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

General disclaimer on synthesised text

This document presents the synthesised text for the application of the Convention between Ireland and Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed on 24 June 1970 and amended by the Protocol signed on 14 April 2014 (the "Convention") as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Ireland and by Belgium on 7 June 2017 (the "MLI").

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

The document was prepared on the basis of the MLI position of Ireland submitted to the Depositary upon ratification on 29 January 2019 and the MLI position of Belgium submitted to the Depositary upon ratification on 26 June 2019. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on this Convention.

The authentic legal texts of the Convention and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as "Covered Tax Agreement" and "Convention", "Contracting Jurisdictions" and "Contracting States"), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Convention or to the Convention must be understood as referring to the Convention as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References:

The authentic legal texts of the MLI and the Agreement can be found:

The MLI

http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-BEPS.pdf

In Ireland at the following links:
http://www.irishstatutebook.ie/eli/2018/si/440
http://www.irishstatutebook.ie/eli/1973/si/66
http://www.irishstatutebook.ie/eli/2014/si/466

In Belgium at the following link:
https://www.dekamer.be/digidoc/DPS/K2009/K20094249/K20094249.pdf
https://www.dekamer.be/FLWB/PDF/54/2222/54K2222001.pdf

The MLI position of Ireland submitted to the Depository upon ratification on 29 January 2019 and the MLI position of Belgium submitted to the Depository upon ratification on 26 June 2019 can be found on the MLI Depositary (OECD) webpage. (http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf)

Disclaimer on the entry into effect of the provisions of the MLI

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of this Convention. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and the choices made by Ireland and Belgium in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 29 January 2019 for Ireland and 26 June 2019 for Belgium.

Entry into force of the MLI: 01 May 2019 for Ireland and 01 October 2019 for Belgium.

Unless it is stated otherwise elsewhere in this document, the provisions of the MLI (other than Article 16 (Mutual Agreement Procedure) and Part VI (Arbitration)) have effect with respect to this Convention:

- In Ireland and Belgium with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2020; and

- In Ireland and Belgium with respect to all other taxes levied by each Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 April 2020.

Article 16 (Mutual Agreement Procedure) of the MLI has effect with respect to this Convention for a case presented to the competent authority of a Contracting State on or after 1 October 2019, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

The provisions of Part VI (Arbitration) of the MLI have effect with respect to this Convention with respect to cases presented to the competent authority of a Contracting State on or after 1 October 2019. For cases presented to the competent authority of a Contracting State prior to 1 October 2019 the provisions of Part VI (Arbitration) of the MLI will apply only to the extent that the competent authorities of both Contracting States agree that it will apply to that specific case.

CONVENTION
BETWEEN IRELAND AND BELGIUM
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The President of Ireland and His Majesty the King of the Belgians

[REPLACED BY paragraph 1 and paragraph 3 of Article 6 of the MLI] ~~[desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;]~~

The following paragraph 1 and paragraph 3 of Article 6 of the MLI replace the text referring to an intent to eliminate double taxation in the preamble of this Convention:

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

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

Intending to eliminate double taxation with respect to the taxes covered by this Convention without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third jurisdictions),

Have appointed for that purpose as their Plenipotentiaries:
The President of Ireland: His Excellency Dr. Patrick J. Hillery, Minister for External Affairs;

His Majesty The King Of The Belgians: His Excellency Mr. Pierre Harmel Minister for External Affairs,

Who, having communicated to each other their respective full powers, found in good and due form, have agreed as follows:

I. SCOPE OF THE CONVENTION

ARTICLE 1
PERSONAL SCOPE

Without prejudice to the provisions of paragraph 3 of Article 23, this Convention shall apply to persons who are residents of either of the Contracting States.

The following paragraphs 1 and 3 of Article 3 of the MLI apply and supersede the provisions of this Convention:

ARTICLE 3 OF THE MLI – TRANSPARENT ENTITIES

For the purposes of this Convention, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting State shall be considered to be income of a resident of a Contracting State but only to the extent that the income is treated, for purposes of taxation by that Contracting State, as the income of a resident of that Contracting State. In no case shall the provisions of this paragraph be construed to affect a Contracting State's right to tax the residents of that Contracting State.

ARTICLE 2
TAXES COVERED

1. The taxes which are the subject of this Convention are:

(i) In the case of Belgium:

(a) the individual income tax (l'impôt des personnes physiques);
(b) the corporate income tax (l'impôt des sociétés);
(c) the income tax on legal entities (l'impôt des personnes morales);
(d) the income tax on non-residents (l'impôt des non-residénts);
(e) the prepayments and additional prepayments (les précomptes et compléments de précomptes), and
(f) the surcharges (centimes additionnels) on any of the taxes referred to in heads (a) to (e) above including the communal supplement to the individual income tax (la taxe communale additionnelle à l'impôt des personnes physiques), (hereinafter referred to as "Belgian tax");

(ii) In the case of Ireland:

(a) the income tax (including sur-tax);
(b) the corporation profits tax;
(hereinafter referred to as "Irish tax").

2. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

II. DEFINITIONS

ARTICLE 3
GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

(i) the term "Belgium" means the territory of the Kingdom of Belgium; it includes any area outside the Belgian national sovereignty which under the Belgian laws concerning the Continental Shelf, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of Belgium with respect to the sea bed and sub-soil and their natural resources may be exercised;

(ii) the term "Ireland" includes any area adjacent to the territorial waters of Ireland which by Irish legislation concerning the Continental Shelf, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of Ireland with respect to the sea bed and sub-soil and their natural resources may be exercised;

(iii) the terms "a Contracting State" and "the other Contracting State" mean Belgium or Ireland, as the context requires;

(iv) the term "tax" means Belgian tax or Irish tax, as the context requires;

(v) the term "person" comprises an individual, a company and any other body of persons;

(vi) the term "company" means any body corporate or any other entity which is treated as a body corporate for tax purposes;

(vii) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(viii) the term "competent authority" means:

(a) in Belgium, as the case may be, the Minister of Finance of the federal Government and/or of the Government of a Region and/or of a Community, or his authorized representative, and

(b) in the case of Ireland, the Revenue Commissioners or their authorised representative;

(ix) the term "international traffic" includes traffic between places in any State in the course of a voyage which extends over two or more States.

2. Where under the Convention a person is entitled to exemption or relief from tax in one of the Contracting States on certain income (with or without conditions) and he is subject to tax in the other Contracting State by reference to the amount of that income which is remitted to, or received in, that other State the amount of that income on which exemption or relief is to be allowed in the first-mentioned State shall be limited to the amount so remitted or received.

3. As regards the application of the Convention 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 which are the subject of the Convention.

ARTICLE 4
RESIDENCE

1. For the purposes of this Convention:

(i) the terms "resident of Ireland" and "resident of Belgium" mean respectively any person who is resident in Ireland for the purposes of Irish tax and not a resident of Belgium for the purposes of Belgian tax, and any person who is a resident of Belgium for the purposes of Belgian tax and not resident in Ireland for the purposes of Irish tax;

(ii) a company shall be regarded as a resident of Ireland if its business is managed and controlled in Ireland. Provided that nothing in this Article shall affect any provisions of the law of Ireland regarding the imposition of corporation profits tax in the case of a company incorporated in Ireland and not having its place of effective management in Belgium;

(iii) a company shall be regarded as a resident of Belgium if its place of effective management is situated in Belgium.

2. The terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a resident of Ireland or a person who is a resident of Belgium, as the context requires.

ARTICLE 5
PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, 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:

(i) a place of management;
(ii) a branch;
(iii) an office;
(iv) a factory;
(v) a workshop;
(vi) a mine, quarry or other place of exploitation of natural resources;
(vii) a building site or construction or assembly project which exists for more than twelve months.

3. **[REPLACED by paragraph 3 of Article 13 of the MLI] [**~~The term "permanent establishment" shall not be deemed to include:~~

~~(i) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;~~
~~(ii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;~~
~~(iii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;~~
~~(iv) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;~~
~~(v) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise~~.]

The following paragraph 3 of Article 13 of the MLI replaces paragraph 3 of Article 5 of this Convention:

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

Notwithstanding *Article 5 of this Convention*, the term "permanent establishment" shall be deemed not to include:

a) (i) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
(ii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
(iii) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
(iv) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
(v) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;

b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a), provided that this activity is of a preparatory or auxiliary character;

c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

The following paragraph 4 of Article 13 of the MLI applies to paragraph 3 of Article 5 of this Convention as modified by paragraph 3 of Article 13 of the MLI:

Paragraph 3 of Article 5 of this Convention, as modified by *paragraph 3 of Article 13 of the MLI*, shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and:

a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of *Article 5 of this Convention*; or

b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

4. A person—other than an agent of an independent status to whom paragraph 5 applies—acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

However, an insurance enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State when it insures risks situated there through an agent established there—but not including any such agent as is mentioned in paragraph 5 unless he has, and habitually exercises, an authority to conclude contracts in the name of the enterprise.

5. 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 a business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

6. 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 constitute either company a permanent establishment of the other.

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

ARTICLE 15 OF THE MLI – DEFINITION OF A PERSON CLOSELY RELATED TO AN ENTERPRISE

For the purposes of the provisions of *Article 5 of this Convention*, a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

III. TAXATION OF INCOME

ARTICLE 6
INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the rights to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income arising from the direct use or enjoyment, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

ARTICLE 7
BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Without prejudice to the application of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate

enterprise engaged in the same or similar activities under the same or similar conditions and acting wholly independently.

In giving effect to this principle in a case where the reasonable requirements of the competent authority for full and satisfactory information relative to the ascertainment of the profits to be so attributed are not met, tax may be assessed in the Contracting State in which the permanent establishment is situated on an amount determined in accordance with the legislation of that State.

3. In the determination of the profits of a permanent establishment there shall be allowed as deductions expenses incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

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

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

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, the provisions of this Article shall not prevent the application of the provisions of those other Articles for the taxation of such items of income.

ARTICLE 8
SHIPPING AND AIR ENTERPRISES

1. Profits derived by an enterprise from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

ARTICLE 9
ASSOCIATED ENTERPRISES

Where

(i) 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

(ii) 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 are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued 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.

The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

Where a Contracting State includes in the profits of an enterprise of that Contracting State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other Contracting State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10
DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. Such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the law of that State. However

(a) the tax so charged shall not exceed 15 per cent of the gross amount of the said dividends paid by a company which is a resident of Belgium;

(b) dividends paid by a company which is a resident of Ireland shall be exempt from Irish sur-tax.

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" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident. In the case of a company which is a resident of Belgium, other than a company with share capital (société autre qu'une société par actions), the term "dividends" includes payments by the company—even if made in the form of interest—which are taxable in the hands of members of the company as income on invested capital.

4. Neither the limitation of rate of tax nor the exemption for which paragraph 2 provides shall apply if the recipient of the dividends, being a resident of a Contracting State, has in the

other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected.

5. 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 outside that other State to persons who are not residents thereof or 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 that other State.

ARTICLE 11
INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. Such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State. However, the tax so charged shall not exceed 15 per cent of the amount of the interest.

3. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and, subject to the following subparagraph, debt-claims and deposits of every kind as well as all other income assimilated by the taxation law of the State in which the income arises to income from money lent or deposited; and includes, in the case of Belgium, prizes on lottery bonds (lots d'emprunts).

The term does not include:

(i) interest assimilated to dividends by Article 10, paragraph 3, second sentence;

(ii) interest on commercial debt-claims—including those which are represented by bills of exchange—arising from hire purchase payments for the supply of merchandise, products or services by an enterprise of a Contracting State to a resident of the other Contracting State;

(iii) interest paid by a banking enterprise of a Contracting State to a banking enterprise of the other Contracting State on current accounts or nominal advances;

(iv) interest on moneys, not represented by bearer bonds, deposited in banking enterprises including public credit establishments.

Interest which is the subject of clauses (ii) to (iv) of the preceding subparagraph shall be subject to the provisions of Article 7 or Article 22, as may be appropriate.

4. The limitation of rate of tax for which paragraph 2 provides shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim or deposit from which the interest arises is effectively connected.

5. Where, owing to a special relationship between the payer and the recipient or depositor or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim or deposit for which it is paid, exceeds the amount which would have been agreed

upon between the payer and the recipient or depositor in the absence of such relationship, the limitation of rate provided for in paragraph 2 shall apply only to the last-mentioned amount. In that case, the excess part of the interest may be taxed according to the law of the Contracting State in which the interest arises.

ARTICLE 12
ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

2. The term "royalties" as used in this Article means payments of any kind received as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment not consisting of an immovable asset to which Article 6 applies or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case the royalties may be taxed according to the law of the Contracting State in which they arise.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient 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 royalties may be taxed according to the law of the Contracting State in which the royalties arise.

ARTICLE 13
CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in Article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base may be taxed in the other State.

However, gains from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

3. Gains from the alienation of all other property, including shares —not being part of the business property of a permanent establishment to which the first subparagraph of paragraph 2

applies—in a company with share capital, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14
INDEPENDENT PERSONAL SERVICES

1. Income derived by 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 activities connected with that fixed base.

2. The expression "professional services" includes, inter alia, independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15
DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

(i) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the taxable period (période imposable) concerned, and

(ii) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

(iii) the remuneration is not directly borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic shall be deemed to relate to an employment exercised in the Contracting State in which the place of effective management of the enterprise is situated and may be taxed in that State.

ARTICLE 16
DIRECTORS' FEES

Directors' fees and similar payments derived by a resident of one of the Contracting States 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. In relation to remuneration of a director of a company derived from the company in respect of the discharge of day-to-day functions of a managerial or technical nature, the provisions of Article 15 shall apply as if the remuneration

were remuneration of an employee in respect of an employment and as if references to "employer" were references to the company.

ARTICLE 17
ARTISTES AND ATHLETES

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

ARTICLE 18
PENSIONS

Subject to the provisions of Article 19, paragraph 1, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

ARTICLE 19
GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds created by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in that State.

This provision shall not apply if the individual is a national of the other Contracting State without being also a national of the first-mentioned State.

2. The first paragraph shall not apply to remuneration or pensions paid in respect of services rendered in connection with any trade or business carried on by a Contracting State or by a political subdivision or local authority thereof. The provisions of Articles 15, 16 and 18 shall apply to such remuneration or pensions.

ARTICLE 20
PROFESSORS, TEACHERS AND RESEARCHERS

An individual who sojourns in one of the Contracting States for a period not exceeding two years, for the purpose of teaching or carrying out advanced study or research in that State at a university, college, school or other educational establishment or at a research institute (operated without any profit motive) and who immediately prior to such sojourn was a resident of the other Contracting State, shall not be taxed in the first-mentioned State in respect of any payments which he receives for such activity.

ARTICLE 21
STUDENTS

1. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

2. Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training derives from an employment which he exercises in that other State for a period or periods—including the duration of normal interruptions of work—not exceeding in the aggregate 183 days in the taxable period (période imposable) shall not be taxed in that other State provided that such remuneration does not exceed 8,000 Belgian francs a month or the equivalent of this sum in Irish pounds.

ARTICLE 22
INCOME NOT EXPRESSLY MENTIONED

Items of income arising in a Contracting State to a resident of the other Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that other State.

IV. METHODS FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 23

1. In the case of income derived from sources in Ireland, double taxation shall be relieved in Belgium in the following manner:

(i) Where a resident of Belgium derives income which is not subject to the provisions of subparagraph (ii) or subparagraph (iii) below, and which, in accordance with the provisions of this Convention, may be taxed in Ireland, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remainder of the income of that resident, apply the rate of tax which would have been applicable if the income in question had not been exempted.

(ii) In cases not covered by subparagraph (iii), where a resident of Belgium receives dividends to which the provisions of paragraph 2 of Article 10 apply, interest to which the provisions of paragraph 2 or paragraph 5 of Article 11 apply or royalties to which the provisions of paragraph 4 of Article 12 apply, Belgium shall reduce the Belgian tax charged thereon by a deduction in respect of the tax borne in Ireland. The deduction shall be allowed against the tax chargeable on the net amount of the dividends from companies which are residents of Ireland, as well as of interest and royalties arising in Ireland which have been taxed there; the deduction shall be the fixed proportion of the foreign tax for which provision is made in existing Belgian law, subject to any subsequent modification—which, however, shall not affect the principle hereof.

(iii) Where a company which is a resident of Belgium owns shares in a company which is a resident of Ireland and which is subject there to tax on its profits, the dividends which are paid to it by the latter company and which may be taxed in Ireland in accordance with the provisions of paragraph 2 of Article 10 shall be exempt from the corporate income tax in Belgium to the extent that exemption would have been accorded if the two companies had been residents of Belgium; this provision shall not prohibit the withholding from these dividends of the prepayment on income from movable property (précompte mobilier) chargeable in accordance with Belgian law.

(iv) A company which is a resident of Belgium and which, during the whole of an accounting period of a company which is a resident of Ireland and which is subject there

to tax on its profits, has held the direct ownership of shares in the latter company, shall also be exempted from the prepayment on income from movable property (précompte mobilier) chargeable in accordance with Belgian law on the dividends derived from those shares, provided that it so requests in writing not later than the time limited for the submission of its annual return; on the redistribution to its own shareholders of the dividends so exempted those dividends may not be deducted from dividends distributed by that company which are subject to the prepayment on income from movable property (précompte mobilier). This provision shall not apply when the first-mentioned company has elected that its profits be charged to the individual income tax.

However, the application of this provision shall be limited to dividends paid by a company which is a resident of Ireland to a company which is a resident of Belgium and which controls directly or indirectly not less than 10 per cent of the voting power in the first-mentioned company where, for the application of the exemption referred to in subparagraph (iii), a similar limitation would be imposed by Belgian legislation in respect of dividends paid by companies which are residents of Belgium.

(v) When in accordance with Belgian law, losses incurred by an enterprise of Belgium in a permanent establishment situated in Ireland have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided in subparagraph (i) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that these profits have also been exempted from Irish tax by reason of compensation for the said losses.

2. Subject to the provisions of the law of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland and to any subsequent modifications of these provisions—which, however, shall not affect the principle hereof—Belgian tax payable under the laws of Belgium and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Belgium shall be allowed as a credit against any Irish tax payable in respect of that income.

Where such income is a dividend paid by a company (hereafter called the "paying company") which is a resident of Belgium:

(i) in the case of any dividend paid to a company which controls directly or indirectly not less than 10 per cent of the entire voting power of the paying company, the credit shall also take into account the Belgian tax payable by the paying company on its profits;

(ii) in any other case, where the dividend is an ordinary dividend the credit shall likewise take into account the Belgian tax payable by the paying company on its profits and, where it is a dividend paid on participating preference shares and representing both a dividend at a fixed rate and an additional participation in profits, the Belgian tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

3. In the case of an individual who is resident in Ireland for the purposes of Irish tax and who is also a resident of Belgium for the purposes of Belgian tax:

(i) income derived from sources in Ireland shall remain taxable there according to Irish law. Such income shall also be taxable in Belgium according to Belgian law and double taxation shall be relieved in accordance with the principles of paragraph 1;

(ii) income derived from sources in Belgium shall remain taxable there according to Belgian law. Such income shall also be taxable in Ireland according to Irish law and double taxation shall be relieved in accordance with the principles of paragraph 2.

4. For the purposes of this Article:

(i) a company which is a resident of Ireland shall be regarded as subject to Irish tax notwithstanding that its profits may have been relieved in whole or in part from such tax for a limited period of time;

(ii) profits or remuneration arising from the exercise of a profession or employment in a Contracting State shall be deemed to be income from sources within that Contracting State, and the services of an individual whose profession or employment is exercised wholly or mainly aboard ships or aircraft operated by an enterprise having its place of effective management in a Contracting State shall be deemed to be performed in that Contracting State;

(iii) income derived from sources in the United Kingdom by an individual who is resident in Ireland for the purposes of Irish tax shall be deemed to be income from sources in Ireland if such income is not subject to United Kingdom income tax.

V. SPECIAL PROVISIONS

ARTICLE 24
NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The term "nationals" means:

(i) in relation to Ireland, all citizens of Ireland and all legal persons, partnerships and associations deriving their status as such from the law in force in Ireland;

(ii) in relation to Belgium, all individuals possessing the nationality of Belgium and all legal persons, partnerships and associations deriving their status as such from the law in force in Belgium.

3. (i) Individuals who are residents of a Contracting State and taxable in the other Contracting State shall be entitled there to the same personal allowances, reliefs and reductions as are granted to nationals of that other State who are not residents thereof.

(ii) A resident of Ireland who has a residence available for him in Belgium shall be taxable there in the same way as a Belgian national who is not a resident of Belgium on a minimum amount of income equal to twice the cadastral income of that residence.

4. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as preventing Belgium from charging the profits of a permanent establishment in Belgium of a company which is a resident of Ireland at a rate of tax which does not—before the application of surcharges mentioned in paragraph 1 (i)(f) of Article 2—exceed the basic rate (at present 30 per cent) charged on a company which is a resident of Belgium by more than 5 percentage points.

5. Save where Article 9, Article 11, paragraph 5, and Article 12, paragraph 4, apply, interest, royalties and other expenses paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of that enterprise, be deductible to the same extent and subject to the same conditions as if they had been paid to a resident of the first-mentioned State.

6. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

7. The provisions of this Article shall not be construed as obliging Ireland to grant to any company other than a company incorporated in Ireland and resident therein for the purposes of income tax, any relief or exemption allowed in accordance with the provisions of:

(i) the Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 (No. 8 of 1956), as subsequently amended, or

(ii) Part II of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956), as subsequently amended, or

(iii) Chapter II or Chapter III of Part XXV of the Income Tax Act, 1967 (No. 6 of 1967), as subsequently amended.

8. In this Article the term "taxation " means taxes of every kind and description.

ARTICLE 25
MUTUAL AGREEMENT PROCEDURE

1. **[REPLACED by paragraph 1 of Article 16 of the MLI]** ~~[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 double taxation prohibited by this Convention, he may, independently of the remedies provided by the national laws of those States, address to the competent authority of the State of which he is a resident an application in writing stating the grounds for claiming revision of his taxation. The said application must be submitted before the expiry of a period of two years from the notification of liability to or the deduction at source of the second charge to tax.]~~

The following paragraph 1 of Article 16 of the MLI replaces paragraph 1 of Article 25 of this Convention:

ARTICLE 16 OF THE MLI - MUTUAL AGREEMENT PROCEDURE

Where a person considers that the actions of one or both of the Contracting States result or will result for that person in taxation not in accordance with the provisions of this Convention, that person may, irrespective of the remedies provided by the domestic law of those Contracting States, present the case to the competent authority of either Contracting State.

The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.

2. Such 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 by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of double taxation prohibited by the Convention.

The following paragraph 2 of Article 16 of the MLI applies to this Convention:

ARTICLE 16 OF THE MLI - MUTUAL AGREEMENT PROCEDURE

The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention.

Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of the Convention.

In case of differing interpretations of the same concept in the laws of both Contracting States their competent authorities may, on a basis of reciprocity, reach a common interpretation for the purpose of applying the Convention.

The following paragraph 3 of Article 16 of the MLI applies to this Convention:

ARTICLE 16 OF THE MLI - MUTUAL AGREEMENT PROCEDURE

The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention.

They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

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

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

PART VI OF THE MLI – ARBITRATION

Paragraphs 1 to 10 and 12 of Article 19 (Mandatory Binding Arbitration) of the MLI

1. Where:

a) under paragraph 1 of Article 25 of this Convention, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention; and

b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 of Article 25 of this Convention, within a period of two years beginning on the start date referred to in paragraph 8 or 9 of Article 19 of the MLI, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting States have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

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

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

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

4. a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1 of Article 19 of the MLI. The arbitration decision shall be final.

b) The arbitration decision shall be binding on both Contracting States except in the following cases:

i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.

ii) if a final decision of the courts of one of the Contracting States holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 of Article 19 of the MLI shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings) of the MLI). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.

iii) if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.

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

a) send a notification to the person who presented the case that it has received the request; and

b) send a notification of that request, along with a copy of the request, to the competent authority of the other Contracting State.

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

a) notify the person who has presented the case and the other competent authority that it has received the information necessary to undertake substantive consideration of the case; or

b) request additional information from that person for that purpose.

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

a) that it has received the requested information; or

b) that some of the requested information is still missing.

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

a) the date on which both competent authorities have notified the person who presented the case pursuant to subparagraph a) of paragraph 6 of Article 19 of the MLI; and

b) the date that is three calendar months after the notification to the competent authority of the other Contracting State pursuant to subparagraph b) of paragraph 5 of Article 19 of the MLI.

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

a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other competent authority pursuant to subparagraph a) of paragraph 7 of Article 19 of the MLI; and

b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

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

10. The competent authorities of the Contracting States shall by mutual agreement pursuant to Article 25 of this Convention settle the mode of application of the provisions contained in this Part, including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

12. Notwithstanding the other provisions of this Article of the MLI,

a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by the MLI shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either Contracting State;

b) if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States, a decision concerning the issue is rendered by a court or administrative tribunal of one of the Contracting States, the arbitration process shall terminate.

Article 20 (Appointment of Arbitrators) of the MLI

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

this Part.

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

a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.

b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 of Article 19 of the MLI. The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either Contracting State.

c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the Contracting States and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

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

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

Article 21 (Confidentiality of Arbitration Proceedings) of the MLI

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

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

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

For the purposes of this Part and the provisions of this Convention that provide for resolution of cases through mutual agreement, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States:

a) the competent authorities of the Contracting States reach a mutual agreement to resolve the case; or

b) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure.

Paragraphs 1 and 5 of Article 23 (Type of Arbitration Process) of the MLI
(Alternative 1 – Final offer arbitration)

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

a) After a case is submitted to arbitration, the competent authority of each Contracting State shall submit to the arbitration panel, by a date set by agreement, a proposed resolution which addresses all unresolved issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities of the Contracting States). The proposed resolution shall be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax charged pursuant to this Convention, for each adjustment or similar issue in the case. In a case in which the competent authorities of the Contracting States have been unable to reach agreement on an issue regarding the conditions for application of a provision of this Convention (hereinafter referred to as a "threshold question"), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.

b) The competent authority of each Contracting State may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or supporting position paper shall provide a copy to the other competent authority by the date on which the proposed resolution and supporting position paper were due. Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.

c) The arbitration panel shall select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and shall not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the panel members. The arbitration panel shall deliver its decision in writing to the competent authorities of the Contracting States. The arbitration decision shall have no precedential value.

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

Article 25 (Costs of Arbitration Proceedings) of the MLI

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

Paragraphs 2 and 3 of Article 26 (Compatibility) of the MLI

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

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

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

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

Notwithstanding paragraph 1 of Article 19 (Mandatory Binding Arbitration) a case may not be submitted to arbitration if the case is connected with:

1. **Serious penalties.** Ireland reserves the right to exclude from the scope of Part VI cases connected with actions for which the taxpayer or a related person (or a person acting for either the taxpayer or a related person) is liable to a penalty as a result of deliberate behaviour in accordance with Section 1077E Taxes Consolidation Act 1997. For this purpose, 'deliberate behaviour' is to be interpreted in accordance with the guidance contained in the Code of Practice for Revenue Audits and other Compliance Interventions, which will be reviewed on an on-going basis and may be modified to reflect changes in legislation and emerging practices. Any subsequent provisions replacing, amending or updating Section 1077E Taxes Consolidation Act 1997 would also be comprehended. Ireland shall notify the Depositary of any such subsequent

provisions.

2. **Domestic anti-avoidance**. Ireland reserves the right to exclude from the scope of Part VI cases involving the application of Ireland's domestic anti-avoidance rules contained in Section 811 and Section 811A Taxes Consolidation Act 1997. Any subsequent provisions replacing, amending or updating these anti-avoidance rules would also be comprehended. Ireland shall notify the Depositary of any such subsequent provisions.

ARTICLE 26
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

(*a*) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(*b*) to supply information which is 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 information, the disclosure of which would be contrary to public policy (ordre public).

4. If information is requested by a Contracting State in accordance with the provisions of this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 of this Article but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 of this Article be construed to permit a Contracting State to decline to supply information solely because the information is held by a

bank, other financial institution, trust, foundation, nominee or person acting in an agency or a fiduciary capacity, or because it relates to ownership interests in a person.

ARTICLE 27
MISCELLANEOUS

1. Nothing in this Convention shall have the effect of limiting the taxation of a company which is a resident of Belgium in the event of the repurchase of its own shares (actions ou parts) or in the event of a distribution of its assets.

2. Nothing in this Convention shall affect the fiscal privileges which members of diplomatic or consular missions enjoy by virtue of the general rules of international law or of the provisions of special agreements.

3. For the purpose of the Convention, persons who are members of a diplomatic or consular mission of a Contracting State accredited to the other Contracting State or to another State, and who are nationals of the accrediting State, shall be deemed to be residents of the last-mentioned State if they are subjected therein to the same obligations for the purposes of taxes on income as are residents of that State.

4. The Convention shall not apply to international organisations, to organs or officials thereof or to persons who are members of a diplomatic or consular mission of a third State, who are present on the territory of a Contracting State and who are not treated in either Contracting State as residents thereof for the purposes of taxes on income.

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

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE

(*Principal purposes test provision)*

Notwithstanding any provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

The following paragraph 4 of Article 7 of the MLI applies to paragraph 1 of Article 7 of the MLI:

Where a benefit under this Convention is denied to a person under paragraph 1 of Article 7 of the MLI, the competent authority of the Contracting State that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in paragraph 1 of Article 7 of the MLI. The competent authority of the Contracting State to which a request has been made under this paragraph by a resident of the other Contracting State shall consult with the competent authority of that other Contracting State before rejecting the request.

VI. FINAL PROVISIONS

ARTICLE 28
ENTRY INTO FORCE AND SUSPENSION OF THE OPERATION OF PREVIOUS CONVENTIONS

1. Convention shall be ratified and the instruments of ratification shall be exchanged at Dublin as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

(i) in Belgium:

(a) as respects all tax due at source on income normally credited or payable after the 31st December of the calendar year in which the instruments of ratification are exchanged;

(b) as respects all tax other than tax due at source on income of any accounting period ending on or after the 31st December of the same year;

(ii) in Ireland:

(a) as respects income tax (including sur-tax) for the year of assessment beginning on the 6th April of the calendar year in which the instruments of ratification are exchanged and for subsequent years of assessment;

(b) as respects corporation profits tax for any accounting period beginning on or after the 1st April of the calendar year in which the instruments of ratification are exchanged, and for the unexpired portion of any accounting period current at that date.

3. The Agreement, dated the 4th December, 1967, between Belgium and Ireland for the purpose of avoiding double taxation of income derived from the business of sea and air transport shall not have effect for any period for which Article 8 of the present Convention has effect.

ARTICLE 29
TERMINATION

This Convention shall remain in force indefinitely, but either of the Contracting States may terminate the Convention, through diplomatic channels, by giving notice of termination not later than the 30th June of any calendar year after the fifth year following that in which the instruments of ratification were exchanged. In such event the Convention shall cease to have effect:

(i) in Belgium:

(a) as respects all tax due at source normally credited or payable after the 31st December of the calendar year next following that in which the notice is given;

(b) as respects all tax other than tax due at source on income of any accounting period ending on or after the 31st December of the calendar year next following that in which such notice is given;

(ii) in Ireland:

(a) as respects income tax (including sur-tax) for the year of assessment beginning on the 6th April of the calendar year next following that in which such notice is given and for subsequent years of assessment;

(b) as respects corporation profits tax for any accounting period beginning on or after the 1st April of the calendar year next following that in which such notice is given and for the unexpired portion of any accounting period current at that date.

IN WITNESS WHEREOF the above-mentioned Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

DONE in duplicate at Brussels, this 24th June 1970, in the Irish, English, French and Netherlands languages, the four texts being equally authoritative.

For the President of Ireland	For His Majesty the King of the Belgians
P. J. Hillery	Pierre Harmel