



Australian Government

The Treasury

21 May, 2008

File: ER2008/01143

Mr James Rees
Joint Standing Committee on Treaties
Department of House of Representatives
PO Box 6021
Parliament House
CANBERRA ACT 2600
AUSTRALIA

Dear Mr Rees

CORRECTIONS TO TRANSCRIPT AND RESPONSE TO QUESTION ON NOTICE

In response to the email dated 14 May 2008 from Ms Heidi Luschnitz, we would like to outline the following corrections to the Proof Committee Hansard for treaties tabled on 12 March 2008 with respect to the Convention between Australia and Japan for the Avoidance of Double Taxation. Also attached with this letter is a response to the question on notice taken during proceedings.

Correction to Hansard

As requested, we have provided our mark up changes in the form of hand written notes to the transcript. In addition, I wish to clarify a number of the aspects of the record of proceedings. The first is at page TR 46, the paragraph beginning, 'We have nine MFN obligations that are outstanding'. In his response, Mr Jacobs was halted by a further question. As such, without his complete response, the factual accuracy of this statement may be questioned. Is it possible to indicate in the transcript that Mr Jacobs' response was halted? Alternatively, if we are able to add additional comments, may we suggest the following at the end of the existing final sentence: 'or a Non-Discrimination Article'?

The second, on page TR44, relates to the paragraph commencing 'Except in the cases of fraud or evasion...' I refer to in the second sentence '...all current OECD standards.' A more accurate description is that there is 'a' standard on information exchange so my reference to 'all' standards is ambiguous at best. Consequently I suggest that this sentence be modified to say 'the current OECD standards.'

The third concerns my update to the costing of the treaty recorded in the third full paragraph on page TR44. In my response I said 'These will be taxed on an assessment basis from 1 January 2009.' However, what I intended to say was that 'These will be taxed on an assessment basis rather than from 1 January 2009.' This reflects that REIT distributions are taxed on an assessment basis under domestic law rather than as a withholding tax (withholding taxes applying under the treaty from 1 January). However, as announced in the budget, REIT distributions in the future will be taxed on a withholding basis. As this announcement was made after the JSCOT hearing the JSCOT record should nevertheless reflect the position that existed at that time.

Fourth, on page TR45, last paragraph, it may not be clear to the reader that the reference to the PRRT under the old treaty is a reference to our understanding of Japan's interpretation of that

treaty; that PRRT was not included as a taxes covered under the treaty and was therefore not eligible for relief (given that PRRT is not mentioned explicitly in that treaty). Consequently it may aid the reading of the transcript if the first sentence was amended to read ‘...for example, under the old treaty Japan ...’

Question on notice

In response to the question taken on notice, Australia does not have any treaties as old as, or older than the existing Japanese agreement that have not been replaced by new comprehensive treaties or updated by protocol. Please see Attachment A for a list of Australia's comprehensive tax treaties, ordered by age.

If you have any questions, please contact me on 6263 4343 or Martin Pook on 6263 4303.

Yours sincerely

A handwritten signature in black ink, appearing to read "Michael Rawstron". The signature is fluid and cursive, with a large initial "M" and "R".

Mike Rawstron
General Manager
International Tax and Treaties Division

ATTACHMENT A

TREATY PARTNER	SIGNATURE DATE
Germany	24/11/1972
Philippines	11/05/1979
Switzerland	28/02/1980
Sweden	14/01/1981
Denmark	1/04/1981
Korea (Republic of)	12/07/1982
Italy	14/12/1982
Ireland	31/05/1983
Belgium	20/03/1984
Malta	9/05/1984
Netherlands	30/06/1986
Austria	8/07/1986
China	17/11/1988
Papua New Guinea	24/05/1989
Thailand	31/08/1989
Singapore	18/10/1989
Sri Lanka	18/12/1989
Fiji	15/10/1990
Hungary	29/11/1990
Kiribati	23/03/1991
Poland	7/05/1991
India	25/07/1991
Spain	24/03/1992
Indonesia	22/04/1992
Czech Republic	28/03/1995
Taipei Economic and Cultural Office	29/05/1996
Slovakia	24/08/1999
Argentina	29/08/1999
Romania	2/02/2000
Russia	7/09/2000
United States of America	27/09/2001
Canada	23/01/2002
Malaysia	28/07/2002
Vietnam	5/08/2002
Mexico	9/09/2002
United Kingdom	21/08/2003
New Zealand	15/11/2005
France	20/06/2006
Norway	8/08/2006
Finland	20/11/2006
Japan	31/01/2008
South Africa	31/03/2008