

## **SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN IRELAND AND FRANCE 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 France for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed on 21 March 1968 (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 France on 7 June 2017 (the “MLI”).

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

This was prepared on the basis of the MLI position of Ireland submitted to the Depositary upon ratification on 29 January 2019 and of the MLI position of France submitted to the Depositary upon ratification on 26 September 2018. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the 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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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/this Convention or to the/this 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 Convention 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/1970/si/162>

In France at the following link:

<https://www.impots.gouv.fr/portail/les-conventions-internationales>

The MLI position of Ireland submitted to the Depository upon ratification on 29 January 2019 and the MLI position of France submitted to the Depository upon ratification on 26 September 2018 can be found on the MLI Depository (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 the Convention do not take effect on the same dates as the original provisions of the 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 France in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 29 January 2019 for Ireland and 26 September 2018 for France.

Entry into force of the MLI: 01 May 2019 for Ireland and 01 January 2019 for France.

The provisions of the MLI (except for Article 16 (Mutual Agreement Procedure) and Part VI (Arbitration) have effect with respect to the Convention:

- In Ireland and France 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 France with respect to all other taxes levied by each Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 November 2019.

Article 16 (Mutual Agreement Procedure) of the MLI has effect with respect to the Convention for a case presented to the competent authority of a Contracting State on or after 1 May 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 the Convention with respect to cases presented to the competent authority of a Contracting State on or after 1 May 2019. For cases presented to the competent authority of a Contracting State prior to 1 May 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 FRANCE FOR THE AVOIDANCE OF DOUBLE  
TAXATION AND THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME.**

The President of Ireland and the President of the Republic of France,

**[REPLACED by paragraph 1 and paragraph 3 of Article 6 of the MLI]** ~~{desiring to avoid, so far as possible, double taxation and to prevent fiscal evasion in the matter of 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 decided to conclude a Convention and for that purpose have named as plenipotentiaries:  
The President of Ireland:

His Excellency Thomas Vincent Commins, Ambassador Extraordinary and Plenipotentiary of Ireland at Paris.

The President of the Republic of France:

Monsieur Gilbert de Chambrun, Ministre Plénipotentiaire, Directeur des Conventions Administratives et des Affaires Consulaires au Ministère des Affaires Etrangères, Paris.

who having exhibited their full powers which have been found in good and due form have agreed upon the following provisions.

**ARTICLE 1**

1. The present Convention shall apply to taxes on income imposed on behalf of each Contracting State irrespective of the manner in which they are levied.

There shall be regarded as taxes on income all taxes imposed on total income or on the elements of income.

2. The provisions of this Convention have as their object the avoidance of double taxation which could result for residents of each of the Contracting States by the levying simultaneously or successively in one State and the other of the taxes to which the above paragraph 1 applies.

3. The existing taxes to which this Convention shall apply are

A. In the case of France:

(a) l'impôt sur le revenu des personnes physiques (the tax on the income of individuals);

(b) la taxe complémentaire (the complementary tax);

(c) l'impôt sur les sociétés (the tax on companies)

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

B. In the case of Ireland:

the income tax (including sur-tax) and the corporation profits tax.

4. This 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 beginning 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 in the course of the preceding year.

5. It is agreed that in the case where the fiscal legislation of one of the Contracting States is made the subject of amendments which substantially affect the nature or character of the taxes to which paragraph 3 of this Article applies, the competent authorities of the two States shall consult together in order to determine what amendments will eventually have to be made in this Convention.

## **ARTICLE 2**

In the application of this Convention:

1. The term "France" means Metropolitan France and the Overseas departments (Guadeloupe, Guiana, Martinique and Reunion);

2. The terms "a Contracting State" and "the other Contracting State" mean Ireland or France as the context requires;

3. The term "tax" means Irish tax or French tax as the context requires;

4. The term "person" comprises an individual, a company and any other body of persons;

5. The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

6. The expressions "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively as the context requires an enterprise carried on

by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

7. The expressions "resident of Ireland" and "resident of France" mean respectively:

any person who is a resident of Ireland for the purposes of Irish tax and who is not a resident of France for the purposes of French tax, and

any person who is a resident of France for the purposes of French tax and who is not a resident of Ireland for the purposes of Irish tax;

8. A company shall be regarded as a resident of Ireland if it is managed and controlled in Ireland. It is agreed that this provision does not prevent the application, according to Irish law, of the corporation profits tax in the case of a company incorporated in Ireland which is not managed and controlled in France.

A company shall be regarded as a resident of France if it is managed and controlled in France.

9. The term "permanent establishment" means a fixed place of business in which the business of an enterprise is wholly or partly carried on.

(a) A permanent establishment shall include especially:

(aa) a place of management;

(bb) a branch;

(cc) an office;

(dd) a factory;

(ee) a workshop;

(ff) a mine, quarry or other place of extraction of natural resources;

(gg) a building site or construction or assembly project which exists for more than twelve months.

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

~~(aa) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;~~

~~(bb) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;~~

~~(cc) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;~~

~~(dd) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;~~

~~(ee) 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 subparagraph (b) of paragraph 9 of Article 2 of this Convention:*

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

Notwithstanding *paragraph 9 of Article 2 of the Convention*, the term “permanent establishment” shall be deemed not to include:

- a)
  - (aa) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - (bb) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - (cc) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - (dd) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
  - (ee) 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 subparagraph (b) of paragraph 9 of Article 2 of this Convention as modified by paragraph 3 of Article 13 of the MLI:*

*Subparagraph (b) of paragraph 9 of Article 2 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 *paragraph 9 of Article 2 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.

(c) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State, other than an agent of an independent status to whom subparagraph (d) applies, 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.

(d) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business there 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.

(e) 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 there (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 *paragraph 9 of Article 2 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.

10. The expression "competent authority" means:

in the case of Ireland, the Revenue Commissioners or their duly authorised representatives:

in the case of France, the Minister of Finance and Economic Affairs or his duly authorised representatives.

11. In the application of this Convention by a Contracting State any term or expression which is not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the law of that State relating to the taxes which are the subject of this Convention.

### ARTICLE 3

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 laws 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 of agricultural and forestry enterprises, 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 mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraphs 1 and 2 above shall apply to income derived from the direct use or from the letting of immovable property or from the use in any other form of such property, including income from agricultural or forestry enterprises. They shall likewise apply to profits from the alienation of immovable property.

*The following paragraph 4 of Article 9 of the MLI applies and supersedes the provisions of this Convention:*

#### ARTICLE 9 OF THE MLI – CAPITAL GAINS FROM ALIENATION OF SHARES OR INTERESTS OF ENTITIES DERIVING THEIR VALUE PRINCIPALLY FROM IMMOVABLE PROPERTY

For the purposes of this Convention, gains derived by a resident of a Contracting State from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting State if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other Contracting State.



4. The provisions of paragraphs 1 to 3 above shall also apply to the income from immovable property of any enterprises other than agricultural or forestry enterprises and to income from immovable property used for the performance of professional services.

#### **ARTICLE 4**

1. The industrial and commercial 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, tax may be imposed in the other State on the profits of the enterprise but only on so much of them as is attributable to that permanent establishment.

2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing quite independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are 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 of this Article shall preclude such 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.

#### **ARTICLE 5**

Where

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

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions 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 State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first- mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other 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 6

1. Profits 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 7

1. Income arising from the alienation of shares in a company shall be taxable only in the Contracting State of which the alienator is a resident.
2. Paragraph 1 shall not apply when the shares alienated form part of the assets of a permanent establishment which the alienator possesses in the other State. In that case, Article 4 shall apply.

#### ARTICLE 8

1. A company which is a resident of Ireland and which possesses a permanent establishment in France shall, so far as the distribution of profits which it makes is concerned, remain liable in France to the application, in respect of the tax on the income of individuals, of a withholding tax under the conditions prescribed by French law.

2. A company which is a resident of Ireland shall not be liable in France to the withholding tax mentioned in the above paragraph 1 by reason of its participation in the management or in the capital of a company which is a resident of France or by reason of any other relationship with that company, but the profits distributed by the latter company and subject to that withholding tax shall be, in such a case, increased for the assessment of the said withholding tax by all the profits or benefits which the company which is a resident of Ireland may have indirectly derived from the company which is a resident of France under the conditions prescribed in Article 5; and double taxation shall so far as these profits or benefits are concerned be avoided in accordance with the provisions of Article 21.

## ARTICLE 9

*1. In relation to France the rate of withholding at source applied, in respect of the tax on the income of individuals, to dividends defined in paragraph 5 below shall not exceed 15% while the income arises to a resident of Ireland.*

*However, the rate shall not exceed 10% on dividends distributed by a company being a resident of France to a company being a resident of Ireland which has held for a year in its own name shares or parts d'intérêt representing at least 50% of the capital of the first company.*

*The following paragraph 1 of Article 8 of the MLI applies to paragraph 1 of Article 9 of this Convention:*

### ARTICLE 8 OF THE MLI - DIVIDEND TRANSFER TRANSACTIONS

*Paragraph 1 of Article 9 of this Convention shall apply only if the ownership conditions described in that provision are met throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).*

2. Dividends arising from sources situated in Ireland which are paid to an individual being a resident of France shall be exempt from Irish sur-tax.

3. The provisions of paragraphs 1 and 2 shall not 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. In such a case, Article 4 shall apply.

4. The competent authorities of the two States shall by mutual agreement settle the mode of application of paragraphs 1 and 2 above.

5. 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.

6. When the prepayment (précompte) is levied on dividends paid by a company being a resident of France, the recipients of these dividends who are residents of Ireland shall be entitled to the refund of that prepayment, subject to deduction of the withholding tax with respect to the refunded amount, in accordance with the provisions of the present Article.

## **ARTICLE 10**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this provision.

2. 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 debt-claims 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.

3. The provisions of paragraph 1 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 from which the interest arises is effectively connected. In such a case, Article 4 shall apply.

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 interest paid, having regard to the debt-claim for which it is 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 payments shall remain taxable according to the Contracting States' own laws, due regard being had to the other provisions of this Convention.

## **ARTICLE 11**

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, 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, or for information concerning industrial, commercial or scientific experience.

3. Profits from the alienation of any rights or property mentioned in paragraph 2 shall be taxable only in the Contracting State of which the alienator is a resident.

4. Sums paid for the hire or right of usage of cinematograph or television films shall not be treated as royalties. Article 4 shall apply in such a case.

5. The provisions of paragraphs 1 and 3 shall not apply if the recipient of the royalties or the profits, being a resident of a Contracting State, has in the Contracting State in which these royalties or profits arise a permanent establishment with which the right or property giving rise to them is effectively connected. Article 4 shall then apply.

6. 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 payments shall remain taxable according to the Contracting States' own laws, due regard being had to the other provisions of this Convention.

## **ARTICLE 12**

1. Subject to the provisions of Articles 13, 14 and 15, 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 above, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and

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

(c) the remuneration is not deducted from the profits of a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration for personal services performed aboard a ship or aircraft international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

## **ARTICLE 13**

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State to any individual in respect of services rendered to that State in the discharge of administrative functions (civil or military) shall be taxable only in that State.

However, this provision shall not be applied if the remuneration is granted to an individual who is a national of the other State, without being at the same time a national of the first State; in that case, the remuneration shall be taxable only in the State of which the individual is a resident.

2. The provisions of Articles 12, 14 and 15 shall apply to remuneration and pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States.

#### **ARTICLE 14**

1. Subject to the provisions of paragraph 1 of Article 13, pensions and other similar remuneration paid in consideration of past employment shall be taxable only in the Contracting State of which the recipient is a resident.

2. In like manner an annuity arising from sources situated in one State shall be taxed only in the Contracting State of which the beneficiary is a resident. The term "annuity" means a fixed sum payable periodically to an individual at fixed due dates, by virtue of an obligation, during life or during a specified period of time the duration of which can be determined.

#### **ARTICLE 15**

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

#### **ARTICLE 16**

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, such part of that income as is attributable to that base may be taxed in that other State.

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

#### **ARTICLE 17**

Payments which a student or business apprentice from one of the Contracting States 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.

#### **ARTICLE 18**

Notwithstanding anything contained in this Convention, 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 19**

The remuneration which an individual of a Contracting State receives for undertaking study or research at a very advanced level or for teaching, during a period of temporary residence not exceeding two years, at a university, research institute, school, college or other similar establishment in the other Contracting State shall not be taxable in the latter State.

## **ARTICLE 20**

Items of income not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in the Contracting State of which the recipient is a resident.

## **ARTICLE 21**

It is agreed that double taxation shall be avoided as follows:

### **A. In the case of France:**

1. Income other than that mentioned in paragraph 2 below shall be exempt from the French taxes mentioned in paragraph 3, A, of Article 1 of this Convention while the income is, by reason of the Convention, taxable in Ireland.
2. (a) Dividends in the beneficial ownership of a person who is a resident of France which arise from sources situated in Ireland and which are subject to Irish tax either directly or by deduction shall be exempt in France from the withholding tax levied in respect of the tax on the income of individuals to the extent of the rate of 24%.  
  
(b) To the extent of the same rate of 24%, dividends in the beneficial ownership of a person who is a resident of France which arise from sources situated in Ireland and which are exempt from Irish tax by virtue of Chapter I or Chapter IV of Part XXV of the Income Tax Act, 1967 (No. 6 of 1967), shall not be subject in France to the withholding tax levied in respect of the tax on the income of individuals. This withholding tax shall nevertheless be regarded as having been entirely paid in computing either the tax on the income of individuals or any other tax to which the dividends concerned are subject.
3. In any case not governed by the provisions of this Convention, income in the beneficial ownership of a person who has an habitual residence in France (whether that person is or is not regarded as resident in Ireland for the purposes of Irish tax law) shall be exempt from French tax where the source of the income is in Ireland and the income is chargeable in accordance with Irish law.
4. Notwithstanding the provisions of paragraphs 1 and 3, French tax may be computed on income chargeable in France by virtue of this Convention at the rate appropriate to the total of the income chargeable in accordance with French law.

B. In the case of Ireland:

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, French tax payable directly on or by deduction in respect of income from sources within France 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 which is a resident of France the credit shall take into account (independently of the withholding tax) the French tax payable by the company in respect of its profits.

C. It is agreed that

(a) income derived from sources in the United Kingdom by a person who is resident in Ireland for the purposes of Irish tax and who is resident in France for the purposes of French tax shall be deemed to be income from sources in Ireland if such income is not subject to United Kingdom tax.

(b) profits or remuneration arising from personal services (including professional services) performed in the territory of one of the Contracting States shall be deemed to be income having its source in that Contracting State and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the Contracting States shall be deemed to be performed in that State.

## ARTICLE 22

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. In particular, the nationals of a Contracting State shall enjoy in the other Contracting State, and under the same conditions as the nationals of the latter State, all exemptions, basic abatements, deductions and reductions of tax whatsoever granted on account of family responsibilities.

3. The term "nationals" means:

(a) In the case of France, all individuals who possess French nationality;

(b) In the case of Ireland, all citizens of Ireland;

(c) All legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

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 in the same circumstances.



This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

5. 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.

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

7. The provisions of this Article shall not be considered as obliging Ireland to grant to residents of France the reductions in or exemptions from tax granted (a) by the Finance (Profits of Certain Mines) (Temporary Relief from Taxation) Act, 1956 (No. 8 of 1956) or by Part II of the Finance (Miscellaneous Provisions) Act, 1956 (No. 47 of 1956) as subsequently amended in either case, (b) by Chapter II or Chapter III of Part XXV of the Income Tax Act, 1967 (No. 6 of 1967).

### ARTICLE 23

1. The competent authorities of the Contracting States shall exchange information, being such information as may be obtained under the fiscal legislation of the two States in the course of normal administrative practice, which shall serve to ensure the proper levy and recovery of the taxes which are the subject of this Convention and also the application, with respect to such taxes, of the legal provisions relating to the prevention of fiscal fraud.

2. Any information so exchanged retains its secret nature and shall not be disclosed to any persons other than those concerned with the assessment and recovery of the taxes which are the subject of this Convention. No information which would disclose a commercial, industrial or professional secret shall be exchanged. Assistance need not be given if the appropriate State considers that this might endanger its sovereignty or security or cause harm to its general interests.

3. The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States shall agree on the list of information which shall be furnished on a routine basis.

### ARTICLE 24

1. **[Paragraph 1 of Article 24 of the Convention is REPLACED by the first sentence of 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 taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.]~~

*The following first sentence of paragraph 1 of Article 16 of the MLI replaces paragraph 1 of Article 24 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 following second sentence of paragraph 1 of Article 16 of the MLI applies and supersedes the provisions of this Convention:*

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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

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

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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

*The following first sentence of 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.

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.

When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

*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 24 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 24 of the Convention, within a period of three-years beginning on the start date referred to in paragraph 8 or 9 of Article 19 of the MLI, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting States have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

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

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

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

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

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

i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be

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

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

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

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

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

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

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

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

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

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

a) that it has received the requested information; or

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

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

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

b) the date that is three calendar months after the notification to the competent

authority of the other Contracting State pursuant to subparagraph b) of paragraph 5 of Article 19 of the MLI.

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

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

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

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

10. The competent authorities of the Contracting States shall by mutual agreement pursuant to Article 24 of 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.

*Paragraph 2 of Article 24 (Agreement on a Different Resolution) of the MLI*

2. Notwithstanding paragraph 4 of Article 19 of the MLI, an arbitration decision pursuant to this Part shall not be binding on the Contracting States and shall not be implemented if the competent authorities of the Contracting States agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

*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.

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 Depository 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 Depository of any such subsequent provisions.

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

1. France reserves the right to exclude cases which may be submitted to arbitration under the provisions of Part VI cases concerning items of income or capital that are not taxed by a Contracting Jurisdiction because such items of income or of assets are not included in the taxable base in that Contracting Jurisdiction or on the basis that such items of income or capital enjoy an exemption or a zero tax rate under the national tax law of that Contracting Jurisdiction.

2. France reserves the right to exclude cases that may be submitted to arbitration under the provisions of Part VI cases in which a taxpayer is subject to administrative or criminal penalties for tax fraud, voluntary omission, serious Breach of a reporting obligation.

3. France reserves the right to exclude cases which may be submitted to arbitration under the provisions of Part VI cases falling on average and per financial period or per tax year on a



taxable basis of less than €150,000.

4. France reserves the right to exclude cases which may be submitted to arbitration under the provisions of Part VI, cases falling within the scope of an arbitration procedure provided for in a legal instrument designed under the authority of the European Union, Such as the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (90/436 / EEC) or any other later instrument.

5. France reserves the right to exclude cases which may be submitted to arbitration under the provisions of Part VI by mutual agreement with the competent authority of the other State. Such agreement shall be made prior to the beginning of the arbitration proceedings and shall be notified to the person who submitted the case.

6. When the other state makes a reservation pursuant to article 28(2) (a) of the Convention that refers to its domestic law, France reserves the right to exclude from the scope of Part VI of the Convention, cases of taxation that in French, actual or future, legislation, mirrors the other state legislation. French competent authority will consult the other Contracting state in order to specify in the Mutual agreement provided by article 19(10) the scope of application for each clause existing in French law similar to the legislation referred to in that other Contracting state's reservation.

*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.

**ARTICLE 25**

1. This Convention may be extended either in its entirety or with necessary modifications to the Overseas Territories of the French Republic which impose taxes of a character similar to those to which the said Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions (including those as to termination) as may be specified and agreed upon between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with the constitutional procedures of those States.

2. Unless the Contracting States otherwise agree the denunciation of this Convention by virtue of Article 27 thereof by one of them shall also terminate the application of its provisions to every territory to which it shall have been extended under this Article.

## ARTICLE 26

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

2. It shall enter into force upon the exchange of instruments of ratification and its provisions shall apply for the first time:

(a) in France:

to taxes charged in respect of the year 1966 and later years. However, in the case of income other than that which is the subject of Article II of this Convention, no repayment shall be made of the withholding tax (in respect of tax on the income of individuals) which shall have been collected in France on the payment of the said income to beneficiaries before the exchange of instruments of ratification of this Convention.

(b) in Ireland:

as respects income tax (including sur-tax) for any year of assessment beginning on or after the 6th April, 1966; as respects corporation profits tax for any accounting period beginning on or after the 1st April, 1966, and for the unexpired part of any accounting period current at that date.

## ARTICLE 27

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention through diplomatic channels after prior notice of at least six months before the end of any calendar year after the year 1970. In such event the Convention shall apply for the last time:

(a) in France:

to taxes charged in respect of the calendar year following that in which the notice is given;

(b) in Ireland:

to income tax (including sur-tax) in respect of the year of assessment beginning on the 6th April in the calendar year following that in which the notice is given; to corporation profits tax in respect of any accounting period ending on the 31st March in the second calendar year following that in which the notice is given and in respect of the expired part of any accounting period current at that date.

In witness whereof the plenipotentiaries of the two States have signed the present Convention and have affixed thereto their Seals.

Done at Paris on 21 March 1968 in duplicate in the French and English languages both texts being equally authoritative.