

APPENDIX D: STATEMENT OF RISKS

OVERVIEW

Full details of fiscal risks and contingent liabilities are provided in Budget Paper No. 1, *Budget Strategy and Outlook 2006-07*. The following statement updates (where necessary) those fiscal risks and contingent liabilities that have changed since the 2006-07 Budget.

The forward estimates of revenue and expenses in the *Mid-Year Economic and Fiscal Outlook 2006-07* incorporate assumptions and judgments based on information available at the time of publication.

DETAILS OF FISCAL RISKS AND CONTINGENT LIABILITIES

New or revised 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, that have arisen or changed since the 2006-07 Budget are described below and summarised in Table D1.

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

Appendix D: Statement of risks

Table D1: Summary of changes to Statement of Risks since 2006-07 Budget

FISCAL RISKS — REVENUE	
Finance and Administration	
Asset sales — Telstra	Deleted
CONTINGENT LIABILITIES — QUANTIFIABLE	
Defence	
Indemnities	Modified
Finance and Administration	
Australian Industry Development Corporation	Modified
Sale of Sydney Airports Corporation Limited	Modified
Foreign Affairs and Trade	
Export Finance and Insurance Corporation	Modified
Transport and Regional Services	
Maritime industry reform	Deleted
Treasury	
International financial institutions — uncalled capital subscriptions	Modified
Reserve Bank of Australia — guarantee	Modified
CONTINGENT LIABILITIES — UNQUANTIFIABLE	
Attorney-General's	
Integrated Cargo System	Deleted
Native title costs	Modified
Other indemnities	New
Defence	
ADI Limited — HMAS <i>Westralia</i> indemnity	Deleted
ADI Limited — sale	Deleted
HMAS <i>Melbourne</i> and HMAS <i>Voyager</i> damages claims	Modified
Education, Science and Training	
Australian Nuclear Science and Technology Organisation — make-good provision	Deleted
Finance and Administration	
Potential claims relating to superannuation benefits	Modified
Telstra Corporation Limited — company, directors and senior executives' indemnities	Modified
Telstra Corporation Limited — indemnity for unauthorised disclosure of information	New
Tuggeranong Office Park Pty Ltd — shareholder indemnity	Modified
Health and Ageing	
Australian Red Cross Society — indemnities	New
Immigration and Multicultural Affairs	
Systems development — liability limit	New
Industry, Tourism and Resources	
Liability for damages caused by Kistler space activities	New
Treasury	
Terrorism insurance — commercial cover	Modified

Note: Risks not appearing in this Statement are substantially unchanged since disclosed in Budget Paper No. 1, *Budget Strategy and Outlook 2006-07*, Statement 11.

FISCAL RISKS

There have been no significant changes to the revenue or expense risks disclosed in Budget Paper No. 1.

CONTINGENT LIABILITIES — QUANTIFIABLE

Defence

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.

There are 322 instances of contingencies that are unquantifiable and 166 instances of quantifiable contingencies to the value of \$3.7 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 30 June 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 \$481 million as at the most current valuation of 30 June 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 Limited'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.

Sale of Sydney Airports Corporation Limited

An indemnity has been provided to Southern Cross Airports Corporation as purchaser of the Sydney Airports Corporation Limited 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 Limited 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. The Australian Government maintains there are no grounds for the assessment. The amount disputed 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 30 September 2006, the Australian Government's total contingent liability was \$3.1 billion, comprising EFIC's liabilities to third parties (\$2.5 billion) and EFIC's overseas investments insurance, contracts of insurance and guarantees (\$0.6 billion).

Treasury

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\$3.7 billion as at 29 September 2006), the Asian Development Bank (US\$2.4 billion — estimated value A\$3.3 billion), the European Bank for Reconstruction and Development (US\$81.7 million plus €77.5 million — estimated value A\$240.8 million), and the Multilateral Investment Guarantee Agency (US\$26.5 million — estimated value A\$35.4 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 \$38.9 billion as at 27 September 2006 and the total guarantee is \$54.5 billion.

CONTINGENT LIABILITIES — UNQUANTIFIABLE

Attorney-General's

Native title costs

The Australian Government has offered to assist the States 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. 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 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.

Other indemnities

The Australian Federal Police (AFP) carry a range of indemnities and undertakings, normally of a short-term nature, relating to business, training activities and other activities involving contracts, agreements and other AFP arrangements. Indemnities issued by the AFP cover potential losses or damages for which the Australian Government would be liable. The instances of unquantifiable contingencies are considered remote.

Defence

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 claims remain current. A number 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. Nine dependency claims arising from that collision have also been commenced 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. The most recent claim was commenced in February 2006.

Finance and Administration

Potential claims relating to superannuation benefits

On 8 May 2006, the Australian Capital Territory court of Appeal found against the Commonwealth of Australia on a claim for negligent misstatement relating to superannuation benefits for a former employee of the Department of the Interior. The High Court of Australia has granted the Commonwealth special leave to appeal the decision of the ACT courts. The potential liability for the first 400 cases is estimated at \$235 million. The High Court decision is expected in early 2007. This is a test case for several hundred named plaintiffs. There is potential for more claims to arise from other former employees depending on the terms of the final judgment.

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

Certain indemnities have been provided to 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 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.

Tuggeranong Office Park Pty Ltd — shareholder indemnity

The Australian Government issued bonds in 1989 to finance the construction of the Tuggeranong Office Park (TOP) complex in Canberra. The Australian Government issued a conditional indemnity to the bondholders at the time for all 'losses, liabilities, costs, expenses and damages' incurred by virtue of their shareholding. The Budget currently provides for this conditional indemnity, but this estimate may vary due to market factors and selection of the best option to settle the bonds. It is currently planned that TOP will be sold prior to the conditional indemnity crystallising in August 2008 when the bonds mature. It is expected that this will result in the conditional indemnity being extinguished.

Health and Ageing

Australian Red Cross Society — indemnities

The Deed of Agreement between the Australian Red Cross Society (ARCS) and the National Blood Authority (NBA) 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.

Immigration and Multicultural Affairs

Systems development — liability limit

The Department of Immigration and Multicultural Affairs (DIMA) 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'. DIMA 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 damages caused by Kistler space activities

In accordance with the UN 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 (approximately A\$2.0 billion) above the level of insurance cover obtained under the requirements of the agreement.

Treasury

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 losses and public liability claims. 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 a 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 insureds if the Commonwealth's liability would otherwise exceed \$10 billion.

