

STATEMENT 11: STATEMENT OF RISKS

A range of factors may influence the actual budget outcome in future years. The *Charter of Budget Honesty Act 1998* requires these factors be disclosed in a Statement of Risks in each Budget and Mid-Year and Economic and Fiscal Outlook. This statement outlines the fiscal risks and the contingent liabilities which may affect the budget balances.

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The forward estimates of revenue and expenses in the 2007-08 Budget incorporate assumptions and judgments based on the best information available at the time of publication. A range of factors may influence the actual budget outcome in future years. The disclosure of these factors in this statement increases the transparency of the fiscal projections and ensures they remain 'on-balance' estimates.

Events that could affect fiscal outcomes include:

- changes in economic and other parameters;
- matters not included in the fiscal forecasts because of uncertainty about their timing, magnitude and/or likelihood; and
- the realisation of contingent liabilities.

RISKS TO THE BUDGET — OVERVIEW

Economic and other parameters

The revenue and expense estimates and projections are based on a range of economic and other parameters. If the economic outlook were to differ from that presented in Statement 3, the revenue and expense estimates and projections would also change. Statement 3 discusses risks to the economic forecasts. Statement 2 discusses the sensitivity of revenue and expense estimates to changes in the major economic parameters.

Fiscal risks

Fiscal risks are general developments or specific events that may affect the fiscal outlook. Some developments or events simply raise the possibility of some fiscal impact. In other cases, some fiscal impact may be reasonably certain, but it will not be included in the forward estimates because the timing or magnitude is not known. Fiscal risks may affect expenses and/or revenue and may have a positive or negative impact on revenue, expenses and/or the budget balance. Contingent liabilities are a specific category of fiscal risks.

Contingent liabilities

Contingent liabilities are defined by the accounting standard AASB 137, which came into effect on 1 July 2005. Broadly, they represent possible costs to the Australian Government arising from past events that the outcome of future events not within the control of the Government will confirm. Contingent liabilities include loan guarantees, non-loan guarantees, warranties, indemnities, uncalled capital and letters of comfort.

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These possible costs are in addition to those recognised as liabilities in the consolidated financial statements of the Australian Government general government sector.

The Australian Government's major exposure to contingent liabilities arises from legislation guaranteeing certain liabilities of Australian Government controlled financial institutions (the Reserve Bank of Australia and the Export Finance and Insurance Corporation) and the now fully privatised Commonwealth Bank of Australia. To help manage these exposures, strategies are in place which aim to ensure the underlying strength and viability of the entities, so that the guarantees are not triggered.

Another class of contingent liability is uncalled capital, which reflects a financial commitment to an institution where no promissory note is issued by the Australian Government. Uncalled capital is primarily associated with international financial institutions such as the International Bank for Reconstruction and Development, the Asian Development Bank, the European Bank for Reconstruction and Development and the Multilateral Investment Guarantee Agency. When promissory notes are issued, such as in the case of the International Monetary Fund, the amounts are recorded in the general government balance sheet, so contingent liabilities (or assets) are not shown for those amounts.

Details of fiscal risks and contingent liabilities

Contingent liabilities and other fiscal risks with a possible impact on the forward estimates greater than \$20 million in any one year, or \$40 million over the forward estimates period, are listed below.

Information on fiscal risks takes account of Parliament's decisions and other developments until the close of parliamentary business on 30 April 2007. In general, information on contingent liabilities is based on information provided by Australian Government departments and agencies and is current to 31 March 2007. However, in some cases other dates are used and are noted in the relevant section.

Information on contingent liabilities is also provided in the annual financial statements of departments and non-budget entities.

Table 1: Summary of material changes to Statement of Risks since the 2006-07 Budget and Mid-Year Economic and Fiscal Outlook 2006-07^(a)

Fiscal risks — expenses	
Agriculture, Fisheries and Forestry	
Exceptional Circumstances assistance for drought-affected farmers	Modified
Contingent liabilities — quantifiable	
Defence and Defence Material Organisation	
Indemnities	Modified
Finance and Administration	
Australian Industry Development Corporation	Modified
Potential claims relating to superannuation benefits	Modified
Foreign Affairs and Trade	
Export Finance and Insurance Corporation	Modified
Treasury	
Guarantees under the Commonwealth Bank Sale Act	Modified
International financial institutions – uncalled capital subscriptions	Modified
Reserve Bank of Australia – guarantee	Modified
Contingent liabilities — unquantifiable	
Attorney-General's	
Native title costs	Modified
Other indemnities	Deleted
Defence	
ASC Proprietary Limited – Australian Government indemnities provided to Electric Boat Corporation under the services agreement	Modified
Decontamination of Defence sites	Modified
HMAS <i>Melbourne</i> and HMAS <i>Voyager</i> damages claims	Modified
Litigation cases	Modified
Employment and Workplace Relations	
COMCARE liability for additional workers' compensation payments	Deleted
Environment and Heritage	
Antarctic – make good provision	Deleted
Finance and Administration	
Australian Reward Investment Alliance - Immunity and Indemnity	New
Indemnities relating to other former asset sales, privatisations and IT outsourcing projects	Modified
Industrial Waste Commission (IWC) Cleanaway	New
Telstra Sale Company Limited – indemnities	New
Tuggeranong Office Park Pty Ltd – shareholder indemnity	Deleted
Health and Ageing	
Blood and blood products liability cover	Modified
Immigration and Citizenship	
Immigration detention services	Modified
Industry, Tourism and Resources	
Liability for damages caused by Kistler space activities	Modified
Treasury	
Housing Loans Insurance Corporation – guarantee	Modified

(a) Risks appearing in this Statement but not listed in the table above are substantially unchanged since disclosed in Budget Paper No. 1, *Budget Strategy and Outlook 2006-07*, Statement 11 or in *Mid-Year Economic and Fiscal Outlook 2006-07*, Appendix D.

FISCAL RISKS — REVENUE

The Government's revenue and policy measure forecasts, like all forecasts, are subject to a margin of error. Over the past 20 years, the average error for forecasts of cash receipts has been 1.1 per cent, with the errors varying around this average by 2.7 percentage points.

There are not enough observations to assess the forecasting performance for accrual revenue. In the first half of the current decade, revenue has grown more strongly than forecast. The revenue forecasting methodology has been adjusted in recent years to align the revenue forecasts and projections more closely to recent experience.

While many of the forecasts are reported to the nearest million dollars for budget accounting purposes, they should not be interpreted as implying an equivalent level of forecast precision.

The general and specific risks influencing the accuracy of the revenue forecasts are outlined below.

General risks

The estimates and projections of revenue are subject to a number of general pressures that can affect taxation collections. These general pressures include tax avoidance, developments in communications technology and workplace arrangements, court decisions and Australian Taxation Office rulings. These pressures may result in a shift in the composition of taxation collected from the various tax bases and/or a change in the size of the tax base. The revenue forecasts include an appropriate allowance for these factors, given the data available.

Specific risks

Treasury

Renegotiation of withholding tax rates in certain Australian double tax treaties

The Australian Government is renegotiating its double tax treaties with several countries. Depending on the negotiated outcomes, changes to these treaties could have positive or negative revenue effects.

FISCAL RISKS — EXPENSES

Agriculture, Fisheries and Forestry

Exceptional Circumstances assistance for drought-affected farmers

Exceptional Circumstances assistance is available, subject to eligibility criteria, to drought-affected farmers and agriculture-dependent small businesses by way of interest rate subsidies and/or income support. The forward estimates assume that there will be neither new drought declarations nor extensions of existing declarations. A continuation of adverse seasonal conditions or a return to severe drought conditions could result in higher than expected expenses for these forms of assistance. It is not possible to quantify the cost arising from such potential developments as this depends on the intensity, duration and scale of future drought conditions.

Health and Ageing

Immunisation funding mechanism

Future technologies will result in new vaccines changing the profile of usage (for example, multivalent vaccines which combine several vaccines into one) and, as a consequence, could result in higher costs. It is not possible to quantify the potential fiscal risk arising from these factors.

Medicare Benefits Schedule and Pharmaceutical Benefits Scheme

From time to time items are added to, or removed from, the Medicare Benefits Schedule and Pharmaceutical Benefits Scheme. Major technological advances in medicines or medical procedures, shifts in Pharmaceutical Benefits Scheme usage patterns, or doctors' prescribing and charging practices may result in unexpected increases in expenses that exceed the provision in the forward estimates. It is not possible to quantify the potential fiscal risk arising from these factors.

Transport and Regional Services

Airservices Australia

On 31 August 2004, the Minister for Transport and Regional Services, pursuant to section 16 of the *Airservices Act 1995* (the Act), gave a direction to Airservices Australia to provide an operating control tower and approach radar control services in certain volumes of airspace. Section 16(4) of the Act provides that Airservices Australia may seek reimbursement from the Australian Government for any financial detriment it suffers as a result of complying with a direction. At this time, the quantum or nature of any financial detriment is uncertain, as is the nature of any consequent fiscal risk to the budget.

CONTINGENT LIABILITIES — QUANTIFIABLE

Defence and Defence Materiel Organisation

Indemnities

The Department of Defence (Defence) and the Defence Materiel Organisation (DMO) carry an extensive range of indemnities and undertakings, normally of a short-term nature, relating to business, training activities and other activities involving contracts, agreements and other Defence and DMO arrangements. Indemnities issued cover potential losses or damages for which the Australian Government would be liable.

Defence carries 315 instances of contingencies that are unquantifiable and 31 instances of quantifiable contingencies to the value of \$1.6 billion. DMO carries 28 instances of contingencies that are unquantifiable and 186 contingencies that are quantifiable, to the value of \$3.2 billion. While these contingencies are considered remote, they have been reported in aggregate for completeness.

Finance and Administration

Australian Industry Development Corporation

Under the *Australian Industry Development Corporation Act 1970* certain obligations of the Australian Industry Development Corporation (AIDC) are guaranteed by the Australian Government. As at 31 December 2006, AIDC's contingent liabilities, subject to Australian Government guarantee, were approximately \$125 million in respect of guarantees and credit risk facilities.

In addition, AIDC had outstanding Australian Government guaranteed borrowings which totalled approximately \$170 million as at the most current valuation of 31 December 2006. These borrowing obligations have been matched by AIDC's holdings of Australian Government guaranteed securities of similar value, largely eliminating the Australian Government's guarantee exposure. These securities were purchased on market by UBS Warburg and paid to AIDC as consideration for UBS Warburg's purchase of AIDC Ltd's (a subsidiary of AIDC) financial assets. UBS AG, the international parent company that has taken over from UBS Warburg, manages this borrowing portfolio on behalf of AIDC. The UBS AG arrangement also provides a guarantee to cover any cash flow differences between the interest rate and maturity profiles of the matched borrowings and securities, together with any exchange rate movements in the borrowings. The Australian Government's contingent exposure to these borrowings is therefore negligible and is consequently recorded as zero.

Litigation

The Department of Finance and Administration is involved in litigation where a counter-claim for damages has been lodged against the Australian Government. The counter-claim, which will be vigorously defended by the Australian Government,

seeks damages of \$4.3 billion although the basis for this amount is yet to be fully provided.

Potential claims relating to superannuation benefits

On 20 April 2007, the High Court rejected the Commonwealth of Australia's appeal on a claim for negligent misstatement relating to superannuation benefits for a former employee of the Department of the Interior. The potential liability for the first 400 cases is estimated at \$235 million. There is potential for more claims to arise from other former employees.

Sale of Sydney Airports Corporation Limited

An indemnity has been provided to Southern Cross Airports Corporation as purchaser of the Sydney Airports Corporation Ltd in the event of a liability arising under Chapter 3 of the *Duties Act 1997* (New South Wales) by reason of the sale of shares in Sydney Airports Corporation Ltd constituting a relevant acquisition in a land-rich private corporation.

The New South Wales Office of State Revenue issued a notice of assessment on 17 November 2006, which the Australian Government disputes to be a valid assessment. In the event the liability is sustained it is estimated to be between \$258.9 million and \$401.5 million.

Foreign Affairs and Trade

Export Finance and Insurance Corporation

The Australian Government guarantees the due payment by the Export Finance and Insurance Corporation (EFIC) of money that is, or may at any time become, payable by EFIC to any body other than the Australian Government. The Australian Government also has in place a \$200 million callable capital facility available to EFIC on request to cover liabilities, losses and claims. As at 31 March 2007, the Australian Government's total contingent liability was \$2.8 billion, comprising EFIC's liabilities to third parties (\$2.2 billion) and EFIC's overseas investments insurance, contracts of insurance and guarantees (\$0.6 billion).

Transport and Regional Services

Code Management Company — indemnity for the Code of Practice for the Defined Interstate Rail Network

The Code Management Company (CMC) is a company owned by the Australasian Railway Association whose members include all of Australia's major rail operators and track owners and representatives from smaller companies. The Australian Government has provided an indemnity to CMC against any loss or expense that occurred prior to the transfer of ownership from the Commonwealth relating to the correct use or application of the Code of Practice for the Defined Interstate Rail Network. The Code sets out a national approach to operational and engineering practices, including

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uniform standards for safe working, train operations and freight loading specifications. The indemnity is limited to an aggregate of \$50 million for a period of six years from the date of transfer of ownership and expires on 15 July 2009.

Treasury

Guarantees under the Commonwealth Bank Sale Act

Under the terms of the *Commonwealth Bank Sale Act 1995*, the Australian Government has guaranteed various superannuation and other liabilities amounting to around \$6.2 billion. Of this amount, \$2.2 billion was attributable to liabilities of the Commonwealth Bank of Australia at 31 December 2006 and \$4.0 billion was attributable to liabilities of the Commonwealth Bank Officers' Superannuation Corporation at 30 June 2006.

International financial institutions — uncalled capital subscriptions

This contingent liability relates to the value of the uncalled portion of the Australian Government's shares in the International Bank for Reconstruction and Development (US\$2.8 billion — estimated value A\$3.4 billion), the Asian Development Bank (US\$2.4 billion — estimated value A\$3.0 billion), the European Bank for Reconstruction and Development (US\$81.7 million plus €77.5 million — estimated value A\$229.3 million), and the Multilateral Investment Guarantee Agency (US\$26.5 million — estimated value A\$32.8 million).

Reserve Bank of Australia — guarantee

This contingent liability relates to the Australian Government's guarantee of the liabilities of the Reserve Bank of Australia. It is measured as the Bank's total liabilities excluding capital, reserves and Australian Government deposits. The major component of the Bank's liabilities are notes (that is, currency) on issue. Notes on issue amount to \$40.6 billion as at 31 March 2007 and the total guarantee is \$59.3 billion.

CONTINGENT LIABILITIES — UNQUANTIFIABLE

Attorney-General's

Indemnities relating to the Air Security Officer programme

The Australian Government has entered into indemnity agreements with Australian airlines that agree to allow their aircraft to fly with Air Security Officers on board. The indemnity agreements limit the Australian Government's exposure to a maximum of \$2 billion per incident. The indemnity applies to the extent that any loss is not covered by existing relevant insurance policies held by the airline and only applies where the airline(s) can prove that an action on the part of an Air Security Officer under or in connection with the Air Security Officer programme caused a loss.

Native title agreements — access to geospatial data

The Australian Government has entered into agreements with State and Territory government bodies and/or their agents to access their geospatial data. The data is essential to support the National Native Title Tribunal in achieving its outcome. Under these agreements, the Australian Government provides indemnities against third party claims arising from errors in the data.

Native title costs

The Australian Government has offered to assist the States and Territories in meeting native title compensation costs arising under the *Native Title Act 1993*. The amounts that might be paid by the Australian Government will be subject to the terms of financial assistance agreements being negotiated with the States and Territories. No agreements have been entered into to date. The Australian Government's liability cannot be quantified due to uncertainty about the number and effect of compensable acts, both in the past and in the future, and the value of native title affected by those acts. Similarly, it is not possible to quantify the liability for compensable acts for which the Australian Government may be directly liable.

The Australian Government has also offered to assist the States and Territories with the costs of bodies performing native title functions under state legislation. The extent of this assistance will depend on the existence of such bodies, the timing of their recognition and the extent of their use.

Ocean surveillance

The Australian Government has entered into contractual arrangements with P&O Maritime Services for the provision of maritime charter services until June 2010 to facilitate the Australian Customs Service and the Department of Agriculture, Fisheries and Forestry armed patrols of Australia's exclusive economic zone.

The Australian Government has indemnified P&O Maritime Services against certain claims arising from the discharge of firearms or munitions, or where a steaming party is deployed to crew a seized vessel back to an Australian port.

Communications, Information Technology and the Arts

Art Indemnity Australia

Art Indemnity Australia is a programme through which the Australian Government indemnifies cultural objects loaned to exhibitions displayed in Australian museums and galleries. The exact amounts involved will vary with the exchange rate applying at the time any claim for loss or damage to an artwork or heritage object loaned from overseas is paid, and the extent of any loss or damage. Most of the Australian Government risk in indemnifying exhibitions is insured through Comcover. Uninsurable risk continues to be borne solely by the Australian Government.

Defence

ADI Limited — officers' and directors' indemnities

Under the sale agreements for ADI Ltd, the Australian Government agreed to indemnify the directors, officers and employees for claims and legal costs associated with assistance related to the sale of the Australian Government's shares in the company. The Australian Government has provided an indemnity to ADI Ltd for uninsured losses relating to specific heads of claims.

ASC Proprietary Limited — Australian Government indemnities provided to Electric Boat Corporation under the services agreement

In early October 2002, the Department of Defence entered into a services agreement with Electric Boat Corporation (EB) and its subsidiary Electric Boat Australia (EBA) to provide technical and commercial support to ASC Pty Ltd as it transitioned from being a producer of submarines to an agency for through-life submarine support. EB/EBA staff commenced at ASC Pty Ltd on 14 October 2002. The initial services agreement ran for three years and the Australian Government has taken up the option to extend the agreement by a further three years. The extension has been incorporated into the Strategic Agreement for Through-Life Support of the Collins Class Submarines with ASC Pty Ltd.

Under this agreement, EB and EBA are provided with a warranty by the Australian Government and ASC Pty Ltd that the Australian Government and ASC Pty Ltd have the right to provide EB/EBA with confidential and other information and the Australian Government provides an indemnity to EB and EBA against claims arising from a breach of that warranty.

The Australian Government also indemnifies EB and EBA against claims exceeding the greater of US\$1 million or profit earned by EB under the agreement that arises from property loss or personal injury resulting from a defect in the operation or performance of a Collins class submarine, other than caused by unlawful conduct, gross negligence or wilful misconduct of EB or EBA.

Decontamination of Defence sites

The Department of Defence is currently undertaking a detailed large multi-year project to systematically identify and quantify known decontamination obligations across the Defence estate, in accordance with the Australian Accounting Standards. For the sites assessed to date only a minimal number require a provision to be recognised, as in most cases, the conditions for legal or constructive obligations are not met.

HMAS *Melbourne* and HMAS *Voyager* damages claims

Former crew members of HMAS *Melbourne* have instituted legal proceedings against the Australian Government claiming damages for injuries allegedly caused by the HMAS *Voyager*/HMAS *Melbourne* collision on 10 February 1964. Eighty-one claims remain current. Twenty-five of the current claims are statute barred under applicable

state laws. In those cases, the plaintiffs will require an extension of time prior to progressing their claims for damages. Further claims are likely to be made in connection with the collision.

Additionally, 20 dependants of deceased crew of HMAS *Voyager* are named in nine other claims under the *Compensation to Relatives Act 1897* (NSW). Some of these claims may be made in connection with the collision.

Litigation cases

The Department of Defence is involved in a wide range of litigation and other claims for compensation and/or damages that may result in litigation where the matters have yet to be finalised by negotiation or, where required, litigation. Various claims, the subject of cases that have yet to be heard, are part-heard or are subject to an appeal, await a decision on what (if any) damages and/or costs should be paid to the claimant. The litigated and non-litigated claims include common law liability claims and claims arising from complaints to the Human Rights and Equal Opportunity Commission. The litigation includes asbestos claims and claims from injury resulting from the F-111 Deseal/Reseal programmes. Claims have been received for damage caused by the use of Defence Practice Areas and from the presence of unexploded World War II ordnance. At any given point, there are about 400 claims. Presently, they have an estimated value in excess of \$145 million.

Military Superannuation and Benefits Scheme — indemnity

The Military Superannuation and Benefits Scheme (MSBS) provides occupational superannuation benefits for members of the Australian Defence Force. Much of the day-to-day administration associated with the MSBS is conducted by ComSuper. Under the *Military Superannuation and Benefits Act 1991* the actions of ComSuper and its Commissioner are deemed to be those of the Military Superannuation and Benefits Board (MSB Board). Defence has indemnified the MSB Board for certain specified claims that are made in relation to acts of ComSuper and/or its Commissioner that are not recoverable elsewhere.

Education, Science and Training

Australian Nuclear Science and Technology Organisation — indemnity

The Australian Government has indemnified the Australian Nuclear Science and Technology Organisation and its officers from liability that might be incurred from the conduct of activities authorised under the *Australian Nuclear Science and Technology Organisation Act 1987*. This indemnity is additional to commercial insurance covers obtained from the Comcover Insurance Pool and other insurers.

Finance and Administration

Australian Reward Investment Alliance – Immunity and Indemnity

The *Superannuation Act 1976*, *Superannuation Act 1990* and *Superannuation Act 2005* provide for specific immunities for activities undertaken in good faith by the trustees of the Australian Reward Investment Alliance (ARIA), the Commissioner for Superannuation and staff, delegates of the trustee Board, and members of a Reconsideration Advisory Committee, provided these activities relate to the performance of their functions.

These immunities do not prevent the trustee Board from being subject to any action, liability, claim or demand. Under the Superannuation Acts, other than in cases where the *Superannuation Industry (Supervision) Act 1993* does not so permit, any money that becomes payable by the trustee Board, in respect of such actions is to be paid out of the relevant fund. Where such payments are made, an equivalent amount is paid to the fund from the Consolidated Revenue Fund.

Indemnities for the Reserve Bank of Australia and private sector banks

Under agencies' contracts for transactional banking services, the Australian Government has indemnified the Reserve Bank of Australia and contracted private sector banks. These banks are indemnified against loss and damage arising from error or fraud by the agency, or transactions made by the bank with the authority of the agency.

Indemnities relating to other former asset sales, privatisations and IT outsourcing projects

Ongoing indemnities have been given in respect of a range of asset sales, privatisations and IT outsourcing projects that have been conducted by the Department of Finance and Administration (Finance), and the former Office of Asset Sales and Commercial Support and its predecessors. The probability of an action being made under one of these indemnities diminishes over time. Details of indemnities in respect of the other asset sales and privatisations have been provided in previous Budget and Mid-Year Economic and Fiscal Outlook papers, and previous annual reports for Finance and the Office of Asset Sales and Commercial Support.

Indemnities (including the year they were raised) are still current for: ADI Ltd (1998), Australian Airlines (1991), Australian Industry Development Corporation (1996), Australian Multimedia Enterprise (1997), Australian National Rail Commission and National Rail Corporation Ltd (1997 and 2000), Australian River Co. Ltd (1999), Australian Submarine Corporation Ltd (2000), Australian Technology Group (1986), ComLand Ltd (2004), Bankstown Airport Limited (2002), Camden Airport Ltd (2002), Commonwealth Accommodation and Catering Services (1988), Commonwealth Bank of Australia (1993 to 1996), Commonwealth Funds Management and Total Risk Management (1996 to 1997), Employment National Ltd (2003), Essendon Airport Ltd (2001), Federal Airports Corporation's Airports (1995 to 1997), Home Loans

Insurance Commission Ltd (1996), Health Insurance Commission (2000), Hoxton Park Airport Limited (2002), National Transmission Network (1999), Sydney Airports Corporation Ltd (2001), Telstra (1996 and 1999), Wool International (1999). The Department does not currently expect any action to be taken in respect of these indemnities.

Industrial Waste Commission (IWC) Cleanaway

The Australian Government has commenced proceedings in the Supreme Court of NSW against Brambles Holdings Ltd (Brambles) seeking declarative relief in relation to a deed of licence between the Australian Government and Brambles for the 'IWC Cleanaway' site at Lucas Heights. The intention of the proceedings is to determine responsibility for contamination and remediation on the site.

Telstra Corporation Limited — company, directors and senior executives' indemnities

Certain indemnities have been provided to Telstra Corporation Limited (Telstra), its directors and selected senior executives in connection with their assistance in the preparation for the Telstra 3 sale of approximately two thirds of the Australian Government's residual shareholding in Telstra. The indemnities cover liabilities that may arise from actions undertaken in support of the Telstra 3 sale.

Telstra Corporation Limited – indemnity for unauthorised disclosure of confidential information

The Australian Government has executed a mutual confidentiality agreement with Telstra Corporation Limited and indemnified Telstra against the unauthorised disclosure or use by the Australian Government of certain confidential information provided during the Telstra 3 sale process for Telstra 3 sale-related purposes.

Telstra Sale Company Limited — indemnities

The Australian Government has indemnified Telstra Sale Company Limited and its officers for all liabilities arising from the Telstra 3 offer document, the sale process or the issue of instalment receipts and the performance of its responsibilities under the Telstra 3 instalment receipt trust deed. These indemnities are subject to limitations in the case of bad faith, malice, fraud or recklessness on the part of the indemnified parties.

The Australian Government has also indemnified Telstra 3 instalment receipt holders for all losses or damages which they may suffer as a result of a breach by Telstra Sale Company Limited as instalment receipt trustee of its obligations under the Telstra 3 instalment receipt trust deed, except to the extent that the breach by the trustee is a result of the negligence, bad faith or wilful default of the instalment receipt holder.

Foreign Affairs and Trade

Export Finance and Insurance Corporation — board members' and senior management indemnities

The Australian Government has provided certain indemnities to the Export Finance and Insurance Corporation (EFIC) board members and senior management to protect against civil claims and legal expenses for unsuccessful criminal claims relating to the implementation of EFIC's alliance/divestment of its short-term export credit insurance business.

Health and Ageing

Australian Red Cross Society — indemnities

The Deed of Agreement between the Australian Red Cross Society (ARCS) and the National Blood Authority in relation to the operation of the Australian Red Cross Blood Society (ARCBS) includes certain indemnities and a limit of liability in favour of ARCS. These cover a defined set of potential business, product and employee risks and liabilities arising from the operations of ARCBS. The indemnities and limitation of liability only operate in the event of the expiry and non-renewal, or the earlier termination, of the Deed of Agreement, and only within a certain scope. They are also subject to appropriate limitations and conditions including in relation to mitigation, contributory fault, and the process of handling relevant claims.

Blood and blood products liability cover

A National Managed Fund (NMF) has been established which pools the liability risks associated with the supply of blood and blood products by the Australian Red Cross Blood Service (ARCBS) between the Australian Government, the ARCBS and the States and Territories. The NMF is covered by a Memorandum of Understanding (MoU) between the Australian Government, States and Territories, and the ARCBS, and provides for liabilities incurred by ARCBS where other available mitigation or cover is not available. The MoU provides for the parties to contribute to the NMF taking into account potential claims payments; the level of funds in the NMF and investment earnings; and a prudential allowance for liabilities incurred but not yet the subject of claims. If there are insufficient funds to cover claim costs, the Jurisdictional Blood Committee (JBC) considers a report provided by the National Funds Manager to determine the level of funds required. Each party must contribute funds, as determined by JBC, in accordance with allocation provisions prevailing at the time. Under the MoU, the blood and blood products liability cover for the ARCBS remains in force until all parties agree to terminate the arrangements from an agreed date.

CSL Limited

CSL Limited is indemnified against claims made by persons who contract specified infections from specified products and against employees contracting asbestos-related injuries. CSL Limited has unlimited cover for most events that occurred before the sale of CSL Limited on 1 January 1994, but has more limited cover for a specified range of

events that occurred during the operation of the Plasma Fractionation Agreement from 1 January 1994 to 31 December 2004. Where alternative cover was not arranged by CSL Limited, the Australian Government may have a contingent liability. Given the open-ended nature of some of the indemnities, damages and risk cannot be quantified. No similar indemnities have been given to CSL Limited in the new Plasma Products Agreement operating from 1 January 2005.

Guarantee Scheme for aged care accommodation bonds

A Guarantee Scheme has been established through the *Aged Care (Bond Security) Act 2006* and *Aged Care (Bond Security) Levy Act 2006*. Under the Guarantee Scheme, if a provider becomes insolvent or bankrupt and is unable to repay outstanding bond balances to aged care residents, the Australian Government will step in and repay the bond balances owing to each resident. In return, residents will assign their right to the Australian Government to pursue the defaulting provider to recover the accommodation bond money paid out. In the event the Australian Government cannot recover the full amount from the defaulting provider, it may levy all providers holding accommodation bonds to recoup the shortfall. It is not possible to quantify the Australian Government's contingent liability in the event that the Guarantee Scheme is activated.

Indemnity relating to smallpox vaccine

On 12 December 2002, the Australian Government took possession of an initial shipment of 50,000 doses of smallpox vaccine. This vaccine, to be used only in emergency situations, was the only type available for large-scale purchase and was manufactured using older style technology. The Government granted an indemnity to the manufacturer covering possible adverse events that could result from the use of the vaccine.

Medical Indemnity Exceptional Claims Scheme

In May 2003, the Prime Minister announced the Medical Indemnity Exceptional Claims Scheme was to assume liability for 100 per cent of any damages payable against a doctor that exceeds a specified level of cover provided by that doctor's medical indemnity insurer, currently \$20 million. These arrangements will apply to payouts related to either a single large claim or to multiple claims that in aggregate exceed the cover provided by the doctor's medical indemnity insurer, and will apply to claims notified under contracts-based cover since 1 January 2003.

Immigration and Citizenship Affairs

Immigration detention services

A contract with GSL (Australia) Pty Ltd commenced on 1 September 2003. While this contract requires GSL to indemnify the Australian Government for certain claims of losses, the Australian Government has agreed to share the risk. Subject to certain conditions, GSL has been indemnified against claims of losses above a fixed amount to

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a capped amount. Where claims exceed the cap in any financial year, responsibility for the excess reverts to GSL.

A further limitation of liability has been provided in the contract in relation to loss or damage to Australian Government property or equipment as a result of the actions of detainees. Under the contract, GSL's liability for detainee damage is subject to an annual limit, unless claims of losses exceed an agreed cap.

Systems development – liability limit

The Department of Immigration and Citizenship (DIAC) has entered into a contract with IBM Australia (IBM) for the provision of systems development services for the department. The arrangement facilitates the delivery of the new departmental programme Systems for People. DIAC has agreed to limit IBM's liability to an overall maximum of \$150 million for certain causes of action.

Industry, Tourism and Resources

Liability for costs incurred in a National Liquid Fuel Emergency

The Australian Government has responsibility for the *Liquid Fuel Emergency Act 1984 (the Act)* administered by the Minister for Industry, Tourism and Resources. To coordinate Australian and State and Territory use of the powers under the Act in a national liquid fuel emergency, the Australian and State and Territory Governments have entered into an inter-governmental agreement (IGA). The IGA contains three areas where the Australian Government may incur expenses in the unlikely event of a national liquid fuel emergency. These relate to the direct costs of managing such an emergency, the potential for the Australian Government to reimburse the State and Territory Governments for the implementation costs of their response and the potential for compensation arising to industry from Australian Government directions under the Act.

Liability for damages caused by space activities

Under the United Nations Convention on International Liability for Damage Caused by Space Objects, the Australian Government is liable to pay compensation for damage caused to nationals of other countries by space objects launched from, or by, Australia. The Australian Government requires the responsible party for a space activity approved under the *Space Activities Act 1998* to insure against liability for damage to third parties for an amount not less than the maximum probable loss, up to a maximum of \$750 million. Under the Space Activities Act, the Australian Government also accepts liability for damage suffered by Australian nationals, to a maximum value of \$3 billion above the insured level.

Liability for damages caused by Kistler space activities

In accordance with the United Nations Convention on International Liability for Damage Caused by Space Objects, an agreement was signed in 1998, amended in 1999,

between the Department of Industry, Tourism and Resources, Kistler Woomera Pty Ltd and Spaceport Woomera Pty Ltd to support the launching of the K-1 Aerospace Vehicle and satellites into space from Australia. Kistler Woomera Pty Ltd received a major contract from NASA in August 2006, and launches are expected to commence at Woomera in South Australia from 2008. Under the agreement, the Australian Government provides indemnity support to a maximum of US\$1.5 billion (estimated value A\$1.9 billion), indexed for inflation above the level of insurance cover obtained under the requirements of the agreement.

Snowy Hydro Limited — directors' indemnities

The Australian Government has, together with the co-shareholder governments of New South Wales and Victoria, indemnified the members of the board of Snowy Hydro Limited for liabilities arising from entering into agreements to implement corporatisation of the Snowy Mountains Hydro-Electric Scheme, and from liabilities to Snowy Hydro Limited at corporatisation. The indemnity will apply to liabilities arising within five years of corporatisation, and for which a claim is notified to the governments within eleven years of the corporatisation date of 28 June 2002.

Snowy Hydro Limited — water releases

The Australian, New South Wales and Victorian governments have indemnified Snowy Hydro Limited for liabilities arising from water releases in the Snowy River below Jindabyne Dam, where these releases are in accordance with the water licence and related regulatory arrangements agreed between the three governments. The indemnity will apply to liabilities for which a claim is notified within 20 years from 28 June 2002.

The Australian, New South Wales and Victorian governments will provide financial support to the company, if this is necessary, to avoid the company breaching its loan covenants to fund the cost of civil works required to address a cold-water pollution offence. The undertaking applies for seven years from 28 June 2002.

Transport and Regional Services

Assumed residual liabilities of the Australian National Railways Commission

The Australian Government under Schedule 3 of the *Australian National Railways Commission Sale Act 1997* assumed the residual liabilities of the Australian National Railways Commission. A writ of summons was filed in the High Court of Australia on 20 August 2004 and a statement of claim on behalf of 24 other plaintiffs was filed in the District Court of South Australia on 22 September 2005. The writ sought unspecified damages for personal injuries as a result of exposure to lead and other particles from trains carrying lead and zinc ore.

Maritime Industry Finance Company Limited — board members' indemnity

Indemnities for Maritime Industry Finance Company Limited board members have been provided to protect them against civil claims relating to their employment and conduct as directors.

Statement 11: Statement of Risks

Tripartite deeds relating to the sale of federal leased airports

Tripartite deeds apply to 12 federal leased airports (Adelaide, Alice Springs, Bankstown, Brisbane, Canberra, Coolangatta, Darwin, Launceston, Melbourne, Perth, Sydney and Townsville). The tripartite deeds between the Australian Government, the airport lessee company and financiers provide for limited step-in rights for the financiers in circumstances when the airport lease is terminated to enable the financiers to correct the circumstances that triggered such a termination event. These contingent liabilities are considered to be unquantifiable and remote.

Treasury

Housing Loans Insurance Corporation — guarantee

The Australian Government sold the Housing Loans Insurance Corporation (HLIC) on 12 December 1997 and has assumed all residual contingencies. The guarantee relates essentially to the HLIC's contracts of mortgage insurance and any borrowings approved by the Treasurer up to the time of sale. The principal amount covered by the guarantee and the balances outstanding are unable to be reliably measured.

Terrorism insurance — commercial cover

The *Terrorism Insurance Act 2003* established a scheme for replacement terrorism insurance covering damage to commercial property including associated business interruption and public liability. The Australian Reinsurance Pool Corporation (ARPC) uses reinsurance premiums paid by insurers to meet its administrative expenses and to build a fund and purchase reinsurance to help meet future claims. In September 2006, the Government announced that, as a result of the review of the scheme, the fund would no longer be limited to \$300 million. The Commonwealth guarantees to pay any liabilities of the ARPC, but the Treasurer must declare a reduced payout rate to insured parties if the Commonwealth's liability would otherwise exceed \$10 billion.