



SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN AUSTRALIA AND THE KINGDOM OF NORWAY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF FISCAL EVASION

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 *Convention between Australia and the Kingdom of Norway for the Avoidance of Double Taxation with respect to Taxes on Income and the Prevention of Fiscal Evasion* signed on 8 August 2006 (the “Convention”) as modified by the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* (the “MLI”) signed by Australia and Norway on 7 June 2017.

This document was prepared in consultation with the competent authority of Norway and represents our shared understanding of the modifications made to the Convention by the MLI.

The document was prepared on the basis of the MLI position of Australia submitted to the Depository upon ratification on 26 September 2018 and of the MLI position of Norway submitted to the Depository upon ratification on 17 July 2019. 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 Convention.

The sole purpose of this document is to facilitate the understanding of the application of the MLI to the Convention and it does not constitute a source of law. The authentic legal texts of the Convention 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 Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. 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 Convention (such as “Covered Tax 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 Convention: 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 Convention or to the Convention must be understood as referring to the Convention 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 the authentic legal text of the MLI).

[Convention between Australia and the Kingdom of Norway for the Avoidance of Double Taxation with respect to Taxes on Income and the Prevention of Fiscal Evasion](#) [2007] ATS 32 (provides, in the case of Australia, the authentic legal text of the Convention signed on 8 August 2006).

[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 Norway submitted to the Depository upon ratification on 17 July 2019).

Entry Into Effect of the MLI Provisions

The provisions of the MLI applicable to the Convention do not take effect on the same dates as the original provisions of the Convention. Each provision 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 Norway in their MLI positions.

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

26 September 2018 for Australia and 17 July 2019 for Norway.

Entry into force of the MLI:

1 January 2019 for Australia and 1 November 2019 for Norway.

In accordance with paragraph 1 of Article 35 of the MLI, the provisions of the MLI have effect with respect to this Convention:

- 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 2020; and
 - b) with respect to all other taxes levied by each Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 May 2020.
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**CONVENTION BETWEEN AUSTRALIA AND THE KINGDOM OF NORWAY FOR THE
AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND
THE PREVENTION OF FISCAL EVASION**

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE KINGDOM OF NORWAY,

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

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 a Convention for the avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion,*

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 Convention:

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

Intending to eliminate double taxation with respect to the taxes covered by [*the Convention*] 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 Convention*] for the indirect benefit of residents of third jurisdictions),

Have agreed as follows:

Article 1

PERSONS COVERED

This Convention 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 Convention:

ARTICLE 3 OF THE MLI – TRANSPARENT ENTITIES

For the purposes of [*the Convention*], 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 Convention:

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

[The Convention] 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, paragraph 3 of Article 17, or Articles 18, 19, 23, 24, 25 or 28] of [the Convention].

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.
4. For the purposes of Articles 26 and 27, the taxes to which this Convention shall apply are:
 - a) in the case of Australia, taxes of every kind and description imposed under the federal tax laws administered by the Commissioner of Taxation; and
 - b) in the case of Norway, taxes of every kind and description.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) 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 any area adjacent to the territorial limits of Australia (including the Territories specified in this subparagraph) in respect of which there is for the time being in force, consistently with international law, a law of Australia dealing with the exploration for or exploitation of any of the natural resources of the seabed and subsoil of the continental shelf;

- b) the term "Norway" means the land territory, internal waters, the territorial sea and the area beyond the territorial sea where the Kingdom of Norway, according to Norwegian legislation and in accordance with international law, may exercise rights with respect to the seabed and subsoil and their natural resources; the terms do not comprise Svalbard, Jan Mayen and the Norwegian dependencies ("biland");
- c) the terms "Contracting State", "one of the Contracting States" and "other Contracting State" shall refer to Australia or Norway, as the context requires;
- d) the term "Australian tax" means tax imposed by Australia, being tax to which this Convention applies by virtue of paragraphs 1 and 2 of Article 2;
- e) the term "Norwegian tax" means tax imposed by Norway or its political subdivisions or local authorities, being tax to which this Convention applies by virtue of paragraphs 1 and 2 of Article 2;
- f) the term "business" includes the performance of professional services and of other activities of an independent character;
- g) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
- h) the term "competent authority" means, in the case of Australia, the Commissioner of Taxation or an authorised representative of the Commissioner and, in the case of Norway, the Minister of Finance or an authorised representative of the Minister;
- i) the term "enterprise" applies to the carrying on of any business;
- j) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- k) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when such transport is solely between places in the other Contracting State;

- l) the term "national", in relation to a Contracting State, means:
 - (i) any individual possessing the nationality or citizenship of that Contracting State; and
 - (ii) any company deriving its status as such from the laws in force in that Contracting State;
- m) the term "person" includes an individual, a company and any other body of persons;
- n) the term "tax" means Australian tax or Norwegian 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;
- o) the term "recognised stock exchange" means:
 - (i) the Australian Stock Exchange and any other Australian stock exchange recognised as such under Australian law;
 - (ii) the Oslo Stock Exchange and any other Norwegian stock exchange recognised as such under Norwegian law; and
 - (iii) any other stock exchange agreed upon by the competent authorities.

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

Article 4

RESIDENCE

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

- a) in the case of Australia, a person who is a resident of Australia for the purposes of Australian tax; and
- b) in the case of Norway, a person who is liable to tax therein by reason of domicile, residence, place of management or any other criterion of a similar nature.

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

2. A person is not a resident of a Contracting State for the purposes of this Convention 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's status shall be determined as follows:

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

- b) if the State in which the centre of vital interests is situated cannot be determined, the individual shall be deemed to be a resident only of the State of which that individual is a national;
- c) if the individual is a national of both States or of neither of them, the competent authorities of the Contracting States shall endeavour to resolve the question by mutual agreement.

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 only of the 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 Convention:

ARTICLE 4 OF THE MLI – DUAL RESIDENT ENTITIES

Where by reason of the provisions of [*the Convention*] 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 Convention*], 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 Convention*].

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

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) **[MODIFIED by paragraph 1 of Article 14 of the MLI]**¹ *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*
- c) *it maintains substantial equipment for rental or other purposes within that other State (excluding equipment let under a hire-purchase agreement) for more than six months; or*
- d) *a person acting in a Contracting State on behalf of an enterprise of the other Contracting State manufactures or processes in the first-mentioned State for the enterprise goods or merchandise belonging to the enterprise.*

4. **[REPLACED by paragraph 1 of Article 14 of the MLI]**

- a) *The duration of activities under subparagraph 3 a) will be determined by aggregating the periods during which activities are carried on in a Contracting State by associated enterprises provided that the activities of the enterprise in that State are substantially the same as the activities carried on in that State by its associate.*
- b) *The period during which two or more associated enterprises are carrying on concurrent activities will be counted only once for the purpose of determining the duration of activities.*
- c) *Under this Article, an enterprise shall be deemed to be associated with another enterprise if:*
 - (i) *one is controlled directly or indirectly by the other; or*
 - (ii) *both are controlled directly or indirectly by the same third person or persons.*

The following paragraph 1 of Article 14 of the MLI replaces paragraph 4 of Article 5 of this Convention:

ARTICLE 14 OF THE MLI – SPLITTING-UP OF CONTRACTS

For the sole purpose of determining whether the period referred to in [subparagraph a) of paragraph 3 of Article 5 of the Convention] 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, construction project, installation project or other specific project identified in [subparagraph a) of paragraph 3 of Article 5 of the Convention] or carries on supervisory or consultancy 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 the period referred to in [subparagraph a) of paragraph 3 of Article 5 of the Convention]; and*
- b) *where connected activities are carried on in that other [Contracting State] at [or in connection with] the same building site, construction project, installation project or other place identified in [subparagraph a) of paragraph*

¹ Refer to text box immediately after paragraph 4 of Article 5 of the Convention.

3 of Article 5 of the Convention] 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 that building site, construction project, installation project or other place identified in [subparagraph a) of paragraph 3 of Article 5 of the Convention].

5. **[MODIFIED by paragraph 2 of Article 13 of the MLI]** *Notwithstanding the preceding provisions of this Article, 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*
- d) *the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for 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 5 of Article 5 of this Convention:

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

Notwithstanding [Article 5 of the Convention], the term “permanent establishment” shall be deemed not to include:

- a) the activities specifically listed in [paragraph 5 of Article 5 of the Convention] 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 5 of Article 5 of this Convention as modified by paragraph 2 of Article 13 of the MLI:

[Paragraph 5 of Article 5 of the Convention, 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 Convention*]; 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.

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

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

8. 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.

9. The principles set forth in the preceding paragraphs of this Article shall be applied in determining for the purposes of this Convention whether there is a permanent establishment in a State other than one of the Contracting States and whether an enterprise other than an enterprise of one of the Contracting States has a permanent establishment in one of the Contracting States.

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

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 Convention*], 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 PROPERTY

1. Income derived by a resident of a Contracting State from real property may be taxed in the Contracting State in which the real property is situated.
2. The term "real property":
 - a) in the case of Australia, has the meaning which it has under the laws of Australia, and shall also include:
 - (i) 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
 - (ii) 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.
 - b) in the case of Norway, means immovable property according to the laws of Norway, and shall also include:
 - (i) property accessory to immovable property;
 - (ii) rights to which the provisions of the general law respecting landed property apply;
 - (iii) usufruct of immovable property; and
 - (iv) a right to receive variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, oil or gas wells, quarries or other places of extraction or exploitation of natural resources.

Ships and aircraft shall not be regarded as real property.

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 shall apply to income derived from the direct use, letting, or use in any other form of real property.
5. The provisions of paragraphs 1, 3, and 4 shall also apply to income from real property of an enterprise.

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 therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
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 therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might 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. 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.

5. 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.

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

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

8. Nothing in this Article shall affect the operation of any law of a Contracting State relating to tax imposed on profits from insurance with non-residents provided that if the relevant law in force in either Contracting State at the date of signature of this Convention 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.

9. 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

SHIPPING AND AIR TRANSPORT

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

2. Notwithstanding the provisions of paragraph 1, profits of an enterprise of a Contracting State derived from the operation of ships or aircraft 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 provisions of paragraphs 1 and 2 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.

4. 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.

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

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 be expected to operate between independent enterprises dealing wholly independently with one another, then any profits which, but for those conditions, might 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 accruing 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 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 have been expected to have operated between independent enterprises dealing wholly independently with one another, then the first-mentioned State shall make an appropriate adjustment to the amount of tax charged on those profits in the first-mentioned State, if that State considers the adjustment justified. In determining such an adjustment, due regard shall be had to the other provisions of this Convention 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 beneficially owned by a resident of the other Contracting State, 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) **[MODIFIED by paragraph 1 of Article 8 of the MLI]** 5 per cent of the gross amount of the dividends, if the beneficial owner of those dividends is a company (other than a partnership) which holds directly at least 10 per cent of the voting power in the company paying the dividends; and
- b) 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 Convention is varied otherwise than in minor respects so as not to affect its general character, the Contracting States shall consult each other with a view to agreeing to any amendment of this paragraph that may be appropriate.

The following paragraph 1 of Article 8 of the MLI applies to subparagraph a) of paragraph 2 of Article 10 of this Convention:

ARTICLE 8 OF THE MLI – DIVIDEND TRANSFER TRANSACTIONS

[Subparagraph a) of paragraph 2 of Article 10 of the Convention] shall apply only if the ownership conditions described in *[that provision]* 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 a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).

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

- a) has its principal class of shares listed on a recognised stock exchange specified in subparagraph (i) or (ii) of subparagraph o) of paragraph 1 of Article 3 and is regularly traded on one or more recognised stock exchanges;
- b) is owned directly or indirectly by one or more companies whose principal class of shares is listed on a recognised stock exchange specified in subparagraph (i) or (ii) of subparagraph o) of paragraph 1 of Article 3 and is regularly traded on one or more recognised stock exchanges; or
- c) does not meet the requirements of subparagraphs a) or b) of this paragraph but the competent authority of the first-mentioned Contracting State determines, in accordance with the law of that State, that the establishment, acquisition or maintenance of the company that is the beneficial owner of the dividends and the conduct of its operations did not have as one of its principal purposes the obtaining of benefits under this Convention. The competent authority of the first-mentioned Contracting State shall consult the competent

authority of the other Contracting State before refusing to grant benefits of this Convention under this subparagraph.

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

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of 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 therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.

6. 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 beneficially owned by a person who is not a resident of the other Contracting State—except insofar as the holding in respect of which such dividends are paid is effectively connected with a permanent establishment 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 any company which is a resident of Australia for the purposes of Australian tax and which is also a resident of Norway for the purposes of Norwegian tax.

7. **[REPLACED by paragraph 1 of Article 7 of the MLI]**² *No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.*

Article 11

INTEREST

1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State 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 10 per cent of the gross amount of the interest.

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

- a) the interest is derived from the investment of official reserve assets by the government of a Contracting State, its monetary institutions or a bank performing central banking functions in that State; or
- b) the interest is derived by a financial institution which is unrelated to and dealing wholly independently with the payer. For the purposes of this Article, the term "financial institution" means a bank or other enterprise substantially deriving its profits by raising debt finance in the financial markets or by taking deposits at interest and using those funds in carrying on a business of providing finance.

² Refer to text box immediately after Article 28 of the Convention.

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

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

6. The provisions of paragraphs 1 and 2, subparagraph b) of paragraph 3 and paragraph 4 of this Article shall not apply if the beneficial owner of 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 therein, and the indebtedness in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

8. Where, by reason of a special relationship between the payer and the beneficial owner of 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 have been expected to have been agreed upon by the payer and the beneficial owner in the absence of that relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

9. **[REPLACED by paragraph 1 of Article 7 of the MLI]**³ *No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the indebtedness in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.*

Article 12

ROYALTIES

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

2. However, 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 5 per cent of the gross amount of the royalties.

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, trademark or other like property or right; or

³ Refer to text box immediately after Article 28 of the Convention.

- b) the supply of scientific, technical, industrial or commercial knowledge or information; or
- c) 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) or any such knowledge or information as is mentioned in subparagraph b); or
- d) the use of, or the right to use:
 - (i) motion picture films; or
 - (ii) films or audio or video tapes or disks, or any other means of image or sound reproduction or transmission for use in connection with television, radio or other broadcasting; or
- e) the use of, or the right to use, some or all of the part of the radiofrequency spectrum specified in a spectrum licence; or
- f) 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 paragraphs 1 and 2 shall not apply if the beneficial owner of 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 therein, and the right or property in respect of which the royalties are paid or credited is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer 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 in connection with which the liability to pay the royalties was incurred, and the royalties are borne by the permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner of 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 have been expected to have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the amount of the payments or credits shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

7. **[REPLACED by paragraph 1 of Article 7 of the MLI]**⁴ *No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of rights in respect of which the royalties are paid or credited to take advantage of this Article by means of that creation or assignment.*

Article 13

ALIENATION OF PROPERTY

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

⁴ Refer to text box immediately after Article 28 of the Convention.

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 comparable interests deriving more than 50 per cent of their value directly or indirectly from real property situated in the other Contracting State, may be taxed in that other State.
5. Gains of a capital nature from the alienation of any property, other than that referred to in the preceding paragraphs shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, 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 therefrom 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 first-mentioned 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 twelve month period commencing or ending in the year of income of that other State; and
 - b) the remuneration is paid by, or on behalf of, an employer who is a resident of the first-mentioned State; and
 - c) the remuneration is not borne by a permanent establishment 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 may be taxed in the Contracting State of which the enterprise operating the ship or aircraft is a resident. However, where such remuneration is derived in respect of an employment exercised aboard a ship registered in the Norwegian International Ships' register (NIS), the remuneration shall be taxable only in the Contracting State where the recipient is a resident.
4. Where a resident of a Contracting State derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in that State.

Article 15

DIRECTORS' FEES

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

Article 16

ENTERTAINERS AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from that person's personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in that person's capacity as such accrues not to that person but to another person, 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 sportsperson are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportspersons if the visit to that State is wholly or mainly supported by public funds of the other Contracting State or a political subdivision or local authority of that State. In such a case, the income is taxable only in the Contracting State of which the entertainer or sportsperson is a resident.

Article 17

PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 18, 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 first-mentioned State.

Article 18

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 an individual in respect of services rendered to that State or subdivision or authority 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 individual is a resident of that other State who:
 - a) is a national of that State; or
 - b) did not become a resident of that State solely for the purpose of rendering the services.

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

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

Article 19

STUDENTS

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

Article 20

OFFSHORE ACTIVITIES

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

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

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

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

4. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the seabed or subsoil or their natural resources situated in the other Contracting State may, to

the extent that the employment is exercised offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is exercised offshore for an employer who is not a resident of the other State and provided that the employment is carried on for a period or periods not exceeding in the aggregate 30 days in any twelve month period commencing or ending in the year of income of that other State.

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.

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.

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

ARTICLE 3 OF THE MLI – TRANSPARENT ENTITIES

[Article 23 of the Convention] shall not apply to the extent that [the] provisions [of the Convention] allow taxation by that other [Contracting State] solely because the income is also income derived by a resident of that other [Contracting State].

Article 24

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities in similar circumstances.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State in similar circumstances are or may be subjected.
5. Nothing contained in this Article shall be construed as obliging a Contracting State to grant to individuals who are residents of the other Contracting State any of the personal allowances, reliefs and reductions for tax purposes which are granted to its own resident individuals.
6. This Article shall not apply to any provision of the law of a Contracting State which:
 - a) is designed to prevent the avoidance or evasion of taxes; or
 - b) does not permit the deferral of tax arising on the transfer of an asset where the subsequent transfer of the asset by the transferee would be beyond the taxing jurisdiction of the Contracting State under its laws; or

- c) provides for consolidation of group entities for treatment as a single entity for tax purposes provided that a company, being a resident of that State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, may access such consolidation treatment on the same terms and conditions as other companies that are residents of the first-mentioned State; or
- d) does not allow tax rebates or credits in relation to dividends paid by a company that is a resident of that State for purposes of its tax; or
- e) provides deductions to eligible taxpayers for expenditure on research and development; or
- f) is otherwise agreed to be unaffected by this Article in an Exchange of Notes between the Contracting States.

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

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

Article 25

MUTUAL AGREEMENT PROCEDURE

1. **[The first sentence of paragraph 1 of Article 25 of this Convention 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 Convention, the person may, irrespective of the remedies provided by the domestic law of those States concerning taxes to which this Convention applies, present a case to the competent authority of the Contracting State of which the person is a resident or, if the case comes under paragraph 1 of Article 24, to that of the Contracting State of which the person is a national. The case must be presented within 3 years from the first notification of the action resulting in taxation not in accordance with this Convention.*

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 Convention:

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 Convention], 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 by mutual agreement with the competent authority of the other Contracting State, with a view to the

avoidance of taxation which is not in accordance with this Convention. 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 endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

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

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

Article 26

EXCHANGE OF INFORMATION

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

2. Any information received under paragraph 1 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, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.

3. In no case shall the provisions of paragraphs 1 and 2 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 supply information which is not obtainable by the competent authority under the laws 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 information, the disclosure of which would be contrary to public policy (*ordre public*).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of

paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

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

Article 27

ASSISTANCE IN THE COLLECTION OF TAXES

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 Article⁵ means an amount owed in respect of taxes referred to in 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 in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

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

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

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the

⁵ **CCH Note:** Article 27 entered into force on 1 July 2011 (*Commonwealth of Australia Gazette, No GN 27, 13 July 2011, 1796*).

relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be:

- a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned State that 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; or
- b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection,

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

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.

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

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE

(Principal purposes test provision)

Notwithstanding any provisions of [*the Convention*], a benefit under [*the Convention*] 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 Convention*].

Article 29

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing through the diplomatic channel of the completion of their domestic requirements for the entry into force of this Convention.
2. This Convention shall enter into force on the date of the last notification, and thereupon the Convention shall have effect:
 - 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 the date on which the Convention 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 the date on which the Convention enters into force;
 - b) in the case of Norway, in respect of taxes on income relating to the calendar year (including accounting periods beginning in any such year) next following that in which the Convention enters into force and subsequent years;
 - c) for purposes of Article 26, from the date of entry into force of this Convention; and
 - d) for purposes of Article 27, from a date to be agreed in an exchange of notes through the diplomatic channel.⁶
3. The Convention between Australia and the Kingdom of Norway for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed at Canberra on 6 May 1982, shall be terminated and shall cease to have effect from the dates on which this Convention becomes effective in accordance with paragraph 2 of this Article.

Article 30

TERMINATION

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

⁶ **CCH Note:** Article 27 entered into force on 1 July 2011 (*Commonwealth of Australia Gazette, No GN 27, 13 July 2011, 1796*).

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

H.E. LARS ALBERT WENSELL
AMBASSADOR