

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 Economic and Fiscal Outlook. This statement outlines the fiscal risks and the contingent liabilities which may affect the budget balances.

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STATEMENT 11: STATEMENT OF RISKS

The forward estimates of revenue and expenses in the 2004-05 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

Economic and other parameters

Major short-term influences on expected revenues and expenses typically are changes in forecasts of economic and non-economic parameters. Over the long-term, differences between the economic parameter forecasts and outcomes have not created any clear bias toward understatement or overstatement of revenue, expenses or the budget balance.

Budget Statement 2 discusses the sensitivity of revenue and expense estimates to 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 be positive or negative on revenue, expenses and/or the budget balance. A general risk to the forward estimates is the possible Senate rejection or amendment of budget measures or other legislation before the Parliament. This general risk is not specifically identified elsewhere in this statement because these measures remain Government policy.

Contingent liabilities

Contingent liabilities are now defined by the accounting standard AASB 1044, which came into effect on 1 July 2002. Broadly, they represent possible costs to the Australian Government arising from past events that the outcome of future events will confirm. Contingent liabilities include loan guarantees, non-loan guarantees, warranties, indemnities, uncalled capital and letters of comfort. 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.

Strategies to manage these exposures aim to ensure the underlying strength and viability of the entities, so that the guarantees are not triggered. Similar strategies may be adopted in relation to entities not subject to explicit guarantees.

Other arrangements govern the entering into, and monitoring of, contingent liabilities, such as indemnities and uncalled capital. Uncalled capital is primarily associated with international financial institutions, such as the International Bank for Reconstruction and Development, the Asian Development Bank and the European Bank for Reconstruction and Development. Arrangements for capital contributions to these institutions, including contingent liabilities, are approved by Parliament, and the Government provides annual reports on the institutions to Parliament.

Consistent with the Australian Bureau of Statistics Government Finance Statistics standards, transactions concerned with the management of international reserves and the monetary system are classified as financing transactions and do not impact on the budget balances. Accordingly, contingent liabilities (and assets) with the International Monetary Fund are not shown.

Details of fiscal risks and contingent liabilities

Fiscal risks and contingent liabilities 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 2004. In general, information on contingent liabilities is based on information provided by Australian Government departments and agencies and is current to 31 March 2004 (or later as indicated). However, in some cases, earlier 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.

FISCAL RISKS — REVENUE

The Government's revenue and policy measure forecasts, like all forecasts, are subject to a margin of error.

However, over the past 20 years the errors associated with the forecasts of cash receipts have not been significantly different from zero and there has been no bias towards either understatement or overstatement. In fact, over this period, the average error was only 0.5 per cent, with the errors varying around this average by a respectable 2.4 per cent. There is not enough data to accurately assess the forecasting performance for accrual revenue.

An implication of the degree of uncertainty surrounding the revenue forecasts is that, 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 various risks influencing the accuracy of the revenue forecasts are outlined.

General risks

The forward estimates of revenue are subject to a number of general pressures that can affect revenue 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 revenue 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

Renegotiation of withholding tax rates in certain Australian double tax treaties

Australia's double tax treaties with the Netherlands, France, Switzerland, Italy, Norway, Finland, Austria and the Republic of Korea include 'most favoured nation' clauses on rates of withholding tax. Following the commencement of the Protocol to the Australia-United States double tax treaty, the most favoured nation clause in each of these treaties requires Australia to enter into negotiations with that country with a view to providing similar withholding tax treatment to that which Australia agreed with the United States. The countries have been advised about the obligation to renegotiate and formal negotiations, starting with Norway, commenced in November 2003. Depending on the negotiated outcome, changes to these treaties could have positive as well as 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 by way of interest rate subsidies and/or income support through the Exceptional Circumstances Relief Payment. 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 intensity, duration and scale of future drought conditions.

Finance and Administration

Asset sales — Telstra

The forward estimates include the effect of the sale of the Australian Government's shareholding in Telstra, noting that the level of proceeds will depend, inter alia, on the prevailing levels of world equity markets at the time of the sale and that the timing of the sale could be adjusted if market levels are considered unlikely to provide an appropriate return to taxpayers. The sale of the Australian Government's remaining shareholding in Telstra is dependent on the passage of legislation through the Parliament.

Health and Ageing

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 schedules following independent assessments of cost effectiveness. Major new developments in medicines or medical procedures could result in increases in expenses that exceed the provision in the forward estimates. Similarly, significant shifts in usage patterns, which may occur for particular drugs or groups of drugs from time to time, could result in increases in expenses that exceed the provision in the forward estimates. It is not possible to quantify the fiscal risk arising from such potential developments.

Immunisation funding mechanism

Future vaccine technology will result in new vaccines substituting for those already in use (for example, multivalent vaccines which combine several vaccines into one) and, as a consequence, could result in higher unit costs of vaccine within the routine schedule. Given the nature of current vaccine technology and the possible introduction of new vaccines, specific costs cannot be precisely quantified at this stage.

CONTINGENT LIABILITIES — QUANTIFIABLE

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 fly aircraft with Air Security Officers on board. The indemnity agreements limit the Australian Government's exposure up 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.

Defence

Other guarantees

Defence carries an extensive range of guarantees and undertakings, normally of a short-term nature, relating to business, training activities and other arrangements involving contracts, agreements and other Defence activities. Indemnities issued cover potential losses or damages for which the Australian Government would be liable.

There are 58 instances of contingencies that are either unquantifiable or uncapped, and 64 instances of quantifiable contingencies to the value of \$2,287 million. While these contingencies are considered remote, they have been reported in aggregate for completeness.

Employment and Workplace Relations

Special Employee Entitlements Scheme for Ansett group employees

There is an estimated contingent liability of \$80.1 million in relation to the Special Employee Entitlements Scheme for Ansett group employees. This scheme was established by the Australian Government on 9 October 2001 under section 22 of the *Air Passenger Ticket Levy (Collection) Act 2001* to provide a safety net arrangement for staff of the Ansett group of companies whose employment was terminated after 12 September 2001 due to their employer's insolvency.

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 30 April 2004, AIDC's contingent liabilities, subject to Australian Government guarantee, were approximately \$127 million in respect of guarantees and credit risk facilities.

In addition, AIDC had outstanding Australian Government guaranteed borrowings which totalled approximately \$973 million as at the most current valuation of 31 December 2003. 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 Limited's (a subsidiary of AIDC) financial assets. UBS Warburg manages this borrowing portfolio on behalf of AIDC. The UBS Warburg 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.

ComLand Limited

Bank borrowings by ComLand Limited are explicitly guaranteed by the Australian Government up to a limit of \$60 million, comprising \$50 million for principal and \$10 million for accrued interest and other costs. When the ComLand sale is completed, this guarantee will be terminated.

Department of Finance and Administration 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.

Sale of Sydney Airports Corporation Limited

An indemnity has been provided to Southern Cross Airports Corporation as purchaser of the Sydney Airports Corporation Limited (SACL) 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 SACL constituting a relevant acquisition in a land-rich private corporation. In the event the liability arises it is estimated to be between \$221.2 million and \$282.8 million.

Foreign Affairs and Trade

Export Finance and Insurance Corporation

The Australian Government guarantees the due payments by 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 2004, the Australian Government's total contingent liability was \$3,187 million, comprising EFIC's liabilities to third

parties (\$2,690 million) and EFIC's contracts of insurance and guarantees (\$497 million). The National Interest Account accounted for \$1,877 million of these liabilities.

Immigration and Multicultural and Indigenous Affairs

Immigration detention services

The contract with GSL (Australia) Pty Ltd (previously Group 4 Falck Global Solutions Pty Ltd) commenced on 1 September 2003. The Australian Government has agreed to limit GSL's exposure under the liability regime of the contract. While the general 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 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 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.

Transport and Regional Services

Maritime industry reform

On 18 August 1998, the Australian Government provided a guarantee to cover borrowings made by the Maritime Industry Finance Company Limited to finance redundancy-related payments in the stevedoring and maritime industries. Outstanding borrowings covered by the guarantee as at 31 January 2004 were \$121.9 million.

Treasury

Guarantees under the *Commonwealth Bank Sale Act 1995*

Under the terms of the *Commonwealth Bank Sale Act 1995*, the Australian Government has guaranteed various liabilities of the Commonwealth Bank of Australia (CBA), the Commonwealth Bank Officers' Superannuation Corporation (CBOSC) and the Commonwealth Development Bank. The guarantee for the CBA relates to both on and off-balance sheet liabilities. Of the existing contingent liability, 32 per cent involves off-balance sheet liabilities. As at 31 December 2003, the balance of the guarantee was \$9.1 billion, a reduction of \$164 million from 30 June 2003.

The guarantee for CBOSC covers the due payments of any amount that is payable to or from the Fund, by CBOSC or by the CBA, in respect of a person who was a member, retired member or beneficiary of the Fund immediately before 19 July 1996. Total

accrued benefits at 30 June 2003 have been valued at \$3.2 billion. The outstanding value subject to the guarantee is estimated to be \$3.2 billion.

As of 1 July 1996, the Commonwealth Development Bank ceased to write new business and no additional liabilities are being incurred. The existing contingent liability will gradually decline with the retirement of existing loans and exposures. The revised estimate for the balance of this guarantee was \$18.3 million as at 31 December 2003.

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. As at 31 March 2004, notes on issue totalled \$34.3 billion. In total, the guarantee for the Bank was \$43.8 billion as at 31 March 2004.

Terrorism insurance — commercial cover

The Government's Scheme for replacement terrorism insurance commenced on 1 July 2003 and will operate until commercial insurance and reinsurance providers recommence provision of terrorism insurance. The Scheme covers commercial property and infrastructure facilities and associated business interruption and public liability.

The Scheme provides for a pool of funds (initially planned to accumulate to about \$300 million) funded by reinsurance premiums paid to the Australian Reinsurance Pool Corporation (ARPC). The pool is supplemented by a bank line of credit of \$1 billion, underwritten by the Australian Government, as well as a Commonwealth Government indemnity of \$9 billion, giving aggregate cover of up to \$10.3 billion when the pool is fully funded.

Under the *Terrorism Insurance Act 2003* the Australian Government guarantees the payment of liabilities incurred by the ARPC. The Treasurer has the ability to declare a reduced payout rate to insureds if, in the absence of such a declaration, the Australian Government's liability would exceed \$10 billion. While the guarantee to the ARPC is unlimited, the pro rata reduction will be used to try to limit the Australian Government's exposure to \$10 billion.

The ARPC may recoup payouts under the Scheme by increasing premiums for terrorism reinsurance, and pass these funds on to the Australian Government. However such repayments to the Australian Government may take some years.

Uncalled capital subscriptions — international financial institutions

This contingent liability relates to the value of the uncalled portion of the Australian Government's shares as at 31 March 2004 in the International Bank for Reconstruction and Development (US\$2.8 billion — estimated value A\$3.6 billion), the Asian

Development Bank (US\$2.4 billion – estimated value A\$3.2 billion), the European Bank for Reconstruction and Development (US\$81.7 million plus €77.5 million – estimated value A\$232.6 million), and the Multilateral Investment Guarantee Agency (US\$26.5 million – estimated value A\$34.9 million).

Various

Asbestos related disease claims

The Australian Government is facing a number of claims for asbestos related injuries for military and civilian personnel and for former waterside workers. After obtaining independent actuarial advice, the Government has recognised a liability for asbestos related disease (ARD) claims, which was calculated net of apportionment and cross-claims with other defendants. An additional amount has been recognised to reflect the Government's potential liability for the third party share of ARD claims where the Government is joint and severally liable. This amount is an estimate based on the information currently available on ARD claims, however, the Australian Government liability in relation to other defendants' share of ARD claim costs may be less than or greater than this amount.

CONTINGENT LIABILITIES — UNQUANTIFIABLE

Attorney-General's

Native title costs

The Australian Government has offered to assist the states in meeting compensation costs associated with native title. 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 liabilities arising from the 1998 amendments to the *Native Title Act 1993*. 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 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.

Southern Ocean surveillance

The Australian Government provides funding to the Australian Customs Service and the Department of Agriculture, Fisheries and Forestry to conduct armed patrols of Australia's exclusive economic zone in the Southern Ocean. The inherent risk associated with the type of operations and the conditions to be found working in the

Southern Ocean is expected to be covered by existing insurance policies, except in circumstances where the crew is required use armed force. In these circumstances all risk will become uninsurable and will be borne solely by the Australian Government.

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.

New South Wales Councils

Waverley City Council and a number of other New South Wales Councils brought action in the Federal Court in July 2003 against the Australian Government and other parties. The Councils are seeking compensation for the acquisition of property and other damages in respect of telecommunications installations on, under and over land to which the Councils have title. The statement of claim does not specify the amount of compensation for damages being sought from the Australian Government and other parties.

Defence

ADI Limited — officers and directors' indemnities

Under the sale agreements for ADI Limited, the Australian Government had indemnified 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.

Australian Submarine Corporation — 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 the Australian Submarine Corporation (ASC) as it transitioned from being a producer of submarines to an agency for through-life support. EB/EBA staff commenced at ASC on 14 October 2002. The Services Agreement will run for three years with up to four annual extensions.

Under this agreement, EB and EBA were provided with a warranty by the Australian Government and ASC, that they had the right to provide EB/EBA with confidential

and other information and the Australian Government provided an indemnity to EB and EBA against claims arising from a breach of that warranty.

The Australian Government also indemnified EB and EBA against claims arising 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, against claims exceeding the greater of \$2 million or profit earned by EB under the agreement.

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. One hundred and twenty seven claims remain current. Eighty six 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. A number of dependency claims arising from that collision have also been foreshadowed by the dependants of deceased former members of the crew of HMAS *Voyager*. Further claims are likely to 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. In total there are about 400 claims at present, with a value in excess of \$195 million. There is identified potential for additional claims from known incidents of non-military asbestos exposure and the F-111 Deseal/Reseal project of some 130 claims with a value of some \$30 million. The current and potential asbestos claims noted above are included in the whole of Government contingent liability detailed under the heading asbestos related disease claims.

Finance and Administration

Australian Industry Development Corporation — board members' and management indemnity

The Australian Government has indemnified the Corporation's board members and management against civil claims relating to employment and conduct as directors and

management of subsidiary companies. Liability is subject to the terms of the indemnities.

Australian Submarine Corporation — Australian Government shareholding

The Australian Government has indemnified Barry AC Hilson and BACH Pty Ltd in relation to liabilities arising from assistance provided to the Australian Government during the conduct of a review of the Australian Government's shareholding in Australian Submarine Corporation (ASC). This indemnity is ongoing.

Australian Submarine Corporation — directors' indemnities

The Australian Government has indemnified the members of the board of the ASC for any claims and all legal costs arising from the result of the directors acting in accordance with the board's Tasks and Responsibilities including any current and future ministerial directions.

The Australian Government has specifically indemnified the members of the board of the ASC for any claim associated with the provision of information to the Electric Boat Corporation (EB) of the United States. Certain information has been provided to the EB under a Process Agreement between it, the Australian Government and the ASC. This indemnification has been separately extended to include any claim associated with the provision of information to EB and its subsidiary, Electric Boat Australia under the Services Agreement between ASC, the Department of Defence, EB and Electric Boat Australia.

ComLand Limited — land remediation

The Australian Government has indemnified the ComLand Group in the event that the Group incurs certain land remediation expenses where the need for such remediation was not identified when the land was transferred to ComLand. When the ComLand sale is completed, this indemnity will be terminated and replaced with new indemnities with narrower scope.

ComLand Limited — directors' indemnities

An indemnity has been provided to the directors of ComLand Ltd and to ComLand's General Manager and DBYB Pty Ltd, to indemnify them against liabilities incurred in respect of assistance provided to the Australian Government during the ComLand scoping study and subsequent sale process. This indemnity applies to the period between 1 July 2002 and the completion of the ComLand sale process. The Australian Government may also terminate this indemnity upon reasonable notice in writing to the company.

Employment National Limited — board members' and Chief Executive Officer's indemnity

Indemnities by the Australian Government have been provided to Employment National Limited board members and the Chief Executive Officer to protect against

civil claims relating to their employment and conduct as directors. These indemnities are ongoing.

Health Insurance Commission

An indemnity has been provided to Commissioners of Health Insurance Commission (HIC) against claims made in connection with HIC's participation in the IT Outsourcing Initiative. The indemnity applies to actions of HIC during the period of the process to outsource the HIC IT infrastructure up to the time that the HIC entered into a contract.

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 with the authority of the agency.

Sydney Airports Corporation Limited, Bankstown, Camden and Hoxton Park Airports and Essendon Airport Limited — directors' indemnities

The Australian Government has indemnified each member of the board of directors of Sydney Airports Corporation Limited, Bankstown Airport Limited, Camden Airport Limited, Hoxton Park Airport Limited and Essendon Airport Limited against claims and costs incurred arising from the conduct of the directors in relation to the sale, or scoping study for the sale of these airports. Where certain company insurances or indemnities exist for the directors in relation to a claim, the Australian Government indemnity cannot be called upon.

Tuggeranong Office Park Pty Ltd

The Australian Government has provided an indemnity to the Tuggeranong Office Park Pty Ltd (TOP) Trustee to meet any shortfall in the redemption of bonds due on 20 August 2008 which cannot be sourced by TOP or the Construction Development Company from the Sinking Fund. A provision has been raised for this shortfall, based on assumptions current at 31 December 2003. The estimate of this provision is subject to movement in the bond market.

Indemnities relating to other asset sales

Indemnities have been given in respect of a range of other asset sales. Details of these indemnities have been provided in previous Budget and Mid-Year Economic and Fiscal Outlook papers and Finance annual reports. For example, see pages 11-12 to 11-20 in the 2003-04 Budget Paper No. 1, and pages 206-212 of the 2002-03 *Finance Annual Report*.

Foreign Affairs and Trade

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

The Australian Government has provided certain indemnities to 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

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 and the states. The NMF is covered by a Memorandum of Understanding (MoU) between the Australian Government, states and the ARCBS. This will be amended to incorporate the operations of the National Blood Authority. It 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 MoU provides for each party to contribute funds 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.

Commonwealth Serum Laboratories Limited

Commonwealth Serum Laboratories (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 might occur during the period of the current Plasma Fractionation Agreement. Where cover has not been arranged, the Australian Government may have a contingent liability. Given the open-ended nature of some of the indemnities, damages and risk cannot be quantified.

Exceptional Claims Scheme

In May 2003 the Prime Minister announced the Medical Indemnity Exceptional Claims Scheme 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 (MII). 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 MII, and will apply to claims notified under contracts-based cover since 1 January 2003.

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 as part of the *Incident response capability*. 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.

Immigration and Multicultural and Indigenous Affairs

Separation of Aboriginal children from their families in the Northern Territory

Earlier laws, policies and practices in relation to the Australian Government's administration of the Northern Territory led to the separation of certain Indigenous children from their families. There are currently over 2,000 plaintiffs with claims pending against the Australian Government for (largely unspecified) damages in relation to alleged forcible and wrongful separations (mostly by the children of those allegedly forcibly and wrongfully removed). Two claims have proceeded to trial. Both were unsuccessful.

Industry, Tourism and Resources

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.

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

Deep vein thrombosis class action

The Civil Aviation Safety Authority (CASA) has been named in a number of writs, which allege that CASA was negligent in not making air travellers aware of the risks of deep vein thrombosis during long periods of immobility. As at 29 February 2004, there have been 483 writs issued against CASA. The writs span 1995 to 2002. The Australian Government's exposure is limited to claims for the years 1995 to 30 June 1998, as CASA was covered by a Commonwealth Deed of Indemnity in relation to the performance of its regulatory functions. As at 29 February 2004, 108 writs had been issued against CASA which are covered by the Deed of Indemnity. The remaining writs are covered by CASA's commercial insurance.

Maritime Industry Finance Company Limited board members' indemnity

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

Tripartite deeds relating to the sale of core regulated airports

Tripartite deeds apply to the 12 core regulated airports (Sydney, Melbourne, Brisbane, Perth, Canberra, Coolangatta, Townsville, Adelaide, Hobart, Launceston, Darwin and Alice Springs). 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.

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 principal amount covered by the guarantee and the balances outstanding are unable to be reliably measured. 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.

