Australian Government
Australian Taxation Office

SYNTHESISED TEXT OF THE MLI AND THE AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE ARGENTINE REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, AND PROTOCOL

If you follow the information in this document, and it turns out to be incorrect, or it is misleading and you make a mistake as a result, the ATO will take that into account when determining what action, if any, we should take.

General disclaimer on this synthesised text document

This document presents the synthesised text for the application of the *Agreement between the Government of Australia and the Government of the Argentine Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and Protocol* signed on 27 August 1999 (the "Agreement"), as modified by the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (the "MLI") signed by Australia on 7 June 2017 and by Argentina on 7 June 2017.

The document was prepared by the Australian Taxation Office and represents its understanding of the modifications made to the Agreement by the MLI.
The document was prepared on the basis of the MLI position of Australia submitted to the Depositary upon ratification on 26 September 2018 and of the MLI position of Argentina submitted to the Depositary upon ratification on 29 September 2025. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Agreement.

The sole purpose of this document is to facilitate the understanding of the application of the MLI to the Agreement and it does not constitute a source of law. The authentic legal texts of the Agreement and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Agreement are included in boxes throughout the text of this document in the context of the relevant provisions of the Agreement. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Agreement (such as "Covered Tax Agreement" or "Agreement" and "Convention", "Contracting Jurisdictions" and "Contracting States"), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Agreement: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Agreement or to the Agreement must be understood as referring to the Agreement as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting [2019] ATS 1 (provides, in the case of Australia, the authentic legal text of the MLI).

Agreement between the Government of Australia and the Government of the Argentine Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with

Respect to Taxes on Income [1999] ATS 36 (provides, in the case of Australia, the authentic legal text of the Agreement).

Signatories and Parties to the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (provides the MLI position of Australia submitted to the Depository upon ratification on 26 September 2018 and the MLI position of Argentina submitted to the Depository upon ratification on 29 September 2025).

Entry into Effect of the MLI Provisions

The provisions of the MLI applicable to the Agreement do not take effect on the same dates as the original provisions of the Agreement. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by Australia and Argentina in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval:

26 September 2018 for Australia and 29 September 2025 for Argentina.

Entry into force of the MLI:

1 January 2019 for Australia and 1 January 2026 for Argentina.

In accordance with paragraph 1 of Article 35 of the MLI, the provisions of the MLI (other than Article 16 Mutual Agreement Procedure) have effect with respect to this Agreement:

a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2026;

b) with respect to all other taxes levied by Australia, for taxes levied with respect to taxable periods beginning on or after 1 July 2026; and

c) with respect to all other taxes levied by Argentina, for taxes levied with respect to taxable periods beginning on or after 1 January 2027.

In accordance with paragraph 4 of Article 35 of the MLI, Article 16 of the MLI (Mutual Agreement Procedure) has effect with respect to this Agreement for a case presented to the competent authority of a Contracting State on or after 1 January 2026, except for cases that were not eligible to be presented as of that date under this Agreement prior to its modification by the MLI, without regard to the taxable period to which the case relates.

AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE ARGENTINE REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE ARGENTINE REPUBLIC,

The following paragraph 3 of Article 6 of the MLI is included in the preamble of this Agreement:

ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

[REPLACED by paragraph 1 of Article 6 of the MLI] ***DESIRING*** *to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,*

The following paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of this Agreement:

ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT

Intending to eliminate double taxation with respect to the taxes covered by [*the Agreement*] without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in [*the Agreement*] for the indirect benefit of residents of third jurisdictions),

HAVE AGREED as follows:

Article 1

PERSONAL SCOPE

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

The following paragraph 1 of Article 3 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 3 OF THE MLI – TRANSPARENT ENTITIES

For the purposes of [*the Agreement*], income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either [*Contracting State*] shall be considered to be income of a resident of a [*Contracting State*] but only to the extent that the income is treated, for purposes of taxation by that [*Contracting State*], as the income of a resident of that [*Contracting State*].

The following paragraph 1 of Article 11 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 11 OF THE MLI – APPLICATION OF TAX AGREEMENTS TO RESTRICT A PARTY'S RIGHT TO TAX ITS OWN RESIDENTS

[*The Agreement*] shall not affect the taxation by a [*Contracting State*] of its residents, except

with respect to the benefits granted under [*paragraph 3 of Article 9, or Articles 18, 19, 20, 21, 24, 25 or 27*] of [*the Agreement*].

Article 2

TAXES COVERED

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

a) in Australia:

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;

b) in Argentina:

the income tax (*impuesto a las ganancias*).

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

Article 3

GENERAL DEFINITIONS

1. In this Agreement, unless the context otherwise requires and in accordance with international law:

a) the term "Argentina", when used in a geographical sense, includes:

(i) the maritime areas adjacent to the outer limits of the territorial sea, to the extent to which the Argentine Republic possesses sovereignty rights and jurisdiction, and

(ii) the continental shelf and exclusive economic zone of the Argentine Republic only in relation to exploration and exploitation of the natural resources, and to tourism or recreation on off-shore installations;

b) the term "Australia", when used in a geographical sense, excludes all external territories other than:

(i) the Territory of Norfolk Island;

(ii) the Territory of Christmas Island;

(iii) the Territory of Cocos (Keeling) Islands;

(iv) the Territory of Ashmore and Cartier Islands;

(v) the Territory of Heard Island and McDonald Islands; and

(vi) the Coral Sea Islands Territory,

and includes:

(i) the 12 nautical mile territorial sea, and

(ii) the contiguous zone for purposes consistent with international law, and

(iii) the continental shelf and exclusive economic zone of Australia but only in relation to exploration for and exploitation of the living and non-living natural resources, and in relation to tourism or recreation on offshore installations;

c) the term "Argentine tax" means tax imposed by Argentina, being tax to which this Agreement applies by virtue of Article 2;

d) the term "Australian tax" means tax imposed by Australia, being tax to which this Agreement applies by virtue of Article 2;

e) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;

f) the term "competent authority" means, in the case of Argentina, the Ministry of Economy and Works and Public Services, Secretariat of Finance (*el Ministerio de Economia y Obras y Servicios Publicos, Secretaria de Hacienda*) and, in the case of Australia, the Commissioner of Taxation or an authorised representative of the Commissioner;

g) the terms "a Contracting State" and "other Contracting State" mean Argentina or Australia, as the context requires;

h) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean an enterprise carried on by a resident of Australia or an enterprise carried on by a resident of Argentina, as the context requires;

i) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely from a place or between places in the other Contracting State;

j) the term "person" includes an individual, a company and any other body of persons;

k) the term "tax" means Australian tax or Argentine tax, as the context requires, but does not include any penalty or interest imposed under the law of either Contracting State relating to its tax.

2. As regards the application of this Agreement by a Contracting State at any time, any term not defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State concerning the taxes to which this Agreement applies.

Article 4

RESIDENCE

1. For the purposes of this Agreement, a person is a resident of one of the Contracting States if the person is a resident of that State under the law of that State relating to its tax.

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

3. Where by reason of the preceding provisions of this Article a person, being an individual, is a resident of both Contracting States, then the person shall be deemed to be a resident solely of the Contracting State in which a permanent home is available to the person, or if a permanent home is available to the person in both Contracting States, or in neither of them, the person shall be deemed to be a resident solely of the Contracting State with which the person's personal and economic relations are closer.

4. **[REPLACED by paragraph 1 of Article 4 and subparagraph e) of paragraph 3 of Article 4 of the MLI]** *Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident solely of the Contracting State in which its place of effective management is situated.*

The following paragraph 1 of Article 4 and subparagraph e) of paragraph 3 of Article 4 of the MLI replace paragraph 4 of Article 4 of this Agreement:

ARTICLE 4 OF THE MLI – DUAL RESIDENT ENTITIES

Where by reason of the provisions of [*the Agreement*] a person other than an individual is a resident of [*both Contracting States*], the competent authorities of the [*Contracting States*] shall endeavour to determine by mutual agreement the [*Contracting State*] of which such person shall be deemed to be a resident for the purposes of [*the Agreement*], having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by [*the Agreement*].

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment", in relation to an enterprise, 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:

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 the exploitation of natural resources;

g) an agricultural, pastoral or forestry property; and

h) **[MODIFIED by paragraph 1 of Article 14 of the MLI]**[1] *a building site or construction, installation or assembly project which exists for more than 6 months*.

3. **[MODIFIED by paragraph 2 of Article 13 of the MLI]** *An enterprise shall not be deemed to have a permanent establishment merely by reason of*:

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

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

c) *the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise; or*

[1] Refer to text box immediately following paragraph 4 of Article 5 of the Agreement.

d) *the maintenance of a fixed place of business solely for the purpose of* purchasing *goods or merchandise, or of collecting information, for the enterprise; or*

e) *the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.*

The following paragraph 2 of Article 13 of the MLI modifies paragraph 3 of Article 5 of this Agreement:

ARTICLE 13 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS
(Option A)

Notwithstanding [*Article 5 of the Agreement*], the term "permanent establishment" shall be deemed not to include:

a) the activities specifically listed in [*paragraph 3 of Article 5 of the Agreement*] as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character;

b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);

c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),

provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

The following paragraph 4 of Article 13 of the MLI applies to paragraph 3 of Article 5 of this Agreement as modified by paragraph 2 of Article 13 of the MLI:

[*Paragraph 3 of Article 5 of the Agreement, as modified by paragraph 2 of Article 13 of the MLI*] shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same [*Contracting State*] and:

a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of [*Article 5 of the Agreement*]; or

b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

4. 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) **[MODIFIED by paragraph 1 of Article 14 of the MLI]** *it carries on supervisory activities in that State for more than 6 months in connection with a building site, or a construction, installation or assembly project, which is being undertaken in that State; or*

b) it performs services, including consultancy or managerial services, in that Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where such activities continue in that State for the same project or a connected project for a period or periods aggregating more than 183 days within any 12 month period; or

c) substantial equipment is being used in that State by, for or under contract with the enterprise.

The following paragraph 1 of Article 14 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 14 OF THE MLI – SPLITTING-UP OF CONTRACTS

For the sole purpose of determining whether the [*6 month period*] referred to in [*subparagraph h) of paragraph 2 or subparagraph a) of paragraph 4 of Article 5 of the Agreement*] has been exceeded:

a) where an enterprise of a [*Contracting State*] carries on activities in the other [*Contracting State*] at a place that constitutes [*a building site or construction, installation or assembly project*] or carries on [*supervisory activities*] in connection with such a place, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding [*6 months*]; and

b) where connected activities are carried on in that other [*Contracting State*] at (or, [*in the case of subparagraph a) of paragraph 4 of Article 5 of the Agreement*], in connection with) the same [*building site or construction, installation or assembly project*] during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

these different periods of time shall be added to the aggregate period of time during which the first-mentioned enterprise has carried on activities [*at (or, in the case of subparagraph a) of paragraph 4 of Article 5 of the Agreement, in connection with) that building site or construction, installation or assembly project*].

5. A person acting in a Contracting State for an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 6 applies - shall be deemed to be a permanent establishment of that enterprise in the firstmentioned State if:

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

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

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a person who is a broker, general commission agent or any other agent

of an independent status and is acting in the ordinary course of the person's business as such a broker or agent.

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

The following paragraph 1 of Article 15 of the MLI applies to provisions of this Agreement:

ARTICLE 15 OF THE MLI – DEFINITION OF A PERSON CLOSELY RELATED TO AN ENTERPRISE

For the purposes of the provisions of [*Article 5 of the Agreement*], a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

Article 6

INCOME FROM REAL (IMMOVABLE) PROPERTY

1. Income from real property may be taxed in the Contracting State in which the real property is situated.

2. In this Article, the term "real property", in relation to a Contracting State, has the meaning which it has under the law of that State and includes:

a) a lease of land and any other interest in or over land, whether improved or not, including a right to explore for mineral, oil or gas deposits or other natural resources, and a right to mine those deposits or resources; and

b) a right to receive variable or fixed payments either as consideration for or in respect of the exploitation of, or the right to explore for or exploit, mineral, oil or gas deposits, quarries or other places of extraction or exploitation of natural resources.

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

4. The provisions of paragraph 1 and paragraph 3 shall also apply to income from real property of an enterprise and to income from real property used for the performance of independent personal services.

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated in that other State. If the enterprise carries on business in that

manner, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:

a) that permanent establishment; or

b) sales within that other Contracting State of goods or merchandise of a similar kind as sold, or other business activities carried on in that other State of the same or similar kind as those carried on, through that permanent establishment, if it may reasonably be concluded that those sales or business activities would not have been made or carried on but for the existence of that permanent establishment or the continued provision by it of goods or services.

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

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

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

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

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

7. Nothing in this Article shall affect the operation of any law of a Contracting State relating to tax imposed on profits derived by an enterprise of the other Contracting State from insurance or reinsurance provided that if the relevant law in force in either Contracting State at the date of signature of this Agreement is varied (otherwise than in minor respects so as not to affect its general character) the Contracting States shall consult with each other with a view to agreeing to any amendment of this paragraph that may be appropriate.

8. Where:

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

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

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

Article 8

SHIPS AND AIRCRAFT

1. Profits of an enterprise of a Contracting State derived from the operation of ships or aircraft are taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, such profits may be taxed in the other Contracting State to the extent that they are profits derived directly or indirectly from ship or aircraft operations confined solely to places in that other State.

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

4. Interest earned on funds held in one of the Contracting States by a resident of the other Contracting State in connection with the operation of ships or aircraft, other than operations confined solely to places in the firstmentioned State, and any other income incidental to such operation, shall be treated as profits from the operation of ships or aircraft.

5. For the purposes of this Article, profits derived from the carriage by ships or aircraft of passengers, livestock, mail, goods or merchandise which are shipped in a Contracting State and are discharged at a place in that State shall be treated as profits from ship or aircraft operations confined solely to places in that State.

Article 9

ASSOCIATED ENTERPRISES

1. Where:

   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

   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,

and in either case conditions operate between the two enterprises in their commercial or financial relations which differ from those which might reasonably be expected to operate between independent enterprises dealing wholly independently with one another, then any profits which, but for those conditions, might reasonably have been 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.

2. Nothing in this Article shall affect the application of any law of a Contracting State relating to the determination of the tax liability of a person, including determinations in cases where the information available to the competent authority of that State is inadequate to determine the profits which might reasonably be expected to accrue to an enterprise, provided that that law shall be applied, so far as it is practicable to do so, consistently with the principles of this Article.

3. Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included, by virtue of the provisions of paragraph 1 or 2, in the profits of an enterprise of the other Contracting State and charged to tax in that other State, and the profits so included are profits which might reasonably have been expected to have accrued to that enterprise of the other State if the conditions operative between the enterprises had been those which might reasonably have been expected to have operated between independent enterprises dealing wholly independently with one another, then the firstmentioned State shall make an appropriate adjustment to the amount of tax charged on those profits in the firstmentioned State. In determining such an adjustment, due regard shall be had to the other provisions of this Agreement and for this purpose the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

DIVIDENDS

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

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

a) in Australia:

(i) **[MODIFIED by paragraph 1 of Article 8 of the MLI]***10 per cent of the gross amount of the dividends to the extent to which the dividends have been "franked" in accordance with Australia's law relating to tax, if the dividends are paid to a person which holds directly at least 10 per cent of the voting power of the company paying the dividends; and*

(ii) 15 per cent of the gross amount of the dividends in all other cases; and

b) in Argentina:

(i) **[MODIFIED by paragraph 1 of Article 8 of the MLI]***10 per cent of the gross amount of the dividends if the dividends are paid to a person which holds directly at least 25 per cent of the capital of the company paying the dividends; and*

(ii) 15 per cent of the gross amount of the dividends in all other cases;

provided that if the relevant law in either Contracting State at the date of signature of this Agreement is varied, otherwise than in minor respects so as to not affect its general character, the Contracting States shall consult each other with a view to facilitating any amendment of this paragraph as may be appropriate.

The following paragraph 1 of Article 8 of the MLI applies to subparagraph a)(i) of paragraph 2 of Article 10 and subparagraph b)(i) of paragraph 2 of Article 10 of this Agreement:

ARTICLE 8 OF THE MLI – DIVIDEND TRANSFER TRANSACTIONS

[*Subparagraph a)(i) of paragraph 2 of Article 10 and subparagraph b)(i) of paragraph 2 of Article 10 of the Agreement*] shall apply only if the ownership conditions described in those provisions are met throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of

ownership that would directly result from a corporate reorganisation, such as merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).

3. The term "dividends" in this Article means income from shares, as well as other amounts which are subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident for the purposes of its tax.

4. The provisions of paragraph 2 shall not apply if the person beneficially entitled to the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated in that other State, or performs in that other State independent personal services from a fixed base situated in that other State, and the holding in respect of which the dividends are paid is effectively connected with that permanent establishment or fixed base. In that case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company - being dividends to which a person who is not a resident of the other Contracting State is beneficially entitled - except insofar as the holding in respect of which such dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, even if the dividends paid consist wholly or partly of profits or income arising in such other State. This paragraph shall not apply in relation to dividends paid by a company which is a resident of Australia for the purposes of Australian tax and which is also a resident of Argentina for the purposes of Argentine tax.

Article 11

INTEREST

1. Interest arising in a Contracting State, being interest to which a resident of the other Contracting State is beneficially entitled, may be taxed in that other State.

2. However, that interest may also be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 12 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest derived from the investment in a Contracting State of official reserve assets by the government of the other Contracting State, a government monetary institution or a bank performing central banking functions in that other State shall be exempt from tax in the firstmentioned State.

4. The term "interest" in this Article includes interest from government securities or from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, interest from any other form of indebtedness and all other income assimilated to income from money lent by the law, relating to tax, of the Contracting State in which the income arises. However, the term "interest" does not include income dealt with in Article 8 or in Article 10.

5. The provisions of paragraph 2 shall not apply if the person beneficially entitled to the interest, being a resident of a Contracting State, carries on business in the other Contracting State, in which the interest arises, through a permanent establishment situated in that other State, or performs in that other State independent personal services from a fixed base situated in that other State, and the indebtedness in respect of which the interest is paid is effectively connected with that permanent establishment or fixed base. In that case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself or a political subdivision or local authority of that State or a person who is a resident of that State for the purposes of its tax. Where, however, the person paying the interest, whether the person is a resident of a Contracting State or not, has in a Contracting State or outside both Contracting States a permanent establishment or fixed base in connection with which the indebtedness on which the interest is paid was incurred, and that interest is borne by that permanent establishment or fixed base, then the interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the person beneficially entitled to the interest, or between both of them and some other person, the amount of the interest paid, having regard to the indebtedness for which it is paid, exceeds the amount which might reasonably have been expected to have been agreed upon by the payer and the person so entitled in the absence of that relationship, the provisions of this Article shall apply only to the lastmentioned amount. In that case the excess part of the amount of the interest paid shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State, being royalties to which a resident of the other Contracting State is beneficially entitled, may be taxed in that other State.

2. Those royalties may also be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed:

a) 10 per cent of the gross amount of the royalties in the case of payments or credits referred to in:

(i) subparagraph 3(a), provided that this subparagraph 2(a) applies only in relation to copyright of literary, dramatic, musical or other artistic work;

(ii) subparagraphs 3(b)-(d); and

(iii) subparagraph 3(j) that relate to any payment or credit referred to in subparagraphs 2(a)(i) or (ii);

b) 10 per cent of the net amount of the royalties in the case of payments or credits referred to in subparagraph 3(e). For the purposes of this subparagraph 2(b), the net amount of a royalty refers to the amount of payments or credits remaining after the deduction of the expenses directly related to the rendering of the technical assistance and the costs and expenses of any equipment or material supplied by the provider of the assistance and for the specific purpose of rendering such assistance; and

c) 15 per cent of the gross amount of the royalties in all other cases, including all copyright other than that referred to in subparagraph 2(a)(i).

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

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

b) the use of, or the right to use, any industrial or scientific equipment; or

c) the supply of scientific, technical, or industrial, knowledge or information; or

d) the supply of any assistance that is ancillary and subsidiary to, and is furnished as a means of enabling the application or enjoyment of, any such property or right as is mentioned in subparagraph (a), any such equipment as is mentioned in subparagraph (b) or any such knowledge or information as is mentioned in subparagraph (c); or

e) the rendering of any technical assistance not included in subparagraph 3(d); or

f) the reception of, or the right to receive, visual images or sounds, or both, transmitted to the public by:

(i) satellite; or

(ii) cable, optic fibre or similar technology; or

g) the use in connection with television broadcasting or radio broadcasting, or the right to use in connection with television broadcasting or radio broadcasting, visual images or sounds, or both, or other means of reproduction for use in connection with television broadcasting or radio broadcasting, transmitted by:

(i) satellite; or

(ii) cable, optic fibre or similar technology; or

h) the use of, or the right to use:

(i) motion picture films; or

(ii) films or video tapes for use in connection with television; or

(iii) tapes for use in connection with radiobroadcasting; or

i) the use of, or the right to use, any commercial equipment, and the supply of commercial knowledge or information; or

j) total or partial forbearance in respect of the use or supply of any property or right referred to in this paragraph.

4. The provisions of paragraph 2 shall not apply if the person beneficially entitled to the royalties, being a resident of a Contracting State, carries on business in the other Contracting State, in which the royalties arise, through a permanent establishment situated in that other State, or performs in that other State independent personal services from a fixed base situated in that other State, and the property or right in respect of which the royalties are paid or credited is effectively connected with that permanent establishment or fixed base. In that case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself or a political subdivision or local authority of that State or a person who is a resident of that State for the purposes of its tax. Where, however, the person paying the royalties, whether the person is a resident of a Contracting State or not, has in a Contracting State or outside both Contracting States a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and the royalties are borne by the permanent establishment or fixed base, then the royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the person beneficially entitled to the royalties, or between both of them and some other person, the amount of the royalties paid or credited, having regard to what they are paid or credited for, exceeds the amount which might reasonably have been expected to have been agreed upon

by the payer and the person so entitled in the absence of such relationship, the provisions of this Article shall apply only to the lastmentioned amount. In that case the excess part of the amount of the royalties paid or credited shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

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. **[MODIFIED by subparagraph a) of paragraph 1 of Article 9 of the MLI]** *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 or trust or other entity, where the value of the assets of that company, partnership, trust, or other 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.*

The following subparagraph a) of paragraph 1 of Article 9 of the MLI applies to paragraph 2 of Article 13 of this Agreement:

ARTICLE 9 OF THE MLI – CAPITAL GAINS FROM ALIENATION OF SHARES OR INTERESTS OF ENTITIES DERIVING THEIR VALUE PRINCIPALLY FROM IMMOVABLE PROPERTY

[*Paragraph 2 of Article 13 of the Agreement*] shall apply if the relevant value threshold is met at any time during the 365 days preceding the alienation.

3. 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 or pertains to a fixed base available in that other State to a resident of the firstmentioned State for the purpose of performing independent personal services, including income, profits or gains from the alienation of that permanent establishment (alone or with the whole enterprise) or of that fixed base, may be taxed in that other State.

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

5. Nothing in this Agreement affects the application of a law of a Contracting State relating to the taxation of gains of a capital nature derived from the alienation of any property other than that to which any of the preceding paragraphs of this Article apply.

6. In this Article, the term "real property" has the same meaning as it has in Article 6.

7. The situation of real property shall be determined for the purposes of this Article in accordance with paragraph 3 of Article 6.

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State but such income may also be taxed in the other Contracting State if the individual:

a) has a fixed base regularly available in the other Contracting State for the purpose of performing the individual's activities. If such a fixed base is available to the individual, the income may be taxed in the other State but only so much of the income as is attributable to that fixed base; or

b) is present in the other State for a period or periods exceeding in the aggregate 183 days in any 12 month period commencing or ending in the fiscal period or year of income concerned. If the individual is so present only so much of the income as is attributable to the activities performed in the other State may be taxed in that State.

2. The term "professional services" includes services performed in the exercise of independent scientific, literary, artistic, educational or teaching activities as well as in the exercise of the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21**,** salaries, wages and other similar remuneration derived by an individual who is a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived from that exercise may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by an individual who is a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the firstmentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any 12 month period commencing or ending in the fiscal period or year of income concerned, as the case may be; and

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

c) the remuneration is not deductible in determining taxable profits of a permanent establishment or a fixed base which the employer has in that other State.

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

Article 16

DIRECTORS' FEES

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.

Article 17

ENTERTAINERS

1. Notwithstanding the provisions of Articles 14 and 15, income derived by an entertainer who is a resident of a Contracting State (such as theatrical, motion picture, radio or television artistes and musicians and sportspersons) from the entertainer's personal activities as such may be taxed in the Contracting State in which these activities are exercised.

2. Where income in respect of the personal activities of an entertainer as such accrues not to that entertainer but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by an entertainer who is a resident of the other Contracting State if the visit to the firstmentioned State is wholly or mainly supported by public funds of the other Contracting State, its political subdivisions or local authorities. In such a case, the income is taxable only in the Contracting State in which the entertainer is resident.

Article 18

PENSIONS AND ANNUITIES

1. Pensions (including government pensions) and annuities paid to a resident of a Contracting State shall be taxable only in that State.

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

3. Any alimony or other maintenance payment arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the firstmentioned State.

Article 19

GOVERNMENT SERVICE

1. Salaries, wages and other similar remuneration, other than a pension or annuity, paid by a Contracting State or a political subdivision or local authority of that State to any individual in respect of services rendered in the discharge of governmental functions shall be taxable only in that State. However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the recipient is a resident of that other State who:

a) is a citizen of that State; or

b) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of paragraph 1 shall not apply to salaries, wages and other similar remuneration in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or local authority of that State. In that case the provisions of Article 15 or Article 16, as the case may be, shall apply.

Article 20

PROFESSORS AND TEACHERS

1. Where a professor or teacher who is a resident of a Contracting State visits the other Contracting State for a period not exceeding 2 years for the purpose of teaching or carrying out advanced study or research at a university, college, school or other educational institution wholly or mainly supported by public funds in that other State, any remuneration the person receives for such teaching, advanced study or research shall be exempt from tax in that other State to the extent to which that remuneration is, or upon the application of this Article will be, subject to tax in the firstmentioned State.

2. This Article shall not apply to remuneration which a professor or teacher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or specific persons.

Article 21

STUDENTS

Where a student, who is a resident of a Contracting State or who was a resident of that State immediately before visiting the other Contracting State and who is temporarily present in that other State solely for the purpose of the student's education, receives payments from sources outside that other State for the purpose of the student's maintenance or education, those payments shall be exempt from tax in that other State.

Article 22

OTHER INCOME

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

2. However, any such income derived by a resident of a Contracting State from sources in the other Contracting State may also be taxed in that other State.

3. 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 where that income is effectively connected with a permanent establishment or fixed base situated in the other Contracting State. In that case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23

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 and 10 to 19, may be taxed in the other Contracting State shall for the purposes of the law of that other Contracting State relating to its tax be deemed to be income from sources in that other Contracting 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 and 10 to 19, may be taxed in the other Contracting State shall for the purposes of Article 24 and of the law of the firstmentioned Contracting State relating to its tax be deemed to be income from sources in the other Contracting State.

Article 24

METHODS OF ELIMINATION OF DOUBLE TAXATION

1. In Australia:

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), Argentine tax paid under the law of Argentina and in accordance with this Agreement, whether directly or by deduction, in respect of income derived by a person who is a resident of Australia from sources in Argentina shall be allowed as a credit against Australian tax payable in respect of that income.

2. In Argentina:

Where a resident of Argentina derives income which, in accordance with the provisions of this Agreement, may be taxed in Australia, Argentina shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Australia.

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.

3. Where under this Agreement income is relieved from tax in a Contracting State and, under the law in force in the other Contracting State, a person, in respect of that income, is subject to tax by reference to that part of the income which is remitted to or received in that other State and not by reference to its full amount, the relief allowed under this Agreement in the firstmentioned State shall apply only to so much of the income as is remitted to or received in, and is subject to tax in, the other State.

4. For the purposes of paragraph 1, tax payable in Argentina by a company which is a resident of Australia in respect of profits attributable to manufacturing activities or to the exploration for or exploitation of natural resources carried on by it in Argentina shall be deemed to include any amount which would have been payable as Argentine tax for any tax year but for an exemption from, or reduction of, tax granted for that year or any part thereof under specific provisions of Argentine legislation that the Treasurer of Australia and the Minister of Economy and Works and Public Services of Argentina in letters exchanged for this purpose agree should be covered by this paragraph 4. Subject to its terms, such an agreement on applicable provisions shall be valid for as long as those provisions are not modified after the date of that agreement or have been modified only in minor respects so as not to affect their general character. The period for which that agreement is to apply is to be agreed in those letters.

The following paragraph 2 of Article 3 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 3 OF THE MLI – TRANSPARENT ENTITIES

[*Article 24 of the Agreement*] shall not apply to the extent that [*the*] provisions [*of the Agreement*] allow taxation by that other [*Contracting State*] solely because the income is also income derived by a resident of that other [*Contracting State*].

Article 25

MUTUAL AGREEMENT PROCEDURE

1. **[The first sentence of paragraph 1 of Article 25 of this Agreement is REPLACED by the first sentence of paragraph 1 of Article 16 of the MLI]** *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 Agreement, the person may,*

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

The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 25 of this Agreement:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

Where a person considers that the actions of one or both of the [*Contracting States*] result or will result for that person in taxation not in accordance with the provisions of [*the Agreement*], that person may, irrespective of the remedies provided by the domestic law of those [*Contracting States*], present the case to the competent authority of either [*Contracting State*].

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

3. The competent authorities of the Contracting States shall jointly endeavour to resolve any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Agreement.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes to which this Agreement applies insofar as the taxation under those laws is not contrary to this Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes to which this Agreement applies. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

a) to carry out administrative measures at variance with the law or the administrative practice of that or of the other Contracting State; or

b) to supply information which is not obtainable under the law or in the normal course of the administration of that or of the other Contracting State; or

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or to supply information the disclosure of which would be contrary to public policy.

Article 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Agreement:

ARTICLE 7 OF THE MLI –PREVENTION OF TREATY ABUSE

(*Principal purposes test provision)*

Notwithstanding any provisions of [*the Agreement*], a benefit under [*the Agreement*] shall not be granted in respect of an item of income […] if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of [*the Agreement*].

Article 28

ENTRY INTO FORCE

Both Contracting States shall notify each other in writing of the completion of their respective statutory and constitutional procedures required for the entry into force of this Agreement.[2] This Agreement shall enter into force on the date of the last notification[3], and thereupon this Agreement shall have effect:

a) in Australia:

(i) in respect of withholding tax on income that is derived by a nonresident, in relation to income derived on or after 1 January in the calendar year next following that in which the Agreement enters into force;

(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 Agreement enters into force;

(iii) in respect of income, profits or gains from the operation of aircraft to which Article 8 or paragraph 4 of Article 13 of this Agreement applies, in relation to tax on such income, profits or gains of any year of income beginning on or after 27 September 1988;

[2] Notes to this effect were exchanged at Buenos Aires 23-30 December 1999.
[3] The Agreement and Protocol entered into force 30 December 1999.

b) in Argentina:

(i) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following that in which the Agreement enters into force;

(ii) in respect of other Argentine tax, in relation to tax chargeable for any tax year beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force;

(iii) in respect of income, profits or gains from the operation of aircraft to which Article 8 or paragraph 4 of Article 13 of this Agreement applies, in relation to tax on such income, profits or gains of any year of income beginning on or after 27 September 1988.

Article 29

TERMINATION

This Agreement shall continue in effect indefinitely, but either of the Contracting States may, on or before 30 June in any calendar year beginning after the expiration of 5 years from the date of its entry into force, give to the other Contracting State through the diplomatic channel written notice of termination and, in that event, this Agreement shall cease to be effective:

a) in Australia:

(i) in respect of withholding tax on income that is derived by a nonresident, 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 Argentina:

(i) in respect of taxes withheld at source, in relation to amounts 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 Argentine tax, in relation to tax chargeable for any taxable year beginning on or after 1 January in the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Agreement.

DONE at Buenos Aires this 27th day of August, 1999, in duplicate in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF	FOR THE GOVERNMENT OF
AUSTRALIA:	THE ARGENTINE REPUBLIC:
[Signed:]	[Signed:]
MARK VAILE	ANDRES CISNEROS

PROTOCOL

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE ARGENTINE REPUBLIC

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

1. With respect to Article 7:

   a) nothing in the Agreement shall be construed as preventing a Contracting State from imposing on the profits attributable to a permanent establishment in that Contracting State, being a permanent establishment of a company which is a resident of the other Contracting State, a tax in addition to the tax which would be payable on the profits of a company which is a resident of the firstmentioned State, provided that any such additional tax shall not exceed 10 per cent of the amount by which the profits attributable to that permanent establishment for a year of income exceeds the tax payable on those profits to the firstmentioned State.

   b) in relation to paragraph 3:

      (i) it is understood that a Contracting State shall not be required to allow the total deduction of certain expenses where they are limited in some way in the determination of profits under its domestic tax law or to allow the deduction of any expenditure which, by reason of its nature, is not generally allowed as a deduction under its domestic tax law; and

      (ii) no deduction shall be allowed in respect of amounts, if any, paid otherwise than towards reimbursement of actual expenses by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on money lent to the permanent establishment. No deduction shall be allowed, in the determination of the profits of a permanent establishment, in respect of amounts received by the permanent establishment otherwise than towards reimbursement of actual expenses from the head office of the enterprise or any other of its branch offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on money lent to the head office of the enterprise or any of its other branch offices.

   c) in relation to paragraph 4, the export of goods or merchandise purchased by an enterprise shall, notwithstanding the provisions of subparagraph (d) of paragraph 3 of Article 5 of the Agreement, remain subject to the domestic legislation concerning export.

2. With respect to Article 8, and for the avoidance of doubt, it is understood that the operation of ships or aircraft referred to in that Article includes non-transport activities, such as dredging, fishing, and surveying and that such activities conducted in a place or places in a Contracting State are to be treated as ship or aircraft operations confined solely to places in that State.

3. With respect to Article 12:

a) the limitations on the taxation at source provided for under paragraph 2 are, in the case of Argentina, subject to the registration requirements provided for in its domestic law;

b) in the case of Argentina, royalties also includes any payment derived from the transfer of news by an international news agency but if a resident of Australia is beneficially entitled to that payment the tax charged shall not exceed 3 per cent of the gross amount of the payment.

4. With respect to Article 24:

a) in relation to paragraph 4, it is understood that if the Treasurer of Australia does not agree that tax forgone by Argentina under an exemption from or reduction of tax granted under specific provisions of Argentine legislation should be deemed to have been Argentine tax paid for the purposes of paragraph 1, Argentina shall apply the rules provided in Article 21 of the Income Tax Law (Law No. 20628 text approved in 1986 and its subsequent modifications) in force at the date of signature of this Agreement;

b) it is also understood that the period for which tax sparing agreed in an exchange of letters referred to in paragraph 4 is applicable will be 5 years pursuant to the letters and any later years that may be agreed in a further exchange of letters.

5. If, after the date of signature of the Agreement, the Argentine Republic concludes a double tax Agreement with a State that is a member country of the Organisation for Economic Cooperation and Development, and the secondmentioned Agreement:

a) limits the rate of taxation on dividends to which, under the firstmentioned Agreement, a 10 per cent limit applies to a rate that is lower, or specifies a level of participation in the capital of the company lower than 25 per cent, then the Contracting States shall consult each other with a view to agreeing to a rate or level of participation that is lower than that provided for in the firstmentioned Agreement;

b) limits the rate of taxation on interest to which, under the firstmentioned Agreement, a 12 per cent limit applies to a rate that is lower than that provided for in the firstmentioned Agreement, then the rate provided for in the secondmentioned Agreement or 10 per cent (whichever is the greater) shall apply for the purposes of paragraph 2 of Article 11 as from the date of entry into force of the secondmentioned Agreement;

c) limits the rate of taxation on royalties to which, under the firstmentioned Agreement, a 15 per cent limit applies to a rate that is lower than that provided for in the firstmentioned Agreement, then the rate provided for in the secondmentioned Agreement or 10 per cent (whichever is the greater) shall apply for the purposes of paragraph 2(b) of Article 12 as from the date of entry into force of the secondmentioned Agreement.

IN WITNESS WHEREOF the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

DONE at Buenos Aires this 27th day of August, 1999, in duplicate in the English and Spanish languages, both texts being equally authentic.

FOR THE GOVERNMENT OF AUSTRALIA:	FOR THE GOVERNMENT OF THE ARGENTINE REPUBLIC:

[Signed:]
MARK VAILE

[Signed:]
ANDRES CISNEROS