



SYNTHESISED TEXT OF THE MLI AND THE AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF FISCAL EVASION, 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 Finland for the Avoidance of Double Taxation with respect to Taxes on Income and the Prevention of Fiscal Evasion, and Protocol*, signed on 20 November 2006 (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 and Finland on 7 June 2017.

This document was prepared in consultation with the competent authority of Finland and represents our shared 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 consolidated MLI position of Finland submitted to the Depositary on 27 June 2023. 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”, “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 the authentic legal text of the MLI).

[Agreement between the Government of Australia and the Government of Finland for the Avoidance of Double Taxation with respect to Taxes on Income and the Prevention of Fiscal Evasion, and Protocol](#) [2007] 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, the MLI position of Finland submitted to the Depository upon acceptance on 25 February 2019 and the consolidated MLI position of Finland submitted to the Depository on 27 June 2023).

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 Finland in their MLI positions.

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

26 September 2018 for Australia and 25 February 2019 for Finland.

Entry into force of the MLI:

1 January 2019 for Australia and 1 June 2019 for Finland.

In accordance with paragraph 1 of Article 35 of the MLI, the provisions of the MLI (other than Part VI Arbitration and subparagraph a) of paragraph 1 of Article 9) 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 2020;
- b) with respect to all other taxes levied by Australia, for taxes levied with respect to taxable periods beginning on or after 1 December 2019; and
- c) with respect to all other taxes levied by Finland, for taxes levied with respect to taxable periods beginning on or after 1 January 2020.

Date of notification of withdrawal of the reservation made under subparagraph a) of paragraph 6) of Article 9 of the MLI:

27 June 2023 for Finland.

In accordance with paragraph 9 of Article 28 and paragraph 6 of Article 29 of the MLI, subparagraph a) of paragraph 1 of Article 9 of the MLI has effect with respect to the application of this Agreement for taxes levied with respect to taxable periods beginning on or after 1 January 2024.

In accordance with paragraph 1 of Article 36 of the MLI, the provisions of Part VI (Arbitration) of the MLI shall have effect with respect to this Agreement:

- a) with respect to cases presented to the competent authority of a Contracting State (as described in subparagraph a) of paragraph 1 of Article 19 (Mandatory Binding Arbitration) of the MLI), on or after 1 June 2019; and
- b) with respect to cases presented to the competent authority of a Contracting State prior to 1 June 2019, on the date when both Contracting States have notified the Depository that they have reached mutual agreement pursuant

to paragraph 10 of Article 19 of the MLI, along with information regarding the date or dates on which such cases shall be considered to have been presented to the competent authority of a Contracting State (as described in subparagraph a) of paragraph 1 of Article 19 of the MLI) according to the terms of that mutual agreement.

**AGREEMENT BETWEEN THE GOVERNMENT OF AUSTRALIA AND THE
GOVERNMENT OF FINLAND 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 FINLAND,

[REPLACED by paragraph 1 of Article 6 of the MLI] *Desiring to conclude an Agreement 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 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:

**CHAPTER I
SCOPE OF THE AGREEMENT**

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

1. The existing taxes to which this Agreement shall apply are:
 - a) in the case of Australia:

the income tax, including 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 Finland:
 - (i) the state income taxes;
 - (ii) the corporate income tax;
 - (iii) the communal tax;
 - (iv) the church tax;
 - (v) the tax withheld at source from interest; and
 - (vi) the tax withheld at source from non-residents' income.

2. The Agreement shall apply also to any identical or substantially similar taxes that are imposed under the federal law of Australia or the law of Finland after the date of signature of the Agreement 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 the Agreement applies within a reasonable period of time after those changes.

3. For the purposes of Article 23, the taxes to which this Agreement 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 25 and 26, the taxes to which this Agreement 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 Finland, taxes of every kind and description.

CHAPTER II DEFINITIONS

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, 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 "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland, and any area adjacent to the territorial waters of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration for and exploitation of the natural resources of the sea bed and its subsoil and of the superjacent waters may be exercised;
- c) the term "person" includes an individual, a company and any other body of persons;
- d) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;

- e) 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;
- f) the term "tax" means Australian tax or Finnish 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;
- g) the term "Australian tax" means tax imposed by Australia, being tax to which this Agreement applies by virtue of Article 2;
- h) the term "Finnish tax" means tax imposed by Finland or its local authorities, being tax to which this Agreement applies by virtue of Article 2;
- i) 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 Finland, the Ministry of Finance or a representative authorised by the Ministry of Finance;
- j) the term "business" includes the performance of professional services and of other activities of an independent character;
- k) the term "enterprise" applies to the carrying on of any business;
- l) 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 between places in the other Contracting State;
- m) 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;
- n) 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 Helsinki Stock Exchange and any other Finnish stock exchange recognised as such under Finnish law; and
 - (iii) any other stock exchange agreed upon by the competent authorities.

2. As regards the application of the Agreement 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 Agreement 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 Agreement, 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 Finland, a person who is liable under the laws of Finland to tax therein by reason of the person's domicile, residence, place of management, place of incorporation (registration) or any other criterion of a similar nature.

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

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'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. Where an item of income, profits or gains derived by an individual is exempt from tax in a Contracting State by reason only of the status of that individual as a temporary resident under the applicable tax laws of that State, no relief shall be available under this Agreement in the other Contracting State in respect of that item of income, profits or gains.

5. 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 it is incorporated (registered).

Article 5
PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, 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 situated in Australia.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 6 months.

4. Notwithstanding the provisions of paragraphs 1, 2 and 3, where an enterprise of a Contracting State:

- a) carries on supervisory or consultancy activities in the other State for a period or periods exceeding in the aggregate 183 days in any 12 month period in connection with a building site or construction or installation project which is being undertaken in that other State;
- b) carries on activities (including the operation of substantial equipment) in the other State in the exploration for or exploitation of natural resources situated in that other State for a period or periods exceeding in the aggregate 90 days in any 12 month period; or
- c) operates substantial equipment in the other State (other than as provided in subparagraph b)) for a period or periods exceeding in the aggregate 183 days in any 12 month period,

such activities shall be deemed to be performed through a permanent establishment that the enterprise has in that other State, unless the activities are limited to those mentioned in paragraph 6 and are, in relation to the enterprise, of a preparatory or auxiliary character.

5.

- a) The duration of activities under paragraphs 3 and 4 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 connected with 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 person or persons.

6. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

- 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;
- 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;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e) of this paragraph,

provided that such activities are, in relation to the enterprise, of a preparatory or auxiliary character.

7. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 8 applies – is acting on behalf of an enterprise and:

- a) has, and habitually exercises, in a Contracting State an authority to substantially negotiate or conclude contracts on behalf of the enterprise; or
- b) manufactures or processes in a Contracting State for the enterprise goods or merchandise belonging to 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 6 and are, in relation to the enterprise, of a preparatory or auxiliary character.

8. 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.

9. 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.

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

CHAPTER III

TAXATION OF INCOME

Article 6

INCOME FROM REAL PROPERTY

1. Income derived by a resident of a Contracting State from real property, including income from an agricultural, pastoral or forestry property situated in Finland, may be taxed in the Contracting State in which the real property is situated.

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

- a) in the case of Australia, has the meaning which it has under the law of Australia, and includes:

- (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; and
- b) in the case of Finland, means such property which, according to the laws of Finland, is immovable property and shall in any case include buildings, property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other 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. Where the ownership of shares or other rights in a company, trust or comparable institution entitle a person to the enjoyment of real property held by or on behalf of that company, trust or comparable institution, income derived from the direct use, letting or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the real property is situated.

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

7. The provisions of paragraph 5 shall also apply to income of an enterprise derived from the direct use, letting or use in any other form of a right of enjoyment referred to in that paragraph.

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

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.

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 therein on those profits, where that first-mentioned State considers the adjustment justified. In determining such an adjustment, due regard shall be had to the other provisions of this Agreement and 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) 5 per cent of the gross amount of the dividends if the beneficial owner of those dividends is a company which holds directly at least 10 per cent of the voting power in the company paying the dividends;
- 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 Agreement 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.

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 for the purposes of its tax 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 12 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 n) 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 n) of paragraph 1 of Article 3 and is regularly traded on one or more recognised stock exchanges;
- 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 the Agreement. 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 the Agreement 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, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits 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 Finland for the purposes of Finnish tax.

7. **[REPLACED by paragraph 1 of Article 7 of the MLI]**¹ *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 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, such 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 shall be taxable only in that other Contracting State if:
 - a) the interest is derived by a Contracting State or by a political or administrative sub-division or a local authority thereof, or by any other body exercising governmental functions in a Contracting State, or by a bank performing central banking functions in a Contracting 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.
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 and whether or not carrying a right to participate in profits, 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

¹ Refer to text box immediately following Article 27 of the Agreement.

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 such 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 Agreement.

9. **[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 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;
- b) the supply of scientific, technical, industrial or commercial knowledge or information;
- 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);
- d) the use of, or the right to use:
 - (i) motion picture films;
 - (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;
- e) the use of, or the right to use, some or all of the part of the radiofrequency spectrum specified in a spectrum licence, being spectrum of a Contracting State where the payment or credit arises; 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

² Refer to text box immediately following Article 27 of the Agreement.

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 Agreement.

7. **[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 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 paragraph 2 of Article 6 and situated in the other Contracting State may be taxed in that other State.

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

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

4. **[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 comparable interests in an entity, where more than half of the value of the assets of that entity, whether they are held directly or indirectly, is attributable to real property situated in the other State, may be taxed in that other State.*

The following subparagraph a) of paragraph 1 of Article 9 of the MLI applies to paragraph 4 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

³ Refer to text box immediately following Article 27 of the Agreement.

[*Paragraph 4 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.

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 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 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 12 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 not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment which the employer has in the 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.

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 any other 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.

Article 17

PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 3, any pension or annuity 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. Pensions paid by a Contracting State or a political subdivision, local authority or statutory authority thereof to any individual in respect of services rendered to that State or subdivision or authority and pensions paid and other payments made under the social security legislation of a Contracting State may be taxed in that State. The provisions of this paragraph shall apply only to individuals who are citizens or nationals of the Contracting State from which the payments are made.
4. 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.
 - a) Salaries, wages and other similar remuneration, other than a pension or annuity, paid by a Contracting State or a political subdivision, local authority or statutory authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. The provisions of Articles 14, 15 and 16 shall apply to salaries, wages and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision, local authority or statutory authority thereof.

Article 19

STUDENTS

Payments which a student or business apprentice 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 their education or training receives for the purpose of their maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 20

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. 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 the Agreement from sources in the other Contracting State may also be taxed in the other Contracting State.

Article 21

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 or 10 to 18, 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 arise 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 or 10 to 18, may be taxed in the other Contracting State shall for the purposes of Article 22 and of the law of the first-mentioned Contracting State relating to its tax be deemed to arise from sources in the other Contracting State.

CHAPTER IV

RELIEF FROM DOUBLE TAXATION

Article 22

RELIEF FROM 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), Finnish tax paid under the law of Finland 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 Finland shall be allowed as a credit against Australian tax payable in respect of that income.
2. Subject to the provisions of Finnish law regarding the elimination of international double taxation (which shall not affect the general principle hereof), double taxation shall be eliminated in Finland as follows:
 - a) where a resident of Finland derives income which, in accordance with the provisions of this Agreement, may be taxed in Australia, Finland shall, subject to the provisions of subparagraph b), allow as a deduction from the Finnish tax of that person, an amount equal to the Australian tax paid under Australian law and in accordance with the Agreement, as computed by reference to the same income by reference to which the Finnish tax is computed;
 - b) dividends paid by a company being a resident of Australia to a company which is a resident of Finland and which controls directly at least 10 per cent of the voting power in the company paying the dividends shall be exempt from Finnish tax;

- c) where in accordance with any provision of this Agreement any income derived by a resident of Finland is exempt from tax in Finland, Finland may nevertheless, in calculating the amount of tax on any other income of such resident, take into account the exempted income.

CHAPTER V
SPECIAL PROVISIONS

Article 23

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. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
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. This provision shall not 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 residents.
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. This Article shall not apply to any provision of the laws of a Contracting State which:
 - a) is designed to prevent the avoidance or evasion of taxes;
 - 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;
 - 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;
 - 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;
 - 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.
6. In this Article, provisions of the laws 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.
7. The provisions of this Article shall apply to the taxes which are referred to in paragraph 3 of Article 2 of this Agreement.

Article 24

MUTUAL AGREEMENT PROCEDURE

1. **[The first sentence of paragraph 1 of Article 24 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 the Agreement 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 23, 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 the Agreement.*

The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 24 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 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 the Agreement. Any agreement 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 the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

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 Agreement 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.

The following Part VI of the MLI applies to this Agreement:

PART VI OF THE MLI - ARBITRATION

Article 19 (Mandatory Binding Arbitration) of the MLI

1. Where:

- a) under [paragraph 1 of Article 24 of the Agreement], a person has presented a case to the competent authority of a [Contracting State] on the basis that the actions of one or both of the [Contracting States] have resulted for that person in taxation not in accordance with the provisions of [the Agreement]; and
- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to [paragraph 2 of Article 24 of the Agreement], within a period of two years beginning on the start date referred to in paragraph 8 or 9 of [Article 19 of the MLI], as the case may be (unless, prior to the expiration of that period the competent authorities of the [Contracting States] have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in this Part, according to any rules or procedures agreed upon by the competent authorities of the [Contracting States] pursuant to the provisions [of paragraph 10 of Article 19 of the MLI].

2. Where a competent authority has suspended the mutual agreement procedure referred to in paragraph 1 [of Article 19 of the MLI] because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in subparagraph b) of paragraph 1 [of Article 19 of the MLI] will stop running until either a final decision has been rendered by the court or administrative tribunal or the case has been suspended or withdrawn. In addition, where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in subparagraph b) of paragraph 1 [of Article 19 of the MLI] will stop running until the suspension has been lifted.

3. Where both competent authorities agree that a person directly affected by the case has failed to provide in a timely manner any additional material information requested by either competent authority after the start of the period provided in subparagraph b) of paragraph 1 [of Article 19 of the MLI], the period provided in subparagraph b) of paragraph 1 [of Article 19 of the MLI] shall be extended for an amount of time equal to the period beginning on the date by which the information was requested and ending on the date on which that information was provided.

4. a) The arbitration decision with respect to the issues submitted to arbitration shall

be implemented through the mutual agreement concerning the case referred to in paragraph 1 [of Article 19 of the MLI]. The arbitration decision shall be final.

- b) The arbitration decision shall be binding on both [Contracting States] except in the following cases:
- i. if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.
 - ii. if a final decision of the courts of one of the [Contracting States] holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 [of Article 19 of the MLI] shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings) [of the MLI]). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.
 - iii. if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal

5. The competent authority that received the initial request for a mutual agreement procedure as described in subparagraph a) of paragraph 1 [of Article 19 of the MLI] shall, within two calendar months of receiving the request:

- a) send a notification to the person who presented the case that it has received the request; and
- b) send a notification of that request, along with a copy of the request, to the competent authority of the other [Contracting State].

6. Within three calendar months after a competent authority receives the request for a mutual agreement procedure (or a copy thereof from the competent authority of the other [Contracting State]) it shall either:

- a) notify the person who has presented the case and the other competent authority that it has received the information necessary to undertake substantive consideration of the case; or
- b) request additional information from that person for that purpose.

7. Where pursuant to subparagraph b) of paragraph 6 [of Article 19 of the MLI], one or both of the competent authorities have requested from the person who presented the case additional information necessary to undertake substantive consideration of the case, the competent authority that requested the additional information shall, within three calendar months of receiving the additional information from that person, notify that person and the

other competent authority either:

- a) that it has received the requested information; or
- b) that some of the requested information is still missing.

8. Where neither competent authority has requested additional information pursuant to subparagraph b) of paragraph 6 [of Article 19 of the MLI], the start date referred to in paragraph 1 [of Article 19 of the MLI] shall be the earlier of:

- a) the date on which both competent authorities have notified the person who presented the case pursuant to subparagraph a) of paragraph 6 [of Article 19 of the MLI]; and
- b) the date that is three calendar months after the notification to the competent authority of the other [Contracting State] pursuant to subparagraph b) of paragraph 5 [of Article 19 of the MLI].

9. Where additional information has been requested pursuant to subparagraph b) of paragraph 6 [of Article 19 of the MLI], the start date referred to in paragraph 1 [of Article 19 of the MLI] shall be the earlier of:

- a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other competent authority pursuant to subparagraph a) of paragraph 7 [of Article 19 of the MLI]; and
- b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

If, however, one or both of the competent authorities send the notification referred to in subparagraph b) of paragraph 7 [of Article 19 of the MLI], such notification shall be treated as a request for additional information under subparagraph b) of paragraph 6 [of Article 19 of the MLI].

10. The competent authorities of the [Contracting States] shall by mutual agreement pursuant to [Article 24 of the Agreement] settle the mode of application of the provisions contained in this Part, including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

11. *Omitted.*

- 12. a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by [the MLI] shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either [Contracting State];
- b) if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting States], a decision concerning the issue is rendered by a court or administrative tribunal of one of the [Contracting States], the arbitration process shall terminate.

Article 20 (Appointment of Arbitrators) of the MLI

1. Except to the extent that the competent authorities of the [Contracting States] mutually agree on different rules, paragraphs 2 through 4 [of Article 20 of the MLI] shall apply for the purposes of this Part.

2. The following rules shall govern the appointment of the members of an arbitration panel:

- a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.
- b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 of Article 19 [of the MLI]. The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either [Contracting State].
- c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the [Contracting States] and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

3. In the event that the competent authority of a [Contracting State] fails to appoint a member of the arbitration panel in the manner and within the time periods specified in paragraph 2 [of Article 20 of the MLI] or agreed to by the competent authorities of the [Contracting States], a member shall be appointed on behalf of that competent authority by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either [Contracting State].

4. If the two initial members of the arbitration panel fail to appoint the Chair in the manner and within the time periods specified in paragraph 2 [of Article 20 of the MLI] or agreed to by the competent authorities of the [Contracting States], the Chair shall be appointed by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either [Contracting State].

Article 21 (Confidentiality of Arbitration Proceedings) of the MLI

1. Solely for the purposes of the application of the provisions of this Part and of the provisions of [the Agreement] and of the domestic laws of the [Contracting States] related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective arbitrators and information that the competent authorities receive from the arbitration panel shall be considered information that is exchanged under the provisions of [the Agreement] related to the exchange of information and administrative assistance.

2. The competent authorities of the [Contracting States] shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in the provisions of [the Agreement] related to exchange of information and administrative assistance and under the applicable laws of the [Contracting States].

Article 22 (Resolution of a Case Prior to the Conclusion of the Arbitration) of the MLI

For the purposes of this Part and the provisions of [the Agreement] that provide for resolution

of cases through mutual agreement, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting States]:

- a) the competent authorities of the [Contracting States] reach a mutual agreement to resolve the case; or
- b) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure.

Article 23 (Type of Arbitration Process) of the MLI

Final offer arbitration

1. Except to the extent that the competent authorities of the [Contracting States] mutually agree on different rules, the following rules shall apply with respect to an arbitration proceeding pursuant to this Part:

- a) After a case is submitted to arbitration, the competent authority of each [Contracting State] shall submit to the arbitration panel, by a date set by agreement, a proposed resolution which addresses all unresolved issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities of the [Contracting States]). The proposed resolution shall be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax charged pursuant to [the Agreement], for each adjustment or similar issue in the case. In a case in which the competent authorities of the [Contracting States] have been unable to reach agreement on an issue regarding the conditions for application of a provision of [the Agreement] (hereinafter referred to as a “threshold question”), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.
- b) The competent authority of each [Contracting State] may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or supporting position paper shall provide a copy to the other competent authority by the date on which the proposed resolution and supporting position paper were due. Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.
- c) The arbitration panel shall select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and shall not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the panel members. The arbitration panel shall deliver its decision in writing to the competent authorities of the [Contracting States]. The arbitration decision shall have no precedential value.

2. *Omitted.*

3. *Omitted.*

4. *Omitted.*

5. Prior to the beginning of arbitration proceedings, the competent authorities of the [Contracting States] shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under [the Agreement], as well as the arbitration proceeding under this Part, with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting States], a person that presented the case or one of that person's advisors materially breaches that agreement.

6. *Omitted.*

7. *Omitted.*

Article 24 (Agreement on a Different Resolution) of the MLI Omitted.

Article 25 (Costs of Arbitration Proceedings) of the MLI

In an arbitration proceeding under this Part, the fees and expenses of the members of the arbitration panel, as well as any costs incurred in connection with the arbitration proceedings by the [Contracting States], shall be borne by the [Contracting States] in a manner to be settled by mutual agreement between the competent authorities of the [Contracting States]. In the absence of such agreement, each [Contracting State] shall bear its own expenses and those of its appointed panel member. The cost of the chair of the arbitration panel and other expenses associated with the conduct of the arbitration proceedings shall be borne by the [Contracting States] in equal shares.

Article 26 (Compatibility) of the MLI

1. *Omitted.*

2. Any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for in this Part shall not be submitted to arbitration if the issue falls within the scope of a case with respect to which an arbitration panel or similar body has previously been set up in accordance with a bilateral or multilateral convention that provides for mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case.

3. [Nothing] in this Part shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the [Contracting States] are or will become parties.

4. *Omitted*

Subparagraph a) of paragraph 2 of Article 28 (Reservations) of the MLI

Pursuant to Subparagraph a) of paragraph 2 of Article 28 of the MLI, Australia formulates the following reservations with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI of the MLI:

Australia reserves the right to exclude from the scope of Part VI [of the MLI] any case to the extent that it involves the application of Australia's general anti-avoidance rules contained in Part IVA of the *Income Tax Assessment Act 1936* and section 67 of the *Fringe Benefits Tax Assessment Act 1986*. Australia also reserves the right to extend the scope of the exclusion for Australia's general anti-avoidance rules to any provisions replacing, amending or updating those rules. Australia shall notify the Depository of any such provisions that involve substantial changes.

Pursuant to subparagraph a) of paragraph 2 of Article 28 of the MLI, Finland formulates the following reservations with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI of the MLI:

1. Finland reserves the right to exclude from the scope of Part VI [*of the MLI*] cases involving the application of domestic anti-avoidance rules of either [*Contracting State*]. For this purpose, Finland's domestic anti-avoidance rules shall include Act on Assessment Procedure (verotusmenettelystä annettu laki (1558/1995)) sections 27 - 30, Act on the Taxation of Business Profits and Income from Professional Activities (elinkeinotulon verottamisesta annettu laki (360/1968)) section 6 a, subsection 9 and section 52 h and Act on the Taxation of Shareholders in Controlled Foreign Companies (ulkomaisten väliyhteisöjen osakkaiden verotuksesta annetun laki (1217/1994)). Any subsequent provisions replacing, amending or updating these anti-avoidance rules would also be included in this reservation. Finland shall notify the Depository of any such subsequent provisions.

2. Finland reserves the right to exclude from the scope of Part VI [*of the MLI*] cases involving conduct for which the taxpayer or a person acting on the taxpayer's behalf has been found guilty by a court of tax fraud or other tax related criminal offence in either [*Contracting State*]. For this purpose, Finland's domestic rules shall include the Criminal Code (rikoslaki (39/1889)) chapter 29 sections 1-4. Any subsequent provisions replacing, amending or updating these rules would also be included in this reservation. Finland shall notify the Depository of any such subsequent provisions.

3. Finland reserves the right to exclude from the scope of Part VI [*of the MLI*] cases concerning items of income where there is no double taxation. Double taxation means that both [*Contracting States*] have imposed taxes in respect of the same taxable income giving rise to either additional tax charge, increase in tax liabilities or cancellation or reduction of losses, which could be used to offset taxable profits.

4. Finland reserves the right to exclude from the scope of Part VI [*of the MLI*]

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, cases which concern taxable events giving rise to such taxes that occur before the reference date;
- b) with respect to all other taxes, cases which concern taxes levied with respect to taxable periods that begin before the reference date.

For the purpose of this reservation, "the reference date" is the latest of:

- i. the date of entry into effect of [*the MLI*] in both [*Contracting States*] with respect to such taxes;
- ii. the first day of January of the calendar year next following the expiration of a period of six calendar months beginning on the date of the communication by the Depository of the latest definitive reservation withdrawal or notification which results in the application of Part VI [*of the MLI*] (Arbitration) between both [*Contracting States*]; and
- iii. where the case is a type of case that would be potentially eligible for arbitration as a result of the withdrawal, subsequent to the entry into effect of Part VI [*of the MLI*] as between both [*Contracting States*], of a [*Contracting State*'s] reservation made pursuant to Article 28(2) or Article 19(12) [*of the MLI*], the first day of January of the calendar year next following the expiration of a period of six calendar months beginning on the date of the communication of the Depository of the withdrawal of the reservation.

5. Finland reserves the right to exclude from the scope of Part VI [*of the MLI*] all cases

where an application has been filed under the Convention on the Elimination of Double Taxation in Connection with the Adjustment of Profits of Associated Enterprises (90/436/EEC) - as amended, or under other instruments agreed by the member states of the European Union or under domestic rules which implement such instruments.

Article 25

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 Agreement or to the administration or enforcement of the domestic law concerning taxes referred to in paragraph 4 of Article 2, insofar as the taxation thereunder is not contrary to the Agreement. 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 law 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 law and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable by the competent authority under the law or in the normal course of the administration of that or of the other Contracting State;
- 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 26

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 Article means an amount owed in respect of taxes referred to in paragraph 4 of Article 2, insofar as the taxation thereunder is not contrary to this Agreement 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 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;

- b) to carry out measures which would be contrary to public policy (*ordre public*);
- 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;
- 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;
- 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 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement 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.

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*].

CHAPTER VI

FINAL PROVISIONS

Article 28

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 Agreement. The Agreement shall enter into force 30 days after the date of the later of the notifications and its provisions shall have effect:

- a) in 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 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 the date on which the Agreement enters into force;
- b) in Finland:

- (i) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the Agreement enters into force;
 - (ii) in respect of other taxes on income for taxes chargeable for any tax year beginning on or after 1 January in the calendar year next following the year in which the Agreement enters into force;
- c) for purposes of Article 25, from the date of entry into force of this Agreement.

Notwithstanding the provisions of subparagraphs a) and b), Article 26 shall have effect from the date agreed in an exchange of notes through the diplomatic channel.

2. The Agreement between Finland and Australia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Canberra on 12th September 1984, as modified by the Protocol signed at Canberra on 5th November 1997 (hereinafter referred to as "the 1984 Agreement"), shall cease to have effect with respect to taxes to which this Agreement applies in accordance with the provisions of paragraph 1. The 1984 Agreement shall terminate on the last date on which it has effect in accordance with the foregoing provision of this paragraph.

Article 29

TERMINATION

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

- a) in Australia:
 - (i) in respect of withholding tax on income that is derived by a non-resident, in relation to income derived on or after 1 January in the calendar year next following that in which the notice of termination is given;
 - (ii) in respect of other Australian tax, in relation to income, profits or gains of any year of income beginning on or after 1 July in the calendar year next following that in which the notice of termination is given;
- b) in Finland:
 - (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 notice of termination is given;
 - (ii) in respect of other taxes on income for taxes chargeable for any tax 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, being duly authorised, have signed this Agreement.

DONE in duplicate at Melbourne this twentieth day of November 2006, in the English and Finnish languages, both texts being equally authentic.

**FOR THE GOVERNMENT OF
AUSTRALIA:**

HON. PETER COSTELLO
TREASURER

**FOR THE GOVERNMENT OF
FINLAND:**

EERO HEINÄLUOMA
MINISTER OF FINANCE

PROTOCOL

At the signing today of the Agreement between the Government of Australia and the Government of Finland for the avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion (hereinafter referred to as "the Agreement"), the undersigned have agreed upon the following provisions which shall form an integral part of the Agreement:

1. With reference generally to the application of the Agreement
 - a) Nothing in the Agreement shall be construed as restricting, in any manner, the application of any provision of the laws of a Contracting State which is designed to prevent the avoidance or evasion of taxes.
 - b) It is understood that nothing in the Agreement prevents the application of the provisions of Article 25 to the exchange of information that existed prior to the entry into force of the Agreement.
2. With reference to Articles 4, 17 and 18

The term "statutory authority" means any legal entity of a public character created by the laws of a Contracting State in which no person other than the State itself, a political subdivision or a local authority thereof, has an interest, and, in the case of Finland, includes the Bank of Finland, the Helsinki University and the Social Insurance Institution of Finland.

3. With reference to paragraph 7 of Article 5

The Contracting States note that the term "substantially negotiate" is included at Australia's request to remove any doubt as to the existence of a permanent establishment where contracts that have been negotiated by an agent in one State are formally concluded in the other State by signature in that other State.

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

DONE in duplicate at Melbourne this twentieth day of November 2006, in the English and Finnish languages, both texts being equally authentic.

**FOR THE GOVERNMENT OF
AUSTRALIA:**

HON. PETER COSTELLO
TREASURER

**FOR THE GOVERNMENT OF
FINLAND:**

EERO HEINÄLUOMA
MINISTER OF FINANCE