Section 2

1	Sector:	All Sectors
	Obligations Concerned:	Market Access (Article 9.3) National Treatment Senior Management and Boards of Directors (Article 14.8)
	Level of Government:	Central and Regional
	Source of Measure:	Australia's foreign investment policy, which includes the *Foreign Acquisitions and Takeovers Act 1975* (Cth); *Foreign Acquisitions and Takeovers Regulations 1989* (Cth); *Financial Sector (Shareholdings) Act 1998* (Cth) and Ministerial Statements. *Land Act 1994* (Qld); *Foreign Ownership of Land Register Act 1988* (Qld)
	Description:	Commonwealth A. The following investments may be subject to objections by the Australian Government and may also require notification to the Government[2]: (a) investments by foreign persons[3] of 5 per cent or more in the media sector, regardless of the value of the investment; (b) investments by foreign persons in existing[4] Australian businesses, or prescribed corporations,[5] the value of

[2] *Foreign Acquisitions and Takeovers Act 1975* (Cth) (FATA). "Investments" means activities covered by Part II of FATA or, where applicable, ministerial statements on foreign investment policy. Funding arrangements that include debt instruments having quasi-equity characteristics will be treated as direct foreign investment.

[3] A "foreign person" means, as defined in section 5 of the FATA:

(a) a natural person not ordinarily resident in Australia;

(b) a corporation in which a natural person not ordinarily resident in Australia or a foreign corporation holds a controlling interest;

(c) a corporation in which two or more persons, each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate controlling interest;

(d) the trustee of a trust estate in which a natural person not ordinarily resident in Australia or a foreign corporation holds a substantial interest; or

(e) the trustee of a trust estate in which two or more persons, each of whom is either a natural person not ordinarily resident in Australia or a foreign corporation, hold an aggregate substantial interest.

[4] For the purposes of this entry, "existing" means in existence at the time the investment is proposed or made.

[5] For the purposes of this entry, "prescribed corporation" means:

(a) a trading corporation;

(b) a financial corporation;

(c) a corporation incorporated in a Territory under the law in force in that Territory relating to companies;

(d) a foreign corporation that, on its last accounting date, held assets the sum of the values of which exceeded 248 million Australian Dollars (for item (b) of the entry) or 1078 million Australian Dollars (for item (c) of the entry), being assets consisting of all or any of the following:

(i) land situated in Australia (including legal and equitable interests in such land);

(ii) mineral rights;

(iii) shares in a corporation incorporated in Australia;

(e) a foreign corporation that was, on its last accounting date, a holding corporation of an Australian corporation or Australian corporations, where the sum of the values on that date of the assets of the Australian corporation or Australian corporations exceeded 248 million Australian