

## **Synthesised text of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting (MLI) and the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains**

This document presents the synthesised text for the application of the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains signed on 19 June 2008 (the “Convention”), as modified by the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* signed by the United Kingdom of Great Britain and Northern Ireland and the French Republic on 7 June 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of United Kingdom submitted to the Depository upon ratification on 29 June 2018 and of the MLI position of France submitted to the Depository upon ratification on 26 September 2018. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

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

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

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

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

### References

The authentic legal texts of the MLI and the Convention can be found at the following links:

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

[http://www.legislation.gov.uk/ukxi/2003/3199/pdfs/ukxi\\_20033199\\_en.pdf](http://www.legislation.gov.uk/ukxi/2003/3199/pdfs/ukxi_20033199_en.pdf)

The MLI position of the United Kingdom submitted to the Depository upon ratification on 29 June 2018 and of the MLI position of France submitted to the Depository upon ratification on 26 September 2018 can be found on the [MLI Depository \(OECD\) webpage](#).

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 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 on the choices made by United Kingdom of Great Britain and Northern Ireland and France in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 29 June 2018 for the United Kingdom and 26 September 2018 for France.

Entry into force of the MLI: 1 October 2018 for United Kingdom of Great Britain and Northern Ireland and 1 January 2019 for France.

Unless it is stated otherwise elsewhere in this document, the provisions of the MLI have effect with respect to the Convention:

- 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 2019;
- in the United Kingdom, from 1 April 2020 for corporation tax and from 6 April 2020 for income tax and capital gains tax; and
- with respect to all other taxes levied by France, for taxes levied with respect to taxable periods beginning on or after 1 July 2019.

**CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE FRENCH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic,

**[Replaced by paragraph 1 and 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 gains,]

*The following paragraph 1 and 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 [*the 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 the United Kingdom:

- (i) the income tax;
  - (ii) the corporation tax;
  - (iii) the capital gains tax;
- (hereinafter referred to as “United Kingdom tax”);

(b) in the case of France, all taxes imposed on behalf of the State or of its local authorities irrespective of the manner in which they are levied on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amount of wages or salaries paid by enterprises, as well as taxes on capital appreciation; those taxes are in particular:

- (i) the income tax (l’impôt sur le revenu);
  - (ii) the corporation tax (l’impôt sur les sociétés);
  - (iii) the social contribution on corporation tax (la contribution sociale sur l’impôt sur les sociétés);
  - (iv) the tax on salaries (la taxe sur les salaires);
  - (v) the “contributions sociales généralisées”;
  - (vi) the “contributions pour le remboursement de la dette sociale”;
- (hereinafter referred to as “French tax”).

2. This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the taxes referred to in paragraph 1. 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 “United Kingdom” means Great Britain and Northern Ireland and any area beyond the territorial sea over which the United Kingdom may exercise its sovereign rights in accordance with international law;
  - (b) the term “France” means the European and overseas departments of the French Republic including the territorial sea, and any area beyond the territorial sea over which the French Republic has sovereign rights and exercises its jurisdiction in accordance with international law;
  - (c) the term “national” means:

- (i) in relation to the United Kingdom, any British citizen, or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom;
  - (ii) in relation to France, any individual possessing French nationality;
  - (d) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or France, 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) the term “enterprise” applies to the carrying on of any business;
  - (h) 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;
  - (i) the term “international traffic” means any transport by a ship, aircraft or railway vehicle operated by a resident of a Contracting State, except when the ship, aircraft or railway vehicle is operated solely between places in the other Contracting State;
  - (j) the term “competent authority” means, in the case of the United Kingdom, the Commissioners for Her Majesty’s Revenue and Customs or their authorised representative, and, in the case of France, the Minister of Finance or his authorised representative;
  - (k) the term “business” includes the performance of professional services and of other activities of an independent character.
2. As regards the application of this Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which this Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### **ARTICLE 4 RESIDENCE**

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof, and any statutory body of that State, subdivision or authority. This term does not include any person who is liable to tax in that State in respect only of income or capital gains from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:
  - (a) he shall be deemed to be a resident only 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 States, he shall be deemed to be a resident only of the 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 does not have a permanent home available to him in either State, he shall be deemed to be a resident only of the 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 only of the 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 States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.
4. The term “resident of a contracting State” shall include where that Contracting State is France any partnership, group of persons or any other similar entity:
  - (a) which has its place of effective management in France;
  - (b) which is subject to tax in France; and
  - (c) all of whose shareholders, associates or members are, pursuant to the tax laws of France, personally liable to tax therein in respect of their share of the profits of that partnership, group of persons or other similar entity.
5. For the purposes of applying this Convention:
  - (a) an item of income, profit or gain:
    - (i) derived from a Contracting State through a partnership, group of persons or other similar entity that is established in the other Contracting State; and
    - (ii) treated as the income of beneficiaries, members or participants of that partnership, group of persons or other similar entity under the tax laws of that other Contracting State;

shall be eligible for the benefits of the Convention that would be granted if it were directly derived by a beneficiary, member or participant of that partnership, group of persons or other similar entity who is a resident of that other Contracting State, to the extent that such beneficiaries, members or participants are residents of that other Contracting State and satisfy any other conditions specified in the Convention, without regard to whether the income is

treated as the income of such beneficiaries, members or participants under the tax laws of the first-mentioned State;

(b) an item of income, profit or gain:

- (i) derived from a Contracting State through a partnership, group of persons or other similar entity that is established in the other Contracting State; and
- (ii) treated as the income of that partnership, group of persons or other similar entity under the tax laws of that other Contracting State;

shall be eligible for the benefits of the Convention that would be granted to a resident of that other Contracting State, without regard to whether the income is treated as the income of that partnership, group of persons or other similar entity under the tax laws of the first-mentioned State, if such partnership, group of persons or other similar entity is a resident of that other Contracting State and satisfies any other conditions specified in the Convention;

(c) an item of income, profit or gain:

- (i) derived from a Contracting State through a partnership, group of persons or any other similar entity that is established in that Contracting State;
- (ii) treated as the income of beneficiaries, members or participants of that partnership, group of persons or other similar entity under the tax laws of the other Contracting State; and
- (iii) treated as the income of that partnership, group of persons or other similar entity under the tax laws of the first-mentioned State;

can be taxed under the tax laws of the first-mentioned State without any restriction;

(d) an item of income, profit or gain:

- (i) derived from a Contracting State through a partnership, group of persons or other similar entity that is established in that Contracting State; and
- (ii) treated as the income of that partnership, group of persons or other similar entity under the tax laws of the other Contracting State; shall not be eligible for the benefits of the Convention;

- (i) derived from a Contracting State through a partnership, group of persons or any other similar entity that is established in a State other than the Contracting States; and
- (ii) treated as the income of the beneficiaries, members or participants of that partnership, group of persons or other similar entity under the tax laws of the other Contracting State and under the tax laws of the State where the entity is established;

shall be eligible for the benefits of the Convention that would be granted if it were directly derived by a beneficiary, member or participant of that partnership, group of persons or other

similar entity who is a resident of that other Contracting State, to the extent that such beneficiaries, members or participants are residents of that other Contracting State and satisfy any other conditions specified in the Convention, without regard to whether the income is treated as the income of such beneficiaries, members or participants under the tax laws of the first-mentioned State provided that the State where the partnership, group of persons or other similar entity is established has concluded with the first-mentioned State an agreement containing a provision for the exchange of information with a view to the prevention of fiscal evasion;

(e) an item of income, profit or gain:

- (i) derived from a Contracting State through a partnership, group of persons or any other similar entity that is established in a State other than the Contracting States; and
- (ii) treated as the income of that partnership, group of persons or other similar entity under the tax laws of the other Contracting State;

shall not be eligible for the benefits of the Convention.

## **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; and
  - (f) a mine, quarry or any other place of extraction of natural resources.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.
4. 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 sub-paragraphs (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.

*The following paragraph 4 of Article 13 of the MLI applies to paragraph 4 of Article 5 of this Convention:*

ARTICLE 13 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS  
THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS

[*Paragraph 4 of Article 5 of the Convention*] shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same [*Contracting State*] and:

- a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of [*Article 5 of the Convention*]; or
- b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

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

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

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

For the purposes of [*Article 5 of the Convention*], a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of

the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf 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 4 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.
6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that 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.
7. 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 derived from immovable property (including income from agriculture or forestry) situated in a Contracting State may be taxed in that State.
2. The term "immovable property" shall have the meaning which it has under 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, aircraft and railway vehicles 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.
5. Where shares or other rights in a company, other legal person, partnership, trust or any similar body give an entitlement to enjoy immovable property situated in a Contracting State and held by that company, other legal person, partnership, trust or similar body, income derived from the direct use, letting, or use in any other form of that entitlement to enjoy, may be taxed in that State notwithstanding the provisions of Article 7.

#### **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, 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 determining 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. Insofar 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 contained 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 or capital gains 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 INTERNATIONAL TRANSPORT

1. Profits derived by a resident of a Contracting State from the operation of ships, aircraft or railway vehicles in international traffic shall be taxable only in that State.
2. Where profits within paragraph 1 are derived by a resident of a Contracting State from participation in a pool, a joint business or an international operating agency, the profits attributable to that resident shall be taxable only in the Contracting State of which he is a resident.
3. For the purposes of this Article, profits derived from the operation of ships, aircraft or railway vehicles in international traffic include:
  - (a) profits derived from the rental on a bareboat basis of ships, aircraft or railway vehicles; and
  - (b) profits derived from the use, maintenance or rental of containers;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships, aircraft or railway vehicles in international traffic.

## ARTICLE 9 CHANNEL TUNNEL

1. In this Article:
  - (a) the term “Treaty” means the Treaty between the United Kingdom of Great Britain and Northern Ireland and the French Republic concerning the Construction and Operation by Private Concessionaires of a Channel Fixed Link signed at Canterbury on 12th February 1986;
  - (b) the term “Fixed Link” has the meaning given by paragraph 2 of Article 1 of the Treaty;
  - (c) the term “Concession” means the Concession Agreement concerning the development, financing, construction and operation of a fixed link across the English Channel signed at Paris on 14th March 1986 between the Secretary of State for Transport of the Government of the United Kingdom of Great Britain and Northern Ireland and Le Ministre de l'Urbanisme, du Logement et des Transports representing the French State of the one part, and The Channel Tunnel Group Limited and France-Manche SA of the other part;
  - (d) the term “Concessionaire(s)” means The Channel Tunnel Group Limited and France-Manche SA or any transferee or successor permitted in accordance with the Concession;
  - (e) the term “holding companies” means:

- (i) the company which is a resident of the United Kingdom and beneficially owns all the issued share capital of the Concessionaire which is an enterprise of the United Kingdom; and
  - (ii) the company which is a resident of France and holds all the issued share capital of the Concessionaire which is an enterprise of France, with the exception of shares held compulsorily by other shareholders in accordance with French commercial law;
- (f) the term “associated company” means:
- (i) either of the holding companies; or
  - (ii) a company in which one of the Concessionaires owns directly or indirectly more than 50 per cent either of the voting power or of the ordinary share capital; or
  - (iii) a company in which one of the holding companies owns directly or indirectly more than 50 per cent either of the voting power or of the ordinary share capital;
- (g) the term “ordinary share capital” as used in sub-paragraph (f) of this paragraph means:
- (i) in the United Kingdom, all the issued share capital in the company, other than share capital the holders of which have a right to a dividend at a fixed rate but have no other right to share in the profits of the company;
  - (ii) in France, all the issued share capital in the company the holders of which have no special right to a dividend nor a special voting right.
2. The provisions of this Article shall apply for the purposes of the taxation by the Contracting States of income derived from immovable property forming a part of the Fixed Link and of profits derived from the construction and operation of the Fixed Link, notwithstanding anything to the contrary in Article 6, 7 or 8 of this Convention, so long as:
- (a) one of the Concessionaires is an enterprise of one Contracting State and the other Concessionaire is an enterprise of the other Contracting State; and
  - (b) the Concession provides for the equal sharing of costs and revenues between the two Concessionaires; and
  - (c) the Concessionaires effectively share such costs and revenues equally during the construction and operation of the Fixed Link.
3. The Contracting States shall for the purposes of their taxation laws compute the income or profits of each of the Concessionaires separately (whether or not any partnership exists between them) on the basis that the costs and revenues which are shared between them in accordance with subparagraph (c) of paragraph 2 have been respectively incurred and received by each of them in equal shares.
4. If and so long as the holders of shares in one of the Concessionaires, or in one of the holding companies, are required simultaneously to hold an equivalent number of shares of the same description in the other Concessionaire or, as the case may be, the other

holding company, the income or profits of each of the Concessionaires computed in accordance with paragraph 3 shall be taxable only in the Contracting State of which it is an enterprise.

5. If the requirements of paragraph 4 are not satisfied, the income or profits of each of the Concessionaires computed in accordance with paragraph 3 shall be attributable as to one half thereof to a permanent establishment which the Concessionaire has in the Contracting State of which it is not an enterprise and shall be taxable in that Contracting State accordingly.
6.
  - (a) Notwithstanding the provisions of Article 15 of this Convention, salaries, wages and other similar remuneration received by an employee of one of the Concessionaires or an associated company in respect of an employment which is exercised wholly or mainly within the Fixed Link in both Contracting States may be taxed in the Contracting State in which the place of effective management of that Concessionaire or associated company is situated.
  - (b) For the purposes of paragraph 2 of Article 15 of this Convention, remuneration shall not be regarded as borne by a permanent establishment which a Concessionaire has in the Contracting State of which it is not an enterprise by reason only that a partnership exists between the two Concessionaires.

## ARTICLE 10 ASSOCIATED ENTERPRISES

1. 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.

2. **[REPLACED by paragraph 1 of Article 17 of the MLI]** [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.]

*The following paragraph 1 of Article 17 of the MLI replaces paragraph 2 of Article 10 of this Convention:*

#### ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

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

#### ARTICLE 11 DIVIDENDS

1.
  - (a) Dividends arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
  - (b) Subject to the provisions of sub-paragraph (c) of this paragraph, any such dividends as are mentioned in sub-paragraph (a) of this paragraph may also be taxed in the first-mentioned State, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.
  - (c) Such dividends as are mentioned in sub-paragraph (a) of this paragraph and are paid by a company which is a resident of the first-mentioned State shall not be taxable in that State if the beneficial owner is a company liable to corporation tax which holds, directly or indirectly, at least 10 per cent of the capital in the company paying the dividends and which is a resident of the other Contracting State.
  - (d) Notwithstanding the provisions of Article 1, the tax charged in France on dividends derived therefrom and beneficially owned by a pension fund (other than a company) created, established, and approved for tax purposes in the United Kingdom may not be imposed at a rate exceeding that specified in sub-paragraph (b) of this paragraph.
  - (e) The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
2. 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 treated as a distribution by the

taxation law of the Contracting State of which the company making the distribution is a resident. The term “dividends” does not include income referred to in Article 16.

3. The provisions of paragraph 1 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, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case, the provisions of Article 7 shall apply.
4. 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 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 that other State.
5. The provisions of subparagraphs (b), (c) and (d) of paragraph 1 shall not apply to dividends paid out of income or gains derived from immovable property within the meaning of Article 6 by an investment vehicle:

(a) which distributes most of this income annually; and

(b) whose income or gains from such immovable property are exempted from tax;

where the beneficial owner of those dividends holds, directly or indirectly, 10 per cent or more of the capital of the vehicle paying the dividends. In such case, the dividends may be taxed at the rate provided for by the domestic law of the Contracting State in which the dividends arise.

6. **[REPLACED by paragraph 1 of Article 7 of the MLI]** [The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.<sup>1</sup>]

## ARTICLE 12 INTEREST

1. Interest arising in a Contracting State 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

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<sup>1</sup> Refer to page 29 of this synthesised text, immediately following Article 28

from bonds or debentures. The term “interest” shall not include any item which is treated as a dividend under the provisions of Article 11.

3. The provisions of paragraph 1 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, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. 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 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 of interest. 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.
5. **[REPLACED by paragraph 1 of Article 7 of the MLI<sup>2</sup>]** [The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.]

### ARTICLE 13 ROYALTIES

1. Royalties arising in a Contracting State 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 cinematograph films and software, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 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, and the right or property giving rise to the royalties is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. 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 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.

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<sup>2</sup> Refer to page 29 of this synthesised text, immediately following Article 28

5. **[REPLACED by paragraph 1 of Article 7 of the MLI]** [The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the right or property in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.<sup>3</sup>]

## ARTICLE 14 CAPITAL GAINS

1. Gains derived from the alienation of immovable property referred to in Article 6 and situated in a Contracting State may be taxed in that State.
2. Gains derived from the alienation of:
  - (a) shares, other than those regularly traded on an approved Stock Exchange, or rights deriving their value or the greater part of their value directly or indirectly from immovable property referred to in Article 6 and situated in a Contracting State; or
  - (b) an interest in a partnership or trust the assets of which consist principally of immovable property referred to in Article 6 and situated in a Contracting State, or of shares or rights referred to in sub-paragraph (a) of this paragraph;may be taxed in the State in which the immovable property is situated.
3. 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, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise), may be taxed in the other State.
4. Gains derived by a resident of a Contracting State from the alienation of ships, aircraft or railway vehicles operated in international traffic by that resident and gains derived by that resident from the alienation of movable property pertaining to the operation of such ships, aircraft or railway vehicles shall be taxable only in that State.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.
6. The provisions of paragraph 5 shall not affect the right of a Contracting State to levy according to its law a tax chargeable in respect of gains from the alienation of any property on a person who is, and has been at any time during the previous six fiscal years, a resident of that Contracting State or on a person who is a resident of that Contracting State at any time during the fiscal year in which the property is alienated.

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<sup>3</sup> Refer to page 29 of this synthesised text, immediately following Article 28

## **ARTICLE 15 INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 16, 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, 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 within any period of 12 months; 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 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, aircraft or railway vehicle operated in international traffic may be taxed in the Contracting State of which the person operating the ship, aircraft or railway vehicle is a resident.
4. For the purposes of this Article the term “employment” includes in particular the exercise of management or executive functions, other than functions covered by Article 16, in a company subject to French corporation tax.

## **ARTICLE 16 DIRECTORS' FEES**

Directors' fees and other 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.

## **ARTICLE 17 ARTISTES AND SPORTSMEN**

1. Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, 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, 13, 15 and 23, be

taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State as an entertainer or a sportsman from his personal activities as such exercised in the other Contracting State shall be taxable only in the first-mentioned State if those activities in the other State are supported mainly by public funds of the first-mentioned State, local authorities of that State or statutory bodies of that State or of a local authority of that State.
4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities exercised by an entertainer or a sportsman, who is a resident of a Contracting State, in his capacity as such in the other Contracting State accrues not to the entertainer or sportsman himself but to another person, that income, notwithstanding the provisions of Articles 7 and 15, shall be taxable only in the first-mentioned State, if that other person is supported mainly by public funds of the first-mentioned State, local authorities of that State or statutory bodies of that State or of a local authority of that State.

#### **ARTICLE 18 PENSIONS**

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State shall be taxable only in that State.

#### **ARTICLE 19 GOVERNMENT SERVICE**

1. Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a local authority thereof, or by a statutory body of either, to an individual in respect of services rendered to that State, authority or statutory body shall be taxable only in that State. However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident and a national of that State without being also a national of the first-mentioned State.
2. Pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a local authority thereof, or, in the case of France, a statutory body, to an individual in respect of services rendered to that State, authority or statutory body shall be taxable only in that State. However, such pension shall be taxable only in the other Contracting State if the individual is a resident and a national of that State without being also a national of the first-mentioned State.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority thereof or by a statutory body of either.
4. Notwithstanding any other provision of this Convention:

- (a) the pensions referred to in paragraph (4) of Article 81 of the French tax code (code général des impôts) shall be exempt from United Kingdom tax, regardless of the nationality of the pensioner, so long as they are exempt from French tax;
- (b) the pensions referred to in section 641(1)(a) to (g) of the Income Tax (Earnings and Pensions) Act 2003 and benefits paid by reason of illness or injury following the termination of service in the armed forces or reserve forces referred to in section 641(1)(h) of the Income Tax (Earnings and Pensions) Act 2003 and injury and disablement pensions payable under any scheme made under the Personal Injuries (Emergency Provisions) Act 1939 shall be exempt from French tax, regardless of the nationality of the pensioner, so long as they are exempt from United Kingdom tax. However, paragraph 2 shall apply to such part of any income from those pensions as is not exempted from United Kingdom tax.

## **ARTICLE 20 TEACHERS AND RESEARCHERS**

1. Subject to paragraph 2, an individual who visits one of the Contracting States for a period not exceeding two years for the purpose of teaching or engaging in research at a university, college, school or other officially recognised educational institution in that Contracting State, and who immediately before that visit was a resident of the other Contracting State, shall be taxable only in that other State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits the first-mentioned State for such purpose.
2. Where, under the provisions of this Convention taken together with the law in force in the other State, a teacher or researcher referred to in paragraph 1 is exempt from tax in that other State on his remuneration, such remuneration shall be taxable in the first-mentioned State.
3. The provisions of this Article shall apply to income from research only if such research is undertaken by the individual in the public interest and not primarily for the benefit of some other private person or persons.

## **ARTICLE 21 STUDENTS**

A student or business apprentice who immediately before visiting a Contracting State is or was a resident of the other Contracting State and is present in the first-mentioned State solely for the purpose of his education or training shall not be taxed in that first-mentioned State on payments which he receives for the purpose of his maintenance, education or training, provided that such payments are made to him from sources outside that first-mentioned State.

## ARTICLE 22 OFFSHORE ACTIVITIES

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention.
2. An enterprise of a Contracting State which carries on activities offshore in the other Contracting State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources in areas which are, in accordance with international law, under the jurisdiction of the other Contracting State shall, subject to paragraphs 3 and 4, be deemed except as regards paragraph 2 of Article 15, to be carrying on in respect of those activities a business in that other Contracting State through a permanent establishment situated therein.
3. The provisions of paragraph 2 shall not apply where the activities referred to therein are carried on in the areas specified in that paragraph for a period not exceeding in the aggregate 30 days in any period of 12 months. However, for the purposes of this paragraph:
  - (a) where an enterprise carrying on activities referred to in paragraph 2 in those specified areas is associated with another enterprise carrying on substantially similar activities there the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise except to the extent that those activities are carried on at the same time as its own activities;
  - (b) an enterprise shall be regarded as associated with another enterprise if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or persons.
4. Profits derived by a resident of a Contracting State from the transportation of supplies or personnel to a location where activities in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources are being carried on in areas which are under the jurisdiction of a Contracting State or from the operation of tugboats and similar vessels in connection with such activities, shall be taxable only in the Contracting State of which he is a resident.

## ARTICLE 23 OTHER INCOME

1. Items of income beneficially owned by a resident of a Contracting State, wherever arising, which are not dealt with in the foregoing Articles of this Convention, other than income paid out of trusts or the estates of deceased persons in the course of administration, shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the beneficial owner of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

3. Where, by reason of a special relationship between the payer of income within this Article, which arises in a Contracting State, and the beneficial owner of that income, or between both of them and some other person, the amount of the income 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 paragraphs 1 and 2 shall apply only to the last-mentioned amount. In such case, the excess part of the income shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.
4. **[REPLACED by paragraph 1 of Article 7 of the MLI]** [The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the income is paid to take advantage of this Article by means of that creation or assignment.<sup>4</sup>]

#### **ARTICLE 24 ELIMINATION OF DOUBLE TAXATION**

1. Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):
  - (a) French tax payable under the laws of France and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within France (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 United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which French tax is computed;
  - (b) in the case of a dividend paid by a company which is a resident of France to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any French tax for which credit may be allowed under the provisions of sub-paragraph (a)) the French tax payable by the company in respect of the profits out of which such dividend is paid.
2. For the purposes of paragraph 1:
  - (a) profits, income and capital gains owned by a resident of the United Kingdom which may be taxed in France in accordance with the other Articles of this Convention (except capital gains which may be taxed in accordance with paragraph 6 of Article 14) shall be deemed to arise from sources in France;
  - (b) capital gains from sources neither in France nor the United Kingdom which may be taxed in the United Kingdom in accordance with paragraph 6 of Article 14 shall be deemed to arise from sources in France;

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<sup>4</sup> Refer to page 29 of this synthesised text, immediately following Article 28

- (c) the taxes referred to in clauses (i) to (iv) of subparagraph (b) of paragraph 1 of Article 2 and, in respect of the taxes mentioned in those clauses, in paragraph 2 of Article 2, shall be considered French tax.

3. In the case of France, double taxation shall be avoided in the following manner:

- (a) notwithstanding any other provision of this Convention, income which may be taxed or shall be taxable only in the United Kingdom in accordance with the provisions of this Convention shall be taken into account for the computation of the French tax where such income is not exempted from corporation tax according to French domestic law. In that case, the United Kingdom tax shall not be deductible from such income, but the resident of France shall, subject to the conditions and limits provided for in sub-paragraphs (i), (ii) and paragraph 4, be entitled to a tax credit against French tax. Such tax credit shall be equal:

- (i) in the case of income other than that mentioned in subparagraph (ii), to the amount of French tax attributable to such income provided that the resident of France is subject to United Kingdom tax in respect of such income;

- (ii) in the case of income referred to in Article 7 and paragraph 3 of Article 14 when that income is subject to French corporation tax, and in the case of income referred to in Article 11, paragraphs 1, 2 and 6 of Article 14, paragraph 3 of Article 15, Article 16, paragraphs 1 and 2 of Article 17 and paragraph 3 of Article 23, to the amount of tax paid in the United Kingdom in accordance with the provisions of those Articles; however, such credit shall not exceed the amount of French tax attributable to such income;

- (b) for the purposes of sub-paragraph (a) of this paragraph the term “amount of French tax attributable to such income” means:

- (i) where the tax on such income is computed by applying a proportional rate, the amount of the net income concerned multiplied by the rate which actually applies to that income;

- (ii) where the tax on such income is computed by applying a progressive scale, the amount of the net income concerned multiplied by the rate resulting from the ratio of the tax actually payable on the total net income taxable in accordance with French law to the amount of that total net income;

- (c) for the purposes of sub-paragraph (a) of this paragraph, the term “amount of tax paid in the United Kingdom” means the amount of United Kingdom tax effectively and definitively borne in respect of the income concerned, in accordance with the provisions of this Convention.

4.

- (a) Where gains may be taxed by a Contracting State by reason only of paragraph 6 of Article 14, that Contracting State, and not the other Contracting State, shall eliminate double taxation in accordance with the methods set out in this Article as if the gains arose from sources in the other Contracting State.

(b) Where gains may be taxed by a Contracting State by reason of paragraphs 1, 2, or 3 of Article 14, the other Contracting State, and not the first-mentioned Contracting State, shall eliminate double taxation in accordance with the methods set out in this Article.

4. In paragraph 3 the term “income” means income or capital gains as the context requires.

## ARTICLE 25 NON-DISCRIMINATION

1. Individuals who are 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, in particular with respect to residence, are or may be subjected.
2. 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.
3. Except where the provisions of paragraph 1 of Article 10, paragraph 4 or 5 of Article 12, paragraph 4 or 5 of Article 13, or paragraph 3 or 4 of Article 23 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall be deductible, for the purpose of determining the taxable profits of that enterprise, under the same conditions as if they had been paid to a resident of the first-mentioned State.
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 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 the first-mentioned State are or may be subjected.
5. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.
6. Where an individual exercises an employment in a Contracting State and makes contributions to a pension scheme established in and recognised for tax purposes in the other Contracting State, such contributions shall, in the first-mentioned State, be deductible in determining that individual’s taxable income and shall be treated in that State in the same way and subject to the same conditions and limitations as contributions made to a pension scheme that is recognised for tax purposes in that State, provided that:
  - (a) the individual was not a resident of that State, and was contributing to the pension scheme, or to another pension scheme for which it has been substituted, immediately before he began to exercise employment in that State; and

- (b) the pension scheme is accepted by the competent authority of that State as generally corresponding to a pension scheme recognised as such for tax purposes by that State.
7. Where the enterprise paying the remuneration of an individual described in paragraph 6 makes contributions to a pension scheme described in that paragraph, such contributions shall not be treated as the taxable income of that individual and shall be allowed as a deduction in computing the profits of the enterprise.
8. For the purposes of paragraph 6:
- (a) the term “a pension scheme” means an arrangement in which the individual participates in order to secure retirement benefits payable in respect of the employment; and
  - (b) a pension scheme is recognised for tax purposes in a State if the contributions to the scheme would qualify for tax relief in that State.

## ARTICLE 26 MUTUAL AGREEMENT PROCEDURE

1. **[REPLACED by paragraph 1 of Article 16 of the MLI]** [Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the State of which he is a resident, or if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national.] 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 or within six years from the end of the taxable year or chargeable period in respect of which that taxation is imposed or proposed.

*The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 26 of this Convention:*<sup>5</sup>

### ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURES

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 [*the 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*].

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

<sup>5</sup> In accordance with paragraph 4 of Article 35 of the MLI, Article 16 of the MLI has effect with respect to this Convention for a case presented to the competent authority of a Contracting Jurisdiction on or after 1 January 2019, except for cases that were not eligible to be presented as of that date under this Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this 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.
5. Where,
  - (a) under paragraph 1, 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 within two years from the presentation of the case to the competent authority of the other Contracting State;

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either State or if the case has been presented to either competent authority under the European convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises, signed on 23rd July 1990. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic law of these States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.

## **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 of the Contracting States 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 this Convention, in particular, to prevent fraud and to facilitate the administration of statutory provisions against legal avoidance. 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, or 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 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 members of diplomatic missions and their personal domestic staff, of members of consular posts, or of members of permanent missions to international organisations under the general rules of international law or under the provisions of special agreements.
2. This Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent delegation of a third State, being present in a Contracting State and who are not liable in either Contracting State to the same obligations in relation to tax on their total income and capital gains as are residents thereof.

*The following paragraph 1 of Article 7 of the MLI replaces paragraph 6 of Article 11, paragraph 5 of Article 12, paragraph 5 of Article 13 and paragraph 4 of Article 23 of the Convention:*

#### ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE

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*].

#### ARTICLE 29 MISCELLANEOUS RULES

1. Where under any provision of this Convention any income is relieved from tax in a Contracting State and, under the domestic law in force in the other Contracting State, a person, in respect of that income, is subject to tax by reference to the amount thereof which is remitted to or received in that other State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income as is taxed in the other State. This provision shall not apply to income referred to in Articles 7 and 11.
2. Where under Article 14 gains may only be taxed in one of the Contracting States and under the domestic law in force in that State a person is subject to tax in respect of those gains by reference to the amount thereof which is remitted to or received in that State and not by reference to the full amount thereof, the relief to be allowed under that Article in the other Contracting State shall apply only to so much of the gains as are taxed in the first mentioned State.
3. Notwithstanding the provisions of sub-paragraph (b) of paragraph 1 of Article 2, for the purposes of the assessment in respect of the capital tax (l'impôt de solidarité sur la fortune) of an individual who is a resident of France and is a national of the United Kingdom without being a national of France, property situated outside France which he owns on 1st January in each of the five calendar years following that in which he became a resident of France shall not be included in the basis of assessment of the tax pertaining to each of those five years. If that person loses the status of resident of France for a period of at least three years, and then becomes a resident of France again, property situated outside France which he owns on 1st January in each of the five calendar years following that in which he became a resident of France again shall not be included in the basis of assessment of the tax pertaining to each of those five years.

#### ARTICLE 30 IMPLEMENTATION OF THE CONVENTION

1. The competent authorities of the Contracting States may settle the mode of application of this Convention.

2. Any person claiming the benefits of this Convention in a Contracting State shall present to the tax administration of that State :
  - (a) a declaration in such form as the tax administration may require, which should give a full description, including the amount or value, of the income or capital gain in respect of which the benefits are claimed;
  - (b) a statement from the tax administration of the other Contracting State confirming that the claimant is or was, during the period covered by the claim, a resident of that other State for the purposes of this Convention; and
  - (c) such other evidence as the competent authority of the first mentioned State may in accordance with its domestic laws require to consider the claim.

### **ARTICLE 31 ENTRY INTO FORCE**

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. This Convention shall enter into force on the date the later of these notifications has been received.
2. The provisions of this Convention shall have effect:
  - (a) in the United Kingdom:
    - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which this Convention enters into force;
    - (ii) in respect of corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which this Convention enters into force;
  - (b) in France:
    - (i) in respect of taxes on income withheld at source, for amounts taxable after the calendar year in which this Convention enters into force;
    - (ii) in respect of taxes on income which are not withheld at source, for income relating to any calendar year or accounting period, as the case may be, beginning after the calendar year in which this Convention enters into force;
    - (iii) in respect of capital tax (impôt de solidarité sur la fortune) referred to in paragraph 3 of Article 29, for taxation where the taxable event occurs after the calendar year in which this Convention enters into force.
3. Notwithstanding the provisions of paragraph 2, the provisions of Article 9 shall have effect:
  - (a) in France for any calendar year or accounting period beginning on or after 1st January 1994;

(b) in the United Kingdom for any chargeable period beginning on or after 1st April 1994 .

- 4 The Convention between the Government of the French Republic and the Government of the United Kingdom of Great Britain and Northern Ireland signed at London on 22nd May 1968 as amended by the four Protocols signed at London on 10th February 1971, 14th May 1973, 12th June 1986, and 15th October 1987 respectively (“the prior Convention”) shall terminate and cease to be effective from the date upon which this Convention has effect in respect of the taxes to which this Convention applies in accordance with the provisions of paragraph 2. In relation to tax credits in respect of dividends paid by companies which are residents of the United Kingdom, the prior Convention shall terminate and cease to be effective from the date upon which this Convention enters into force.

### ARTICLE 32 TERMINATION

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate it, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year of entry into force of this Convention. In such event, this Convention shall cease to have effect:

- (a) in the United Kingdom:
- (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which notice is given;
  - (ii) in respect of corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the notice is given; (b) in France:
    - (i) in respect of taxes on income withheld at source, for amounts taxable after the calendar year in which the notice is given;
    - (ii) in respect of taxes on income which are not withheld at source, for income relating to any calendar year or accounting period, as the case may be, beginning after the calendar year in which the notice of termination is given;
    - (iii) in respect of capital tax (impôt de solidarité sur la fortune) referred to in paragraph 3 of Article 29, for taxation where the taxable event occurs after the calendar year in which the notice of termination is given.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at London this 19th day of June, 2008, in the English and French languages, both texts being equally authoritative.

For the Government of the  
United Kingdom of Great Britain  
Ireland:

For the Government of  
the French Republic and Northern

## PROTOCOL

At the signing of the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains, the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic have agreed that the following provisions shall form an integral part of the Convention.

1. In relation to Article 2, it is understood that the tax on salaries referred to in sub-paragraph (b) of paragraph 1 of Article 2 is governed by the provisions of the Convention applicable to business profits.
2. In relation to Article 3, it is understood that the term “United Kingdom” as defined in paragraph 1 of Article 3 does not include the Channel Islands, the Isle of Man, Gibraltar, the Sovereign Base Areas of the United Kingdom in Cyprus or any other overseas country or territory having special relations with the United Kingdom.
3. In relation to Article 5, it is understood that where a partnership which is not a resident of a Contracting State has a permanent establishment in a Contracting State, that permanent establishment shall be regarded as a permanent establishment in that State of each member of the partnership who is entitled to the benefits of the Convention. Income or gains attributable to a permanent establishment which a partnership which is not a resident of a Contracting State has in a Contracting State shall be regarded as attributable to a permanent establishment which each member of the partnership possesses in that State to the extent that each member of the partnership who is entitled to the benefits of the Convention shares in such income or gain.
4. In relation to Article 6, it is understood that the term “immovable property” as defined in Article 6 includes options and similar rights in connection with such property.
5. In relation to Article 7, it is understood that where a resident of a Contracting State is a member of a partnership established under the laws of the other Contracting State, nothing in the Convention shall prevent the first-mentioned Contracting State from taxing that resident on his share of any income, profits or gains derived from or through that partnership; but any such income, profits or gains shall be treated for the purposes of Article 24 as income, profits or gains from sources in that other State.
6. In relation to Article 11, it is understood that where a Contracting State applies the exemptions of its domestic regime applicable to investment vehicles as mentioned in paragraph 5 of Article 11 to the permanent establishment of an entity established in the other Contracting State, no provision of this Convention restricts the right of the first-mentioned Contracting State to tax, according to its domestic law, income from immovable property deemed to be distributed by that permanent establishment.
7. In relation to Articles 11, 12, 13, it is understood that managers of investment companies or funds established in a Contracting State may submit a claim relating to the benefits afforded by the provisions of those Articles. In the case of investment companies or funds not falling within

Article 1, managers may submit claims and the competent authorities shall agree the mode of application of the Convention to those claims.

8. In relation to Articles 12, 13 and 23, it is understood that where, under the terms of paragraph 5 of Article 12, paragraph 5 of Article 13 or paragraph 4 of Article 23, the provisions of the Article do not apply to an item of income then that income may be taxed in both Contracting States in accordance with the domestic law of each State.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate at London this 19th day of June, 2008, in the English and French languages, both texts being equally authoritative.

For the Government of the  
United Kingdom of Great  
Britain and Northern Ireland:

For the Government of the  
French Republic