

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

General disclaimer on synthesised text

This document presents the synthesised text for the application of the Convention between Ireland and the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital signed on 14 January 1972 and amended by a Protocol signed on 27 May 2014 (the “Convention”) as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Ireland and by Luxembourg on 7 June 2017 (the “MLI”).

This document was prepared in consultation with the competent authority of Luxembourg 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 Luxembourg submitted to the Depository upon ratification on 09 April 2019. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on 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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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/1973/si/65>

<http://www.irishstatutebook.ie/eli/2014/si/469>

In Luxembourg at the following links:

impotsdirects.public.lu

The MLI position of Ireland submitted to the Depository upon ratification on 29 January 2019 and the MLI position of Luxembourg submitted to the Depository upon ratification on 09 April 2019 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 Luxembourg in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 29 January 2019 for Ireland and 09 April 2019 for Luxembourg.

Entry into force of the MLI: 1 May 2019 for Ireland and 1 August 2019 for Luxembourg.

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 Luxembourg 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 Luxembourg with respect to all other taxes levied by each Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 February 2020.

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 August 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 August 2019. For cases presented to the competent authority of a Contracting State prior to 1 August 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 THE GRAND DUCHY OF LUXEMBOURG
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The President of Ireland and His Royal Highness the Grand Duke of Luxembourg,

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

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

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

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

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

have appointed for that purpose as their respective Plenipotentiaries:

The President of Ireland:

Mr. Francis A. Coffey, Extraordinary and Plenipotentiary Ambassador of Ireland;

His Royal Highness the Grand Duke of Luxembourg:

Mr. Gaston Thorn, Minister for Foreign Affairs:

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

**CHAPTER I
SCOPE OF THE CONVENTION**

**ARTICLE 1
PERSONAL SCOPE**

This Convention shall apply to persons who for tax purposes are residents of either of the Contracting States or who are resident in both of the Contracting States.

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

ARTICLE 3 OF THE MLI – TRANSPARENT ENTITIES

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

ARTICLE 2 TAXES COVERED

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

(a) In Ireland:

(i) the income tax (including sur-tax); and

(ii) the corporation profits tax

(hereinafter referred to as "Irish tax").

(b) In Luxembourg:

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

(ii) the income tax on corporations (l'impôt sur le revenu des collectivités);

(iii) the tax on fees of directors of companies (l'impôt sur les tantièmes);

(iv) the capital tax (l'impôt sur la fortune); and

(v) the communal trade tax on profits and capital (l'impôt commercial communal d'après les bénéfices et capital d'exploitation)

(hereinafter referred to as "Luxembourg tax").

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

CHAPTER II DEFINITIONS

ARTICLE 3 GENERAL DEFINITIONS

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

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

(b) the term "Luxembourg" means the Grand Duchy of Luxembourg;

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

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

(e) the term "person" comprises 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) (i) subject to the provisions of clauses (ii) and (iii) of this subparagraph, the term "resident of Ireland" means any person who is resident in Ireland for the purposes of Irish tax and not resident in Luxembourg for the purposes of Luxembourg tax and the term "resident of Luxembourg" means any person who is resident in Luxembourg for the purposes of Luxembourg tax and not resident in Ireland for the purposes of Irish tax;

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

(iii) a company shall be regarded as a resident of Luxembourg if it has its principal establishment (principal établissement) in Luxembourg, or if it has its statutory seat (siège statutaire) in Luxembourg and is not managed and controlled in Ireland;

(h) the terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a resident of Ireland or a person who is a resident of Luxembourg, as the context requires;

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

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

(j) the term "competent authority" means:

1. in the case of Ireland: the Revenue Commissioners or their authorised representative;

2. in the case of Luxembourg: the Ministre des Finances or his authorised representative;

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

2. Where any Article of the Convention provides (with or without conditions) that income derived by a resident of a Contracting State from sources within the other Contracting State shall be taxable only in the first-mentioned State or entitled to a reduced rate of tax in the other State and, under the law in force in the first-mentioned State, the said income is subject to tax by reference to the amount thereof which is remitted to or received in that State and not by reference to the full amount thereof, then the exemption or reduction in rate in the other State resulting from such Article shall apply only to so much of the income as is remitted to or received in the first-mentioned State.

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

ARTICLE 4 PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" shall include especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

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

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

3. ~~[REPLACED by paragraph 3 of Article 13 of the MLI.] [The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;~~

~~(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.]~~

The following paragraph 3 of Article 13 of the MLI replaces paragraph 3 of Article 4 of this Convention:

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

Notwithstanding Article 4 of the Convention, the term “permanent establishment” shall be deemed not to include:

- a) (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 for collecting information, for the enterprise;
- (e) 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.

4. 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 paragraph 5 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.

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

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

**CHAPTER III
TAXATION ON INCOME**

**ARTICLE 5
INCOME FROM IMMOVABLE PROPERTY**

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.
2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

**ARTICLE 6
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. 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 executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be

customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

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

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

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

ARTICLE 7 SHIPPING AND AIR TRANSPORT

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

ARTICLE 8 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 9 DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall be limited pursuant to the provisions of subparagraphs (a) and (b):

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

(b) dividends paid by a company which is a resident of Luxembourg to a resident of Ireland may be taxed in Luxembourg, but the tax so charged shall not exceed:

(i) 5 per cent of the gross amount of the dividends if the recipient is a company (excluding a partnership) which controls directly at least 25 per cent of the voting power in the company paying the dividends;

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident and, in the case of Luxembourg, the income derived by a sleeping partner from his participation as such.

4. 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, the dividends shall remain taxable in that other State according to its own law, due regard being had to the other provisions of this Convention.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by

the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 10 INTEREST

1. Interest derived by a resident of a Contracting State from sources within the other Contracting State shall be taxable only in the first-mentioned State.

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, the interest shall remain taxable in that other Contracting State according to its own law, due regard being had to the other provisions of this Convention.

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 law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 11 ROYALTIES

1. Royalties derived by a resident of a Contracting State from sources within the other Contracting State shall be taxable only in the first-mentioned 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 or literary, artistic or scientific work (including cinematographic films or tapes for radio or television broadcasting), any patent, trade-mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties shall remain taxable in that other Contracting State according to its own law, due regard being had to the other provisions of this Convention.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use,

right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 12 CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 5, may be taxed in the Contracting State in which such property is situated.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 22 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.
3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 13 INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has a fixed base, the income may be taxed in the other Contracting 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, lawyers, engineers, architects, dentists, and accountants.

ARTICLE 14 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 15, 17, 18, 19 and 20, 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, an individual who in the course of a sojourn in a Contracting State exercises an employment in that State, and who is, or who immediately prior to such sojourn was, a resident of the other Contracting State, shall be taxable only in the last-mentioned State in respect of the remuneration from that employment if:

(a) he is present in the first-mentioned 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 first-mentioned State, and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the first-mentioned State.

3. Notwithstanding the preceding provisions of this Article remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 15 DIRECTORS

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 a resident of the other Contracting State may be taxed in that other State. In relation to remuneration of a director of a company derived from the company in respect of the discharge of day-to-day functions of a managerial or technical nature, the provisions of Article 14 shall apply as if that remuneration were remuneration of an employee in respect of an employment and as if references to "employer" were references to the company.

ARTICLE 16 ARTISTES AND ATHLETES

Notwithstanding the provisions of Articles 13 and 14, 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 17 PENSIONS

Subject to the provisions of paragraph 1 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

ARTICLE 18 GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in that State. This provision shall not apply if the individual is a national of the other Contracting State without being also a national of the first-mentioned State.

2. The provisions of Articles 14, 15 and 17 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political subdivision or a local authority thereof.

ARTICLE 19 PROFESSORS, TEACHERS AND RESEARCHERS

An individual who sojourns in one of the Contracting States for a period not exceeding two years, for the purpose of teaching or of carrying out advanced study or research at a university, research institute, college, school or other educational establishment in that State and who immediately prior to such sojourn was a resident of the other Contracting State, shall not be taxed in the first-mentioned State in respect of any payments which he receives for such activity.

ARTICLE 20 STUDENTS AND APPRENTICES

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

2. Remuneration which a student or business apprentice who is, or who immediately before visiting a Contracting State was, a resident of the other Contracting State derives from an employment which he exercises in the first-mentioned State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, in order to acquire practical experience directly related to his studies or training, shall not be taxed in that first-mentioned State.

ARTICLE 21 INCOME NOT EXPRESSLY MENTIONED

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

CHAPTER IV TAXATION OF CAPITAL

ARTICLE 22 CAPITAL

1. Capital represented by immovable property, as defined in paragraph 2 of Article 5, may be taxed in the Contracting State in which such property is situated.

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

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

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

CHAPTER V METHODS FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 23

1. The laws of the Contracting States shall continue to govern the taxation of income arising in either of the Contracting States except where express provision to the contrary is made in this Convention. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

2. Subject to the provisions of the law of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland, Luxembourg tax payable under the laws of Luxembourg and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Luxembourg, shall be allowed as a credit against any Irish tax payable in respect of that income. Where such income is an ordinary dividend paid by a company which is a resident of Luxembourg the credit shall take into account (in addition to any Luxembourg tax deducted from or imposed on such dividend) the Luxembourg tax payable by the company in respect of its profits; and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Luxembourg tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate. For the purpose of this paragraph the term "Luxembourg tax" shall not include communal trade tax (l'impôt commercial communal) computed on a basis other than profits or capital tax (l'impôt sur la fortune).

3. *(a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Ireland either directly or by deduction, Luxembourg shall, subject to the provisions of subparagraphs (b) and (c) of this paragraph, exempt such income or capital from Luxembourg tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.*

The following paragraph 2 of Article 5 of the MLI applies to subparagraph (a) of paragraph 3 of Article 23 of this Convention with respect to the residents of Luxembourg:

ARTICLE 5 OF THE MLI – APPLICATION OF METHODS FOR ELIMINATION OF DOUBLE TAXATION (Option A)

Subparagraph (a) of paragraph 3 of Article 23 of the Convention shall not apply where Ireland applies the provisions of this Convention to exempt income derived or capital owned by a resident of Luxembourg from tax or to limit the rate at which such income or capital may be taxed. In the latter case, Luxembourg shall allow as a deduction from the tax on the

income or capital of that resident an amount equal to the tax paid in Ireland. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income or capital which may be taxed in Ireland.

(b) Dividends paid by a company which is a resident of Ireland to a company which is a resident of Luxembourg shall be exempt from Luxembourg tax if the company receiving the dividends controls directly at least 25 per cent of the voting power in the company paying the dividends.

(c) Dividends paid by a company which is a resident of Ireland to a resident of Luxembourg, not being a company which is exempt from Luxembourg tax under the provisions of subparagraph (b) of this paragraph, may be taxed in Luxembourg, but such tax shall not be charged on an amount which exceeds the net amount of the dividend, and the amount of Luxembourg tax charged on that net amount shall be reduced by a sum equal to 15 per cent of that net amount.

For the purposes of this subparagraph the "net amount of the dividend" means:

(i) in the case of a dividend paid out of profits which have been wholly or partly relieved from Irish income tax for a limited period of time, the amount of the dividend which would have remained after deduction of Irish income tax if the said profits had not been so relieved;

(ii) in any other case, the net amount of the dividend after deduction of Irish income tax.

4. In the case of an individual who is resident in Ireland for the purposes of Irish tax and is also resident in Luxembourg for the purposes of Luxembourg tax, the provisions of paragraph 2 shall apply in relation to income which that person derives from sources within Luxembourg, and the provisions of paragraph 3 shall apply in relation to income which that person derives from sources within Ireland. If such person derives income from sources outside both Ireland and Luxembourg, tax may be imposed on that income in both Contracting States (subject to the laws in force in the Contracting States and to any Convention which may exist between either of the Contracting States and the territory from which the income is derived) but the Luxembourg tax on any part of that income which is subjected to tax in both Contracting States shall be limited to tax on one-half of such part and the Irish tax on such part shall be reduced by a credit, in accordance with paragraph 2, in respect of the Luxembourg tax so computed.

For the purposes of this paragraph, income derived from sources in the United Kingdom shall be deemed to be income from sources in Ireland if such income is not subject to United Kingdom tax.

5. For the purposes of this Article, profits or remuneration arising from the exercise of a profession or employment in a Contracting State shall be deemed to be income from sources within that Contracting State, and the service of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of a Contracting State shall be deemed to be performed in that Contracting State.

**CHAPTER VI
SPECIAL PROVISIONS**

**ARTICLE 24
PERSONAL ALLOWANCES FOR NON-RESIDENTS**

1. Individuals who are residents of Luxembourg shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Irish tax as Irish citizens who are not resident in Ireland.
2. Individuals who are residents of Ireland shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Luxembourg tax as those to which Luxembourg nationals not resident in Luxembourg may be entitled.

**ARTICLE 25
NON-DISCRIMINATION**

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The term "nationals" means:
 - (a) in relation to Ireland, all citizens of Ireland and all legal persons, partnerships and associations deriving their status as such from the law in force in Ireland,
 - (b) in relation to Luxembourg, all individuals possessing the nationality of Luxembourg and all legal persons, partnerships and associations deriving their status as such from the law in force in Luxembourg.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as 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.

4. 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.
5. The provisions of this Article shall not be construed as obliging Ireland to grant to any company other than a company incorporated in Ireland and resident therein for the purposes of income tax, any relief or exemption allowed in accordance with the provisions of:

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

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

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

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

ARTICLE 26 MUTUAL AGREEMENT PROCEDURE

1. ~~[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 26 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 the 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 or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the 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 26 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 26 of this Convention, within a period of two years beginning on the start date referred to in paragraph 8 or 9 of Article 19 of the MLI, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting States have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

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

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

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

which the information was requested and ending on the date on which that information was provided.

4. a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1 of Article 19 of the MLI. The arbitration decision shall be final.
- b) The arbitration decision shall be binding on both Contracting States except in the following cases:
 - i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.
 - ii) if a final decision of the courts of one of the Contracting States holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 of Article 19 of the MLI shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings) of the MLI. In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.
 - iii) if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.

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

- a) send a notification to the person who presented the case that it has received the request; and
- b) send a notification of that request, along with a copy of the request, to the competent authority of the other Contracting State.

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

- a) notify the person who has presented the case and the other competent authority that

it has received the information necessary to undertake substantive consideration of the case; or

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

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

- a) that it has received the requested information; or
- b) that some of the requested information is still missing.

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

- a) the date on which both competent authorities have notified the person who presented the case pursuant to subparagraph a) of paragraph 6 of Article 19 of the MLI; and
- b) the date that is three calendar months after the notification to the competent authority of the other Contracting State pursuant to subparagraph b) of paragraph 5 of Article 19 of the MLI.

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

- a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other competent authority pursuant to subparagraph a) of paragraph 7 of Article 19 of the MLI; and
- b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

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

10. The competent authorities of the Contracting States shall by mutual agreement pursuant to Article 26 of this Convention settle the mode of application of the provisions contained in this Part, including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be

modified from time to time thereafter.

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

- a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by the MLI shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either Contracting State;
- b) if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting States, a decision concerning the issue is rendered by a court or administrative tribunal of one of the Contracting States, the arbitration process shall terminate.

Article 20 (Appointment of Arbitrators) of the MLI

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

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

- a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.
- b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 of Article 19 of the MLI. The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either Contracting State.
- c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the Contracting States and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

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

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

Article 21 (Confidentiality of Arbitration Proceedings) of the MLI

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

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

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

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

- a) the competent authorities of the Contracting States reach a mutual agreement to resolve the case; or
- b) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure.

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

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

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

may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.

- b) The competent authority of each Contracting State may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or supporting position paper shall provide a copy to the other competent authority by the date on which the proposed resolution and supporting position paper were due. Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.
- c) The arbitration panel shall select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and shall not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the panel members. The arbitration panel shall deliver its decision in writing to the competent authorities of the Contracting States. The arbitration decision shall have no precedential value.

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

Article 25 (Costs of Arbitration Proceedings) of the MLI

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

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

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

3. Nothing in this Part shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure

resulting from other conventions to which the Contracting States are or will become parties.

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

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

Notwithstanding paragraph 1 of Article 19 (Mandatory Binding Arbitration) of the MLI 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 of the MLI 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 of the MLI 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.

ARTICLE 27 EXCHANGE OF INFORMATION

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

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

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

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

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

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

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information upon request solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 28 DIPLOMATIC AND CONSULAR OFFICIALS

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

2. Persons who are members of a diplomatic or consular mission of a Contracting State accredited to the other Contracting State or to another State, and who are nationals of the accrediting State, shall be deemed to be residents of the said State if they are subjected therein to the same obligations for the purposes of taxes on income and on capital as are residents of that State.

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

ARTICLE 29 HOLDING COMPANIES

This Convention shall not apply to holding companies entitled to any special tax benefit under the Luxembourg laws of 31st July, 1929, or 27th December, 1937, or any similar law enacted by Luxembourg after the signature of this Convention.

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 or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

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

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

CHAPTER VII
FINAL PROVISIONS

ARTICLE 30
Entry into Force

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

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

(a) in Ireland:

(1) as respects income tax (including sur-tax) for any year of assessment beginning on or after the 6th April, 1968;

(2) as respects corporation profits tax for any accounting period beginning on or after the 1st April, 1968, and for the unexpired portion of any accounting period current at that date;

(b) in Luxembourg:

for periods of assessment beginning after 31st December, 1967.

ARTICLE 31
Termination

This Convention shall remain in force indefinitely, but either of the Contracting States may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1973. In such event the Convention shall cease to have effect:

(a) in Ireland:

(1) as respects income tax (including sur-tax) for any year of assessment beginning on or after the 6th April in the calendar year next following that in which such notice is given;

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

(b) in Luxembourg:

for periods of assessment beginning after the end of the calendar year in which notice is given.

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

DONE in duplicate at LUXEMBOURG this 14th January, 1972, in the English and French languages, both texts being equally authoritative.

For the President
of Ireland:

Frank Coffey

For His Royal Highness
the Grand Duke of Luxembourg:

Gaston Thorn

His Excellency
Mr Diarmuid O'Leary
Ambassador of Ireland in Luxembourg

Luxembourg, 27th May 2014

Excellency,

I have the honour to refer to the Convention between the Grand Duchy of Luxembourg and Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, signed at Luxembourg on 14 January 1972, (hereinafter referred to as "the Convention") and to propose on behalf of the Government of the Grand Duchy of Luxembourg the following understandings:

1. It is understood that the competent authority of the requested State shall provide upon request by the competent authority of the requesting State information for the purposes referred to in Article 27.
2. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:
 - a) the identity of the person under examination or investigation;
 - b) a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;
 - c) the tax purpose for which the information is sought;
 - d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
 - e) to the extent known, the name and address of any person believed to be in possession of the requested information;
 - f) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
 - g)

If the foregoing understandings meet with the approval of the Government of Ireland, I have the further honour to propose that this Note and your affirmative Note in reply shall constitute an agreement between our Governments which shall become an integral part of the Convention on the date of entry into force of the Protocol.

Accept, Your Excellency, the expression of my highest consideration.

His Excellency
Mr Pierre Gramegna
Minister for Finance in Luxembourg

Luxembourg, 27 May 2014

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note of the 27th of May, 2014 which reads as follows:

"I have the honour to refer to the Convention between Ireland and the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, signed at Luxembourg on 14 January 1972, (hereinafter referred to as "the Convention") and to propose on behalf of the Government of Grand Duchy of Luxembourg the following understandings:

1. It is understood that the competent authority of the requested State shall provide upon request by the competent authority of the requesting State information for the purposes referred to in Article 27.
2. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:
 - (a) the identity of the person under examination or investigation;
 - (b) a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;
 - (c) the tax purpose for which the information is sought;
 - (d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
 - (e) to the extent known, the name and address of any person believed to be in possession of the requested information;
 - (f) a statement that the applicant State had pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

If the foregoing understandings meet with the approval of the Government of Ireland, I have the further honour to propose that this Note and your affirmative Note in reply shall constitute an agreement between our Governments which shall become an integral part of the Convention on the date of entry into force of the Protocol."

I have further the honour to accept the understandings contained in Your Excellency's Note, on behalf of the Government of Ireland. Therefore Your Excellency's Note and this Note shall constitute an agreement between our Governments which shall become an integral part of the Convention on the date of entry into force of the Protocol.

Accept, Your Excellency, the expression of my highest consideration.