

**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 the Government of the Czech and Slovak Federal Republic for the Avoidance of Double Taxation with respect to Taxes on Income and Capital Gains as it applies to relations between the United Kingdom of Great Britain and Northern Ireland and the Slovak Republic**

This document presents the synthesised text for the application, in respect of relations between the United Kingdom and the Slovak Republic, of the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Czech and Slovak Republic for the Avoidance of Double Taxation with respect to Taxes on Income and Capital Gains signed at London on 5 November 1990 (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 and the Slovak Republic on 7 June 2017 (the “MLI”).

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

The document was prepared on the basis of the MLI position of the United Kingdom submitted to the Depository upon ratification on 29 June 2018 and of the MLI position of the Slovak Republic submitted to the Depository upon ratification on 20 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.legislation.gov.uk/ukxi/1991/2876/contents/made>

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

The MLI position of the United Kingdom submitted to the Depositary upon ratification on 29 June 2018 and of the MLI position of the Slovak Republic submitted to the Depositary upon ratification on 20 September 2018 can be found [on the MLI Depositary \(OECD\) 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 the United Kingdom and the Slovak Republic in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 29 June 2018 for the United Kingdom and 20 September 2018 for the Slovak Republic.

Entry into force of the MLI: 1 October 2018 for the United Kingdom and 1 January 2019 for the Slovak Republic.

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

- For taxes withheld at source, from 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 the Slovak Republic, 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 CZECH AND SLOVAK FEDERAL REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS**

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Czech and Slovak Federal Republic;

Confirming their desire to develop and strengthen their economic co-operation;

*The following paragraph 3 of Article 6 of the MLI is included in the preamble of this Convention:*

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

**[REPLACED by paragraph 1 of Article 6 of the MLI]** [Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and capital gains;]

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

**ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT**

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

Have agreed as follows:

## ARTICLE 1

### **Personal scope**

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

*The following paragraph 1 of Article 3 of the MLI applies and supersedes the provisions of this Convention:*

#### ARTICLE 3 OF THE MLI – TRANSPARENT ENTITIES

For the purposes of *[this Convention]*, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either *[Contracting State]* shall be considered to be income of a resident of a *[Contracting State]* but only to the extent that the income is treated, for purposes of taxation by that *[Contracting State]*, as the income of a resident of that *[Contracting State]*.

*The following paragraph 1 of Article 11 of the MLI applies and supersedes the provisions of this Convention:*

#### ARTICLE 11 OF THE MLI – APPLICATION OF TAX AGREEMENTS TO RESTRICT A PARTY'S RIGHT TO TAX ITS OWN RESIDENTS

*[This Convention]* shall not affect the taxation by a *[Contracting State]* of its residents, except with respect to the benefits granted under *[Articles 19, 20, 22, 23, 24 and 26 of this Convention]*.

## ARTICLE 2

### **Taxes covered**

(1) The taxes which are the subject of this Convention are:

(a) in the United Kingdom of Great Britain and Northern Ireland:

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

(hereinafter referred to as "United Kingdom Tax");

(b) in the Czech and Slovak Federal Republic:

- (i) the tax on profits;
- (ii) the wages tax;
- (iii) the tax on income from literary and artistic activities;
- (iv) the agricultural tax;
- (v) the tax on population income; and
- (vi) the house tax;

(hereinafter referred to as "Czechoslovak 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 of that Contracting State referred to in paragraph (1) of this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

## ARTICLE 3

### **General definitions**

(1) In this Convention, unless the context otherwise requires:

(a) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;

(b) the term "Czechoslovakia" means the Czech and Slovak Federal Republic;

(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; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;

(ii) in relation to Czechoslovakia, any individual possessing the nationality of the Czech and Slovak Federal Republic any legal person, partnership, association or other entity deriving its status as such from the law in force in Czechoslovakia;

(d) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Czechoslovakia as the context requires;

(e) the term "person" comprises an individual, a company and any other body of persons, but does not include a partnership which is not a legal person;

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

(g) 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;

(h) the term, "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(i) the term "competent authority" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and, in the case of Czechoslovakia the Minister of Finance of the Czech and Slovak Federal Republic or his authorised representative.

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

## ARTICLE 4

### Residence

(1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature; the term does not include any individual who is liable to tax in that Contracting State only if he derives income from sources therein.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

(a) he shall be deemed to be a resident of the 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 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 has no permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

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

(3) **[REPLACED by paragraph 1 of Article 4 of the MLI]** [Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.]

*The following paragraph 1 of Article 4 of the MLI replaces paragraph (3) of Article 4 of this Convention:*

#### ARTICLE 4 OF THE MLI – DUAL RESIDENT ENTITIES

Where by reason of the provisions of [*this Convention*] a person other than an individual is a resident of both [*Contracting States*], the competent authorities of the [*Contracting States*] shall endeavour to determine by mutual agreement the [*Contracting State*] of which such person shall be deemed to be a resident for the purposes of [*this Convention*], having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by [*this Convention*] except to the extent and in such manner as may be agreed upon by the competent authorities of the [*Contracting States*].

## ARTICLE 5

### **Permanent establishment**

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

(2) The term "Permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

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

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

(h) A building site or construction or installation or assembly project which exists for more than twelve months.

(3) 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 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;

(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 (3) of Article 5 of this Convention:*

[*Paragraph (3) of Article 5 of this 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 this Convention*]; or
- b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

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

(4) Notwithstanding the provisions of paragraphs (1) and (2) of the Article, where a person—other than an agent of an independent status to whom paragraph (5) of the Article applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State as authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (3) of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

(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 persons are acting in the ordinary course of their business.

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

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

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

#### AN ENTERPRISE

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

## ARTICLE 6

### **Income from immovable property**

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

(2)

(a) The term "immovable property" shall, subject to the provisions of sub-paragraph (b) of this paragraph, be defined in accordance with the law of the Contracting State in which the property in question is situated.

(b) The term "immovable property" 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) of this Article 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) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

## ARTICLE 7

### **Business profits**

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

(2) Subject to the provisions of paragraph (3) of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall be 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 at arm's length 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 of the enterprise 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) of this Article 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 which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

## ARTICLE 8

### **Shipping and air transport**

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

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

(3) The provisions of paragraph (1) of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

## ARTICLE 9

### **Associated enterprises**

Where:

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

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

## ARTICLE 10

### **Dividends**

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

(2) 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 if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed;

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

(b) 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, 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 also includes any other item which, under the law of the Contracting State of which the company making the payment is a resident, is treated as a dividend or distribution of a company.

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

(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, 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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

## ARTICLE 11

### **Interest**

- (1) Interest arising in a Contracting State which is derived and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.
- (2) The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind as well as other income assimilated to income from money lent by the taxation law of the State in which the income arises.
- (3) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the interest, being a resident of the Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.
- (4) Where, owing to 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. In such 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 12

### **Royalties**

(1) Royalties arising in a Contracting State which are derived and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

(2) Notwithstanding the provisions of paragraph (1) of this Article, royalties of the kind referred to in sub-paragraph (3)(a) below may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the amount so charged shall not exceed 10 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for;

(a) the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, any industrial, commercial or scientific equipment, or for information concerning industrial, commercial, technical, technological or scientific experience;

(b) the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films or tapes for radio and television broadcasting).

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

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

(6) Where, owing to 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.

## ARTICLE 13

### **Capital gains**

(1) Gains from the alienation of immovable property, as defined in paragraph (2) of Article 6 of this Convention, 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 fixed base, may be taxed in the other State.

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

(4) Gains from the alienation of any property other than those mentioned in paragraphs (1), (2) and (3) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

## ARTICLE 14

### **Independent personal services**

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it 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 15

### **Dependent personal services**

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

(2) Notwithstanding the provisions of paragraph (1) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if;

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

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

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

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State of which the person deriving the profits from the operation of the ship or aircraft is a resident.

## 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 athletes**

(1) Notwithstanding the provisions of Article 14 and Article 15 of this Convention, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State if the activities are performed under a cultural agreement or arrangement between the Contracting States.

(2) Where income in respect of personal activities exercised by an entertainer or athlete accrues not to the entertainer or athlete himself but to another person that income may, notwithstanding the provisions of Articles 7, 14 and 15 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

## ARTICLE 18

### **Pensions**

(1) Subject to the provisions of paragraph (2) of Article 19 of this Convention, pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in that State.

(2) The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

## ARTICLE 19

### **Government service**

(1)

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

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

(2)

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

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

(3) The provisions of Articles 15, 16 and 18 of this Convention shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

## ARTICLE 20

### **Students**

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

## ARTICLE 21

### **Other income**

Items of income of a resident of a Contracting State, wherever arising, being income of a class or from sources not expressly mentioned 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.

## ARTICLE 22

### Avoidance 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) Czechoslovak tax payable under the laws of Czechoslovakia and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Czechoslovakia (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 or income by reference to which the Czechoslovak tax is computed;

(b) in the case of a dividend paid by a company which is a resident of Czechoslovakia 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 Czechoslovak tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Czechoslovak tax payable by the company in respect of the profits out of which such dividend is paid.

(2) **[REPLACED by paragraph 6 of Article 5 of the MLI]** [In Czechoslovakia double taxation shall be avoided as follows:

(a) where a resident of Czechoslovakia derives income or capital gains which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom, Czechoslovakia shall, subject to the provisions of this Convention, may be taxed in the United Kingdom, Czechoslovakia shall, subject to the provisions of sub-paragraph (b) of this paragraph, exempt such income or such capital gains from Czechoslovak tax, in calculating tax on the remaining income or capital gains of that person, apply the rate of tax which would have been applicable if the exempted income or capital gains had not been so exempted;

(b) where a resident of Czechoslovakia derives income which, in accordance with the provisions of Articles, 10, 12, 16 and 17 of this Convention, may be taxed in the United Kingdom, Czechoslovakia shall allow as a deduction from Czechoslovak tax on the income of that person an amount equal to the tax paid in the United Kingdom. Such deduction shall not, however, exceed that part of the Czechoslovak tax, computed before the deduction is given, which is appropriate to the income which may be taxed in the United Kingdom.]

*The following paragraph 6 of Article 5 of the MLI replaces paragraph (2) of Article 22 of this Convention with respect to the residents of the Slovak Republic:*

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

Where a resident of [*the Slovak Republic*] derives income which may be taxed in [*the United Kingdom*] in accordance with the provisions of [*this Convention*] (except to the extent that these provisions allow taxation by [*the United Kingdom*] solely because the income are also income derived by a resident of [*the United Kingdom*]), [*the Slovak Republic*] shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in [*the United Kingdom*].

Such deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is attributable to the income which may be taxed in [*the United Kingdom*].

Where in accordance with any provision of [*this Convention*] income derived by a resident of [*the Slovak Republic*] are exempt from tax in [*the Slovak Republic*], [*the Slovak Republic*] may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

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

(4) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other State and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount included in the profits of both enterprises shall be treated for the purposes of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under the provisions of paragraph (1) or paragraph (2) of this Article.

## ARTICLE 23

### **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 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 Article 9, paragraph (4) of Article 11, paragraph (6) of Article 12 of this Convention apply, interest, royalties, technical fees and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

(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 that 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.

## ARTICLE 24

### **Mutual agreement procedure**

(1) 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 second sentence of paragraph 1 of Article 16 of the MLI applies and supersedes the provisions of this Convention:<sup>1</sup>*

#### 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:<sup>2</sup>*

#### 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.

*The following second sentence of paragraph 3 of Article 16 of the MLI applies to this Convention:<sup>3</sup>*

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

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<sup>1</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.

<sup>2</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.

<sup>3</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.

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

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## ARTICLE 25

### **Exchange of information**

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall be disclosed to any persons other than persons (including a court or administrative body) concerned with the assessment or collection of, or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of this Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

(2) In no case shall the provisions of paragraph (1) of this Article be construed as to impose on the competent authority of either Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice prevailing in either Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of either 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.

## ARTICLE 26

### **Members of diplomatic or permanent missions and consular posts**

Nothing in this Convention shall affect any fiscal privileges accorded to members of diplomatic or permanent missions or consular posts under the general rules of international law or under the provisions of special agreements.

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

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE

*(Principal purposes test provision)*

Notwithstanding any provisions of [*this Convention*], a benefit under [*this Convention*] shall not be granted in respect of an item of income 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 27

### **Entry into force**

(1) Each of the Contracting States shall notify to the other, through diplomatic channels, the completion of procedures required by its law for the bringing into force of this Convention. This Convention shall enter into force on the date of the later of these notifications and shall thereupon 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 the 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 the Convention enters into force;

(b) in Czechoslovakia:

(i) in respect to taxes withheld at source, to amounts declared or paid on or after 1st January in the calendar year next following that in which the Convention enters into force;

(ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following that in which the Convention enters into force.

(2) Paragraph (3) of Article 8 of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Czechoslovak Republic for Air Services between and beyond their respective Territories signed at Prague on 15th January 1960 shall terminate upon entry into force of this Convention in so far as it refers to the taxation of surplus earnings.

## ARTICLE 28

### Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention by giving notice of termination, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of five years from the date of entry into force of the Convention. In such event, the 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 the 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 Czechoslovakia:

(i) in respect of tax withheld at source, to amounts declared or paid on or after 1st January in the calendar year next following that in which the notice is given;

(ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following that in which the notice is given.

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

Done in duplicate at London this 5th day of November 1990

in the English and Czech languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:	For the Government of the Czech and Slovak Federal Republic:
<i>Norman Lamont</i>	<i>Vaclav Klaus</i>