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The Parliament of the
Commonwealth of Australia

HOUSE OF REPRESENTATIVES

Presented and read a first time

**International Tax Agreements
Amendment Bill (No. 1) 2007**

No. , 2007

(Treasury)

A Bill for an Act to amend the *International Tax Agreements Act 1953*, and for related purposes

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1 **A Bill for an Act to amend the *International Tax***
2 ***Agreements Act 1953, and for related purposes***

3 The Parliament of Australia enacts:

4 **1 Short title**

5 This Act may be cited as the *International Tax Agreements*
6 *Amendment Act (No. 1) 2007.*

7 **2 Commencement**

8 This Act commences on the day on which it receives the Royal
9 Assent.

10 **3 Schedule(s)**

11 Each Act that is specified in a Schedule to this Act is amended or
12 repealed as set out in the applicable items in the Schedule

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concerned, and any other item in a Schedule to this Act has effect according to its terms.

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Schedule 1—The 2006 French convention

International Tax Agreements Act 1953

1 Subsection 3(1) (after paragraph (bb) of the definition of agreement)

- Insert:
- (bc) the 1969 French airline profits agreement;
 - (bd) the 1976 French agreement;
 - (be) the 1976 French agreement as amended by the 1989 French protocol;

2 Subsection 3(1)

Insert:

the 1969 French airline profits agreement means the Agreement between the Government of Australia and the Government of the French Republic for the avoidance of double taxation of income derived from international air transport that was signed at Canberra on 27 March 1969.

3 Subsection 3(1)

Insert:

the 1976 French agreement means the Agreement between the Government of Australia and the Government of the French Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income that was signed at Canberra on 13 April 1976.

4 Subsection 3(1)

Insert:

the 1989 French protocol means the Protocol, signed at Paris on 19 June 1989, between the Government of Australia and the Government of the French Republic amending the 1976 French agreement.

5 Subsection 3(1)

1 Insert:

2 *the 2006 French convention* means the Convention between the
3 Government of Australia and the Government of the French
4 Republic for the avoidance of double taxation with respect to taxes
5 on income and the prevention of fiscal evasion and the protocol to
6 that convention, being the convention and protocol a copy of each
7 of which in the English language is set out in Schedule 11.

8 **6 Subsection 3(1) (definition of *the French agreement*)**

9 Repeal the definition.

10 **7 Subsection 3(1) (definition of *the French airline profits***
11 ***agreement*)**

12 Repeal the definition.

13 **8 Subsection 3(1) (definition of *the French protocol*)**

14 Repeal the definition.

15 **9 Subsection 3(7)**

16 Omit “French agreement”, substitute “1976 French agreement, the 2006
17 French convention”.

18 **10 Sections 9, 9A and 9B**

19 Repeal the sections, substitute:

20 **9 The 2006 French convention**

21 Subject to this Act, on and after the date of entry into force of a
22 provision of the 2006 French convention, the provision has the
23 force of law according to its tenor.

24 **9A Previous French agreements etc.**

25 The provisions of:

- 26 (a) the 1969 French airline profits agreement; and
27 (b) the 1976 French agreement; and
28 (c) the 1976 French agreement as amended by the 1989 French
29 protocol;

1 so far as those provisions affect Australian tax, continue to have
2 the force of law for tax in respect of income in relation to which
3 the agreements remain effective.

4 Note 1: Paragraph 3 of Article 30 of the 2006 French convention preserves the
5 operation of Article 19 of the 1976 French agreement (which provides
6 that the income received in respect of teaching or conducting research
7 by visiting professors and teachers is taxed only in their home
8 country). This applies to individuals who are entitled to the benefit at
9 the time when the 2006 French convention enters into force. The
10 benefit is preserved until the individual concerned would have ceased
11 to be entitled to it under the 1976 French agreement.

12 Note 2: Article 19 of the 1976 French agreement is affected by Article 8 of the
13 1989 French protocol.

14 **11 Schedule 7**

15 Repeal the Schedule.

16 **12 Schedules 11 and 11A**

17 Repeal the Schedules, substitute:

18 **Schedule 11—2006 French convention**

19 Note: See section 3.
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23 **CONVENTION BETWEEN THE GOVERNMENT OF AUSTRALIA AND**
24 **THE GOVERNMENT OF THE FRENCH REPUBLIC FOR THE**
25 **AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON**
26 **INCOME AND THE PREVENTION OF FISCAL EVASION**

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29 The Government of Australia and the Government of the French Republic,

30 Desiring to conclude a Convention for the avoidance of double taxation with
31 respect to taxes on income and the prevention of fiscal evasion,

32 Have agreed as follows:
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Article 1

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PERSONS COVERED

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This Convention shall apply to persons who are residents of one or both of the Contracting States.

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Article 2

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TAXES COVERED

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1. The existing taxes to which this Convention shall apply are :

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a) in the case of Australia:

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the income tax, and the resource rent tax in respect of offshore projects relating to exploration for or exploitation of petroleum resources, imposed under the federal law of Australia;

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b) in the case of France:

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(i) the income tax (“l’impôt sur le revenu”);

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(ii) the corporation tax (“l’impôt sur les sociétés”);

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(iii) the additional taxes on corporations (“les contributions sur l’impôt sur les sociétés”); and

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(iv) widespread social security contributions (“contributions sociales généralisées”) and contributions for the

1 reimbursement of the social debt (“contributions pour le
2 remboursement de la dette sociale”), including any
3 withholding tax with respect to the aforesaid taxes.

4 2. This Convention shall also apply to any identical or substantially
5 similar taxes which are subsequently imposed by a Contracting State in addition
6 to, or in place of the existing taxes to which this Convention applies. The
7 competent authorities of the Contracting States shall notify each other of
8 significant changes which have been made in their law relating to taxes to
9 which this Convention applies.

10 3. Notwithstanding paragraphs 1 and 2, the taxes to which Articles 25 and
11 26 shall apply are:

- 12 a) in the case of Australia, taxes of every kind and description imposed under
13 the federal taxes laws administered by the Commissioner of Taxation ; and
14 b) in the case of France, taxes of every kind and description imposed on behalf
15 of France or its political subdivisions or local authorities

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Article 3

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DEFINITIONS

20 1. For the purposes of this Convention, unless the context otherwise
21 requires:

- 22 a) the term “Australia”, when used in a geographical sense, excludes
23 all external territories other than:

- 1 (i) the Territory of Norfolk Island;
- 2 (ii) the Territory of Christmas Island;
- 3 (iii) the Territory of Cocos (Keeling) Islands;
- 4 (iv) the Territory of Ashmore and Cartier Islands;
- 5 (v) the Territory of Heard Island and McDonald Islands; and
- 6 (vi) the Coral Sea Islands Territory,
- 7 and includes any area adjacent to the territorial limits of Australia
8 (including the Territories specified in this subparagraph) in respect
9 of which there is for the time being in force, consistently with
10 international law, a law of Australia dealing with the exploration
11 for or exploitation of any of the natural resources of the seabed and
12 subsoil of the continental shelf;
- 13 b) the term “France” means the European and Overseas Departments
14 of the French Republic including the territorial sea, and any area
15 outside the territorial sea within which, in accordance with
16 international law, the French Republic has sovereign rights for the
17 purpose of exploring and exploiting the natural resources of the
18 seabed and its subsoil and the superjacent waters;
- 19 c) the terms “Contracting State”, “a Contracting State” and “the other
20 Contracting State” mean Australia or France, as the context
21 requires;
- 22 d) the term “person” includes an individual, a company and any other
23 body of persons;

- 1 e) the term “company” means any body corporate or any entity which
2 is treated as a company or body corporate for tax purposes;
- 3 f) the term “enterprise” applies to the carrying on of any business;
- 4 g) the terms “enterprise of a Contracting State” and “enterprise of the
5 other Contracting State” mean respectively an enterprise carried on
6 by a resident of a Contracting State and an enterprise carried on by
7 a resident of the other Contracting State;
- 8 h) the term “Australian tax” means tax imposed by Australia, being
9 tax to which this Convention applies by virtue of paragraphs 1 and
10 2 of Article 2;
- 11 i) the term “French tax” means tax imposed by France, being tax to
12 which this Convention applies by virtue of paragraphs 1 and 2 of
13 Article 2;
- 14 j) the term “competent authority” means in the case of Australia, the
15 Commissioner of Taxation or an authorised representative of the
16 Commissioner and in the case of France, the minister in charge of
17 the budget or an authorised representative of the minister;
- 18 k) the term “business” includes the performance of professional
19 services and of other activities of an independent character;
- 20 l) the term “international traffic” means any transport by a ship or
21 aircraft operated by an enterprise of a Contracting State, except
22 when the ship or aircraft is operated solely from a place or between
23 places in the other Contracting State.

1 2. In this Convention, the terms “Australian tax” and “French tax” do not
2 include any penalty or interest imposed under the law of either Contracting
3 State relating to the taxes referred to in Article 2.

4 3. As regards the application of the Convention at any time by a
5 Contracting State, any term not defined therein shall, unless the context
6 otherwise requires, have the meaning that it has at that time under the law of
7 that State concerning the taxes to which the Convention applies, any meaning
8 under the applicable tax law of that State prevailing over a meaning given to the
9 term under other law of that State.

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Article 4

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RESIDENCE

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1. For the purposes of this Convention, the term “resident of a Contracting
15 State” means:

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a) in the case of Australia, a person who is a resident of Australia for
17 the purposes of Australian tax; and

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b) in the case of France, a person who is domiciled in France for the
19 purposes of French tax.

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A Contracting State or a political subdivision or statutory body or a local
21 authority thereof is also a resident of that State for the purposes of this
22 Convention.

1 2. A person is not a resident of a Contracting State for the purposes of this
2 Convention if the person is liable to tax in that State in respect only of income
3 from sources in that State.

4 3. Where by reason of the preceding provisions of this Article a person,
5 being an individual, is a resident of both Contracting States, the person's status
6 shall be determined as follows:

7 a) the individual shall be deemed to be a resident only of the State in
8 which a permanent home is available to that individual; but if a
9 permanent home is available in both States, or in neither of them,
10 that individual shall be deemed to be a resident only of the State
11 with which the individual's personal and economic relations are
12 closer (centre of vital interests);

13 b) if the State in which the centre of vital interests is situated cannot
14 be determined, the individual shall be deemed to be a resident only
15 of the State of which that individual is a national or citizen.

16 4. Where by reason of the provisions of paragraph 1 a person other than an
17 individual is a resident of both Contracting States, it shall be deemed to
18 be a resident solely of the Contracting State in which its place of effective
19 management is situated.

20 5. The term "resident of a Contracting State" shall include, where that
21 State is France, any partnership or group of persons which has its place of
22 effective management in France and all partners, shareholders or other members
23 of which are personally liable to tax therein in respect of their part of the profits
24 of those partnerships or groups of persons pursuant to French domestic laws.

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Article 5

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PERMANENT ESTABLISHMENT

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1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of the enterprise is wholly or partly carried on.

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2. The term “permanent establishment” shall include especially:

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a) a place of management;

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b) a branch;

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c) an office;

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d) a factory;

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e) a workshop;

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f) a mine, quarry or other place of extraction of natural resources; and

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g) an agricultural, pastoral or forestry property.

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3. An enterprise shall not be deemed to have a permanent establishment merely by reason of:

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a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

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b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

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- 1 c) the maintenance of a stock of goods or merchandise belonging to
2 the enterprise solely for the purpose of processing by another
3 enterprise;
- 4 d) the maintenance of a fixed place of business solely for the purpose
5 of purchasing goods or merchandise, or for collecting information,
6 for the enterprise;
- 7 e) the maintenance of a fixed place of business solely for the purpose
8 of activities which have a preparatory or auxiliary character for the
9 enterprise, such as advertising or scientific research.
- 10 4. An enterprise shall be deemed to have a permanent establishment in a
11 Contracting State and to carry on business through that permanent establishment
12 if:
- 13 a) it has a building site or construction, installation or assembly
14 project in that State which exists for more than twelve months; or
- 15 b) it carries on supervisory activities in that State for more than six
16 months in connection with a building site, or a construction,
17 installation or assembly project which is being undertaken in that
18 State; or
- 19 c) it maintains substantial equipment for rental or other purposes
20 within that State (excluding equipment let under a hire-purchase
21 agreement) for more than six months.
- 22 5. a) The duration of activities under subparagraphs a) and b) of
23 paragraph 4 will be determined by aggregating the periods during
24 which activities are carried on in a Contracting State by associated
25 enterprises provided that the activities of the enterprise in that State
-

1 are connected with the activities carried on in that State by its
2 associate.

3 *b)* The period during which two or more associated enterprises are
4 carrying on concurrent activities will be counted only once for the
5 purpose of determining the duration of activities.

6 *c)* For the purposes of this Article, an enterprise shall be deemed to be
7 associated with another enterprise if:

8 *(i)* one is controlled directly or indirectly by the other ; or

9 *(ii)* both are controlled directly or indirectly by the same person
10 or persons.

11 6. A person acting in a Contracting State on behalf of an enterprise of the
12 other Contracting State - other than an agent of an independent status to whom
13 paragraph 7 applies - shall be deemed to be a permanent establishment of that
14 enterprise in the first-mentioned State if:

15 *a)* the person has, and habitually exercises in that State, an authority
16 to conclude contracts on behalf of the enterprise, unless the
17 person's activities are limited to the purchase of goods or
18 merchandise for the enterprise; or

19 *b)* in so acting the person manufactures or processes in that State for
20 the enterprise goods or merchandise belonging to the enterprise.

21 7. An enterprise of a Contracting State shall not be deemed to have a
22 permanent establishment in the other Contracting State merely because it carries
23 on business in that other State through a broker, general commission agent or

1 any other agent of an independent status, where that person is acting in the
2 ordinary course of the person's business as such a broker or agent.

3 8. The fact that a company which is a resident of a Contracting State
4 controls or is controlled by a company which is a resident of the other
5 Contracting State, or which carries on business in that other State (whether
6 through a permanent establishment or otherwise), shall not of itself make either
7 company a permanent establishment of the other.

8 9. The principles set forth in the preceding paragraphs of this Article shall
9 be applied in determining for the purposes of paragraph 7 of Article 11 and
10 paragraph 5 of Article 12 whether there is a permanent establishment outside
11 both Contracting States, and whether an enterprise, not being an enterprise of a
12 Contracting State, has a permanent establishment in a Contracting State.

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Article 6

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INCOME FROM REAL PROPERTY

17 1. Income from real property, including income from an agricultural,
18 pastoral or forestry property, may be taxed in the Contracting State in which
19 that property is situated.

20 2. For the purposes of this Article, the term "real property":

21 a) in the case of Australia, has the meaning which it has under the law
22 of Australia, and shall also include:

23 (i) a lease of land and any other interest in or over land, whether
24 improved or not including a right to explore for mineral, oil

1 or gas deposits or other natural resources, and a right to mine
2 those deposits or resources; and

3 (ii) a right to receive variable or fixed payments either as
4 consideration for or in respect of the exploitation of, or the
5 right to explore for or exploit, mineral, oil or gas deposits,
6 quarries or other places of extraction or exploitation of
7 natural resources; and

8 b) in the case of France, means such property which, according to the
9 law of France, is immovable property and shall in any case include:

10 (i) property accessory to immovable property;

11 (ii) livestock and equipment used in agriculture and forestry;

12 (iii) rights to which the provisions of the general law respecting
13 landed property apply; and

14 (iv) usufruct of immovable property and rights to variable or
15 fixed payments as consideration for the working of or the
16 right to work mineral deposits, mineral sources and other
17 natural resources.

18 Ships and aircraft shall not be regarded as real property.

19 3. The provisions of paragraph 1 shall apply to income derived from the
20 direct use, letting or use in any other form of real property.

21 4. Notwithstanding the provisions of Article 7, where shares or other
22 rights in a company, trust or comparable institution entitle a person to the
23 enjoyment of real property of that company, trust or comparable institution,

1 income derived from the direct use, letting or use in any other form of that right
2 of enjoyment may be taxed in the Contracting State in which the real property is
3 situated.

4 5. The provisions of paragraphs 1, 3 and 7 shall also apply to income from
5 real property of an enterprise.

6 6. The provisions of paragraph 4 shall also apply to income of an
7 enterprise derived from the direct use, letting or use in any other form of a right
8 of enjoyment referred to in that paragraph.

9 7. Any interest or right referred to in paragraph 2 or 4 shall be regarded as
10 situated where the buildings, land, mineral, oil or gas deposits, quarries, mineral
11 sources or natural resources, as the case may be, are situated or where the
12 exploration may take place.

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Article 7

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BUSINESS PROFITS

17 1. The profits of an enterprise of a Contracting State shall be taxable only
18 in that State unless the enterprise carries on business in the other Contracting
19 State through a permanent establishment situated therein. If the enterprise
20 carries on business as aforesaid, the profits of the enterprise may be taxed in the
21 other State but only so much of them as is attributable to that permanent
22 establishment.

23 2. Where an enterprise of a Contracting State carries on business in the
24 other Contracting State through a permanent establishment situated therein,

1 there shall in each Contracting State be attributed to that permanent
2 establishment the profits which it might be expected to make if it were a distinct
3 and separate enterprise engaged in the same or similar activities under the same
4 or similar conditions and dealing wholly independently with the enterprise of
5 which it is a permanent establishment.

6 3. In the determination of the profits of a permanent establishment there
7 shall be allowed as deductions expenses of the enterprise, including executive
8 and general administrative expenses, which are deductible according to the law
9 of the State in which the permanent establishment is situated whether incurred
10 in that State or elsewhere.

11 4. If the information available to the competent authority of a Contracting
12 State is inadequate to determine the profits to be attributed to the permanent
13 establishment of an enterprise, the competent authority may apply to that
14 enterprise for that purpose the provisions of the taxation law of that State,
15 provided that that law shall be applied, so far as the information available to the
16 competent authority permits, in accordance with the principles of this Article.

17 5. No profits shall be attributed to a permanent establishment by reason of
18 the mere purchase by that permanent establishment of goods or merchandise for
19 the enterprise.

20 6. Where profits include items of income which are dealt with separately
21 in other Articles of this Convention, then the provisions of those Articles shall
22 not be affected by the provisions of this Article.

23 7. Notwithstanding the preceding provisions of this Article, profits of an
24 enterprise of a Contracting State from carrying on a business of any form of
25 insurance other than life insurance may be taxed in the other Contracting State
26 in accordance with the law of that other State relating specifically to the

1 taxation of any person who carries on such a business, provided that if the law
2 in force in either Contracting State at the date of signature of this Convention
3 relating to the taxation of such a person is varied (otherwise than in minor
4 respects so as not to affect its general character), the Contracting States shall
5 consult with each other with a view to agreeing to such amendment of this
6 paragraph as may be necessary.

7 8. Where:

8 a) a resident of a Contracting State is beneficially entitled, whether
9 directly or through one or more interposed trust estates, to a share
10 of the business profits of an enterprise carried on in the other
11 Contracting State by the trustee of a trust estate other than a trust
12 estate which is treated as a company for tax purposes; and

13 b) in relation to that enterprise, that trustee would, in accordance with
14 the principles of Article 5, have a permanent establishment in that
15 other State,

16 the enterprise carried on by the trustee shall be deemed to be a business carried
17 on in the other State by that resident through a permanent establishment situated
18 in that other State and that share of business profits shall be attributed to that
19 permanent establishment.

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Article 8

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SHIPS AND AIRCRAFT

1 1. Profits of an enterprise of a Contracting State derived from the
2 operation of ships or aircraft in international traffic shall be taxable only in that
3 State.

4 2. Notwithstanding the provisions of paragraph 1, profits of an enterprise
5 of a Contracting State derived from the operation of ships or aircraft may be
6 taxed in the other Contracting State to the extent that they are profits derived
7 directly or indirectly from ship or aircraft operations confined solely to places in
8 that other State.

9 3. The amount which shall be charged to tax in a Contracting State under
10 paragraph 2 in respect of transport operations of ships shall not exceed 5 per
11 cent of the amount paid or payable (net of rebates) in respect of carriage.

12 4. The provisions of paragraph 3 shall not apply to profits from the
13 operation of ships, where the profits are attributable to a permanent
14 establishment of the enterprise situated in the other Contracting State.

15 5. The profits to which the provisions of paragraphs 1 and 2 apply include
16 profits from the operation of ships or aircraft derived through participation in a
17 pool service or other profit sharing arrangement.

18 6. For the purposes of this Article, profits derived from the carriage by
19 ships or aircraft of passengers, livestock, mail, goods or merchandise which are
20 shipped in a Contracting State and are discharged at a place in that State
21 (without having been discharged outside that State) shall be treated as profits
22 from ship or aircraft operations confined solely to places in that State.

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Article 9

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ASSOCIATED ENTERPRISES

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1. Where:

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a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State; or

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b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

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and in either case conditions exist between the two enterprises in their commercial or financial relations which differ from those which may be expected between independent enterprises dealing wholly independently with one another, then any profits which might, but for those conditions, be expected to accrue to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

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2. If the information available to the competent authority of a Contracting State is inadequate to determine the profits to be attributed to an enterprise, the competent authority may apply to that enterprise for that purpose the provisions of the taxation law of that State, provided that that law shall be applied, so far as the information available to the competent authority permits, in accordance with the principles of this Article.

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3. Where, according to the provisions of paragraphs 1 and 2, profits are included by a Contracting State in the profits of an enterprise, the other Contracting State shall, on a claim being made by the other enterprise concerned, consistently with its law consider the inclusion so made and the

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1 provision of relief to that other enterprise in relation to the taxation of profits
2 which the other State determines to be profits which, but for the particular
3 conditions referred to in paragraphs 1 and 2, might have been expected to
4 accrue to the first-mentioned enterprise.

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Article 10

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DIVIDENDS

9 1. Dividends paid by a company which is a resident of a Contracting State
10 for the purposes of its tax, being dividends beneficially owned by a resident of
11 the other Contracting State may be taxed in that other State.

12 2. However, those dividends may also be taxed in the Contracting State of
13 which the company paying the dividends is a resident for the purposes of its tax,
14 and according to the law of that State, but the tax so charged shall not exceed:

15 a) 0 per cent where those dividends are paid out of profits that have
16 borne the normal rate of company tax and those dividends are paid
17 to a company which, in the case of Australia, holds directly at least
18 10 per cent of the voting power of the company paying the
19 dividends, or in the case of France, holds directly at least 10 per
20 cent of the capital of the company paying the dividends; and

21 b) 5 per cent of the gross amount of other dividends, if the beneficial
22 owner of those dividends is a company which, in the case of
23 Australia, holds directly at least 10 per cent of the voting power of
24 the company paying the dividends, or in the case of France, holds

1 directly at least 10 per cent of the capital of the company paying
2 the dividends; and

3 c) 15 per cent of the gross amount of the dividends in all other cases,
4 provided that if the relevant law in either Contracting State at the date of
5 signature of this Convention is varied otherwise than in minor respects so as not
6 to affect its general character, the Contracting States shall consult each other
7 with a view to agreeing to any amendment of this paragraph that may be
8 appropriate.

9 3. The term “dividends” as used in this Article means income from shares
10 or other rights, not being debt-claims, participating in profits, as well as other
11 amounts which are subjected to the same taxation treatment as a distribution or
12 dividend by the law of the State of which the company making the distribution
13 is a resident for the purposes of its tax.

14 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial
15 owner of the dividends, being a resident of a Contracting State, carries on
16 business in the other Contracting State of which the company paying the
17 dividends is a resident, through a permanent establishment situated in that other
18 State, and the holding in respect of which the dividends are paid is effectively
19 connected with that permanent establishment. In such case, the provisions of
20 Article 7 shall apply.

21 5. Where a company which is a resident of a Contracting State derives
22 profits or income from the other Contracting State, that other State may not
23 impose any tax on the dividends paid by the company—being dividends
24 beneficially owned by a person who is not a resident of the other Contracting
25 State—except insofar as the holding in respect of which such dividends are paid
26 is effectively connected with a permanent establishment situated in that other

1 State, even if the dividends paid consist wholly or partly of profits or income
2 arising in such other State. This paragraph shall not apply in relation to
3 dividends paid by any company which is a resident of Australia for the purposes
4 of Australian tax and which is also a resident of France for the purposes of
5 French tax.

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Article 11

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INTEREST

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1. Interest arising in a Contracting State and beneficially owned by a
11 resident of the other Contracting State may be taxed in that other State.

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2. However, that interest may also be taxed in the Contracting State in
13 which it arises, and according to the law of that State, but the tax so charged
14 shall not exceed 10 per cent of the gross amount of the interest.

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3. Notwithstanding paragraph 2, interest arising in a Contracting State and
16 beneficially owned by a resident of the other Contracting State may not be taxed
17 in the first-mentioned State if:

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a) the interest is derived from the investment of official reserve assets
19 by the government of a Contracting State or a political subdivision
20 or local authority thereof, its monetary institutions or a bank
21 performing central banking functions in that State; or

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b) the interest is derived by a financial institution which is unrelated
23 to and dealing wholly independently with the payer. For the
24 purposes of this Article, the term “financial institution” means a

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1 bank or other enterprise substantially deriving its profits by raising
2 debt finance in the financial markets or by taking deposits at
3 interest and using those funds in carrying on a business of
4 providing finance.

5 4. Notwithstanding paragraph 3, interest referred to in subparagraph b) of
6 that paragraph may be taxed in the State in which it arises at a rate not
7 exceeding 10 per cent of the gross amount of the interest if the interest is paid as
8 part of an arrangement involving back-to-back loans or other arrangement that
9 is economically equivalent and intended to have a similar effect to back-to-back
10 loans.

11 5. The term “interest” in this Article includes interest from government
12 securities or from bonds or debentures, whether or not secured by mortgage and
13 whether or not carrying a right to participate in profits, interest from any other
14 form of indebtedness, as well as income which is subjected to the same taxation
15 treatment as income from money lent by the law of the Contracting State in
16 which the income arises. Penalty charges for late payment shall not be regarded
17 as interest for the purpose of this Article.

18 6. The provisions of paragraphs 1 and 2, subparagraph b) of paragraph 3
19 and paragraph 4 of this Article shall not apply if the beneficial owner of the
20 interest, being a resident of a Contracting State, carries on business in the other
21 Contracting State in which the interest arises, through a permanent
22 establishment situated in that other State, and the indebtedness in respect of
23 which the interest is paid is effectively connected with that permanent
24 establishment. In such case the provisions of Article 7 shall apply.

25 7. Interest shall be deemed to arise in a Contracting State when the payer
26 is a resident of that State for the purposes of its tax. Where, however, the person
27 paying the interest, whether the person is a resident of a Contracting State or

1 not, has in a Contracting State or outside both Contracting States a permanent
2 establishment in connection with which the indebtedness on which the interest
3 is paid was incurred, and such interest is borne by such permanent
4 establishment, then such interest shall be deemed to arise in the State in which
5 the permanent establishment is situated.

6 8. Where, by reason of a special relationship between the payer and the
7 beneficial owner of the interest, or between both of them and some other
8 person, the amount of the interest paid, having regard to the indebtedness for
9 which it is paid, exceeds the amount which might reasonably have been
10 expected to have been agreed upon by the payer and the beneficial owner in the
11 absence of that relationship, the provisions of this Article shall apply only to the
12 last-mentioned amount. In such case, the excess part of the payments shall
13 remain taxable according to the law of each Contracting State, due regard being
14 had to the other provisions of this Convention.

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Article 12

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ROYALTIES

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1. Royalties arising in a Contracting State and beneficially owned by a
20 resident of the other Contracting State may be taxed in that other State.

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2. However, those royalties may also be taxed in the Contracting State in
22 which they arise, and according to the law of that State, but the tax so charged
23 shall not exceed 5 per cent of the gross amount of the royalties.

1 3. The term “royalties” in this Article means payments or credits, whether
2 periodical or not, and however described or computed, to the extent to which
3 they are made as consideration for:

- 4 *a)* the use of, or the right to use, any copyright, patent, design or
5 model, plan, secret formula or process, trademark or other like
6 property or right; or
- 7 *b)* the supply of scientific, technical, industrial or commercial
8 knowledge or information; or
- 9 *c)* the supply of any assistance that is ancillary and subsidiary to, and
10 is furnished as a means of enabling the application or enjoyment
11 of, any such property or right as is mentioned in subparagraph a) or
12 any such knowledge or information as is mentioned in
13 subparagraph b); or
- 14 *d)* the use of, or the right to use:
- 15 *(i)* motion picture films; or
- 16 *(ii)* films or audio or video tapes or disks, or any other means of
17 image or sound reproduction or transmission for use in
18 connection with television, radio or other broadcasting; or
- 19 *e)* total or partial forbearance in respect of the use or supply of any
20 property or right referred to in this paragraph.

21 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial
22 owner of the royalties, being a resident of a Contracting State, carries on
23 business in the other Contracting State, in which the royalties arise, through a
24 permanent establishment situated in that other State, and the right or property in

1 respect of which the royalties are paid or credited is effectively connected with
2 such permanent establishment. In such case the provisions of Article 7 shall
3 apply.

4 5. Royalties shall be deemed to arise in a Contracting State when the payer
5 is a resident of that State for the purposes of its tax. Where, however, the person
6 paying the royalties, whether the person is a resident of a Contracting State or
7 not, has in a Contracting State or outside both Contracting States a permanent
8 establishment in connection with which the liability to pay the royalties was
9 incurred, and the royalties are borne by the permanent establishment, then such
10 royalties shall be deemed to arise in the State in which the permanent
11 establishment is situated.

12 6. Where, by reason of a special relationship between the payer and the
13 beneficial owner of the royalties, or between both of them and some other
14 person, the amount of the royalties paid or credited, having regard to what they
15 are paid or credited for, exceeds the amount which might reasonably have been
16 expected to have been agreed upon by the payer and the beneficial owner in the
17 absence of such relationship, the provisions of this Article shall apply only to
18 the last-mentioned amount. In such case, the excess part of the amount of the
19 payments or credits shall remain taxable according to the law of each
20 Contracting State, due regard being had to the other provisions of this
21 Convention.

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Article 13

ALIENATION OF PROPERTY

1. Income, profits or gains derived by a resident of a Contracting State from the alienation of real property situated in the other Contracting State may be taxed in that other State.
2. Income, profits or gains from the alienation of property, other than real property, that forms part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including income, profits or gains from the alienation of that permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Income, profits or gains of an enterprise of a Contracting State from the alienation of ships or aircraft operated by that enterprise in international traffic, or of property (other than real property) pertaining to the operation of those ships or aircraft, shall be taxable only in that State.
4. Income, profits or gains derived by a resident of a Contracting State from the alienation of any shares or other interests in a company, or of an interest of any kind in a partnership, trust or other entity, where the value of the assets of such entity, whether they are held directly or indirectly (including through one or more interposed entities, such as, for example, through a chain of companies), is principally attributable to real property situated in the other Contracting State, may be taxed in that other State.
5. Where an individual who upon ceasing to be a resident of a Contracting State, is treated under the taxation law of that State as having alienated any

1 property and is taxed in that State by reason thereof, the individual may elect to
2 be treated for the purposes of taxation in the other Contracting State as if the
3 individual had, immediately before ceasing to be a resident of the
4 first-mentioned State, alienated and reacquired the property for an amount equal
5 to its fair market value at that time.

6 6. Gains of a capital nature from the alienation of any property, other than
7 that referred to in the preceding paragraphs shall be taxable only in the
8 Contracting State of which the alienator is a resident.

9 7. In this Article, the term “real property” has the same meaning as it has
10 in Article 6.

11 8. The situation of real property shall be determined for the purposes of
12 this Article in accordance with paragraph 7 of Article 6.

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Article 14

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INCOME FROM EMPLOYMENT

17 1. Subject to the provisions of Articles 15, 17, and 18, remuneration
18 derived by an individual who is a resident of a Contracting State in respect of an
19 employment shall be taxable only in that State unless the employment is
20 exercised in the other Contracting State. If the employment is so exercised, such
21 remuneration as is derived from that exercise may be taxed in that other State.

22 2. Notwithstanding the provisions of paragraph 1, remuneration derived
23 by an individual who is a resident of a Contracting State in respect of an

1 employment exercised in the other Contracting State shall be taxable only in the
2 first-mentioned State if:

3 a) the recipient is present in the other State for a period or periods not
4 exceeding in the aggregate 183 days in any twelve month period
5 commencing or ending in the fiscal year of that other State; and

6 b) the remuneration is paid by, or on behalf of, an employer who is
7 not a resident of that other State; and

8 c) the remuneration is not borne by a permanent establishment which
9 the employer has in that other State.

10 3. Notwithstanding the preceding provisions of this Article, remuneration
11 in respect of an employment exercised aboard a ship or aircraft operated in
12 international traffic by a resident of a Contracting State may be taxed in that
13 State.

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Article 15

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DIRECTORS' FEES

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Directors' fees and similar payments derived by a resident of a Contracting State in that person's capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

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Article 16

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ENTERTAINERS AND SPORTSPERSONS

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1. Notwithstanding the provisions of Articles 7 and 14, income derived by entertainers (such as theatre, motion picture, radio or television artists and musicians) and sports persons from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

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2. Where income in respect of personal activities exercised by an entertainer or sports person in that person's capacity as such accrues not to that person but to another person, whether a resident of a Contracting State or not, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sports person are exercised.

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1 *Article 17*

2 PENSIONS AND ANNUITIES

3 1. Subject to the provisions of paragraph 2 of Article 18, pensions and
4 annuities paid to a resident of a Contracting State shall be taxable only in that
5 State.

6 2. The term “annuity” means any stated sum payable periodically at stated
7 times during life or during a specified or ascertainable period of time under an
8 obligation to make the payments in return for adequate and full consideration in
9 money or money's worth.

10 3. Notwithstanding anything in this Convention, any pension or allowance
11 that is paid by a Contracting State in respect of wounds, disabilities or death
12 caused by war, or in respect of war service, and is exempt from tax under the
13 law of that State, to a resident of the other Contracting State shall be exempt
14 from tax in that other State.

15 4. a) Contributions borne by an individual who is a resident of a
16 Contracting State, and who renders services in the course of an
17 employment in that State, to a pension scheme established and
18 recognised for tax purposes in the other Contracting State shall, in
19 determining the individual's tax payable, be treated in the
20 first-mentioned State in the same way and subject to the same
21 conditions and limitations as contributions made to a pension
22 scheme that is recognised for tax purposes in that State, provided
23 that:

24 (i) the individual was not a resident of that State, and was
25 participating in the pension scheme, immediately before
26 beginning to exercise employment in that State; and

1 (ii) the pension scheme is accepted by the competent authority
2 of that State as generally corresponding to a pension scheme
3 recognised as such for tax purposes by that State.

4 b) For the purposes of subparagraph a):

5 (i) the term “a pension scheme” means an arrangement in which
6 the individual participates in order to secure retirement
7 benefits payable in respect of the services referred to in
8 subparagraph a); and

9 (ii) a pension scheme is “recognised for tax purposes” in a State
10 if the contributions to the scheme would qualify for tax relief
11 in that State.

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Article 18

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GOVERNMENT SERVICE

16 1. a) Salaries, wages and other similar remuneration (other than a
17 pension or annuity) paid by a Contracting State or a political
18 subdivision or statutory body or local authority thereof to an
19 individual in respect of services rendered to that State, subdivision,
20 body or authority shall be taxable only in that State.

21 b) However, such salaries, wages and other similar remuneration shall
22 be taxable only in the other Contracting State if the services are
23 rendered in that State and the individual is a resident of, and a

1 national or citizen of, that State and is not also a national or citizen
2 of the first-mentioned State.

3 2. a) Any pension paid by, or out of funds created by, a Contracting State
4 or a political subdivision or statutory body or local authority thereof
5 to an individual in respect of services rendered to that State,
6 subdivision, body or authority shall be taxable only in that State.

7 b) However, such pension shall be taxable only in the other
8 Contracting State if the individual is a resident of, and a national or
9 citizen of, that State and is not also a national or citizen of the
10 first-mentioned State.

11 3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries,
12 wages and other similar remuneration, or to pensions, in respect of services
13 rendered in connection with a business carried on by a Contracting State or a
14 political subdivision or statutory body or local authority thereof.

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Article 19

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STUDENTS

19 Payments which a student who is, or was immediately before visiting a
20 Contracting State, a resident of the other Contracting State and who is
21 temporarily present in the first-mentioned State solely for the purpose of the
22 student's education receives from sources outside that first-mentioned State for
23 the purpose of the student's maintenance or education shall not be taxed in that
24 first-mentioned State.

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Article 20

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OTHER INCOME

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1. Items of income of a resident of a Contracting State wherever arising which are not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

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2. The provisions of paragraph 1 shall not apply to income, other than income from real property as defined in paragraph 2 of Article 6, derived by a resident of a Contracting State who carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

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3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention from sources in the other Contracting State may also be taxed in the other Contracting State.

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Article 21

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SOURCE OF INCOME

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1. Income, profits or gains derived by a resident of a Contracting State which, under Articles 6 to 8, 10 to 16 and 18 may be taxed in the other

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1 Contracting State, shall be deemed to be income from sources in that other
2 State.

3 2. Profits included in the profits of an enterprise of a Contracting State
4 under paragraph 1 of Article 9 shall for purposes of the taxation of that
5 enterprise be deemed to be income of that enterprise derived from sources in
6 that Contracting State.

7 3. Income, profits or gains derived by a resident of a Contracting State
8 which, under any one or more of Articles 6 to 8, 10 to 16 and 18, may be taxed
9 in the other Contracting State shall for the purposes of Article 23 and of the law
10 of the first-mentioned Contracting State relating to its tax be deemed to arise
11 from sources in the other Contracting State.

12

13 *Article 22*

14 **RULES OF TAXATION**

15 Where conditions of commercial or financial relations between a person
16 who is a resident of Australia and a person who is a resident of France differ
17 from those which may be expected between independent persons dealing wholly
18 independently with one another, nothing in the Convention shall prevent a
19 Contracting State, by application of its domestic law, from including in the
20 profits of such persons and taxing accordingly the profits which, but for those
21 conditions, might have been expected to have accrued to them.

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24 *Article 23*

ELIMINATION OF DOUBLE TAXATION

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2 1. Subject to the provisions of the law of Australia from time to time in
3 force which relate to the allowance of a credit against Australian tax of tax paid
4 in a country outside Australia (which shall not affect the general principle of
5 this Article), French tax paid under the law of France and in accordance with
6 this Convention, whether directly or by deduction, in respect of income derived
7 by a person who is a resident of Australia from sources in France shall be
8 allowed as a credit against Australian tax payable in respect of that income.

9 2. In the case of France, double taxation shall be avoided in the following
10 manner:

11 a) Notwithstanding any other provision of this Convention, income
12 which may be taxed or shall be taxable only in Australia in
13 accordance with the provisions of this Convention shall be taken
14 into account for the computation of the French tax where the
15 beneficiary of such income is a resident of France and where such
16 income is not exempted from corporation tax according to French
17 domestic law. In that case, the Australian tax shall not be
18 deductible from such income but the resident of France shall,
19 subject to the conditions and limits provided for in subparagraph (i)
20 and (ii), be entitled to a tax credit against French tax. Such tax
21 credit shall be equal:

22 (i) in the case of income other than mentioned in
23 subparagraph (ii), to the amount of French tax attributable to
24 such income provided that the resident of France is subject
25 to Australian tax in respect of such income;

26 (ii) in the case of income referred to in Article 7 and paragraph 2
27 of Article 13 which is subject to the corporation tax, and in

1 the case of income referred to in Article 10, Article 11,
2 Article 12, paragraph 1 of Article 13 and paragraph 3 of
3 Article 14, Article 15, Article 16 and Article 20, to the
4 amount of tax paid in Australia in accordance with the
5 provisions of those Articles. However, such tax credit shall
6 not exceed the amount of French tax attributable to such
7 income.

8 **b)** The term “amount of French tax attributable to such income” as
9 used in subparagraph a) means:

10 *(i)* where the tax of such income is computed by applying a
11 proportional rate, the amount of the net income concerned
12 multiplied by the rate which actually applies to that income;

13 *(ii)* where the tax on such income is computed by applying a
14 progressive scale, the amount of the net income concerned
15 multiplied by the rate resulting from the ratio of the tax
16 actually payable on the total net income taxable in
17 accordance with French law to the amount of that total net
18 income.

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Article 24

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MUTUAL AGREEMENT PROCEDURE

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1. Where a person considers that the actions of one or both of the Contracting States result or will result for the person in taxation not in accordance with this Convention, the person may, irrespective of the remedies

1 provided by the domestic law of those States concerning taxes to which this
2 Convention applies, present a case to the competent authority of the Contracting
3 State of which the person is a resident. The case must be presented within 3
4 years from the first notification of the action resulting in taxation not in
5 accordance with this Convention.

6 2. The competent authority shall endeavour, if the claim appears to it to be
7 justified and if it is not itself able to arrive at a satisfactory solution, to resolve
8 the case by mutual agreement with the competent authority of the other
9 Contracting State, with a view to the avoidance of taxation not in accordance
10 with this Convention. The solution so reached shall be implemented
11 notwithstanding any time limits in the domestic law of the Contracting States.

12 3. The competent authorities of the Contracting States shall endeavour to
13 resolve by mutual agreement any difficulties or doubts arising as to the
14 interpretation or application of this Convention. In particular, they may consult
15 together to endeavour to agree to the same allocation of income between
16 associated enterprises mentioned in Article 9. They may also consult together
17 for the elimination of double taxation in cases not provided for in the
18 Convention.

19 4. The competent authorities of the Contracting States may communicate
20 with each other directly for the purpose of reaching an agreement in the sense of
21 the preceding paragraphs.

22 5. For the purposes of paragraph 3 of Article XXII (Consultation) of the
23 General Agreement on Trade in Services, the Contracting States agree that,
24 notwithstanding that paragraph, any dispute between them as to whether a
25 measure falls within the scope of this Convention may be brought before the
26 Council for Trade in Services, as provided by that paragraph, only with the
27 consent of both Contracting States. Any doubt as to the interpretation of this

1 paragraph shall be resolved under paragraph 3 of this Article or, failing
2 agreement under that procedure, pursuant to any other procedure agreed to by
3 both Contracting States.

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Article 25

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EXCHANGE OF INFORMATION

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1. The competent authorities of the Contracting States shall exchange such
9 information as is foreseeably relevant for carrying out the provisions of this
10 Convention or to the administration or enforcement of the domestic laws
11 concerning taxes referred to in paragraph 3 of Article 2 insofar as the taxation
12 thereunder is not contrary to the Convention. The exchange of information is
13 not restricted by Article 1.

14

2. Any information received under paragraph 1 by a Contracting State
15 shall be treated as secret in the same manner as information obtained under the
16 domestic laws of that State and shall be disclosed only to persons or authorities
17 (including courts and administration bodies) concerned with the assessment or
18 collection of, the enforcement or prosecution in respect of, the determination of
19 appeals in relation to the taxes referred to in paragraph 1, or the oversight of the
20 above. Such persons or authorities shall use the information only for such
21 purposes. They may disclose the information in public court proceedings or in
22 judicial decisions.

23

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as
24 to impose on a Contracting State the obligation:

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- 1 a) to carry out administrative measures at variance with the laws and
2 administrative practice of that or of the other Contracting State;
- 3 b) to supply information which is not obtainable by the competent
4 authority under the laws or in the normal course of the
5 administration of that or of the other Contracting State;
- 6 c) to supply information which would disclose any trade, business,
7 industrial, commercial or professional secret or trade process, or
8 information the disclosure of which would be contrary to public
9 policy (ordre public).

10 4. If information is requested by a Contracting State in accordance with
11 this Article, the other Contracting State shall use its information gathering
12 measures to obtain the requested information, even though that other State may
13 not need such information for its own tax purposes. The obligation contained in
14 the preceding sentence is subject to the limitations of paragraph 3 except where
15 such limitations would preclude a Contracting State from supplying information
16 solely because it has no domestic interest in such information.

17 5. In no case shall the provisions of paragraph 3 be construed to permit a
18 Contracting State to decline to supply information solely because the
19 information is held by a bank, other financial institution, nominee or person
20 acting in an agency or a fiduciary capacity or relates to ownership interests in a
21 person.

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Article 26

ASSISTANCE IN RECOVERY

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Article 1. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term “revenue claim” as used in this Article means an amount owed in respect of taxes referred to in paragraph 3 of Article 2, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim

1 in accordance with the provisions of its laws as if the revenue claim were a
2 revenue claim of that other State even if, at the time when such measures are
3 applied, the revenue claim is not enforceable in the first-mentioned State or is
4 owed by a person who has a right to prevent its collection.

5 5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim
6 accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in
7 that State, be subject to the time limits or accorded any priority applicable to a
8 revenue claim under the laws of that State by reason of its nature as such. In
9 addition, a revenue claim accepted by a Contracting State for the purposes of
10 paragraphs 3 or 4 shall not, in that State, have any priority applicable to that
11 revenue claim under the laws of the other Contracting State.

12 6. Proceedings with respect to the existence, validity or the amount of a
13 revenue claim of a Contracting State shall not be brought before the courts or
14 administrative bodies of the other Contracting State.

15 7. Where, at any time after a request has been made by a Contracting State
16 under paragraph 3 or 4 and before the other Contracting State has collected and
17 remitted the relevant revenue claim to the first-mentioned State, the relevant
18 revenue claim ceases to be:

19 a) in the case of a request under paragraph 3, a revenue claim of the
20 first-mentioned State that is enforceable under the laws of that
21 State and is owed by a person who, at that time, cannot, under the
22 laws of that State, prevent its collection, or

23 b) in the case of a request under paragraph 4, a revenue claim of the
24 first-mentioned State in respect of which that State may, under its
25 laws, take measures of conservancy with a view to ensure its
26 collection

1 the competent authority of the first-mentioned State shall promptly notify the
2 competent authority of the other State of that fact and, at the option of the other
3 State, the first-mentioned State shall either suspend or withdraw its request.

4 8. In no case shall the provisions of this Article be construed so as to
5 impose on a Contracting State the obligation:

- 6 a) to carry out administrative measures at variance with the laws and
7 administrative practice of that or of the other Contracting State;
- 8 b) to carry out measures which would be contrary to public policy
9 (ordre public);
- 10 c) to provide assistance if the other Contracting State has not pursued
11 all reasonable measures of collection or conservancy, as the case
12 may be, available under its laws or administrative practice;
- 13 d) to provide assistance in those cases where the administrative
14 burden for that State is clearly disproportionate to the benefit to be
15 derived by the other Contracting State;
- 16 e) to provide assistance if that State considers that the taxes with
17 respect to which assistance is requested are imposed contrary to
18 generally accepted taxation principles.

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Article 27

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DIPLOMATIC AND CONSULAR PRIVILEGES

1 1. Nothing in this Convention shall affect diplomatic or consular
2 privileges under the general rules of international law or under the provisions of
3 special international agreements.

4 2. This Convention shall not apply to international organisations, to organs
5 or officials thereof or to persons who are members of a diplomatic or consular
6 mission of a third State and who, being present in a Contracting State, are not
7 treated in either Contracting State as residents in respect of taxes on income.

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Article 28

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MISCELLANEOUS

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Notwithstanding the provisions of subparagraph b) of paragraph 1 of Article 2 of this Convention, for the purposes of the assessment in respect of the capital tax (“l’impôt de solidarité sur la fortune”) of an individual who is resident of France and is a citizen of Australia without being a national of France, property situated outside France which that individual owns on 1 January in each of the five calendar years following that in which the individual became a resident of France shall not be included in the basis of assessment of the tax pertaining to each of those five years. If that person ceases to be a resident of France for a period of at least three years, and then becomes a resident of France again, property situated outside France which that person owns on 1st January in each of the five calendar years following that in which the person became a resident of France again shall not be included in the basis of assessment of the tax pertaining to each of those five years.

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Article 29

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PARTNERSHIPS

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1. In the case of a partnership or similar entity which has its place of effective management in Australia and which is treated in Australia as fiscally transparent:

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a) a partner who is a resident of Australia and whose share of the income, profits or gains of the partnership is taxed in Australia in all respects as though such amounts had been derived by the partner directly, shall be entitled to the benefits of this Convention with respect to their share of such amounts arising in France as though the partner had derived such amounts directly;

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b) a partner who is a resident of France :

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(i) shall be entitled to the benefits of this Convention with respect to their share of such income, profits or gains of the partnership arising in Australia as though the partner had derived such amounts directly; and

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(ii) shall be taxable in respect of their share of such income, profits or gains of the partnership arising in France as though the partner had derived such amounts directly but any such amounts which are taxed in Australia shall be treated for the purpose of paragraph 2 of Article 23 of this Convention as arising from sources in Australia.

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1 2. In the case of a partnership which has its place of effective management
2 in a State other than a Contracting State and which is treated in that third State
3 as fiscally transparent, a partner who is a resident of a Contracting State and
4 whose share of the income, profits or gains of the partnership is taxed in that
5 Contracting State in all respects as though those amounts had been derived
6 directly by the partner, shall be entitled to the benefits of this Convention with
7 respect to their share of such amounts arising in the other Contracting State as
8 though the partner had derived such amounts directly, subject to the following
9 conditions:

10 a) the absence of contrary provisions in a taxation convention
11 between a Contracting State and the third State; and

12 b) the partner's share of the income, profits or gains of the partnership
13 is taxed in the same manner, including the nature or source of those
14 amounts and the time when those amounts are taxed, as would
15 have been the case if the amounts had been derived directly; and

16 c) it is possible to exchange information concerning the partnership or
17 partners under the terms of a taxation convention between the
18 Contracting State in which the income, profits or gains arise and
19 the third State.

20 3. For the purposes of paragraphs 1 and 2 of this Article, income, profits
21 or gains shall be deemed to arise in a Contracting State in particular where they
22 are attributable to a permanent establishment which the partnership or entity has
23 in that State.

24 4. Where, under any provision of this Convention, a partnership or other
25 group of persons which is a resident of France in accordance with paragraph 5
26 of Article 4, is entitled to relief from tax in Australia on any income, profits or

1 gains, that provision shall not be construed as restricting the right of Australia to
2 tax any member of the partnership or other group who is a resident of Australia
3 on their share of such amounts; but any such amounts shall be treated for the
4 purposes of paragraph 1 of Article 23 of this Convention as arising from sources
5 in France.

6

7

8

Article 30

9

ENTRY INTO FORCE

10

1. The Contracting States shall notify each other in writing through the
11 diplomatic channel of the completion of their domestic requirements for the
12 entry into force of this Convention. This Convention shall enter into force on
13 the first day of the second month following the date of receipt of the last
14 notification, and thereupon the Convention shall have effect:

15

a) in the case of Australia:

16

(i) in respect of withholding tax on income that is derived by a
17 non-resident, in relation to income derived on or after
18 1 January in the calendar year next following the date on
19 which the Convention enters into force;

17

18

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20

(ii) in respect of other Australian tax, in relation to income,
21 profits or gains of any year of income beginning on or after
22 1 July in the calendar year next following the date on which
23 the Convention enters into force;

21

22

23

24

b) in the case of France:

- 1 (i) in respect of taxes on income withheld at source, for
2 amounts taxable after the calendar year in which the
3 Convention enters into force;
- 4 (ii) in respect of taxes on income which are not withheld at
5 source, for income relating, as the case may be, to any
6 calendar year or accounting period beginning after the
7 calendar year in which the Convention enters into force;
- 8 (iii) in respect of the other taxes, for taxation the taxable event of
9 which will occur after the calendar year in which the
10 Convention enters into force.
- 11 c) for purposes of Article 25, from the date of entry into force of this
12 Convention ;
- 13 d) notwithstanding the provisions of subparagraphs a) and b), Article
14 26 shall have effect from the date agreed in an exchange of notes
15 through the diplomatic channel.

16 2. The Agreement between the Government of Australia and the
17 Government of the French Republic for the avoidance of double taxation and
18 the prevention of fiscal evasion with respect to taxes on income signed in
19 Canberra on 13 April 1976 (as amended by the Protocol signed in Paris on
20 19 June 1989) and the Agreement between the Government of the
21 Commonwealth of Australia and the Government of the French Republic for the
22 avoidance of double taxation of income derived from international air transport
23 signed in Canberra on 27 March 1969 shall be terminated and shall cease to
24 have effect from the dates on which this Convention becomes effective in
25 accordance with paragraph 1 of this Article.

1 3. Notwithstanding the entry into force of this Convention, an individual
2 who is entitled to the benefits of Article 19 of the Agreement between the
3 Government of Australia and the Government of the French Republic for the
4 avoidance of double taxation and the prevention of fiscal evasion with respect to
5 taxes on income signed in Canberra on 13 April 1976 (as amended by the
6 Protocol signed in Paris on 19 June 1989) at the time of the entry into force of
7 this Convention shall continue to be entitled to such benefits until such time as
8 the individual would have ceased to be entitled to such benefits if the
9 Agreement had remained in force.

10

11

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Article 31

13

TERMINATION

14

This Convention shall continue in effect indefinitely, but either Contracting
15 State may terminate the Convention by giving written notice of termination,
16 through the diplomatic channel, to the other State at least 6 months before the
17 end of any calendar year beginning after the expiration of 5 years from the date
18 of its entry into force and, in that event, the Convention shall cease to be
19 effective:

20

a) in the case of Australia:

21

(i) in respect of withholding tax on income that is derived by a
22 non-resident, in relation to income derived on or after
23 1 January in the calendar year next following that in which
24 the notice of termination is given;

24

- 1 (ii) in respect of other Australian tax, in relation to income,
2 profits or gains of any year of income beginning on or after
3 1 July in the calendar year next following that in which the
4 notice of termination is given ;
- 5 b) in the case of France:
- 6 (i) in respect of taxes on income withheld at source, for
7 amounts taxable after the calendar year in which the notice
8 of termination is given ;
- 9 (ii) in respect of taxes on income which are not withheld at
10 source, for income relating, as the case may be, to any
11 calendar year or accounting period beginning after the
12 calendar year in which the notice of termination is given ;
- 13 (iii) in respect of the other taxes, for taxation the taxable event
14 of which will occur after the calendar year in which the
15 notice of termination is given.

16 In witness whereof the undersigned, duly authorised thereto, have signed this
17 Convention.

18
19 Done in duplicate at Paris this twentieth day of June two thousand and six in the
20 English and French languages, both texts being equally authentic.

21
FOR THE GOVERNMENT OF
AUSTRALIA:

FOR THE GOVERNMENT OF
THE FRENCH REPUBLIC:

ALEXANDER DOWNER

PHILIPPE DOUSTE-BLAZY

22 [Signatures omitted]

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PROTOCOL

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE FRENCH REPUBLIC

Have agreed at the signing of the Convention between the two Governments for the avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion upon the following provisions, which shall form an integral part of the said Convention (in this Protocol referred to as “the Convention”):

1. The competent authorities of the Contracting States may settle, jointly or separately, the mode of application of the Convention.

2. With reference to paragraph 5 of *Article 4* (Residence),

where a resident of a third State is a member of such partnership or group that is not subject to corporation tax in France, the Australian income tax liability in respect of the member’s share of the income, profits or gains of the partnership or group shall be determined in accordance with Australian domestic law, including the provisions of any taxation convention between Australia and that third State, it being understood that such partnership or group shall be treated as fiscally transparent for the purposes of entitlement to Australian tax benefits under that convention.

3. With reference to *Article 12* (Royalties),

1 the term “royalties” does not include payments for the use of spectrum licenses.
2 The provisions of Article 7 of the Convention shall apply to such payments.

3

4 4. With reference to *Article 18* (Government service),
5 business activities carried on by a statutory body of a Contracting State include
6 activities of that body which are not primarily supported by public funds of that
7 State or of one or more political subdivisions or local authorities thereof.

8

9 In witness whereof the undersigned, duly authorised thereto, have signed this
10 Convention.

11

12 Done in duplicate at Paris this twentieth day of June two thousand and six in
13 the English and French languages, both texts being equally authentic.

14

FOR THE GOVERNMENT OF
AUSTRALIA:

FOR THE GOVERNMENT OF
THE FRENCH REPUBLIC:

ALEXANDER DOWNER

PHILIPPE DOUSTE-BLAZY

15 [Signatures omitted]

1
2 **Schedule 2—The 2006 Norwegian convention**
3

4 *International Tax Agreements Act 1953*

5 **1 Subsection 3(1) (after paragraph (ca) of the definition of**
6 **agreement)**

7 Insert:

8 (cb) the 1982 Norwegian convention;

9 **2 Subsection 3(1)**

10 Insert:

11 *the 1982 Norwegian convention* means the Convention between
12 Australia and the Kingdom of Norway for the avoidance of double
13 taxation and the prevention of fiscal evasion with respect to taxes
14 on income and on capital and the protocol to that convention, being
15 the convention and protocol that were signed at Canberra on 6 May
16 1982.

17 **3 Subsection 3(1)**

18 Insert:

19 *the 2006 Norwegian convention* means the Convention between
20 Australia and the Kingdom of Norway for the avoidance of double
21 taxation with respect to taxes on income and the prevention of
22 fiscal evasion, being the convention a copy of which is set out in
23 Schedule 23.

24 **4 Subsection 3(1) (definition of *the Norwegian convention*)**

25 Repeal the definition.

26 **5 Section 11M**

27 Repeal the section, substitute:

28 **11M The 2006 Norwegian convention**

29 Subject to this Act, on and after the date of entry into force of a
30 provision of the 2006 Norwegian convention, the provision has the
31 force of law according to its tenor.

1 **11MA The 1982 Norwegian convention**

2 The provisions of the 1982 Norwegian convention, so far as those
3 provisions affect Australian tax, continue to have the force of law
4 for tax in respect of income in relation to which the convention
5 remains effective.

6 **6 Schedule 23**

7 Repeal the Schedule, substitute:

8 **Schedule 23—2006 Norwegian convention**

9 Note: See section 3.
10
11
12

13 **CONVENTION BETWEEN AUSTRALIA AND THE KINGDOM OF**
14 **NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH**
15 **RESPECT TO TAXES ON INCOME AND THE PREVENTION OF**
16 **FISCAL EVASION**

17

18 The Government of Australia and the Government of the Kingdom of
19 Norway,

20

21 Desiring to conclude a Convention for the avoidance of double taxation
22 with respect to taxes on income and the prevention of fiscal evasion,

23

24 Have agreed as follows:

25

26 **ARTICLE 1**

27

28 **Persons Covered**

29

30 This Convention shall apply to persons who are residents of one or both
31 of the Contracting States.

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ARTICLE 2

Taxes Covered

1 The existing taxes to which this Convention shall apply are:

- (a) in the case of Australia:
 - (i) the income tax; and
 - (ii) the resource rent tax in respect of offshore projects relating to exploration for or exploitation of petroleum resources,
imposed under the federal law of Australia;
- (b) in the case of Norway:
 - (i) the tax on general income;
 - (ii) the tax on personal income;
 - (iii) the special tax on petroleum income;
 - (iv) the resource rent tax on income from production of hydro-electric power;
 - (v) the withholding tax on dividends; and
 - (vi) the tax on remuneration to non-resident artistes, etc.

2 This Convention shall apply also to any identical or substantially similar taxes that are imposed under the federal law of Australia or the law of Norway after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in the law of their respective States relating to the taxes to which this Convention applies within a reasonable period of time after those changes.

3 For the purposes of Article 24, the taxes to which this Convention shall apply are taxes of every kind and description imposed on behalf of the Contracting States, or their political subdivisions or local authorities.

- 1 respect to the seabed and subsoil and their natural resources; the
2 terms do not comprise Svalbard, Jan Mayen and the Norwegian
3 dependencies ("biland");
- 4 (c) the terms "Contracting State", "one of the Contracting States"
5 and "other Contracting State" shall refer to Australia or
6 Norway, as the context requires;
- 7 (d) the term "Australian tax" means tax imposed by Australia,
8 being tax to which this Convention applies by virtue of
9 paragraphs 1 and 2 of Article 2;
- 10 (e) the term "Norwegian tax" means tax imposed by Norway or its
11 political subdivisions or local authorities, being tax to which
12 this Convention applies by virtue of paragraphs 1 and 2 of
13 Article 2;
- 14 (f) the term "business" includes the performance of professional
15 services and of other activities of an independent character;
- 16 (g) the term "company" means any body corporate or any entity
17 which is treated as a company or body corporate for tax
18 purposes;
- 19 (h) the term "competent authority" means, in the case of Australia,
20 the Commissioner of Taxation or an authorised representative
21 of the Commissioner and, in the case of Norway, the Minister
22 of Finance or an authorised representative of the Minister;
- 23 (i) the term "enterprise" applies to the carrying on of any business;
- 24 (j) the terms "enterprise of a Contracting State" and "enterprise of
25 the other Contracting State" mean respectively an enterprise
26 carried on by a resident of a Contracting State and an enterprise
27 carried on by a resident of the other Contracting State;
- 28 (k) the term "international traffic" means any transport by a ship or
29 aircraft operated by an enterprise of a Contracting State, except
30 when such transport is solely between places in the other
31 Contracting State;
- 32 (l) the term "national", in relation to a Contracting State, means:
- 33 (i) any individual possessing the nationality or citizenship
34 of that Contracting State; and
- 35 (ii) any company deriving its status as such from the laws
36 in force in that Contracting State;
-

- 1 (m) the term "person" includes an individual, a company and any
2 other body of persons;
- 3 (n) the term "tax" means Australian tax or Norwegian tax as the
4 context requires, but does not include any penalty or interest
5 imposed under the law of either Contracting State relating to its
6 tax;
- 7 (o) the term "recognised stock exchange" means:
- 8 (i) the Australian Stock Exchange and any other
9 Australian stock exchange recognised as such under
10 Australian law;
- 11 (ii) the Oslo Stock Exchange and any other Norwegian
12 stock exchange recognised as such under Norwegian
13 law; and
- 14 (iii) any other stock exchange agreed upon by the
15 competent authorities.

16

17 2 As regards the application of the Convention at any time by a
18 Contracting State, any term not defined therein shall, unless the context
19 otherwise requires, have the meaning that it has at that time under the law of
20 that State concerning the taxes to which the Convention applies, any meaning
21 under the applicable tax law of that State prevailing over a meaning given to the
22 term under other law of that State.

23

24

ARTICLE 4

25

26

Residence

27

- 28 1 For the purposes of this Convention, the term "resident of a Contracting
29 State" means:
- 30 (a) in the case of Australia, a person who is a resident of Australia
31 for the purposes of Australian tax; and
- 32 (b) in the case of Norway, a person who is liable to tax therein by
33 reason of domicile, residence, place of management or any
34 other criterion of a similar nature.

1 The Government of a Contracting State or a political subdivision or
2 local authority of that State is also a resident of that State for
3 the purposes of the Convention.

4

5 2 A person is not a resident of a Contracting State for the purposes of this
6 Convention if the person is liable to tax in that State in respect only of
7 income from sources in that State.

8

9 3 Where by reason of the preceding provisions of this Article a person,
10 being an individual, is a resident of both Contracting States, then the person's
11 status shall be determined as follows:

12 (a) the individual shall be deemed to be a resident only of the State
13 in which a permanent home is available to that individual; but if
14 a permanent home is available in both States, or in neither of
15 them, that individual shall be deemed to be a resident only of
16 the State with which the individual's personal and economic
17 relations are closer (centre of vital interests);

18 (b) if the State in which the centre of vital interests is situated
19 cannot be determined, the individual shall be deemed to be a
20 resident only of the State of which that individual is a national;

21 (c) if the individual is a national of both States or of neither of
22 them, the competent authorities of the Contracting States shall
23 endeavour to resolve the question by mutual agreement.

24

25 4 Where by reason of the provisions of paragraph 1 a person other than an
26 individual is a resident of both Contracting States, then it shall be deemed to be
27 a resident only of the State in which its place of effective management is
28 situated.

29

30 5 Where under this Convention any income, profits or gains are relieved
31 from tax in a Contracting State and, under the law in force in the other
32 Contracting State, an individual in respect of that income or those profits or
33 gains is exempt from tax by virtue of being a temporary resident of the other
34 State within the meaning of the applicable tax laws of that other State, then the
35 relief to be allowed under this Convention in the first-mentioned State shall not
36 apply to the extent that that income or those profits or gains are exempt from tax
37 in the other State.

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ARTICLE 5

Permanent Establishment

1 For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of the enterprise is wholly or partly carried on.

2 The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place relating to the exploration for or exploitation of natural resources; and
- (g) an agricultural, pastoral or forestry property.

3 Notwithstanding the provisions of paragraphs 1 and 2, an enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if:

- (a) it has a building site or construction or installation project in that State, or a supervisory or consultancy activity connected therewith, which lasts more than six months; or
- (b) it furnishes services, including consultancy services, for the same or a connected project, through its employees or other personnel engaged for such purposes, within a Contracting State for a period or periods aggregating more than six months within any twelve month period; or

-
- 1 (c) it maintains substantial equipment for rental or other purposes
2 within that other State (excluding equipment let under a
3 hire-purchase agreement) for more than six months; or
- 4 (d) a person acting in a Contracting State on behalf of an enterprise
5 of the other Contracting State manufactures or processes in the
6 first-mentioned State for the enterprise goods or merchandise
7 belonging to the enterprise.
- 8
- 9 4 (a) The duration of activities under subparagraph 3(a) will be
10 determined by aggregating the periods during which activities
11 are carried on in a Contracting State by associated enterprises
12 provided that the activities of the enterprise in that State are
13 substantially the same as the activities carried on in that State
14 by its associate.
- 15 (b) The period during which two or more associated enterprises are
16 carrying on concurrent activities will be counted only once for
17 the purpose of determining the duration of activities.
- 18 (c) Under this Article, an enterprise shall be deemed to be
19 associated with another enterprise if:
- 20 (i) one is controlled directly or indirectly by the other; or
- 21 (ii) both are controlled directly or indirectly by the same
22 third person or persons.
- 23
- 24 5 Notwithstanding the preceding provisions of this Article, an enterprise
25 shall not be deemed to have a permanent establishment merely by reason of:
- 26 (a) the use of facilities solely for the purpose of storage or display of
27 goods or merchandise belonging to the enterprise; or
- 28 (b) the maintenance of a stock of goods or merchandise belonging to
29 the enterprise solely for the purpose of storage or display; or

- 1 (c) the maintenance of a stock of goods or merchandise belonging to
2 the enterprise solely for the purpose of processing by another
3 enterprise; or
- 4 (d) the maintenance of a fixed place of business solely for the purpose
5 of purchasing goods or merchandise, or for collecting information,
6 for the enterprise; or
- 7 (e) the maintenance of a fixed place of business solely for the purpose
8 of carrying on, for the enterprise, any other activity of a
9 preparatory or auxiliary character.

10

11 6 Notwithstanding the provisions of paragraphs 1 and 2, where a
12 person—other than an agent of an independent status to whom paragraph 7
13 applies—is acting on behalf of an enterprise and has, and habitually exercises,
14 in a Contracting State an authority to conclude contracts on behalf of the
15 enterprise, that enterprise shall be deemed to have a permanent establishment in
16 that State in respect of any activities which that person undertakes for that
17 enterprise, unless the activities of such person are limited to those mentioned in
18 paragraph 5 and are, in relation to the enterprise, of a preparatory or auxiliary
19 character.

20

21 7 An enterprise shall not be deemed to have a permanent establishment in
22 a Contracting State merely because it carries on business in that State through a
23 person who is a broker, general commission agent or any other agent of an
24 independent status, provided that such persons are acting in the ordinary course
25 of the person's business as such a broker or agent.

26

27 8 The fact that a company which is a resident of a Contracting State
28 controls or is controlled by a company which is a resident of the other
29 Contracting State, or which carries on business in that other State (whether
30 through a permanent establishment or otherwise), shall not of itself make either
31 company a permanent establishment of the other.

32

1 mineral deposits, oil or gas wells, quarries or other
2 places of extraction or exploitation of natural resources.

3 Ships and aircraft shall not be regarded as real property.

4

5 3 Any interest or right referred to in paragraph 2 shall be regarded as
6 situated where the land, mineral, oil or gas deposits, quarries or natural
7 resources, as the case may be, are situated or where the exploration may take
8 place.

9

10 4 The provisions of paragraph 1 shall apply to income derived from the
11 direct use, letting, or use in any other form of real property.

12

13 5 The provisions of paragraphs 1, 3, and 4 shall also apply to income
14 from real property of an enterprise.

15

16

ARTICLE 7

17

18

Business Profits

19

20 1 The profits of an enterprise of a Contracting State shall be taxable only
21 in that State unless the enterprise carries on business in the other Contracting
22 State through a permanent establishment situated therein. If the enterprise
23 carries on business as aforesaid, the profits of the enterprise may be taxed in the
24 other State but only so much of them as is attributable to that permanent
25 establishment.

26

27 2 Subject to the provisions of paragraph 3, where an enterprise of a
28 Contracting State carries on business in the other Contracting State through a
29 permanent establishment situated therein, there shall in each Contracting State
30 be attributed to that permanent establishment the profits which it might be
31 expected to make if it were a distinct and separate enterprise engaged in the
32 same or similar activities under the same or similar conditions and dealing
33 wholly independently with the enterprise of which it is a permanent
34 establishment or with other enterprises with which it deals.

35

1 3 In determining the profits of a permanent establishment, there shall be
2 allowed as deductions expenses of the enterprise, being expenses which are
3 incurred for the purposes of the permanent establishment (including executive
4 and general administrative expenses so incurred) and which would be
5 deductible if the permanent establishment were an independent entity which
6 paid those expenses, whether incurred in the Contracting State in which the
7 permanent establishment is situated or elsewhere.

8

9 4 Nothing in this Article shall affect the application of any law of a
10 Contracting State relating to the determination of the tax liability of a person,
11 including determinations in cases where the information available to the
12 competent authority of that State is inadequate to determine the profits to be
13 attributed to a permanent establishment, provided that that law shall be applied,
14 so far as it is practicable to do so, consistently with the principles of this Article.

15

16 5 No profits shall be attributed to a permanent establishment by reason of
17 the mere purchase by that permanent establishment of goods or merchandise for
18 the enterprise.

19

20 6 For the purposes of the preceding paragraphs, the profits to be attributed
21 to the permanent establishment shall be determined by the same method year by
22 year unless there is good and sufficient reason to the contrary.

23

24 7 Where profits include items of income or gains which are dealt with
25 separately in other Articles of this Convention, then the provisions of those
26 Articles shall not be affected by the provisions of this Article.

27

28 8 Nothing in this Article shall affect the operation of any law of a
29 Contracting State relating to tax imposed on profits from insurance with
30 non-residents provided that if the relevant law in force in either Contracting
31 State at the date of signature of this Convention is varied (otherwise than in
32 minor respects so as not to affect its general character) the Contracting States
33 shall consult with each other with a view to agreeing to any amendment of this
34 paragraph that may be appropriate.

35

36 9 Where:

- 1 (a) a resident of a Contracting State is beneficially entitled,
2 whether directly or through one or more interposed trust estates,
3 to a share of the business profits of an enterprise carried on in
4 the other Contracting State by the trustee of a trust estate other
5 than a trust estate which is treated as a company for tax
6 purposes; and
- 7 (b) in relation to that enterprise, that trustee would, in accordance
8 with the principles of Article 5, have a permanent establishment
9 in that other State,

10 the enterprise carried on by the trustee shall be deemed to be a business carried
11 on in the other State by that resident through a permanent establishment situated
12 in that other State and that share of business profits shall be attributed to that
13 permanent establishment.

14

15 ARTICLE 8

16

17 Shipping and Air Transport

18

19 1 Profits of an enterprise of a Contracting State derived from the
20 operation of ships or aircraft in international traffic shall be taxable only in that
21 State.

22

23 2 Notwithstanding the provisions of paragraph 1, profits of an enterprise
24 of a Contracting State derived from the operation of ships or aircraft may be
25 taxed in the other Contracting State to the extent that they are profits derived
26 directly or indirectly from ship or aircraft operations confined solely to places in
27 that other State.

28

29 3 The provisions of paragraphs 1 and 2 shall also apply to profits derived
30 from the participation in a pool, a joint business or in an international operating
31 agency.

32

33 4 For the purposes of this Article, profits derived from the carriage by
34 ships or aircraft of passengers, livestock, mail, goods or merchandise which are
35 shipped in a Contracting State and are discharged at a place in that State shall be

1 treated as profits from ship or aircraft operations confined solely to places in
2 that State.

3
4 5 The provisions of paragraphs 1, 2 and 3 shall apply to profits derived by
5 the joint Norwegian, Danish and Swedish air transport consortium Scandinavian
6 Airlines System (SAS), but only insofar as profits derived by SAS Norge AS,
7 the Norwegian partner of the Scandinavian Airlines System (SAS), are in
8 proportion to its share in that organisation.

9
10 **ARTICLE 9**

11
12 **Associated Enterprises**

13
14 1 **Where:**

- 15 (a) an enterprise of a Contracting State participates directly or
16 indirectly in the management, control or capital of an enterprise
17 of the other Contracting State; or
18 (b) the same persons participate directly or indirectly in the
19 management, control or capital of an enterprise of a Contracting
20 State and an enterprise of the other Contracting State,

21 and in either case conditions operate between the two enterprises in their
22 commercial or financial relations which differ from those which might be
23 expected to operate between independent enterprises dealing wholly
24 independently with one another, then any profits which, but for those
25 conditions, might have been expected to accrue to one of the enterprises, but, by
26 reason of those conditions, have not so accrued, may be included in the profits
27 of that enterprise and taxed accordingly.

28
29 2 Nothing in this Article shall affect the application of any law of a
30 Contracting State relating to the determination of the tax liability of a person,
31 including determinations in cases where the information available to the
32 competent authority of that State is inadequate to determine the profits accruing
33 to an enterprise, provided that that law shall be applied, so far as it is practicable
34 to do so, consistently with the principles of this Article.

35

1 3 Notwithstanding the provisions of paragraph 2 of this Article, dividends
 2 shall not be taxed in the Contracting State of which the company paying the
 3 dividends is a resident if the beneficial owner of the dividends is a company that
 4 is a resident of the other Contracting State that has owned shares representing
 5 80 per cent or more of the voting power of the company paying the dividends
 6 for a twelve month period ending on the date the dividend is declared and the
 7 company that is the beneficial owner of the dividends:

- 8 (a) has its principal class of shares listed on a recognised stock
 9 exchange specified in subparagraph (i) or (ii) of
 10 subparagraph (o) of paragraph 1 of Article 3 and is regularly
 11 traded on one or more recognised stock exchanges;
- 12 (b) is owned directly or indirectly by one or more companies
 13 whose principal class of shares is listed on a recognised stock
 14 exchange specified in subparagraph (i) or (ii) of
 15 subparagraph (o) of paragraph 1 of Article 3 and is regularly
 16 traded on one or more recognised stock exchanges; or
- 17 (c) does not meet the requirements of subparagraphs (a) or (b) of
 18 this paragraph but the competent authority of the
 19 first-mentioned Contracting State determines, in accordance
 20 with the law of that State, that the establishment, acquisition or
 21 maintenance of the company that is the beneficial owner of the
 22 dividends and the conduct of its operations did not have as one
 23 of its principal purposes the obtaining of benefits under this
 24 Convention. The competent authority of the first-mentioned
 25 Contracting State shall consult the competent authority of the
 26 other Contracting State before refusing to grant benefits of this
 27 Convention under this subparagraph.

28
 29 4 The term "dividends" as used in this Article means income from shares
 30 or other rights, not being debt-claims, participating in profits, as well as other
 31 amounts which are subjected to the same taxation treatment as income from
 32 shares by the law of the State of which the company making the distribution is a
 33 resident for the purposes of its tax.

34
 35 5 The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial
 36 owner of the dividends, being a resident of a Contracting State, carries on
 37 business in the other Contracting State of which the company paying the
 38 dividends is a resident, through a permanent establishment situated therein, and
 39 the holding in respect of which the dividends are paid is effectively connected

1 with such permanent establishment. In such case, the provisions of Article 7
2 shall apply.

3
4 6 Where a company which is a resident of a Contracting State derives
5 profits or income from the other Contracting State, that other State may not
6 impose any tax on the dividends paid by the company—being dividends
7 beneficially owned by a person who is not a resident of the other Contracting
8 State—except insofar as the holding in respect of which such dividends are paid
9 is effectively connected with a permanent establishment situated in that other
10 State, even if the dividends paid consist wholly or partly of profits or income
11 arising in such other State. This paragraph shall not apply in relation to
12 dividends paid by any company which is a resident of Australia for the purposes
13 of Australian tax and which is also a resident of Norway for the purposes of
14 Norwegian tax.

15 7 No relief shall be available under this Article if it was the main purpose
16 or one of the main purposes of any person concerned with the creation or
17 assignment of shares or other rights in respect of which the dividend is paid to
18 take advantage of this Article by means of that creation or assignment.

19
20 ARTICLE 11

21
22 Interest

23
24 1 Interest arising in a Contracting State and beneficially owned by a
25 resident of the other Contracting State may be taxed in that other State.

26
27 2 However, that interest may also be taxed in the Contracting State in
28 which it arises, and according to the law of that State, but the tax so charged
29 shall not exceed 10 per cent of the gross amount of the interest.

30
31 3 Notwithstanding paragraph 2, interest arising in a Contracting State and
32 beneficially owned by a resident of the other Contracting State may not be taxed
33 in the first-mentioned State if:

- 34 (a) the interest is derived from the investment of official reserve
35 assets by the government of a Contracting State, its monetary

1 institutions or a bank performing central banking functions in
2 that State; or

3 (b) the interest is derived by a financial institution which is
4 unrelated to and dealing wholly independently with the payer.
5 For the purposes of this Article, the term "financial institution"
6 means a bank or other enterprise substantially deriving its
7 profits by raising debt finance in the financial markets or by
8 taking deposits at interest and using those funds in carrying on
9 a business of providing finance.

10

11 4 Notwithstanding paragraph 3, interest referred to in subparagraph (b) of
12 that paragraph may be taxed in the State in which it arises at a rate not
13 exceeding 10 per cent of the gross amount of the interest if the interest is paid as
14 part of an arrangement involving back-to-back loans or other arrangement that
15 is economically equivalent and intended to have a similar effect to back-to-back
16 loans.

17

18 5 The term "interest" in this Article includes interest from government
19 securities or from bonds or debentures, whether or not secured by mortgage,
20 interest from any other form of indebtedness, as well as income which is
21 subjected to the same taxation treatment as income from money lent by the law
22 of the Contracting State in which the income arises.

23

24 6 The provisions of paragraphs 1 and 2, subparagraph (b) of paragraph 3
25 and paragraph 4 of this Article shall not apply if the beneficial owner of the
26 interest, being a resident of a Contracting State, carries on business in the other
27 Contracting State in which the interest arises, through a permanent
28 establishment situated therein, and the indebtedness in respect of which the
29 interest is paid is effectively connected with such permanent establishment. In
30 such case the provisions of Article 7 shall apply.

31 7 Interest shall be deemed to arise in a Contracting State when the payer
32 is a resident of that State for the purposes of its tax. Where, however, the
33 person paying the interest, whether the person is a resident of a Contracting
34 State or not, has in a Contracting State or outside both Contracting States a
35 permanent establishment in connection with which the indebtedness on which
36 the interest is paid was incurred, and such interest is borne by such permanent
37 establishment, then such interest shall be deemed to arise in the State in which
38 the permanent establishment is situated.

1

2 8 Where, by reason of a special relationship between the payer and the
3 beneficial owner of the interest, or between both of them and some other
4 person, the amount of the interest paid, having regard to the indebtedness for
5 which it is paid, exceeds the amount which might have been expected to have
6 been agreed upon by the payer and the beneficial owner in the absence of that
7 relationship, the provisions of this Article shall apply only to the last-mentioned
8 amount. In such case, the excess part of the payments shall remain taxable
9 according to the law of each Contracting State, due regard being had to the
10 other provisions of this Convention.

11

12 9 No relief shall be available under this Article if it was the main purpose
13 or one of the main purposes of any person concerned with the creation or
14 assignment of the indebtedness in respect of which the interest is paid to take
15 advantage of this Article by means of that creation or assignment.

16

17

18

ARTICLE 12

19

20

Royalties

21

22 1 Royalties arising in a Contracting State and beneficially owned by a
23 resident of the other Contracting State may be taxed in that other State.

24

25 2 However, those royalties may also be taxed in the Contracting State in
26 which they arise, and according to the law of that State, but the tax so charged
27 shall not exceed 5 per cent of the gross amount of the royalties.

28

29 3 The term "royalties" in this Article means payments or credits, whether
30 periodical or not, and however described or computed, to the extent to which
31 they are made as consideration for:

32

- (a) the use of, or the right to use, any copyright, patent, design or
33 model, plan, secret formula or process, trademark or other like
34 property or right; or

- 1 (b) the supply of scientific, technical, industrial or commercial
2 knowledge or information; or
- 3 (c) the supply of any assistance that is ancillary and subsidiary to,
4 and is furnished as a means of enabling the application or
5 enjoyment of, any such property or right as is mentioned in
6 subparagraph (a) or any such knowledge or information as is
7 mentioned in subparagraph (b); or
- 8 (d) the use of, or the right to use:
9 (i) motion picture films; or
10 (ii) films or audio or video tapes or disks, or any other
11 means of image or sound reproduction or transmission
12 for use in connection with television, radio or other
13 broadcasting; or
- 14 (e) the use of, or the right to use, some or all of the part of the
15 radiofrequency spectrum specified in a spectrum licence; or
- 16 (f) total or partial forbearance in respect of the use or supply of any
17 property or right referred to in this paragraph.

18

19 4 The provisions of paragraphs 1 and 2 shall not apply if the beneficial
20 owner of the royalties, being a resident of a Contracting State, carries on
21 business in the other Contracting State, in which the royalties arise, through a
22 permanent establishment situated therein, and the right or property in respect of
23 which the royalties are paid or credited is effectively connected with such
24 permanent establishment. In such case the provisions of Article 7 shall apply.

25

26 5 Royalties shall be deemed to arise in a Contracting State when the payer
27 is a resident of that State for the purposes of its tax. Where, however, the person
28 paying the royalties, whether the person is a resident of a Contracting State or
29 not, has in a Contracting State or outside both Contracting States a permanent
30 establishment in connection with which the liability to pay the royalties was
31 incurred, and the royalties are borne by the permanent establishment, then such
32 royalties shall be deemed to arise in the State in which the permanent
33 establishment is situated.

34

35 6 Where, by reason of a special relationship between the payer and the
36 beneficial owner of the royalties, or between both of them and some other

1 person, the amount of the royalties paid or credited, having regard to what they
2 are paid or credited for, exceeds the amount which might have been expected to
3 have been agreed upon by the payer and the beneficial owner in the absence of
4 such relationship, the provisions of this Article shall apply only to the
5 last-mentioned amount. In such case, the excess part of the amount of the
6 payments or credits shall remain taxable according to the law of each
7 Contracting State, due regard being had to the other provisions of this
8 Convention.

9
10 7 No relief shall be available under this Article if it was the main purpose
11 or one of the main purposes of any person concerned with the creation or
12 assignment of rights in respect of which the royalties are paid or credited to take
13 advantage of this Article by means of that creation or assignment.

14 15 ARTICLE 13

16 17 Alienation of Property

18
19 1 Income, profits or gains derived by a resident of a Contracting State
20 from the alienation of real property referred to in Article 6 and situated in the
21 other Contracting State may be taxed in that other State.

22
23 2 Income, profits or gains from the alienation of property, other than real
24 property, that forms part of the business property of a permanent establishment
25 which an enterprise of a Contracting State has in the other Contracting State,
26 including income, profits or gains from the alienation of that permanent
27 establishment (alone or with the whole enterprise), may be taxed in that other
28 State.

29
30 3 Income, profits or gains of an enterprise of a Contracting State from the
31 alienation of ships or aircraft operated by that enterprise in international traffic,
32 or of property (other than real property) pertaining to the operation of those
33 ships or aircraft, shall be taxable only in that State.

34
35 4 Income, profits or gains derived by a resident of a Contracting State
36 from the alienation of any shares or comparable interests deriving more than 50

1 per cent of their value directly or indirectly from real property situated in the
2 other Contracting State, may be taxed in that other State.

3
4 5 Gains of a capital nature from the alienation of any property, other than
5 that referred to in the preceding paragraphs shall be taxable only in the
6 Contracting State of which the alienator is a resident.

7
8 **ARTICLE 14**

9
10 **Income from Employment**

11
12 1 Subject to the provisions of Articles 15, 17 and 18, salaries, wages and
13 other similar remuneration derived by an individual who is a resident of a
14 Contracting State in respect of an employment shall be taxable only in that State
15 unless the employment is exercised in the other Contracting State. If the
16 employment is so exercised, such remuneration as is derived therefrom may be
17 taxed in that other State.

18
19 2 Notwithstanding the provisions of paragraph 1, remuneration derived
20 by an individual who is a resident of a Contracting State in respect of an
21 employment exercised in the other Contracting State shall be taxable only in the
22 first-mentioned State if:

- 23 (a) the recipient is present in the other State for a period or periods
24 not exceeding in the aggregate 183 days in any twelve month
25 period commencing or ending in the year of income of that
26 other State; and
- 27 (b) the remuneration is paid by, or on behalf of, an employer who
28 is a resident of the first-mentioned State; and
- 29 (c) the remuneration is not borne by a permanent establishment
30 which the employer has in that other State.

31
32 3 Notwithstanding the preceding provisions of this Article, remuneration
33 derived in respect of an employment exercised aboard a ship or aircraft operated
34 in international traffic may be taxed in the Contracting State of which the
35 enterprise operating the ship or aircraft is a resident. However, where such

1 remuneration is derived in respect of an employment exercised aboard a ship
2 registered in the Norwegian International Ships' register (NIS), the
3 remuneration shall be taxable only in the Contracting State where the recipient
4 is a resident.

5
6 4 Where a resident of a Contracting State derives remuneration in respect
7 of an employment exercised aboard an aircraft operated in international traffic
8 by the Scandinavian Airlines System (SAS) consortium, such remuneration
9 shall be taxable only in that State.

10
11 **ARTICLE 15**

12
13 **Directors' Fees**

14
15 Directors' fees and other similar payments derived by a resident of a
16 Contracting State in that person's capacity as a member of the board of
17 directors, or similar body, of a company which is a resident of the other
18 Contracting State may be taxed in that other State.

19
20 **ARTICLE 16**

21
22 **Entertainers and Sportspersons**

23
24 1 Notwithstanding the provisions of Articles 7 and 14, income derived by
25 a resident of a Contracting State as an entertainer, such as a theatre, motion
26 picture, radio or television artiste, or a musician, or as a sportsperson, from that
27 person's personal activities as such exercised in the other Contracting State, may
28 be taxed in that other State.

29
30 2 Where income in respect of personal activities exercised by an
31 entertainer or a sportsperson in that person's capacity as such accrues not to that
32 person but to another person, that income may, notwithstanding the provisions
33 of Articles 7 and 14, be taxed in the Contracting State in which the activities of
34 the entertainer or sportsperson are exercised.

1 3 The provisions of paragraphs 1 and 2 shall not apply to income derived
2 from activities performed in a Contracting State by entertainers or sportspersons
3 if the visit to that State is wholly or mainly supported by public funds of the
4 other Contracting State or a political subdivision or local authority of that State.
5 In such a case, the income is taxable only in the Contracting State of which the
6 entertainer or sportsperson is a resident.

7

8

ARTICLE 17

9

Pensions and Annuities

10

11
12 1 Subject to the provisions of paragraph 2 of Article 18, pensions and
13 annuities paid to a resident of a Contracting State shall be taxable only in that
14 State.

15

16 2 The term "annuity" means a stated sum payable periodically at stated
17 times during life or during a specified or ascertainable period of time under an
18 obligation to make the payments in return for adequate and full consideration in
19 money or money's worth.

20

21 3 Any alimony or other maintenance payment arising in a Contracting
22 State and paid to a resident of the other Contracting State shall be taxable only
23 in the first-mentioned State.

24

25

ARTICLE 18

26

Government Service

27

28
29 1 Salaries, wages and other similar remuneration, other than a pension or
30 annuity, paid by a Contracting State or a political subdivision or local authority
31 of that State to an individual in respect of services rendered to that State or
32 subdivision or authority shall be taxable only in that State. However, such
33 salaries, wages and other similar remuneration shall be taxable only in the other
34 Contracting State if the services are rendered in that other State and the
35 individual is a resident of that other State who:

- 1 (a) is a national of that State; or
2 (b) did not become a resident of that State solely for the purpose of
3 rendering the services.

4

5 2 Any pension paid by, or out of funds created by, a Contracting State or
6 a political subdivision or local authority of that State to an individual in the
7 respect of services rendered to that State or subdivision or authority (including,
8 in the case of Norway, any national insurance element of such pension) shall be
9 taxable only in that State. However, such pensions shall be taxable only in the
10 other Contracting State if the individual is a resident of, and a national of, that
11 State.

12

13 3 The provisions of Articles 14, 15, 16 and 17 shall apply to salaries,
14 wages and other similar remuneration and to pensions in respect of services
15 rendered in connection with a business carried on by a Contracting State or a
16 political subdivision or local authority of that State.

17

18

ARTICLE 19

19

20

Students

21

22 Payments which a student who is or was immediately before visiting a
23 Contracting State a resident of the other Contracting State and who is
24 temporarily present in the first-mentioned State solely for the purpose of the
25 student's education receives for the purpose of the student's maintenance or
26 education shall not be taxed in that State, provided that such payments arise
27 from sources outside that State.

28

29

ARTICLE 20

30

31

Offshore Activities

32

33 1 The provisions of this Article shall apply notwithstanding any other
34 provision of this Convention.

1

2 2 A person who is a resident of a Contracting State and carries on
3 activities offshore in the other Contracting State in connection with the
4 exploration or exploitation of the seabed or subsoil or their natural resources
5 situated in that other State shall, subject to paragraph 3 of this Article, be
6 deemed in relation to those activities to be carrying on business in that other
7 State through a permanent establishment situated therein.

8

9 3 The provisions of paragraph 2 shall not apply where the activities are
10 carried on in a Contracting State for a period or periods not exceeding 30 days
11 in the aggregate in any twelve month period commencing or ending in the year
12 of income of that State. However, for the purposes of this paragraph:

- 13 (a) activities carried on by an enterprise associated with another enterprise
14 shall be regarded as carried on by the enterprise with which it is
15 associated if the activities in question are substantially the same as
16 those carried on by the last-mentioned enterprise;
- 17 (b) the period during which two or more associated enterprises are carrying
18 on concurrent activities will be counted only once for the purpose of
19 determining the duration of activities; and
- 20 (c) an enterprise shall be deemed to be associated with another enterprise
21 if:
- 22 (i) one is controlled directly or indirectly by the other; or
23 (ii) both are controlled directly or indirectly by the same third person or
24 persons.

25

26 4 Salaries, wages and other similar remuneration derived by a resident of
27 a Contracting State in respect of an employment connected with the exploration
28 or exploitation of the seabed or subsoil or their natural resources situated in the
29 other Contracting State may, to the extent that the employment is exercised
30 offshore in that other State, be taxed in that other State. However, such
31 remuneration shall be taxable only in the first-mentioned State if the
32 employment is exercised offshore for an employer who is not a resident of the
33 other State and provided that the employment is carried on for a period or
34 periods not exceeding in the aggregate 30 days in any twelve month period
35 commencing or ending in the year of income of that other State.

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ARTICLE 21

Other Income

1 Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2 The provisions of paragraph 1 shall not apply to income, other than income from real property as defined in paragraph 2 of Article 6, derived by a resident of a Contracting State who carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

3 Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention from sources in the other Contracting State may also be taxed in that other State.

ARTICLE 22

Source of Income

1 Income, profits or gains derived by a resident of a Contracting State which, under any one or more of Articles 6 to 8, 10 to 16, 18 and 20, may be taxed in the other Contracting State shall for the purposes of the law of that other State relating to its tax be deemed to arise from sources in that other State.

2 Income, profits or gains derived by a resident of a Contracting State which, under any one or more of Articles 6 to 8, 10 to 16, 18 and 20, may be taxed in the other Contracting State shall for the purposes of Article 23 and of the law of the first-mentioned State relating to its tax be deemed to arise from sources in the other State.

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ARTICLE 23

Methods of Elimination of Double Taxation

1 Subject to the provisions of the law of Australia from time to time in force which relate to the allowance of a credit against Australian tax of tax paid in a country outside Australia (which shall not affect the general principle of this Article), Norwegian tax paid under the law of Norway and in accordance with this Convention, whether directly or by deduction, in respect of income derived by a person who is a resident of Australia from sources in Norway shall be allowed as a credit against Australian tax payable in respect of that income.

2 Subject to the provisions of the laws of Norway regarding the allowance as a credit against Norwegian tax of tax payable in a territory outside Norway (which shall not affect the general principle hereof):

- (a) where a resident of Norway derives income which, in accordance with the provisions of this Convention, may be taxed in Australia, Norway shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Australia on that income. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Australia.
- (b) where in accordance with any provision of the Convention income derived by a resident of Norway is exempt from tax in Norway, Norway may nevertheless include such income in the tax base, but shall allow as a deduction from the Norwegian tax on income that part of the Norwegian income tax which is attributable to the income derived from Australia.

ARTICLE 24

Non-discrimination

1 1 Nationals of a Contracting State shall not be subjected in the other
2 Contracting State to any taxation or any requirement connected therewith,
3 which is other or more burdensome than the taxation and connected
4 requirements to which nationals of that other State in the same circumstances, in
5 particular with respect to residence, are or may be subjected.

6

7 2 The taxation on a permanent establishment which an enterprise of a
8 Contracting State has in the other Contracting State shall not be less favourably
9 levied in that other State than the taxation levied on enterprises of that other
10 State carrying on the same activities in similar circumstances.

11

12 3 Except where the provisions of paragraph 1 of Article 9, paragraph 8 of
13 Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other
14 disbursements paid by an enterprise of a Contracting State to a resident of the
15 other Contracting State shall for the purpose of determining the taxable profits
16 of such enterprise, be deductible under the same conditions as if they had been
17 paid to a resident of the first-mentioned State.

18

19 4 Enterprises of a Contracting State, the capital of which is wholly or
20 partly owned or controlled, directly or indirectly, by one or more residents of
21 the other Contracting State, shall not be subjected in the first-mentioned State to
22 any taxation or any requirement connected therewith which is other or more
23 burdensome than the taxation and connected requirements to which other
24 similar enterprises of the first-mentioned State in similar circumstances are or
25 may be subjected.

26

27 5 Nothing contained in this Article shall be construed as obliging a
28 Contracting State to grant to individuals who are residents of the other
29 Contracting State any of the personal allowances, reliefs and reductions for tax
30 purposes which are granted to its own resident individuals.

31

32 6 This Article shall not apply to any provision of the law of a Contracting
33 State which:

- 34 (a) is designed to prevent the avoidance or evasion of taxes; or
35 (b) does not permit the deferral of tax arising on the transfer of an
36 asset where the subsequent transfer of the asset by the

- 1 transferee would be beyond the taxing jurisdiction of the
2 Contracting State under its laws; or
- 3 (c) provides for consolidation of group entities for treatment as a
4 single entity for tax purposes provided that a company, being a
5 resident of that State, the capital of which is wholly or partly
6 owned or controlled, directly or indirectly, by one or more
7 residents of the other Contracting State, may access such
8 consolidation treatment on the same terms and conditions as
9 other companies that are residents of the first-mentioned State;
10 or
- 11 (d) does not allow tax rebates or credits in relation to dividends
12 paid by a company that is a resident of that State for purposes
13 of its tax; or
- 14 (e) provides deductions to eligible taxpayers for expenditure on
15 research and development; or
- 16 (f) is otherwise agreed to be unaffected by this Article in an
17 Exchange of Notes between the Contracting States.

18

19 7 In this Article, provisions of the law of a Contracting State which are
20 designed to prevent avoidance or evasion of taxes include:

- 21 (a) measures designed to address thin capitalisation, dividend
22 stripping and transfer pricing;
- 23 (b) controlled foreign company, transferor trusts and foreign
24 investment fund rules; and
- 25 (c) measures designed to ensure that taxes can be effectively
26 collected and recovered, including conservancy measures.

27

28

ARTICLE 25

29

30

Mutual Agreement Procedure

31

32 1 Where a person considers that the actions of one or both of the
33 Contracting States result or will result for the person in taxation not in
34 accordance with this Convention, the person may, irrespective of the remedies
35 provided by the domestic law of those States concerning taxes to which this

1 Convention applies, present a case to the competent authority of the Contracting
2 State of which the person is a resident or, if the case comes under paragraph 1
3 of Article 24, to that of the Contracting State of which the person is a national.
4 The case must be presented within 3 years from the first notification of the
5 action resulting in taxation not in accordance with this Convention.

6
7 2 The competent authority shall endeavour, if the claim appears to it to be
8 justified and if it is not itself able to arrive at a satisfactory solution, to resolve
9 the case by mutual agreement with the competent authority of the other
10 Contracting State, with a view to the avoidance of taxation which is not in
11 accordance with this Convention. The solution so reached shall be implemented
12 notwithstanding any time limits in the domestic law of the Contracting States.

13
14 3 The competent authorities of the Contracting States shall endeavour to
15 resolve by mutual agreement any difficulties or doubts arising as to the
16 interpretation or application of this Convention. They may also consult together
17 for the elimination of double taxation in cases not provided for in this
18 Convention.

19
20 4 The competent authorities of the Contracting States may communicate
21 with each other directly for the purpose of reaching an agreement in the sense of
22 the preceding paragraphs.

23
24 5 For the purposes of paragraph 3 of Article XXII (Consultation) of the
25 General Agreement on Trade in Services, the Contracting States agree that,
26 notwithstanding that paragraph, any dispute between them as to whether a
27 measure falls within the scope of this Convention may be brought before the
28 Council for Trade in Services, as provided by that paragraph, only with the
29 consent of both Contracting States. Any doubt as to the interpretation of this
30 paragraph shall be resolved under paragraph 3 of this Article or, failing
31 agreement under that procedure, pursuant to any other procedure agreed to by
32 both Contracting States.

33
34 **ARTICLE 26**

35
36 **Exchange of Information**

1

2 1 The competent authorities of the Contracting States shall exchange such
3 information as is foreseeable relevant for carrying out the provisions of this
4 Convention or to the administration or enforcement of the domestic laws
5 concerning taxes referred to in Article 2, insofar as the taxation thereunder is
6 not contrary to the Convention. The exchange of information is not restricted by
7 Article 1.

8

9 2 Any information received under paragraph 1 by a Contracting State
10 shall be treated as secret in the same manner as information obtained under the
11 domestic laws of that State and shall be disclosed only to persons or authorities
12 (including courts and administrative bodies) concerned with the assessment or
13 collection of, the enforcement or prosecution in respect of, the determination of
14 appeals in relation to the taxes referred to in paragraph 1, or the oversight of the
15 above. Such persons or authorities shall use the information only for such
16 purposes. They may disclose the information in public court proceedings or in
17 judicial decisions.

18

19 3 In no case shall the provisions of paragraphs 1 and 2 be construed so as
20 to impose on a Contracting State the obligation:

- 21 (a) to carry out administrative measures at variance with the laws
22 and administrative practice of that or of the other Contracting
23 State; or
- 24 (b) to supply information which is not obtainable by the competent
25 authority under the laws or in the normal course of the
26 administration of that or of the other Contracting State; or
- 27 (c) to supply information which would disclose any trade, business,
28 industrial, commercial or professional secret or trade process,
29 or information, the disclosure of which would be contrary to
30 public policy (ordre public).

31

32 4 If information is requested by a Contracting State in accordance with
33 this Article, the other Contracting State shall use its information gathering
34 measures to obtain the requested information, even though that other State may
35 not need such information for its own tax purposes. The obligation contained in
36 the preceding sentence is subject to the limitations of paragraph 3 but in no case
37 shall such limitations be construed to permit a Contracting State to decline to

1 supply information solely because it has no domestic interest in such
2 information.

3

4 5 In no case shall the provisions of paragraph 3 be construed to permit a
5 Contracting State to decline to supply information solely because the
6 information is held by a bank, other financial institution, nominee or person
7 acting in an agency or a fiduciary capacity or because it relates to ownership
8 interests in a person.

9

10

11

ARTICLE 27

12

13

Assistance in the Collection of Taxes

14

15 1 The Contracting States shall lend assistance to each other in the
16 collection of revenue claims. This assistance is not restricted by Article 1. The
17 competent authorities of the Contracting States may by mutual agreement settle
18 the mode of application of this Article.

19

20 2 The term "revenue claim" as used in this Article means an amount owed
21 in respect of taxes referred to in Article 2, insofar as the taxation thereunder is
22 not contrary to this Convention or any other instrument to which the
23 Contracting States are parties, as well as interest, administrative penalties and
24 costs of collection or conservancy related to such amount.

25

26 3 When a revenue claim of a Contracting State is enforceable under the
27 laws of that State and is owed by a person who, at that time, cannot, under the
28 laws of that State, prevent its collection, that revenue claim shall, at the request
29 of the competent authority of that State, be accepted for purposes of collection
30 by the competent authority of the other Contracting State. That revenue claim
31 shall be collected by that other State in accordance with the provisions of its
32 laws applicable to the enforcement and collection of its own taxes as if the
33 revenue claim were a revenue claim of that other State.

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1 4 When a revenue claim of a Contracting State is a claim in respect of
2 which that State may, under its law, take measures of conservancy with a view
3 to ensure its collection, that revenue claim shall, at the request of the competent
4 authority of that State, be accepted for purposes of taking measures of
5 conservancy by the competent authority of the other Contracting State. That
6 other State shall take measures of conservancy in respect of that revenue claim
7 in accordance with the provisions of its laws as if the revenue claim were a
8 revenue claim of that other State even if, at the time when such measures are
9 applied, the revenue claim is not enforceable in the first-mentioned State or is
10 owed by a person who has a right to prevent its collection.

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12 5 Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim
13 accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in
14 that State, be subject to the time limits or accorded any priority applicable to a
15 revenue claim under the laws of that State by reason of its nature as such. In
16 addition, a revenue claim accepted by a Contracting State for the purposes of
17 paragraph 3 or 4 shall not, in that State, have any priority applicable to that
18 revenue claim under the laws of the other Contracting State.

19
20 6 Proceedings with respect to the existence, validity or the amount of a
21 revenue claim of a Contracting State shall not be brought before the courts or
22 administrative bodies of the other Contracting State.

23
24 7 Where, at any time after a request has been made by a Contracting State
25 under paragraph 3 or 4 and before the other Contracting State has collected and
26 remitted the relevant revenue claim to the first-mentioned State, the relevant
27 revenue claim ceases to be:

- 28 (a) in the case of a request under paragraph 3, a revenue claim of
29 the first-mentioned State that is enforceable under the laws of
30 that State and is owed by a person who, at that time, cannot,
31 under the laws of that State, prevent its collection; or
32 (b) in the case of a request under paragraph 4, a revenue claim of
33 the first-mentioned State in respect of which that State may,
34 under its laws, take measures of conservancy with a view to
35 ensure its collection,

36 the competent authority of the first-mentioned State shall promptly notify the
37 competent authority of the other State of that fact and, at the option of the other
38 State, the first-mentioned State shall either suspend or withdraw its request.

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8 In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State; or
- (b) to carry out measures which would be contrary to public policy (ordre public); or
- (c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice; or
- (d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State; or
- (e) to provide assistance if that State considers that the taxes with respect to which assistance is requested are imposed contrary to generally accepted taxation principles.

ARTICLE 28

Members of Diplomatic Missions and Consular Posts

1 Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special international agreements.

2 Insofar as, due to fiscal privileges granted to members of diplomatic missions and consular posts under the general rules of international law or under the provisions of special international agreements, income is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

ARTICLE 29

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This Convention shall continue in effect indefinitely, but either Contracting State may terminate the Convention by giving written notice of termination, through the diplomatic channel, to the other State at least six months before the end of any calendar year beginning after the expiration of five years from the date of its entry into force and, in that event, the Convention shall cease to be effective:

- (a) in the case of Australia:
 - (i) in respect of withholding tax on income that is derived by a non-resident, in relation to income derived on or after 1 January in the calendar year next following that in which the notice of termination is given;
 - (ii) in respect of other Australian tax, in relation to income, profits or gains of any year of income beginning on or after 1 July in the calendar year next following that in which the notice of termination is given;
- (b) in the case of Norway:
 - in respect of taxes on income relating to the calendar year (including accounting periods beginning in such year) next following that in which the notice is given and subsequent years.

IN WITNESS WHEREOF the undersigned, being duly authorised, have signed this Convention.

DONE at Canberra on this eighth day of August two thousand and six, in duplicate in the English language.

FOR THE GOVERNMENT OF AUSTRALIA:

FOR THE GOVERNMENT OF NORWAY:

Hon. Peter Dutton
Minister for Revenue and
Assistant Treasurer
[Signatures omitted]

H.E. Lars Albert Wensell
Ambassador

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