

INCOME TAX (INTERNATIONAL AGREEMENTS) AMENDMENT ACT 1976

No. 52 of 1976

An Act to amend the *Income Tax (International Agreements) Act* 1953-1975.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

Short title
and citation.

1. (1) This Act may be cited as the *Income Tax (International Agreements) Amendment Act* 1976.¹

(2) The *Income Tax (International Agreements) Act* 1953-1975² is in this Act referred to as the Principal Act.

(3) The Principal Act, as amended by this Act, may be cited as the *Income Tax (International Agreements) Act* 1953-1976.

Commence-
ment.

2. This Act shall come into operation on the day on which it receives the Royal Assent.¹

Interpret-
ation.

3. Section 3 of the Principal Act is amended—

(a) by omitting from sub-section (1) the definition of “the French agreement” and substituting the following definitions:—

“ ‘the French agreement’ means the Agreement between the Government of Australia and the Government of the French Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, being the agreement a copy of which in the English language is set out in Schedule 11;

‘the French airline profits agreement’ means the Agreement between the Government of Australia and the Government of the French Republic for the avoidance of double taxation of income derived from international air transport, being the agreement a copy of which in the English language is set out in Schedule 7;”;

(b) by inserting in sub-section (1), after the definition of “the Japanese agreement”, the following definition:—

“ ‘the Netherlands agreement’ means the Agreement between the Government of Australia and the Government of the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with

respect to taxes on income and the protocol to that agreement, being the agreement and protocol a copy of each of which in the English language is set out in Schedule 10;” and

- (c) by omitting from sub-section (7) the words “the text in the English language of the Japanese agreement” and substituting the words “the texts in the English language of the French agreement and of the Japanese agreement”.

4. Section 9 of the Principal Act is amended by omitting the words “the French agreement” (wherever occurring) and substituting the words “the French airline profits agreement”.

Airline
profits
agreement
with France.

5. (1) After section 9 of the Principal Act the following section is inserted:—

“9A. (1) Subject to this Act, on and after the date of entry into force of the French agreement, the provisions of the agreement, so far as those provisions affect Australian tax, have, and shall be deemed to have had, the force of law—

Agreement
with France.

- (a) in relation to withholding tax—in respect of dividends or interest derived on or after 1 January 1973 and in relation to which the agreement remains effective; and
- (b) in relation to tax other than withholding tax—in respect of income of the year of income that commenced on 1 July 1972 and of a subsequent year of income in relation to which the agreement remains effective.

“(2) As soon as practicable after the entry into force of the French agreement in accordance with Article 28 of the agreement, the Treasurer shall cause to be published in the *Gazette* a notice specifying the date on which the agreement entered into force, and the date so notified shall, for the purposes of this Act, be conclusively presumed to be the date of entry into force of the agreement.

“(3) For the purposes of the Assessment Act—

- (a) income from a lease of land or from any other direct interest in or over land, being income that under paragraph (2) of Article 5 of the French agreement is to be regarded as income from real property, shall be deemed to be derived from sources in the place in which the land is situated;
- (b) income from the alienation of a lease of land or of any other direct interest in or over land, being income to which paragraph (1) of Article 12 of the French agreement applies, shall be deemed to be derived from sources in the place in which the land is situated; and
- (c) income from the alienation of shares or comparable interests in a real property co-operative or in a company the assets of which

consist wholly or principally of real property, being income to which paragraph (2) of Article 12 of the French agreement applies, shall be deemed to be derived from sources in the place in which the real property is situated.

“(4) In paragraph (c) of sub-section (3)—

- (a) the references to real property second and third occurring include a reference to a lease of land and any other direct interest in or over land; and
- (b) the reference to the place in which real property is situated shall, in its application by virtue of paragraph (a) of this sub-section in relation to a lease of land or to any other direct interest in or over land, be construed as a reference to the place where the land to which the lease or other direct interest relates is situated.

“(5) Where an amount is to be included in the assessable income of a taxpayer in accordance with sub-paragraph (b) of paragraph (6) or sub-paragraph (b) of paragraph (7) of Article 9 of the French agreement—

- (a) the amount shall be included in the assessable income of the taxpayer of the year of income in which the amount is paid; and
- (b) the amount shall, for the purposes of this Act and the Assessment Act, be deemed to be a dividend.”.

(2) The Commissioner may amend an assessment made before the date of entry into force of the French agreement for the purpose of giving effect to sub-section 9A (1) of the Principal Act as amended by this Act.

6. (1) After section 11 of the Principal Act the following section is inserted:—

Agreement
with the
Kingdom of
the
Netherlands.

“11A. (1) Subject to this Act, on and after the date of entry into force of the Netherlands agreement, the provisions of the agreement, so far as those provisions affect Australian tax, have, and shall be deemed to have had, the force of law—

- (a) in relation to withholding tax—in respect of dividends or interest derived on or after 1 July 1975 and in relation to which the agreement remains effective; and
- (b) in relation to tax other than withholding tax—in respect of income of the year of income that commenced on 1 July 1975 and of a subsequent year of income in relation to which the agreement remains effective.

“(2) As soon as practicable after the date of entry into force of the Netherlands agreement in accordance with Article 29 of the agreement, the Treasurer shall cause to be published in the *Gazette* a notice specifying the date on which the agreement entered into force, and the date so

notified shall, for the purposes of this Act, be conclusively presumed to be the date of entry into force of the agreement.

“(3) For the purposes of the Assessment Act, income from a lease of land, income from any other direct interest in or over land, whether or not improved, and income from debt-claims of every kind, excluding bonds or debentures, secured by mortgage of real property or of any other direct interest in or over land, being income that under Article 6 of the Netherlands agreement is to be regarded as income from real property, shall be deemed to be derived from sources in the place in which the land to which the lease, other direct interest or mortgage relates is situated.”.

(2) The Commissioner may amend an assessment made before the date of entry into force of the Netherlands agreement for the purpose of giving effect to sub-section 11A (1) of the Principal Act as amended by this Act.

7. (1) Section 12 of the Principal Act is amended—

(a) by omitting the word “or” at the end of paragraph (ad) of sub-section (1); and

(b) by inserting after paragraph (ad) of sub-section (1) the following paragraphs:—

“(ae) income being—

(i) interest to which—

(A) paragraph (1) of Article 10 of the Netherlands agreement applies by reason of sub-paragraph (b) of paragraph (3) of that Article; or

(B) paragraph (1) of Article 11 of the Netherlands agreement applies; or

(ii) royalties to which paragraph (1) of Article 12 of the Netherlands agreement applies,

where the income was derived, in the year of income that commenced on 1 July 1975, or a subsequent year of income, from sources in the Netherlands;

(af) income being interest or royalties to which paragraph (1) of Article 10 or paragraph (1) of Article 11 of the French agreement applies, where the income was derived, in the year of income that commenced on 1 July 1972, or a subsequent year of income, from sources in France; or”.

Provisions relating to certain income derived from sources in the United Kingdom, Singapore, Japan, New Zealand, Germany, the Netherlands and France.

(2) If a taxpayer derived, on or before 13 April 1976, income to which paragraph 12 (1) (af) of the Principal Act as amended by this Act applies, that paragraph in its application in relation to that income shall

not operate to increase the Australian tax payable by the taxpayer in respect of the year of income unless there is a decrease, by virtue of the French agreement, in the tax payable under the laws of France in respect of that income and, where there is such a decrease, the amount of the increase shall not exceed the amount of the decrease expressed in Australian currency.

(3) The Commissioner may amend an assessment made before the date of entry into force of the French agreement for the purpose of giving effect to paragraph 12 (1) (af) of the Principal Act as amended by this Act (including that paragraph as affected by sub-section (2) of this section).

Schedules 10
and 11.

8. The Principal Act is amended by adding at the end thereof the Schedules set out in Schedule 1.

Formal
amendments.

9. The Principal Act is amended as set out in Schedule 2.

SCHEDULE 1

Section 6

SCHEDULES TO BE ADDED AT THE END OF THE PRINCIPAL ACT

SCHEDULE 10

Section 3

AGREEMENT BETWEEN AUSTRALIA AND THE KINGDOM OF THE NETHERLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of Australia and the Government of the Kingdom of the Netherlands,
Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
Have agreed as follows:

CHAPTER I SCOPE OF THE AGREEMENT

ARTICLE 1

Personal Scope

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

ARTICLE 2

Taxes Covered

- (1) The existing taxes to which this Agreement shall apply are—
- (a) in Australia:
the Australian income tax, including the additional tax upon the undistributed amount of the distributable income of a private company;
 - (b) in the Netherlands:
the Inkomstenbelasting (income tax);
the Loonbelasting (wages tax);
the Vennootschapsbelasting (corporation tax);
the Dividendbelasting (dividend tax).

SCHEDULE 1—continued

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed by one of the States after the date of signature of this Agreement in addition to, or in place of, the existing taxes. At the end of each calendar year, the competent authority of each State shall notify the competent authority of the other State of any substantial changes which have been made in the taxation laws of his State to which this Agreement applies.

CHAPTER II
DEFINITIONS

ARTICLE 3

General Definitions

(1) In this Agreement, unless the context otherwise requires—

(a) the term “Australia” means the Commonwealth of Australia and, when used in a geographical sense, includes—

- (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 Coral Sea Islands Territory; and
- (vi) any area adjacent to the territorial limits of Australia and the said Territories in respect of which there is for the time being in force, consistently with international law, a law of Australia or of a State or part of Australia or of a Territory aforesaid dealing with the exploitation of any of the natural resources of the sea-bed and sub-soil of the continental shelf;

(b) the term “the Netherlands” means that part of the Kingdom of the Netherlands that is situated in Europe and the part of the seabed and its sub-soil under the North Sea over which the Kingdom of the Netherlands has sovereign rights in accordance with international law;

(c) the terms “State”, “one of the States” and “other State” mean Australia or the Netherlands, as the context requires;

(d) the term “person” means an individual, a company and any other body of persons;

(e) the term “company” means any body corporate or any entity which is assimilated to a body corporate for tax purposes;

(f) the term “tax” means Australian tax or Netherlands tax, as the context requires;

(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 “Netherlands tax” means tax imposed by the Netherlands, 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 his authorised representative, and in the case of the Netherlands, the Minister of Finance or his authorised representative;

(j) the terms “enterprise of one of the States” and “enterprise of the other State” mean an enterprise carried on by a resident of Australia or an enterprise carried on by a resident of the Netherlands, as the context requires;

(k) words in the singular include the plural and words in the plural include the singular.

(2) In this Agreement, the terms “Australian tax” and “Netherlands tax” do not include any penalty or interest imposed under the law of either State relating to the taxes to which this Agreement applies by virtue of Article 2.

(3) As regards the application of this Agreement by either of the States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that State relating to the taxes to which this agreement applies.

SCHEDULE 1—continued

ARTICLE 4

Residence

- (1) For the purposes of this Agreement, a person is a resident of one of the States—
- (a) in the case of Australia, subject to paragraph (2), if the person is a resident of Australia for the purposes of Australian tax; and
 - (b) in the case of the Netherlands, if the person is a resident of the Netherlands for the purposes of Netherlands tax but not if he is liable to tax in the Netherlands in respect only of income from sources therein.
- (2) In relation to income from sources in the Netherlands, a person who is subject to Australian tax on income which is from sources in Australia shall not be treated as a resident of Australia unless the income from sources in the Netherlands is subject to Australian tax or, if that income is exempt from Australian tax, it is so exempt solely because it is subject to Netherlands tax.
- (3) Where by reason of the provisions of paragraph (1) an individual is a resident of both States, then his status shall be determined in accordance with the following rules:
- (a) he shall be deemed to be a resident solely of the State in which he has a permanent home available to him;
 - (b) if he has a permanent home available to him in both States, or if he does not have a permanent home available to him in either of them, he shall be deemed to be a resident solely of the State with which his personal and economic relations are the closer.
- (4) Where by reason of the provisions of paragraph (1) a person other than an individual is a resident of both States, then it shall be deemed to be a resident solely of the State in which its place of effective management is situated.

ARTICLE 5

Permanent Establishment

- (1) For the purposes of this Agreement the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
- (2) The term “permanent establishment” shall include especially—
- (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a mine, quarry or other place of extraction of natural resources;
 - (g) an agricultural, pastoral or forestry property;
 - (h) a building site or construction, installation or assembly project which exists for more than twelve months.
- (3) An enterprise shall not be deemed to have a permanent establishment merely by reason of—
- (a) the use of facilities solely for the purpose of storage, 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 for collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of activities which have a preparatory or auxiliary character for the enterprise, such as advertising or scientific research.
- (4) An enterprise shall be deemed to have a permanent establishment in one of the States and to carry on business through that permanent establishment if—

SCHEDULE 1—continued

- (a) it carries on supervisory activities in that State for more than twelve months in connection with a building site, or a construction, installation or assembly project which is being undertaken in that State; or
 - (b) substantial equipment is being used in that State for more than twelve months by, for or under contract with the enterprise in exploration for, or the exploitation of, natural resources, or in activities connected with such exploration or exploitation.
- (5) A person acting in one of the States on behalf of an enterprise of the other State—other than an agent of an independent status to whom paragraph (6) applies—shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State if—
- (a) he has, and habitually exercises in that State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
 - (b) in so acting, he manufactures or processes in that State for the enterprise goods or merchandise belonging to the enterprise, provided that this provision shall apply only in relation to the goods or merchandise so manufactured or processed.
- (6) An enterprise of one of the States shall not be deemed to have a permanent establishment in the other State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where that person is acting in the ordinary course of his business as such a broker or agent.
- (7) The fact that a company which is a resident of one of the States controls or is controlled by a company which is a resident of the other 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.
- (8) The principles set forth in paragraphs (1) to (7) inclusive shall be applied in determining for the purposes of this Agreement whether there is a permanent establishment outside both States, and whether an enterprise, not being an enterprise of one of the States, has a permanent establishment in one of the States.

CHAPTER III
TAXATION OF INCOME

ARTICLE 6
Income from Real Property

- (1) Income from real property, including royalties and other payments in respect of the operation of mines or quarries or of the exploitation of any natural resource, may be taxed in the State in which the real property, mines, quarries, or natural resources are situated.
- (2) Income from a lease of land and income from any other direct interest in or over land, whether or not improved, shall be regarded as income from real property. Income from debt-claims of every kind, excluding bonds or debentures, secured by mortgage of real property or of any other direct interest in or over land, shall also be regarded as income from real property. However, income from ships, boats or aircraft shall not be regarded as income from real property.
- (3) The provisions of paragraphs (1) and (2) shall also apply to the income from real property of an enterprise and to income from real property used for the performance of professional services.

ARTICLE 7
Business Profits

- (1) The profits of an enterprise of one of the States shall be taxable only in that State unless the enterprise carries on business in the other 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 one of the States carries on business in the other State through a permanent establishment situated therein, there shall in each 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

SCHEDULE 1—continued

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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise, 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 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) For the purposes of this Article, except as provided in the Articles referred to in this paragraph, the profits of an enterprise do not include items of income dealt with in Articles 6, 8, 10, 11, 12, 13, 14, 16 and 17.

ARTICLE 8

Shipping and Air Transport

(1) Profits from the operation of ships or aircraft derived by a resident of one of the States shall be taxable only in that State.

(2) Notwithstanding the provisions of paragraph (1), such profits may be taxed in the other State where they are profits from operations of ships or aircraft confined solely to places in that other State.

(3) The provisions of paragraphs (1) and (2) shall apply in relation to the share of the profits from the operation of ships or aircraft derived by a resident of a State through participation in a pool service, in a joint transport operating organisation or in an international operating agency.

(4) For the purposes of this Article, profits derived from the carriage of passengers, livestock, mail, goods or merchandise shipped in a State for discharge at another place in that State shall be treated as profits from operations of ships or aircraft confined solely to places in that State.

(5) The amount which shall be charged to tax in one of the States as profits from the operation of ships or aircraft in respect of which a resident of the other State may be taxed in the first-mentioned State under paragraph (2) or (3) shall not exceed 5 per cent of the amount paid or payable (net of rebates) in respect of carriage in such operations.

(6) Paragraph (5) shall not apply to profits derived from the operation of ships or aircraft by a resident of one of the States whose principal place of business is in the other State, nor shall it apply to profits derived from the operation of ships or aircraft by a resident of a State if those profits are derived otherwise than from the carriage of passengers, livestock, mail, goods or merchandise.

ARTICLE 9

Associated Enterprises

(1) Where—

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

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the States and an enterprise of the other 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) Where profits on which an enterprise of one of the States has been charged to tax in that State are also included, by virtue of paragraph (1), in the profits of an enterprise of the other State and taxed accordingly, and the profits so included are profits which might have been expected to have accrued to the enterprise of the other State if the conditions operative

SCHEDULE 1—continued

between the enterprises had been those which might have been expected to have operated between independent enterprises dealing wholly independently with one another, then the first-mentioned State shall make an appropriate adjustment to the amount of tax charged on those profits in the first-mentioned State. In determining such an adjustment due regard shall be had to the other provisions of this Agreement in relation to the nature of the income, and for this purpose the competent authorities of the States shall if necessary consult each other.

ARTICLE 10

Dividends

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

(2) Such dividends may be taxed in the 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 15 per cent of the gross amount of the dividends. The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) The term “dividends” in this Article means—

- (a) in the case of Australia, income from shares and other income assimilated to income from shares by the taxation law of Australia; and
- (b) in the case of the Netherlands, income which is subject to dividend tax.

(4) The provisions of paragraphs (1) and (2) shall not apply if the person beneficially entitled to the dividends, being a resident of one of the States, carries on business through a permanent establishment situated in the other State, being the State of which the company paying the dividends is a resident, and the holding in respect of which the dividends are paid is effectively connected with that permanent establishment. In such a case, the provisions of Article 7 shall apply.

(5) Dividends paid by a company which is a resident of one of the States, being dividends to which a person who is not a resident of the other State is beneficially entitled, shall be exempt from tax in that other State except insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State. Provided that 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 the Netherlands for the purposes of Netherlands tax.

ARTICLE 11

Interest

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

(2) Such interest may be taxed in the 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) The term “interest” in this Article includes interest from Government securities, or from bonds or debentures, and interest from any other form of indebtedness as well as all the income assimilated to interest by the taxation law of the State in which the income arises. The term does not include income to which Article 6 or Article 10 applies.

(4) The provisions of paragraphs (1) and (2) shall not apply if the person beneficially entitled to the interest, being a resident of one of the States, carries on business through a permanent establishment situated in the other State, being the State in which the interest arises, and the indebtedness giving rise to the interest is effectively connected with that permanent establishment. In such a case, the provisions of Article 7 shall apply.

(5) Interest shall be deemed to arise in a State when the payer is that State itself or a political sub-division of that State or a local authority of that State or a person who is a resident of that State. Where, however—

- (a) that person paying the interest is a resident of one of the States and has in the other State or outside both States a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and the interest is borne by

SCHEDULE 1—continued

the permanent establishment, then the interest shall be deemed to arise where the permanent establishment is situated;

- (b) the person paying the interest is not a resident of either of the States but has in one of the States a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and the interest is borne by the permanent establishment, then the interest shall be deemed to arise where the permanent establishment is situated.

(6) Where, owing to a special relationship between the payer and the person beneficially entitled to the interest or between both of them and some other person, the amount of the interest paid, having regard to the indebtedness for which it is paid, exceeds the amount which might have been expected to have been agreed upon by the payer and the person so entitled in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the amount of the interest paid shall remain taxable according to the law of each of the States, but subject to the other provisions of this Agreement.

ARTICLE 12

Royalties

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

(2) Such royalties may be taxed in the State in which they arise, 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 royalties.

(3) The term “royalties” in this Article means payments, whether periodical or not, and however described or computed, to the extent to which they are paid as consideration for the use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trade-mark, or other like property or right, or industrial, commercial or scientific equipment, or for the supply of scientific, technical, industrial or commercial knowledge or information, or for the supply of any assistance of an ancillary and subsidiary nature furnished as a means of enabling the application or enjoyment of such knowledge or information or any other property or right to which this Article applies, and includes any payments to the extent to which they are paid as consideration for the use of, or the right to use, motion picture films, films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting.

(4) The provisions of paragraphs (1) and (2) shall not apply if the person beneficially entitled to the royalties, being a resident of one of the States, carries on business through a permanent establishment situated in the other State, being the State in which the royalties arise, and the asset giving rise to the royalties is effectively connected with that permanent establishment. In such a case, the provisions of Article 7 shall apply.

(5) Royalties shall be deemed to arise in a State when the payer is that State itself or a political sub-division of that State or a local authority of that State or a person who is a resident of that State. Where, however—

- (a) the person paying the royalties is a resident of one of the States and has in the other State or outside both 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 the royalties shall be deemed to arise where the permanent establishment is situated;
- (b) the person paying the royalties is not a resident of either of the States but has in one of the 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 the royalties shall be deemed to arise where the permanent establishment is situated.

(6) Where, owing to a special relationship between the payer and the person beneficially entitled to the royalties or between both of them and some other person, the amount of the royalties paid, having regard to what they are paid for, exceeds the amount which might have been expected to have been agreed upon by the payer and the person so entitled in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the amount of the royalties paid shall remain taxable

SCHEDULE 1—continued

according to the law of each of the States, but subject to the other provisions of this Agreement.

ARTICLE 13

Alienation of Property

(1) Income from the alienation of real property may be taxed in the State in which that property is situated.

(2) For the purposes of this Article—

(a) the term “real property” shall include—

- (i) a lease of land or any other direct interest in or over land;
- (ii) rights to exploit, or to explore for, natural resources; and
- (iii) shares or comparable interests in a company, the assets of which consist wholly or principally of direct interests in or over land in one of the States or of rights to exploit, or to explore for, natural resources in one of the States.

(b) real property shall be deemed to be situated—

- (i) where it consists of direct interests in or over land—in the State in which the land is situated;
- (ii) where it consists of rights to exploit, or to explore for, natural resources—in the State in which the natural resources are situated or the exploration may take place; and
- (iii) where it consists of shares or comparable interests in a company, the assets of which consist wholly or principally of direct interests in or over land in one of the States or of rights to exploit, or to explore for, natural resources in one of the States—in the State in which the assets or the principal assets of the company are situated.

(3) Gains from the alienation of shares or “jouissance” rights in a company the capital of which is wholly or partly divided into shares and which is a resident of the Netherlands for the purposes of Netherlands tax, derived by an individual who is a resident of Australia, may be taxed in the Netherlands.

ARTICLE 14

Independent Personal Services

Income derived by an individual who is a resident of one of the States in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State, but only so much of it as is attributable to that fixed base.

ARTICLE 15

Dependent Personal Services

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

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of one of the States in respect of an employment exercised in the other State shall be taxable only in the first-mentioned State if—

- (a) the recipient is present in that other State for a period or periods not exceeding in the aggregate 183 days in the year of income or the fiscal year, as the case may be, of that other State; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other State; and
- (c) the remuneration is not deductible in determining the taxable profits of a permanent establishment or a fixed base which the employer has in that other State.

SCHEDULE 1—continued

(3) Notwithstanding the preceding provisions of this Article, remuneration derived by a resident of one of the States in respect of an employment exercised aboard a ship or aircraft in international traffic shall be taxable only in that State.

ARTICLE 16

Directors' Remuneration

(1) Where a resident of the Netherlands is a “director” of a company, which is a resident of Australia, and derives from that company fees and other remuneration in respect of his services to the company, such fees and other remuneration may be taxed in Australia.

(2) Where a resident of Australia is a “bestuurder” or a “commissaris” of a company, which is a resident of the Netherlands, and derives from that company fees and other remuneration in respect of his services to the company, such fees and other remuneration may be taxed in the Netherlands.

(3) Where the remuneration mentioned in paragraph (1) or (2) is derived by a person who exercises activities of a regular and substantial character in a permanent establishment situated in the State other than the State of which the company is a resident and the remuneration is deductible in determining the taxable profits of that permanent establishment then, notwithstanding the provisions of paragraph (1) or (2) of this Article, the remuneration, to the extent to which it is so deductible, shall be taxable only in the State in which the permanent establishment is situated.

ARTICLE 17

Entertainers

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by entertainers (such as theatrical, motion picture, radio or television artistes, and musicians and athletes) from their personal activities as such may be taxed in the State in which these activities are exercised.

(2) Notwithstanding anything contained in Articles 5 and 7, where the services of an entertainer mentioned in paragraph (1) are provided in one of the States by an enterprise of the other State, the profits derived by that enterprise from providing those services may be taxed in the first-mentioned State if the entertainer performing the services or a relative of such person, controls, directly or indirectly, that enterprise.

(3) The term “relative” in this Article means a brother, sister, spouse, ancestor or descendant.

ARTICLE 18

Pensions and Annuities

(1) Pensions, including pensions provided under the provisions of a public social security system, but not including pensions to which Article 19 applies, paid to a resident of one of the States, and annuities so paid, 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.

ARTICLE 19

Government Service

(1) Remuneration (including a pension) paid to any individual in respect of services rendered in the discharge of governmental functions to one of the States or to a political subdivision of one of the States or to a local authority of one of the States may be taxed in that State. However, any such remuneration, not being a pension, shall be taxable only in the other State if the services are rendered in that other State and the recipient is a resident of that other State who—

- (a) is a citizen or national of that State; or
- (b) did not become a resident of that State solely for the purpose of performing the services.

(2) This Article shall not apply to remuneration (including a pension) in respect of services rendered in connection with any trade or business carried on by one of the States or a

SCHEDULE 1—continued

political sub-division of one of the States or a local authority of one of the States. In such a case, the provisions of Articles 15, 16 and 18 shall apply.

ARTICLE 20

Professors and Teachers

(1) Remuneration which a professor or teacher who is a resident of one of the States and who visits the other State for a period not exceeding two years for the purpose of teaching or carrying out advanced study or research at a university, college, school or other educational institution, receives for those activities shall be taxable only in the first-mentioned State.

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

ARTICLE 21

Students

Payments which a student who is, or was immediately before visiting one of the States, a resident of the other State and who is temporarily present in the first-mentioned State solely for the purpose of his education receives from sources outside that first-mentioned State for the purpose of his maintenance or education shall be exempt from tax in that first-mentioned State.

ARTICLE 22

Income of Dual Resident

Where a person, who by reason of the provisions of paragraph (1) of Article 4 is a resident of both States but by reason of the provisions of paragraph (3) or (4) of that Article is deemed for the purposes of this Agreement to be a resident solely of one of the States, derives income from sources in that State or from sources outside both States, that income shall be taxable only in that State.

CHAPTER IV

METHODS OF ELIMINATION OF DOUBLE TAXATION

ARTICLE 23

(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 hereof), Netherlands tax paid, whether directly or by deduction, in respect of income derived by a person who is a resident of Australia from sources in the Netherlands (not including, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall be allowed as a credit against Australian tax payable in respect of that income.

(2) The Netherlands, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income which according to the provisions of this Agreement may be taxed in Australia.

(3) Without prejudice to the application of the provisions concerning the compensation of losses in the unilateral regulations for the avoidance of double taxation the Netherlands shall allow a deduction from the amount of tax computed in conformity with paragraph (2) of this Article equal to such part of that tax which bears the same proportion to the aforesaid tax, as the part of the income which is included in the basis mentioned in paragraph (2) of this Article and may be taxed in Australia according to Articles 6 and 7, paragraphs (2) and (3) of Article 8, paragraph (4) of Article 10, paragraph (4) of Article 11, paragraph (4) of Article 12, paragraph (1) of Article 13, Article 14, paragraph (1) of Article 15, paragraph (1) of Article 16 and Article 19 of this Agreement bears to the total income which forms the basis mentioned in paragraph (2) of this Article.

Further, the Netherlands shall allow a deduction from the Netherlands tax so computed for such items of income, as may be taxed in Australia according to paragraph (2) of Article 10, paragraph (2) of Article 11, paragraph (2) of Article 12 and Article 17, and are included

SCHEDULE 1—continued

in the basis mentioned in paragraph (2) of this Article. The amount of this deduction shall be the lesser of the following amounts:

- (a) the amount equal to the Australian tax;
- (b) the amount of the Netherlands tax which bears the same proportion to the amount of tax computed in conformity with paragraph (2) of this Article, as the amount of the said items of income bears to the amount of income which forms the basis mentioned in paragraph (2) of this Article.

CHAPTER V
SPECIAL PROVISIONS

ARTICLE 24

Mutual Agreement Procedure

- (1) Where a resident of a State considers that the actions of the competent authority of one or both of the States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the State of which he is a resident. The case must be presented within three years from the first notification of the action.
- (2) The competent authority shall endeavour, if the taxpayer's claim appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case with the competent authority of the other State, with a view to the avoidance of taxation not in accordance with this Agreement. The solution so reached shall be implemented notwithstanding any time limits in the national laws of the States.
- (3) The competent authorities of the States shall jointly endeavour to resolve any difficulties or doubts arising as to the interpretation or application of this agreement.
- (4) The competent authorities of the States may communicate with each other directly for the purpose of giving effect to the provisions of this Agreement.

ARTICLE 25

Exchange of Information

- (1) The competent authorities of the States shall exchange such information as is necessary for the carrying out of this Agreement or of the domestic laws of the States concerning the taxes to which this Agreement applies insofar as the taxation thereunder is not contrary to this Agreement. The exchange of information is not restricted by Article 1. Any information received by the competent authority of a State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes to which this Agreement applies and shall be used only for such purposes.
- (2) In no case shall the provisions of paragraph (1) be construed so as to impose on a State the obligation—
 - (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other State;
 - (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other State;
 - (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or to supply information the disclosure of which would be contrary to public policy.

ARTICLE 26

Diplomatic and Consular Officials

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

SCHEDULE 1—continued

ARTICLE 27

Regulations

The competent authority of the Netherlands may prescribe regulations necessary to carry out in the Netherlands the provisions of this Agreement.

ARTICLE 28

Territorial Extension

(1) This Agreement may be extended, either in its entirety or with any necessary modifications, to the part of the Kingdom of the Netherlands which is not situated in Europe and which imposes taxes substantially similar in character to those to which this Agreement applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed in notes to be exchanged through the diplomatic channel.

(2) Unless otherwise agreed, the termination of this Agreement shall not also terminate the application of the Agreement to the part of the Kingdom of the Netherlands to which it has been extended under this Article.

CHAPTER VI

FINAL PROVISIONS

ARTICLE 29

Entry into Force

This Agreement shall come into force on the date on which the Government of Australia and the Government of the Kingdom of the Netherlands exchange notes through the diplomatic channel notifying each other that the last of such things has been done as is necessary to give this Agreement the force of law in Australia and in the Netherlands, as the case may be, and thereupon this Agreement shall have effect—

- (a) in both States, in respect of withholding tax on dividends and interest, on dividends and interest derived on or after 1 July 1975;
- (b) in Australia, in respect of tax on income of any year of income beginning on or after 1 July 1975;
- (c) in the Netherlands, in respect of taxes, other than the dividend tax, for taxable years and periods beginning on or after 1 January 1975.

ARTICLE 30

Termination

This Agreement shall continue in effect indefinitely, but the Government of Australia or the Government of the Kingdom of the Netherlands may, on or before 30 June in any calendar year after the year 1979, give to the other Government through the diplomatic channel written notice of termination and, in that event, this Agreement shall cease to be effective—

- (a) in both States, in respect of withholding tax on dividends, interest and royalties, on dividends, interest and royalties derived on or after 1 July in the calendar year next following that in which the notice of termination is given;
- (b) in Australia, in respect of tax on income 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;
- (c) in the Netherlands, in respect of taxes, other than withholding taxes referred to in sub-paragraph (a), for taxable years and periods beginning after the end of the calendar year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

SCHEDULE 1—continued

DONE in duplicate at Canberra this seventeenth day of March, one thousand nine hundred and seventy-six, in the English and Netherlands languages, both texts being equally authentic.

Phillip Lynch
FOR THE GOVERNMENT
OF AUSTRALIA

R. C. Pekelharing
FOR THE GOVERNMENT OF THE
KINGDOM OF THE NETHERLANDS

PROTOCOL

THE GOVERNMENT OF AUSTRALIA AND THE GOVERNMENT OF THE
KINGDOM OF THE NETHERLANDS

HAVE AGREED AT THE SIGNING of the Agreement between the two States for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income upon the following provisions which shall form an integral part of the said Agreement.

- (1) With reference to Articles 6 to 8 and 10 to 17,
income derived by a resident of the Netherlands which under those Articles may be taxed in Australia, shall for the purposes of the income tax law of Australia be deemed to be income from sources in Australia.
- (2) With reference to Articles 7 and 9,
where the information available to the competent authority of a State is inadequate to determine the profits of an enterprise on which tax may be imposed in that State in accordance with Article 7 or Article 9, nothing in those Articles shall affect the application of any law of that State relating to the determination of the tax liability of a person, provided that that law shall be applied, so far as the information available to the competent authority permits, in accordance with the principles of those Articles.
- (3) With reference to Articles 7 and 23,
profits of an enterprise of one of the States from carrying on a business of any form of insurance other than life insurance may be taxed in the other State in accordance with the law of that other State relating specifically to the taxation of any person who carries on such business, and Article 23 shall apply for the elimination of double taxation as if the profits so taxed were attributable to a permanent establishment of the enterprise in the State imposing the tax.
- (4) With reference to Articles 10, 11 and 12,
applications for the restitution of tax levied by the Netherlands contrary to the provisions of those Articles must be lodged with the competent authority of the Netherlands within a period of three years after the expiration of the calendar year in which the tax has been levied.
- (5) With reference to Article 23,
 - (a) where income derived by a resident of Australia may, under the provisions of Articles 6 to 8 and 10 to 17, be taxed in the Netherlands such income shall, for the purposes of paragraph (1) of Article 23 and of the provisions of the income tax law of Australia dealing with the avoidance of double taxation, be deemed to be income from sources in the Netherlands;
 - (b) in so far as the Netherlands income tax or company tax is concerned, the basis mentioned in paragraph (2) of Article 23 is the “onzuivere inkomen” or “winst” in terms of the Netherlands income tax law or company tax law, respectively.
- (6) General.
 - (a) Where one of the States is entitled to tax the profits of an enterprise, that State may treat as profits of the enterprise, profits from the alienation of capital assets of the enterprise, not being profits that consist of income to which paragraph (1) of Article 13 applies.
 - (b) If, in an Agreement for the avoidance of double taxation that is subsequently made between Australia and a third State being a State that at the date of signature of this Protocol is a member of the Organisation for Economic Co-operation and Development, Australia shall agree to limit the rate of its taxation—

SCHEDULE 1—continued

- (i) on dividends paid by a company which is a resident of Australia for the purposes of Australian tax to which a company that is a resident of the third State is entitled, to a rate less than that provided in paragraph (2) of Article 10; or
- (ii) on interest arising in Australia to which a resident of the third State is entitled, to a rate less than that provided in paragraph (2) of Article 11; or
- (iii) on royalties arising in Australia to which a resident of the third State is entitled, to a rate less than that provided in paragraph (2) of Article 12,

the Government of Australia shall immediately inform the Government of the Kingdom of the Netherlands in writing through the diplomatic channel and shall enter into negotiations with the Government of the Kingdom of the Netherlands to review the provisions specified in sub-paragraphs (i), (ii) and (iii) above in order to provide the same treatment for the Netherlands as that provided for the third State.

DONE in duplicate at Canberra this seventeenth day of March, one thousand nine hundred and seventy-six, in the English and Netherlands languages, both text being equally authentic.

Phillip Lynch
FOR THE GOVERNMENT
OF AUSTRALIA

R. C. Pekelharing
FOR THE GOVERNMENT OF THE
KINGDOM OF THE NETHERLANDS

SCHEDULE 11

Section 3

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

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

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

ARTICLE 1

Taxes to which Agreement applies.

- (1) The existing taxes to which this Agreement applies are—

- (a) in Australia:

the Australian income tax, including the additional tax upon the undistributed amount of the distributable income of a private company;

- (b) in France:

- (i) the income tax; and

- (ii) the corporation tax,

including any withholding tax, prepayment (*précompte*) or advance payment with respect to the aforesaid taxes.

- (2) This Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed by one of the Contracting States in addition to, or in place of, the existing taxes to which this Agreement applies.

ARTICLE 2

Definitions.

- (1) In this Agreement, unless the context otherwise requires—

- (a) the term “Australia” means the Commonwealth of Australia and includes—

- (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 Coral Sea Islands Territory; and

SCHEDULE 1—continued

- (vi) any area outside the territorial limits of the Commonwealth of Australia and any of the said Territories in respect of which there is for the time being in force a law of the Commonwealth of Australia or of a State or part of the Commonwealth of Australia or of a Territory aforesaid which is conformable with international law and which deals with the exploitation of any of the natural resources of the sea-bed and sub-soil of the continental shelf;
 - (b) the term “France” means the European and Overseas Departments (Guadeloupe, Guiana, Martinique and Reunion) of the French Republic and includes any area outside the territorial limits of France in respect of which there is for the time being in force a law of France which is conformable with international law and which deals with the exploitation of any of the natural resources of the sea-bed and sub-soil of the continental shelf, not including an area referred to in any such law as being adjacent to the Overseas Territories of the French Republic;
 - (c) the terms “Contracting State”, “one of the Contracting States” and “other Contracting State” mean Australia or France, as the context requires;
 - (d) the term “person” includes an individual, a company and any other body of persons;
 - (e) the term “company” means any body corporate or any entity which is treated as a company for tax purposes;
 - (f) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” means an industrial or commercial enterprise carried on by a resident of Australia or an industrial or commercial enterprise carried on by a resident of France, as the context requires;
 - (g) the term “Australian tax” means tax imposed by Australia, being tax to which this Agreement applies by virtue of Article 1;
 - (h) the term “French tax” means tax imposed by France, being tax to which this Agreement applies by virtue of Article 1;
 - (i) the term “competent authority” means, in the case of Australia, the Commissioner of Taxation or his authorized representative; in the case of France, the Minister of Economy and Finance or his authorized representative; and, in the case of any Territory to which this Agreement is extended under Article 27, the competent authority for the administration in such Territory of the taxes to which this Agreement applies.
- (2) In this Agreement, the terms “Australian tax” and “French tax” do not include any penalty or interest imposed under the law of either Contracting State relating to the taxes referred to in Article 1.
- (3) In the application of the provisions of this Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes to which this Agreement applies by virtue of Article 1.

ARTICLE 3

Residence.

- (1) (a) For the purposes of this Agreement, a person is a resident of Australia if he is a resident of Australia for purposes of Australian tax. However, in relation to income from sources in France, a person who is subject to Australian tax on income which is from sources in Australia shall be treated as a resident of Australia only if the income from sources in France is subject to Australian tax or, where that income is exempt from Australian tax, it is so exempt solely because it is subject to French tax.
 - (b) For the purposes of this Agreement, a person is a resident of France if he is domiciled in France for the purposes of French tax.
- (2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then his case shall be determined in accordance with the following rules:
- (a) he shall be deemed to be a resident solely of the Contracting State in which he has a permanent home available to him;
 - (b) if he has a permanent home available to him in both Contracting States, or if he does not have a permanent home available to him in either of them, he shall be deemed to be a resident solely of the Contracting State with which his personal and economic relations are the closer.

SCHEDULE 1—continued

(3) Where by reason of the provisions of paragraph (1) a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident solely of the Contracting State in which its place of effective management is situated.

ARTICLE 4

Permanent establishment.

(1) For the purposes of this Agreement the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term “permanent establishment” shall include especially—

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural resources;
- (g) an agricultural, pastoral or forestry property;
- (h) a building site or construction, installation or assembly project which exists for more than six months.

(3) An enterprise shall not be deemed to have a permanent establishment merely by reason of—

- (a) the use of facilities solely for the purpose of storage, 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of activities which have a preparatory or auxiliary character for the enterprise, such as advertising or scientific research.

(4) An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if—

- (a) it carries on supervisory activities in that State for more than six months in connection with a building site, or a construction, installation or assembly project which is being undertaken, in that State; or
- (b) substantial equipment is being used in that State for more than six months by, for or under contract with the enterprise.

(5) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph (6) applies—shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State if—

- (a) he has, and habitually exercises in that State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) in so acting he manufactures or processes in that State for the enterprise goods or merchandise belonging to the enterprise.

(6) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where that person is acting in the ordinary course of his business as such a broker or agent.

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

SCHEDULE 1—continued

ARTICLE 5

Income from real property.

(1) Income from real property, including royalties and other payments in respect of the operation of mines or quarries or of the exploitation of any natural resource, may be taxed by the Contracting State in which the real property, mines, quarries or natural resources are situated.

(2) Income from a lease of land and income from any other direct interest in or over land shall be regarded as income from real property.

ARTICLE 6

Industrial or commercial 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) 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.

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

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

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

(6) For the purposes of this Article, except as provided in the Articles referred to in this paragraph, the profits of an enterprise do not include income or profits dealt with in Articles 5 and 7 and 9 to 16.

(7) Notwithstanding the preceding provisions of this Article, profits of an enterprise of a Contracting State from carrying on a business of any form of insurance other than life insurance may be taxed in the other Contracting State in accordance with the law of that other State relating specifically to the taxation of any person who carries on such a business, provided that if the law in force in either Contracting State at the date of signature of this Agreement relating to the taxation of such a person 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 such amendment of this paragraph as may be necessary.

ARTICLE 7

Shipping.

(1) Profits from the operation of ships derived by a resident of a Contracting State shall be taxable only in that State.

(2) Notwithstanding the provisions of paragraph (1), such profits may be taxed in the other Contracting State where they are profits from operations of ships confined solely to places in that other State.

(3) In this Article, profits derived from the carriage by ships of passengers, cargo or mail shipped in a Contracting State for discharge at another place in that State shall be treated as profits from operations of ships confined solely to places in that State.

SCHEDULE 1—continued

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

(5) Paragraph (4) shall not apply to profits from the operation of ships derived by a resident of a Contracting State if—

- (a) his principal place of business is in the other Contracting State; or
- (b) those profits are derived from activities other than the carriage of passengers, cargo or mail.

In such cases, the provisions of Article 6 shall apply.

ARTICLE 8

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

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

(3) Where, according to the provisions of paragraph (1), profits are included by a Contracting State in the profits of an enterprise, the other Contracting State shall, on a claim being made by the other enterprise concerned, consistently with its law consider the inclusion so made and the provision of relief to that other enterprise in relation to the taxation of profits which the other State determines to be profits which, but for the particular conditions referred to in paragraph (1), might have been expected to accrue to the first-mentioned enterprise.

ARTICLE 9

Dividends.

(1) Dividends paid by a company which is a resident of Australia for purposes of Australian tax, and dividends paid out of profits from sources in Australia by any other company which is a resident of France, being dividends to which a resident of France is beneficially entitled, may be taxed in Australia, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

(2) Dividends paid by a company which is domiciled in France for the purposes of French tax, being dividends to which a resident of Australia is beneficially entitled, may be taxed in France, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

(3) The term “dividends” in this Article means income from shares and other income assimilated to income from shares by the taxation law of the Contracting State of which the company making the distribution is a resident.

(4) The provisions of paragraphs (1) and (2) shall not apply if the resident beneficially entitled to the dividends has in the other Contracting State a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 6 shall apply.

(5) Where a company which is a resident of Australia has a permanent establishment in France, it may be subjected therein to any withholding tax provided by the laws of France but

SCHEDULE 1—continued

the tax shall not exceed 15 per cent of two-thirds of the profits of the permanent establishment after payment of the French corporation tax on those profits.

(6) Where an individual who is a resident of Australia receives from a company which is a resident of France a dividend to which he is beneficially entitled and which, if received by a resident of France would entitle the resident to a tax credit (*avoir fiscal*)—

- (a) the individual shall be entitled to a payment by the Government of France equal to that tax credit (*avoir fiscal*) subject to the deduction of tax at the rate provided for in paragraph (2) of this Article;
- (b) the amount of the tax credit (*avoir fiscal*) shall be included in the assessable income of the individual for purposes of Australian tax; and
- (c) the amount of the tax credit (*avoir fiscal*) shall, for the purposes of Article 23, be treated as income from sources in France.

(7) Where a person (other than an individual) who is a resident of Australia receives from a company which is a resident of France a dividend to which it is beneficially entitled and a prepayment (*précompte*) is levied on that dividend—

- (a) the person shall be entitled to a payment by the Government of France equal to the amount of that prepayment (*précompte*) subject to the deduction of tax at the rate provided for in paragraph (2) of this Article;
- (b) the amount payable before deduction of that withholding tax shall be included as a dividend in the assessable income of the person for purposes of Australian tax; and
- (c) that amount shall, for the purposes of Article 23, be treated as income from sources in France.

ARTICLE 10

Interest.

(1) Interest arising in a Contracting State, being interest to which a resident of the other Contracting State is beneficially entitled, may be taxed in the first-mentioned State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(2) 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, and interest from any other form of indebtedness as well as all other income assimilated to interest by the taxation law of the Contracting State in which the income arises.

(3) The provisions of paragraph (1) shall not apply if the person beneficially entitled to the interest has in the Contracting State in which the interest arises a permanent establishment with which the indebtedness from which the interest arises is effectively connected. In such a case, the provisions of Article 6 shall apply.

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

(5) Where, owing to a special relationship between the payer and the person beneficially entitled to the interest or between both of them and some other person, the amount of the interest paid, having regard to the indebtedness for which it is paid, exceeds the amount which might have been expected to have been agreed upon by the payer and the person so entitled in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the amount of the interest paid shall remain taxable according to the law of each Contracting State, but subject to the other provisions of this Agreement.

SCHEDULE 1—continued

ARTICLE 11

Royalties.

(1) Royalties arising in a Contracting State, being royalties to which a resident of the other Contracting State is beneficially entitled, may be taxed in the first-mentioned State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

(2) The term “royalties” in this Article means payments, whether periodical or not, and however described or computed, to the extent to which they are paid as consideration for the use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trade-mark, or other like property or right, or industrial, commercial or scientific equipment, or for the supply of scientific, technical, industrial or commercial knowledge, information or assistance and includes any payments to the extent to which they are paid as consideration for the use of, or the right to use, motion picture films, films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting.

(3) The provisions of paragraph (1) shall not apply if the person beneficially entitled to the royalties has in the Contracting State in which the royalties arise a permanent establishment with which the asset giving rise to the royalties is effectively connected. In such a case, the provisions of Article 6 shall apply.

(4) Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a State of that Contracting State, a political subdivision or a local authority of that Contracting State or a person who is a resident of that Contracting State for purposes of its tax. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a State other than that of which he is a resident 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 the royalties shall be deemed to arise in the State in which the permanent establishment is situated.

(5) Where, owing to a special relationship between the payer and the person beneficially entitled to the royalties or between both of them and some other person, the amount of the royalties paid, having regard to what they are paid for, exceeds the amount which might have been expected to have been agreed upon by the payer and the person so entitled in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the amount of the royalties paid shall remain taxable according to the law of each Contracting State, but subject to the other provisions of this Agreement.

ARTICLE 12

Alienation of real property.

(1) Income from the alienation of real property (including income from the alienation of a lease of land or of any other direct interest in or over land) may be taxed by the Contracting State in which the real property is situated.

(2) Income from the alienation of shares or comparable interests in a real property co-operative or in a company the assets of which consist wholly or principally of property referred to in paragraph (1) may be taxed by the Contracting State in which that property is situated.

ARTICLE 13

Independent personal services.

Income derived by an individual who is a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

ARTICLE 14

Dependent personal services.

(1) Subject to the provisions of Articles 15, 17, 18 and 19, remuneration derived by an individual who is a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the

SCHEDULE 1—continued

employment is so exercised, such remuneration as is derived from that exercise may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by an individual who is a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if—

- (a) the recipient is present in that other State for a period or periods not exceeding in the aggregate 183 days in the year of income (where Australia is the other State) or in the fiscal year (where France is the other State);
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other State; and
- (c) the remuneration is not deductible in determining taxable profits of a permanent establishment or a fixed base which the employer has in that other State.

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

ARTICLE 15

Directors' fees.

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

ARTICLE 16

Public entertainers.

(1) Notwithstanding the provisions of Articles 13 and 14, income derived by public entertainers (such as theatre, motion picture, radio or television artists and musicians and athletes) from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

(2) Notwithstanding anything contained in this Agreement, where the services of a public entertainer mentioned in paragraph (1) are provided in a Contracting State by an enterprise of the other Contracting State, the profits derived by that enterprise from providing those services may be taxed in the first-mentioned State if the public entertainer performing the services controls, directly or indirectly, that enterprise.

ARTICLE 17

Pensions and annuities.

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

(2) The term "annuity" means any 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) Notwithstanding anything in this Agreement—

- (a) the pensions referred to in paragraphs (4), (5) and (6) of Article 81 of the French General Tax Code shall be exempt from Australian tax so long as they are exempt from French tax;
- (b) the pensions and other payments referred to in paragraphs (a) and (b) of sub-section 23AD (3) of the Australian Income Tax Assessment Act 1936, as amended, where they are paid by Australia, shall be exempt from French tax so long as they are exempt from Australian tax.

(4) Notwithstanding paragraph (1), while paragraph (q) of section 23 of the Australian Income Tax Assessment Act 1936, as amended, and in force at the date of signature of this Agreement continues to have effect in relation to retirement pensions derived by residents of Australia from sources out of Australia, any retirement pension derived by a resident of a Contracting State from sources in the other Contracting State shall, if the person deriving the pension so elects, be taxable only in the last-mentioned State.

SCHEDULE 1—continued

ARTICLE 18

Remuneration paid by Governments.

(1) Remuneration (other than a pension or annuity) paid by Australia, a State of Australia or a political subdivision or local authority of Australia or of a State to any individual in respect of services rendered in the discharge of governmental functions shall be exempt from French tax unless the services are rendered in France by an individual who is a French national or is permanently resident in France.

(2) Remuneration (other than a pension or annuity) paid by France or a local authority thereof to any individual in respect of services rendered in the discharge of governmental functions shall be exempt from Australian tax unless the services are rendered in Australia by an individual who is an Australian citizen or is ordinarily resident in Australia.

(3) This Article shall not apply to remuneration in respect of services rendered in connection with any trade or business carried on by a Government, a political subdivision or an authority referred to in paragraph (1) or (2).

ARTICLE 19

Visiting professors and teachers.

(1) Where a professor or teacher who is a resident of a Contracting State visits the other Contracting State for a period not exceeding two years for the purpose of teaching or conducting research at a university, college, school or other educational institution, remuneration which he receives for so teaching or conducting research shall be exempt from tax in that other State.

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

ARTICLE 20

Students.

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

ARTICLE 21

Income of dual residents.

Where a person, who by reason of the provisions of paragraph (1) of Article 3 is a resident of both Contracting States but, by reason of the provisions of paragraph (2) or (3) of that Article, is deemed for the purposes of this Agreement to be a resident solely of one of the Contracting States, derives income—

- (a) from sources in that Contracting State, or
- (b) from sources outside both Contracting States,

that income shall be taxable only in that Contracting State.

ARTICLE 22

Source of income.

(1) Income derived by a resident of a Contracting State which, under Articles 5 to 7 and 9 to 16 may be taxed in the other Contracting State, shall be deemed to be income from sources in that other State.

(2) Profits included in the profits of an enterprise of a Contracting State under paragraph (1) of Article 8 shall for purposes of the taxation of that enterprise be deemed to be income of that enterprise derived from sources in that Contracting State.

(3) The provisions of sub-paragraph (a) of paragraph (2) of Article 23 shall not apply in relation to income derived by a resident of France from sources in any of the Territories described in sub-paragraph (a) of paragraph (1) of Article 2, or from sources in the area described in that sub-paragraph, if Australian tax does not apply in relation to that income.

SCHEDULE 1—continued

ARTICLE 23

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, French tax paid, whether directly or by deduction, in respect of income derived by a person who is a resident of Australia from sources in France (not including, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall be allowed as a credit against Australian tax payable in respect of that income.

(2) In the case of France, double taxation shall be avoided in the following manner:

- (a) Income derived by a resident of France other than that mentioned in sub-paragraph (b) below shall be exempt from the French taxes mentioned in sub-paragraph (b) of paragraph (1) of Article 1 where the income may, under this Agreement, be taxed in Australia.
- (b) As regards income to which Article 9, 10, 11, 15 or 16 applies, France may tax the income but shall allow to a resident of France receiving the income from Australia a tax credit corresponding to the amount of tax levied by Australia. The tax credit, not exceeding the amount levied by France on such income, shall be allowed against a tax mentioned in sub-paragraph (b) of paragraph (1) of Article 1, in the base of which that income is included.
- (c) Notwithstanding the provisions of sub-paragraph (a), French tax may be computed on income chargeable in France by virtue of this Agreement at the rate appropriate to the total income chargeable in accordance with French law.
- (d) Where a company which is a resident of France redistributes dividends received from a company which is a resident of Australia and has paid a prepayment (*precompté*) in respect of the redistribution under deduction of the Australian tax credit referred to in sub-paragraph (b), the shareholders who are residents of France shall be entitled to a tax credit (*avoir fiscal*) in accordance with the French tax law as if the deduction under sub-paragraph (b) had not been made.

(3) In the event that a Contracting State should cease to allow a company which is a resident of that State relief from its tax in respect of dividends paid to it by a company which is a resident of the other Contracting State, being relief available under the taxation law of the first-mentioned State as in force at the date of signature of this Agreement, that State will immediately advise the other State of the change and enter into negotiations with it to establish new provisions concerning the relief to be allowed in the first-mentioned State under this Article in respect of that State's tax on the dividends.

ARTICLE 24

Complaints by taxpayers.

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Agreement.

(3) The competent authorities of the Contracting States shall jointly endeavour to resolve any difficulties arising as to the application of this Agreement.

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

ARTICLE 25

Exchange of information.

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement or of the domestic laws of the Contracting States concerning the taxes to which this Agreement applies in so far as the taxation thereunder is not contrary to this Agreement. Any information received by the competent

SCHEDULE 1—continued

authority of a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes to which this Agreement applies and shall be used only for such purposes.

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

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are not obtainable under the laws 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 to supply information the disclosure of which would be contrary to public policy.

ARTICLE 26

Diplomatic and consular privileges.

(1) Nothing in this Agreement shall affect diplomatic or consular privileges under the general rules of international law or under the provisions of special international agreements.

(2) This Agreement shall not apply to international organizations, to organs or officials thereof or to persons who are members of a diplomatic or consular mission of a third State and who, being present in a Contracting State, are not treated in either Contracting State as residents in respect of taxes on income.

ARTICLE 27

Extension to Territories.

(1) This Agreement may be extended, either in its entirety or with any necessary modifications by agreement between the Contracting States, to—

- (a) any Territory for whose international relations Australia is responsible; or
- (b) any Overseas Territory of the French Republic,

which imposes taxes substantially similar in character to those to which this Agreement applies. Any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting States in Letters to be exchanged through diplomatic channels for this purpose.

(2) Unless otherwise agreed by both Contracting States, if this Agreement is terminated under Article 29 this Agreement shall cease to be effective in relation to any Territory to which it has been extended under paragraph (1).

ARTICLE 28

Entry into force.

(1) This Agreement shall enter into force on the date on which notes are exchanged through the diplomatic channel notifying that the last of all such things has been done in Australia and France as is necessary to bring the Agreement into force in Australia and France so far as its provisions affect Australian tax and French tax respectively and shall thereupon have effect—

- (a) in Australia—
 - (i) in respect of withholding tax on income that is derived by a non-resident, in respect of income derived on or after 1 January 1973;
 - (ii) in respect of other Australian tax, for any year of income beginning on or after 1 July 1972;
- (b) in France—
 - (i) for withholding tax and prepayment (precompté) relating to any amounts payable on or after 1 January 1973;

SCHEDULE 1—continued

- (ii) in respect of other French tax for the assessment year 1972 and subsequent years.

(2) Nothing in this Agreement shall affect the operation of the Agreement between the Governments of the Contracting States for the avoidance of double taxation of income derived from international air transport signed in Canberra on 27 March 1969.

ARTICLE 29

Duration of Agreement.

This Agreement shall continue in effect indefinitely, but either Contracting State may, on or before 30 June in any calendar year after the year 1977, give to the other Contracting State notice of termination and, in that event, this Agreement shall cease to be effective—

(a) in Australia—

- (i) in respect of withholding tax on income that is derived by a non-resident, in respect of income derived on or after the commencement of the financial year beginning on 1 July in the calendar year next following that in which the notice is given;
- (ii) in respect of other Australian tax, for the year of income beginning on 1 July in the calendar year next following that in which the notice is given, and subsequent years of income;

(b) in France—

- (i) for withholding tax and prepayment (precompté) relating to any amounts payable on or after 1 July in the calendar year next following that in which the notice is given;
- (ii) in respect of other French tax for the assessment year next following the calendar year in which the notice is given, and subsequent years.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Canberra this Thirteenth day of April, One thousand nine hundred and seventy-six in the English and French languages, both texts being equally authoritative.

PHILLIP R. LYNCH

For the Government of
Australia

RAYMOND BARRE

For the Government of
the French Republic

SCHEDULE 2

Section 9

FORMAL AMENDMENTS

Provision	Amendment
Sub-section 3 (1)	(a) From the definition of "the Canadian agreement" omit "the Third Schedule", substitute "Schedule 3".
	(b) From the definition of "the German agreement" omit "the Ninth Schedule", substitute "Schedule 9".
	(c) From the definition of "the Italian agreement" omit "the Eighth Schedule", substitute "Schedule 8".
	(d) From the definition of "the Japanese agreement" omit "the Sixth Schedule", substitute "Schedule 6".
	(e) From the definition of "the New Zealand agreement" omit "the Fourth Schedule", substitute "Schedule 4".
	(f) From the definition of "the Singapore agreement" omit "the Fifth Schedule", substitute "Schedule 5".
	(g) From the definition of "the United Kingdom agreement" omit "the First Schedule", substitute "Schedule 1".
	(h) From the definition of "the United States Convention" omit "the Second Schedule", substitute "Schedule 2".

SCHEDULE 2—continued

Provision	Amendment
The Schedules	(a) Omit the heading "THE SCHEDULES", substitute "SCHEDULES". (b) Omit the heading "FIRST SCHEDULE", substitute "SCHEDULE 1". (c) Omit the heading "SECOND SCHEDULE", substitute "SCHEDULE 2". (d) Omit the heading "THIRD SCHEDULE", substitute "SCHEDULE 3". (e) Omit the heading "FOURTH SCHEDULE", substitute "SCHEDULE 4". (f) Omit the heading "FIFTH SCHEDULE", substitute "SCHEDULE 5". (g) Omit the heading "SIXTH SCHEDULE", substitute "SCHEDULE 6". (h) Omit the heading "SEVENTH SCHEDULE", substitute "SCHEDULE 7". (j) Omit the heading "EIGHTH SCHEDULE", substitute "SCHEDULE 8". (k) Omit the heading "NINTH SCHEDULE", substitute "SCHEDULE 9".

NOTES

1. Act No. 52, 1976; assented to 4 June 1976.
2. Act No. 82, 1953, as amended by No. 25, 1958; No. 88, 1959; Nos. 19 and 29, 1960; No. 71, 1963; No. 112, 1964; No. 105, 1965; No. 17, 1966; Nos. 39 and 86, 1967; No. 3, 1968; No. 24, 1969; No. 48, 1972; No. 11, 1973; No. 216, 1973 (as amended by No. 20, 1974); No. 129, 1974; and No. 119, 1975.