

**SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN
IRELAND AND THE REPUBLIC OF KOREA FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND CAPITAL GAINS**

This document presents the synthesised text for the application of the Convention between Ireland and the Republic of Korea for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains signed on 18 July 1990 (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 Korea on 7 June 2017 (the “MLI”).

This document was prepared in consultation with the competent authority of Korea 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 Depository upon ratification on 29 January 2019 and of the MLI position of Korea submitted to the Depository upon ratification on 13 May 2020. 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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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/1991/si/290>

The MLI position of Ireland submitted to the Depository upon ratification on 29 January 2019 and the MLI position of Korea submitted to the Depository upon ratification on 13 May 2020 can be found on the MLI Depository (OECD) webpage. (<http://www.oecd.org/tax/treaties/beps-mlt-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 Korea in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 29 January 2019 for Ireland and 13 May 2020 for Korea.

Entry into force of the MLI: 01 May 2019 for Ireland and 01 September 2020 for Korea.

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

- In Ireland and Korea 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 2021; and
- In Ireland and Korea with respect to all other taxes levied by each Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 March 2021.

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 September 2020, 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.

**CONVENTION BETWEEN IRELAND AND THE REPUBLIC OF KOREA FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS**

The Government of the Republic of Korea and the Government of Ireland,

[REPLACED by paragraph 1 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 and capital gains,}~~

*The following paragraph 1 of Article 6 of the MLI replaces 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

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 agreed as follows:

**ARTICLE 1
PERSONAL SCOPE**

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

**ARTICLE 2
TAXES COVERED**

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

(a) in the case of Korea:

- (i) the income tax;
- (ii) the corporation tax;
- (iii) the inhabitant tax,

(hereinafter referred to as "Korean Tax");

(b) in the case of Ireland:

- (i) the income tax;
- (ii) the corporation tax; and
- (iii) the capital gains tax,

(hereinafter referred to as "Irish tax").

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed by a Contracting State after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 3 GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

(a) the term "Korea" means the territory of the Republic of Korea including any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign rights of the Republic of Korea with respect to the seabed and subsoil and their natural resources may be exercised;

(b) the term "Ireland" includes any area outside the territorial waters of Ireland, which in accordance with international law has been or may hereafter be designated under the laws of Ireland concerning the Continental Shelf as an area within which the rights of Ireland with respect to the seabed and subsoil and their natural resources may be exercised;

(c) the terms "Contracting State", "one of the Contracting States" and "the other Contracting State" mean Korea or Ireland as the context requires; and the term "Contracting States" means Korea and Ireland;

(d) the term "tax" means Korean tax or Irish tax, as the context requires;

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

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

(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean an enterprise carried on by a resident of Ireland or an enterprise carried on by a resident of Korea, as the context requires;

(h) the term "a national" means:

(i) in relation to Korea, any individual possessing Korean nationality and any legal person, partnership and association deriving their status as such from the law in force in Korea;

(ii) in relation to Ireland, any citizen of Ireland and any legal person, association or other entity deriving its status as such from the laws in force in Ireland;

(i) the term "international traffic" with reference to a resident of a Contracting State means any voyage of a ship or aircraft to transport passengers or property (whether or not operated or used by that resident) except where the principal purpose of the voyage is to transport passengers or property between places within the other Contracting State;

(j) the term "competent authority" means:

(i) in the case of Korea, the Minister of Finance or his authorised representative;

(ii) in the case of Ireland, the Revenue Commissioners or their authorised representative.

2. In this Convention the terms "Irish tax" and "Korean tax" do not include any penalty or interest imposed under the laws of either Contracting State relating to the taxes which are the subject of this Convention by virtue of Article 2 (Taxes Covered).

3. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State relating to the taxes which are the subject of this Convention.

ARTICLE 4 **Resident**

1. For the purposes of this Convention:

(a) the term "resident of a Contracting State" means, subject to the provisions of paragraphs 2 and 3 of this Article, any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of management or any other criterion of a similar nature;

(b) the term "resident of a Contracting State" does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that State; and

(c) the terms "resident of Ireland" and "resident of Korea" shall be construed accordingly.

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

(b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting

State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(c) if he has an habitual abode in both Contracting States, or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;

(d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. In cases of doubts the competent authorities of the Contracting States shall settle the question by mutual agreement.

ARTICLE 5 PERMANENT ESTABLISHMENT

1. For the purposes of this Convention the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

(g) an installation or structure used for the exploration or exploitation of natural resources.

3. A building site or construction or installation or assembly project constitutes a permanent establishment only if it lasts more than 12 months.

4. An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if it carries on supervisory activities in that State for more than 12 months in connection with a building site, or a construction, installation or assembly project which is being undertaken in that State.

5. A person carrying on activities in connection with the exploration or exploitation of the sea bed and subsoil and their natural resources situated in a Contracting State shall be deemed to be carrying on a trade through a permanent establishment in that Contracting State if these activities are carried on in that Contracting State for a period or periods exceeding in the aggregate 183 days in the fiscal year concerned.

6. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

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

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

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

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

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e) of this paragraph, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

7. Notwithstanding the provisions of paragraphs 1, 2, 3 and 4 of this Article, where a person — other than an agent of an independent status to whom paragraph 8 of this Article applies — is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 6 of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

8. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

9. 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.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property, including income from agriculture or forestry, 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 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 right to work, mineral deposits, sources, oil or gas wells, quarries and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

4. A lease of land, any other interest in or over land and any right referred to in paragraph 2 of this Article shall be regarded as situated where the land, mineral deposits, sources, oil or gas wells, quarries and other natural resources, as the case may be, are situated.

5. The provisions of paragraphs 1 and 3 of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal 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. Subject to the provisions of paragraph 3 of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment (including a reasonable allocation of executive and general administrative expenses so incurred) and which would be deductible if the permanent establishment were an independent entity which paid those expenses whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

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

5. For the purposes of the preceding paragraphs of this Article, 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.

6. Where profits include items which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8
SHIPPING AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. For the purposes of this Article, profits derived from the operation of ships or aircraft in international traffic include profits derived from the rental on a bareboat basis of ships or aircraft if such ships or aircraft are operated in international traffic by the lessee or if such rental profits are incidental to other profits described in paragraph 1 of this Article.
3. The provisions of paragraph 1 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9
ASSOCIATED ENTERPRISES

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 10 DIVIDENDS

1. Dividends derived from a company which is a resident of Korea by a resident of Ireland may be taxed in Ireland. Such dividends may also be taxed in Korea, and according to the laws of Korea, but provided that the beneficial owner of the dividends is a resident of Ireland the tax so charged shall not exceed:

(a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividends;

(b) 15 per cent of the gross amount of the dividends in all other cases.

2. (a) Dividends derived from a company which is a resident of Ireland by a resident of Korea may be taxed in Korea.

(b) Where, under paragraph 3 of this Article, a resident of Korea is entitled to a tax credit in respect of such a dividend, tax may also be charged in Ireland and according to the laws of Ireland on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.

(c) Except as provided in subparagraph (b) of this paragraph, dividends derived from a company which is a resident of Ireland and which are beneficially owned by a resident of Korea shall be exempt from any tax in Ireland which is chargeable on dividends.

3. A resident of Korea who receives dividends from a company which is a resident of Ireland shall, subject to the provisions of paragraph 4 of this Article and provided he is the beneficial owner of the dividends, be entitled to the tax credit in respect thereof to which an individual resident in Ireland would have been entitled had he received those dividends, and to the payment of any excess of that tax credit by Ireland over any tax chargeable in accordance with the provisions of paragraph (2) (b) of this Article on those dividends.

4. The provisions of paragraph 3 of this Article shall not apply where the beneficial owner of the dividend (being a company) is, or is associated with, a company which either alone or together with one or more associated companies controls directly or indirectly 10 per cent or more of the voting power in the company from which the dividend is derived. For the purposes of this paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company.

5. The preceding paragraphs of this Article shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

6. The term "dividends" in this Article means income from shares or other rights, not being debt-claims, participating in profits, and includes any income or distribution assimilated to income from shares under the taxation laws of the Contracting State of which the company paying the dividends or income or making the distribution is a resident.

7. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein, or performs in that other Contracting State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services) shall apply.

8. 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, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11 INTEREST

1. Interest arising from sources in a Contracting State which is derived and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures as well as all other income assimilated to income from money lent by the laws of the State in which the income arises but does not include any income which is treated as a dividend under Article 10 (Dividends).

3. The provisions of paragraph 1 of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services) shall apply.

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

5. Where, by reason of a special relationship between the payer and the beneficial owner 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, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 12 ROYALTIES

1. Royalties arising from sources in a Contracting State which are derived and beneficially owned by 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 a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including motion pictures or films, recordings on tape or other media used for radio or television broadcasting or other means of reproduction or transmission), any patent, trade mark, design or model, plan, secret formula or process, or, subject to the provisions of paragraph 2 of Article 8 (Shipping and Air Transport), for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services) shall apply.

4. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and the royalties are borne by that permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner 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, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13 CAPITAL GAINS

1. Capital gains derived by a resident of a Contracting State from the alienation of immovable property situated in the other Contracting State may be taxed in that other State.

2. Capital gains from the alienation of shares of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State. In this paragraph the term "shares" does not include shares quoted or listed on a recognised stock exchange.

3. For the purposes of paragraph 2 of this Article the term "a recognised stock exchange" means:

(a) the Stock Exchange — Irish;

(b) the Korea Stock Exchange — Korea; and

(c) any other stock exchange agreed upon by the competent authorities of the Contracting States.

4. Capital 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 independent personal services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such fixed base, may be taxed in that other State. Provided that if such movable property consists of shares the gains from the alienation of which may under paragraph 2 of this Article be taxed in the Contracting State of which the alienator is a resident, because the relevant immovable property is situated in that State, the said gains shall be taxable only in that State.

5. Except as provided in paragraph 2 of this Article and notwithstanding the provisions of paragraph 4 of this Article, capital gains from the alienation of ships or aircraft operated in international traffic and movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the profits from the operation of such ships or aircraft are taxable according to the provisions of Article 8 (Shipping and Air Transport).

6. Capital gains from the alienation of any property other than those referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

7. For the purposes of this Article —

(a) the term "capital gains" means, in the case of Ireland, chargeable gains as defined in the taxation law of Ireland, and, in the case of Korea, taxable income as defined in the taxation law of Korea;

(b) the term "immovable property" means immovable property as defined in paragraph 2 of Article 6 (Income from Immovable Property).

ARTICLE 14 INDEPENDENT PERSONAL SERVICES

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

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

ARTICLE 15 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16 (Directors' Fees), 18 (Pensions and Annuities), 19 (Government Service) and 21 (Professors and Teachers), 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 of this Article, 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 borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

ARTICLE 16 DIRECTORS' FEES

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

ARTICLE 17
ENTERTAINERS AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services), income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or as a musician, or as a sportsman such as an athlete, footballer, golfer, snooker player, card player or boxer, from his personal activities as such exercised in the other Contracting State, whether individually or as a member of a group, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman, in his capacity as such, accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 (Business Profits), 14 (Independent Personal Services) and 15 (Dependent Personal Services), be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to remuneration or profits, salaries, wages and similar income derived from activities performed in a Contracting State by entertainers or athletes if their visit to that State is substantially supported from the public funds of the other Contracting State, including those of any political subdivision, a local authority or statutory body thereof, nor to income derived by a non-profit making organization in respect of such activities provided no part of its income is payable to, or is otherwise available for the personal benefit of its proprietors, members or shareholders.

ARTICLE 18
PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 2 of Article 19 (Government Service), pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and any annuity paid to such a resident shall be taxable only in that State.
2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 19
GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political sub division or a local authority thereof to an individual in respect of services rendered to that Contracting State or subdivision or authority in the discharge of functions of a governmental nature shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that Contracting State or subdivision or authority in the discharge of functions of a governmental nature shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. Notwithstanding the preceding provisions of this Article the provisions of Articles 15 (Dependent Personal Services), 16 (Directors' Fees) and 18 (Pensions and Annuities), as the case may be, shall apply to remuneration and pensions in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or a local authority thereof.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall likewise apply in respect of remuneration or pensions paid by a government-owned institution performing functions of a governmental nature which in the case of Korea shall include the Bank of Korea, the Export Import Bank of Korea and the Korea Trade Promotion Corporation.

ARTICLE 20 STUDENTS

Payments which a student, apprentice or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned 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 the first-mentioned State, provided that such payments arise from sources outside that State.

ARTICLE 21 PROFESSORS AND TEACHERS

1. A professor or teacher who visits one of the Contracting States for a period not exceeding two years for the sole purpose of teaching or carrying out advanced study (including research) at a university, college or other recognised research institute or other establishment for higher education in that Contracting State and who was immediately before that visit a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that Contracting State for such purpose.

2. The preceding provisions of this Article shall not apply to remuneration which a professor or teacher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

ARTICLE 22 OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention, shall be taxable only in that State.

2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 (Income from Immovable Property), if the beneficial owner of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services) shall apply.

ARTICLE 23 ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of Korean tax law regarding the allowance as a credit against Korean tax of tax payable in any country other than Korea (which shall not affect the general principle hereof), Irish tax payable (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) under the laws of Ireland and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Ireland shall be allowed as a credit against Korean tax payable in respect of that income. The credit shall not, however, exceed that proportion of Korean tax which the income from sources within Ireland bears to the entire income subject to Korean tax.

2. (a) Subject to the provisions of the laws of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland (which shall not affect the general principle hereof), Korean tax payable under the laws of Korea and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Korea (excluding in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Irish tax computed by reference to the same profits, income or chargeable gains by reference to which Korean tax is computed.

(b) The amount of Korean tax which, in accordance with subparagraph (a) of this paragraph, shall be treated as payable under the laws of Korea and in accordance with this Convention shall, in relation to income to which the provisions of paragraph 1 of Article 10 (Dividends) apply, be subject to the limitations of subparagraph (a) or (b) of that paragraph, whichever is appropriate.

3. For the purposes of paragraphs 1 and 2 of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to be derived from sources in that other Contracting State.

4. Where, in accordance with the laws of a Contracting State, an exemption from or a reduction of tax on the profits of an enterprise is granted for the purpose of encouraging economic development in that State for a limited period of time, the tax which would have been paid but for such exemption or reduction shall be deemed to have been paid for the purposes of the preceding paragraphs of this Article: provided that the tax so deemed to have been paid in this paragraph shall not, however, exceed an amount of 15 percent of such profits.

5. Where a resident of a Contracting State derives income which, in accordance with the provisions of the Convention shall be taxable only in the other Contracting State, the first-mentioned Contracting State may include the income in the tax base but shall allow as a deduction from tax chargeable that part of the tax which is appropriate to that income.

ARTICLE 24 NON-DISCRIMINATION

1. A national 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 a national of that other State in the same circumstances is or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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

3. Nothing contained in this Article shall be construed as obliging a Contracting State to grant to a non-resident of that Contracting State any exemptions, allowances, reliefs and reductions for tax purposes which it grants to its residents.

4. Except where the provisions of Article 9 (Associated Enterprises), paragraph 5 of Article 11 (Interest), or paragraph 5 of Article 12 (Royalties), apply, interest, royalties and other disbursements 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 such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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 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. Nothing contained in this Article shall be construed as obliging a Contracting State to grant to a person who is a resident of the other Contracting State a greater relief from tax chargeable on dividends derived from a company which is a resident of the first-mentioned Contracting State than the relief to which the person may be entitled under the provisions of Article 10 (Dividends) of this Convention.

7. In this Article the term "taxation" comprises the taxes which are the subject of this Convention.

ARTICLE 25
MUTUAL AGREEMENT PROCEDURE

1. ~~[The first sentence of paragraph 1 of Article 25 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 the provisions of this Convention, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24 (Non-Discrimination), to that of the Contracting State of which he is a national].~~

The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of 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 regarded by such resident as resulting in taxation not in accordance with the provisions of the 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 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 the provisions of this Convention. ~~[The second sentence of paragraph 2 of Article 25 of the Convention is REPLACED by the second sentence of paragraph 2 of Article 16 of the MLI] [Notwithstanding any time limits in the domestic laws of the Contracting States, the solution so reached may be implemented within a period of six years from the date of presentation of the case by the resident to the relevant competent authority in accordance with paragraph 1 of this Article.]~~

The following second sentence of paragraph 2 of Article 16 of the MLI replaces the second sentence of paragraph 2 of Article 25 of the 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 or doubts arising as to the interpretation or application of this Convention.

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

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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.

ARTICLE 26 EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention in so far as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by this Convention. 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.

2. In no case shall the provisions of paragraph 1 of this Article 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).

ARTICLE 27 DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

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 28
ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Dublin as soon as possible. The Convention shall enter into force on the thirtieth day after the date of exchange of the instruments of ratification.

2. This Convention shall have effect:

(a) in Korea:

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January of the calendar year next following that in which this Convention enters into force; and

(ii) in respect of other taxes for taxation years beginning on or after the first day of January of the calendar year next following that in which this Convention enters into force.

(b) in Ireland:

(i) as respects income tax and capital gains tax, for any year of assessment beginning on or after the sixth day of April in the year next following the year in which the Convention enters into force;

(ii) as respects corporation tax, for any financial year beginning on or after the first day of January in the year next following the year in which this Convention enters into force.

ARTICLE 29
TERMINATION

This Convention shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the instruments of ratification have been exchanged, give to the other Contracting

State, through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to have effect:

(a) in Korea

(i) in respect of tax withheld at the source on amounts paid or credited to non-residents on or after the first day of January in the calendar year next following that in which the notice is given; and

(ii) in respect of other taxes for taxation years beginning on or after the first day of January in the calendar year next following that in which the notice is given;

(b) in Ireland:

(i) as respects income tax and capital gains tax, for any year of assessment beginning on or after the sixth day of April next following the date on which the period specified in the said notice of termination expires;

(ii) as respects corporation tax, for any financial year beginning on or after the first day of January next following the date on which the period specified in the said notice of termination expires.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Dublin this 18th day of July of the year one thousand nine hundred and ninety in the English.

For the Government of Ireland
Gerard Collins,
Minister of Foreign Affairs

For The Government of the Republic of Korea
Yu Jong-ha,
Minister of Foreign Affairs

PROTOCOL

At the time of signing of the Convention concluded this day between the Government of the Republic of Korea and the Government of Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains, the undersigned have agreed that the following provisions shall form an integral part of the Convention:

1. In respect of subparagraph (a) of paragraph 1 of Article 2 (Taxes Covered) of the Convention, it is understood that the Convention shall apply to the Korean defence tax where charged by reference to the income tax or the corporation tax.

2. In respect of Article 8 (Shipping and Air Transport) of the Convention, it is understood that the provisions of paragraph 1 of that Article shall also apply to profits from the operation of vessels engaged in fishing, dredging or hauling activities on the high seas.

3. With reference to paragraph (1) of Article 23 (Elimination of Double Taxation) of the Convention, if subsequently to the signature of the Convention Korea provides relief from its tax on intercorporate dividends, it shall immediately notify Ireland and enter into negotiations in order to establish new provisions concerning the credit to be allowed by Korea against its tax on dividends.

IN WITNESS WHEREOF, the undersigned have signed this Protocol which shall have the same force and validity as if it were inserted word by word in the Convention.

DONE in duplicate at Dublin this 18th day of July of the year one thousand nine hundred and ninety in the English.

For the Government of Ireland
Gerard Collins,
Minister of Foreign Affairs

For The Government of the Republic of Korea
Yu Jong-ha,
Minister of Foreign Affairs