

SCHEDULE

PART I

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF AUSTRALIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS

ARTICLE 10

Dividends

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

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

- (a) 5 per cent. of the gross amount of the dividends, if the beneficial owner of the dividends is a company which holds directly at least 10 per cent. of the voting power in the company paying the dividends; and
- (b) 15 per cent. of the gross amount of the dividends in all other cases.

3. Notwithstanding the provisions of paragraph 2 of this Article, dividends shall not be taxed in the Contracting State of which the company paying the dividends is a resident if the beneficial owner of the dividends is a company that is a resident of the other Contracting State that has owned shares representing 80 per cent. or more of the voting power of the company paying the dividends for a 12 month period ending on the date the dividend is declared and the company that is the beneficial owner of the dividends:

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

4. The term “dividends” as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which

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the company making the distribution is a resident and also includes any other item which, under the laws of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

5. The provisions of paragraphs 1, 2 and 3 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated in that other State and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 of this Convention shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, being dividends beneficially owned by a person who is not a resident of the other Contracting State, except insofar as the holding in respect of which such dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State. This paragraph shall not apply in relation to dividends paid by any company which is a resident of Australia for the purposes of Australian tax and which is also a resident of the United Kingdom for the purposes of United Kingdom tax.

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

8. For the purposes of paragraph 3 of this Article, the term "principal class of shares" means the ordinary or common shares of the company, provided that such class of shares represents the majority of the voting power and value of the company. If no single class of ordinary or common shares represents the majority of the voting power and value of the company, the "principal class of shares" is that class or those classes that in the aggregate represent a majority of the voting power and value of the company.