the “Agreement”), I have the honour to confirm the following understanding reached by the Governments of Australia and the Republic of Chile regarding Chapter 4 (Rules of Origin).

For the purposes of Chapter 4, an agent of an exporter may complete, sign and date a Certificate of Origin.

I have the honour to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an integral part of the Agreement.

Yours sincerely

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[signed]

Alejandro Foxley Rioseco
Minister for Foreign Affairs

30 July 2008

Honourable
Alejandro Foxley Rioseco
Ministry of Foreign Affairs
Teatinos 180
Santiago
Chile

Dear Minister Foxley

In connection with the signing on this date of the Australia-Chile Free Trade Agreement (the "Agreement"), I have the honour to confirm the following understanding reached by the Governments of Australia and the Republic of Chile regarding Chapter 9 (Cross-Border Trade in Services) and Chapter 10 (Investment) regarding education services.

Nothing in the above Chapters shall interfere with:

- (a) the ability of individual education and training institutions to maintain autonomy in admissions policies (including in relation to considerations of equal opportunity for students and recognition of credits and degrees), in setting tuition rates and in the development of curricula or course content;
- (b) non-discriminatory accreditation and quality assurance procedures for education and training institutions and their programs, including the standards that must be met;
- (c) government funding, subsidies or grants, such as land grants, preferential tax treatment and other public benefits, provided to education and training institutions; or
- (d) the need for education and training institutions to comply with non-discriminatory requirements related to the establishment and operation of a facility in a particular jurisdiction.

I have the honour to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an integral part of the Agreement.

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Minister for Foreign Affairs

30 July 2008

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Alejandro Foxley Rioseco
Ministry of Foreign Affairs
Teatinos 180
Santiago
Chile

Dear Minister Foxley

In connection with the signing on this date of the Australia-Chile Free Trade Agreement (the “Agreement”), I have the honour to confirm the following understanding reached by the Governments of Australia and the Republic of Chile regarding Chapter 17 (Intellectual Property).

The Parties recognise that Chilean geographical indications for wines are established by Decree 464 of the Ministry of Agriculture of December 14, 1994, and its amendments and by the Law 18.455. Each Party shall provide the means to protect geographical indications of the other Party in accordance with Article 17.17.2 (Geographical Indications).

I have the honour to propose that this letter and your letter in reply confirming that your Government shares this understanding shall constitute an integral part of the Agreement.

Yours sincerely

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