No. 13179

BELGIUM
and
IRELAND

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Brussels on 24 June 1970

Authentic texts: French, Dutch, Irish and English.
Registered by Belgium on 25 March 1974.

BELGIQUE
et
IRLANDE

Convention en vue d'éviter la double imposition et l'évasion fiscale en matière d'impôts sur le revenu. Signée à Bruxelles le 24 juin 1970

Textes authentiques : français, néerlandais, irlandais et anglais.
Enregistrée par la Belgique le 25 mars 1974.

CONVENTION[1] BETWEEN BELGIUM AND IRELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

His Majesty the King of the Belgians and the President of Ireland,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

Have appointed for that purpose as their Plenipotentiaries:

His Majesty the King of the Belgians:

His Excellency Mr. Pierre Harmel, Minister for External Affairs;

The President of Ireland:

His Excellency Dr. Patrick J. Hillery, Minister for External Affairs,

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

I. SCOPE OF THE CONVENTION

Article 1. PERSONAL SCOPE

Without prejudice to the provisions of paragraph 3 of article 23, this Convention shall apply to persons who are residents of either of the Contracting States.

Article 2. TAXES COVERED

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

(i) In the case of Belgium:

(*a*) the individual income tax *(l'impôt des personnes physiques)*;

(*b*) the corporate income tax *(l'impôt des sociétés)*;

(*c*) the income tax on legal entities *(l'impôt des personnes morales)*;

(*d*) the income tax on non-residents *(l'impôt des non-résidents)*;

(*e*) the prepayments and additional prepayments *(les précomptes et compléments de précomptes)*, and

(*f*) the surcharges *(centimes additionnels)* on any of the taxes referred to in heads (*a*) to (*e*) above including the communal supplement to the individual income tax *(la taxe communale additionnelle à l'impôt des personnes physiques)*;

(hereinafter referred to as "Belgian tax");

[1] Came into force on 31 December 1973 by the exchange of the instruments of ratification, which took place at Dublin, in accordance with article 28(2).

(ii) In the case of Ireland:

(*a*) the income tax (including sur-tax);

(*b*) the corporation profits tax;

(hereinafter referred to as "Irish tax").

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

II. DEFINITIONS

Article 3. GENERAL DEFINITIONS

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

(i) the term "Belgium" means the territory of the Kingdom of Belgium; it includes any area outside the Belgian national sovereignty which under the Belgian laws concerning the Continental Shelf, and in accordance with international law, has been or may hereafter be designated as an area within which the rights of Belgium with respect to the sea bed and sub-soil and their natural resources may be exercised;

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

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

(iv) the term "tax" means Belgium tax or Irish tax, as the context requires;

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

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

(vii) 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;

(viii) the term "competent authority" means:

(*a*) in the case of Belgium, the competent authority according to Belgian legislation, and

(*b*) in the case of Ireland, the Revenue Commissioners or their authorised representative;

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

2. Where under the Convention a person is entitled to exemption or relief from tax in one of the Contracting States on certain income (with or without conditions) and he is subject to tax in the other Contracting State by reference to the amount of that income which is remitted to, or received in, that other State the amount of that income on which exemption or relief is to be allowed in the first-mentioned State shall be limited to the amount so remitted or received.

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

Article 4. RESIDENCE

1. For the purposes of this Convention:

(i) the terms "resident of Ireland" and "resident of Belgium" mean respectively any person who is resident in Ireland for the purposes of Irish tax and not a resident of Belgium for the purposes of Belgian tax, and any person who is a resident of Belgium for the purposes of Belgian tax and not resident in Ireland for the purposes of Irish tax;

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

(iii) a company shall be regarded as a resident of Belgium if its place of effective management is situated in Belgium.

2. The terms "resident of a Contracting State" and "resident of the other Contracting State" mean a person who is a resident of Ireland or a person who is a resident of Belgium, as the context requires.

Article 5. PERMANENT ESTABLISHMENT

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

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

(i) a place of management;

(ii) a branch;

(iii) an office;

(iv) a factory;

(v) a workshop;

(vi) a mine, quarry or other place of exploitation of natural resources;

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

3. The term "permanent establishment" shall not be deemed to include:

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

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

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

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

(v) 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.

4. A person—other than an agent of an independent status to whom paragraph 5 applies—acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

However, an insurance enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State when it insures risks situated there through an agent established there—but not including any such agent as is mentioned in paragraph 5 unless he has, and habitually exercises, an authority to conclude contracts in the name of the enterprise.

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

III. TAXATION OF INCOME

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. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case property accessory to immovable property, live-

stock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7. BUSINESS PROFITS

1. The profts 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. Without prejudice to the application 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 acting wholly independently.

In giving effect to this principle in a case where the reasonable requirements of the competent authority for full and satisfactory information relative to the ascertainment of the profits to be so attributed are not met, tax may be assessed in the Contracting State in which the permanent establishment is situated on an amount determined in accordance with the legislation of that State.

3. In the determination of the profits of a permanent establishment there shall be allowed as deductions expenses incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this article.

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

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

7. Where profits include items of income which are dealt with separately in other articles of this Convention, the provisions of this article shall not prevent the application of the provisions of those other articles for the taxation of such items of income.

Article 8. SHIPPING AND AIR ENTERPRISES

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

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

Article 9. ASSOCIATED ENTERPRISES

Where

(i) 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

(ii) 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. 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. However

(*a*) the tax so charged shall not exceed 15 per cent of the gross amount of the said dividends paid by a company which is a resident of Belgium;

(*b*) dividends paid by a company which is a resident of Ireland shall be exempt from Irish sur-tax.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident. In the case of a company which is a resident of Belgium, other than a company with share capital *(société autre qu'une société par actions)*, the term "dividends" includes payments by the company—even if made in the form of interest—which are taxable in the hands of members of the company as income on invested capital.

4. Neither the limitation of rate of tax nor the exemption for which paragraph 2 provides shall apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected.

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

Article 11. INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. Such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State. However, the tax so charged shall not exceed 15 per cent of the amount of the interest.

3. 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, subject to the following subparagraph, debt-claims and deposits of every kind as well as all other income assimilated by the taxation law of the State in which the income arises to income from money lent or deposited; and includes, in the case of Belgium, prizes on lottery bonds *(lots d'emprunts)*.

The terms does not include:

(i) interest assimilated to dividends by article 10, paragraph 3, second sentence;

(ii) interest on commercial debt-claims—including those which are represented by bills of exchange—arising from hire purchase payments for the supply of merchandise, products or services by an enterprise of a Contracting State to a resident of the other Contracting State;

(iii) interest paid by a banking enterprise of a Contracting State to a banking enterprise of the other Contracting State on current accounts or nominal advances;

(iv) interest on moneys, not represented by bearer bonds, deposited in banking enterprises including public credit establishments.

Interest which is the subject of clauses (ii) to (iv) of the preceding subparagraph shall be subject to the provisions of article 7 or Article 22, as may be appropriate.

4. The limitation of rate of tax for which paragraph 2 provides shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim or deposit from which the interest arises is effectively connected.

5. Where, owing to a special relationship between the payer and the recipient or depositor or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim or deposit for which it is paid, exceeds the amount which would have been agreed upon between the payer and the recipient or depositor in the absence of such relationship, the limitation of rate provided for in paragraph 2 shall apply only to the last-mentioned amount. In that case, the excess part of the interest may be taxed according to the law of the Contracting State in which the interest arises.

Article 12. ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

2. The term "royalties" as used in this article means payments of any kind received as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment not consisting of an immovable asset to which article 6 applies or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case the royalties may be taxed according to the law of the Contracting State in which they arise.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the royalties may be taxed according to the law of the Contracting State in which the royalties arise.

Article 13. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

However, gains from the alienation of 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.

3. Gains from the alienation of all other property, including shares—not being part of the business property of a permanent establishment to which the first subparagraph of paragraph 2 applies—in a company with share capital, 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 State but only so much of it as is attributable to activities connected with that fixed base.

2. The expression "professional services" includes, inter alia, 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, 19, 20 and 21, 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 one of the Contracting States in respect of an employment

exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(i) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the taxable period *(période imposable)* concerned, and

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

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

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic shall be deemed to relate to an employment exercised in the Contracting State in which the place of effective management of the enterprise is situated and may be taxed in that State.

Article 16. DIRECTORS' FEES

Directors' fees and similar payments derived by a resident of one of the Contracting States in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State. In relation to remuneration of a director of a company derived from the company in respect of the discharge of day-to-day functions of a managerial or technical nature, the provisions of article 15 shall apply as if the remuneration were remuneration of an employee in respect of an employment and as if references to "employer" were references to the company.

Article 17. ARTISTES AND ATHLETES

Notwithstanding the provisions of articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 18. PENSIONS

Subject to the provisions of article 19, paragraph 1, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19. GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds created by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in that State.

This provision shall not apply if the individual is a national of the other Contracting State without being also a national of the first-mentioned State.

2. The first paragraph shall not apply to remuneration or pensions paid in respect of services rendered in connection with any trade or business carried on by a Contracting State or by a political subdivision or local authority thereof. The provisions of articles 15, 16 and 18 shall apply to such remuneration or pensions.

Article 20. PROFESSORS, TEACHERS AND RESEARCHERS

An individual who sojourns in one of the Contracting States for a period not exceeding two years, for the purpose of teaching or of carrying out advanced study or research in that State at a university, college, school or other educational establishment or at a research institute (operated without any profit motive) and who immediately prior to such sojourn was a resident of the other Contracting State, shall not be taxed in the first-mentioned State in respect of any payments which he receives for such activity.

Article 21. STUDENTS

1. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

2. Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training derives from an employment which he exercises in that other State for a period or periods —including the duration of normal interruptions of work—not exceeding in the aggregate 183 days in the taxable period *(période imposable)* shall not be taxed in that other State provided that such remuneration does not exceed 8,000 Belgian francs a month or the equivalent of this sum in Irish pounds.

Article 22. INCOME NOT EXPRESSLY MENTIONED

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

IV. METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 23.

1. In the case of income derived from sources in Ireland, double taxation shall be relieved in Belgium in the following manner:

(i) Where a resident of Belgium derives income which is not subject to the provisions of subparagraph (ii) or subparagraph (iii) below, and which, in accordance with the provisions of this Convention, may be taxed in Ireland, Belgium shall exempt such income from tax but may, in calculating the amount

of tax on the remainder of the income of that resident, apply the rate of tax which would have been applicable if the income in question had not been exempted.

(ii) In cases not covered by subparagraph (iii), where a resident of Belgium receives dividends to which the provisions of paragraph 2 of article 10 apply, interest to which the provisions of paragraph 2 or paragraph 5 of article 11 apply or royalties to which the provisions of paragraph 4 of article 12 apply, Belgium shall reduce the Belgian tax charged thereon by a deduction in respect of the tax borne in Ireland. The deduction shall be allowed against the tax chargeable on the net amount of the dividends from companies which are residents of Ireland, as well as of interest and royalties arising in Ireland which have been taxed there; the deduction shall be the fixed proportion of the foreign tax for which provision is made in existing Belgian law, subject to any subsequent modification—which, however, shall not affect the principle hereof.

(iii) Where a company which is a resident of Belgium owns shares in a company which is a resident of Ireland and which is subject there to tax on its profits, the dividends which are paid to it by the latter company and which may be taxed in Ireland in accordance with the provisions of paragraph 2 of article 10 shall be exempt from the corporate income tax in Belgium to the extent that exemption would have been accorded if the two companies had been residents of Belgium; this provision shall not prohibit the withholding from these dividends of the prepayment on income from movable property *(précompte mobilier)* chargeable in accordance with Belgian law.

(iv) A company which is a resident of Belgium and which, during the whole of an accounting period of a company which is a resident of Ireland and which is subject there to tax on its profits, has held the direct ownership of shares in the latter company, shall also be exempted from the prepayment on income from movable property *(précompte mobilier)* chargeable in accordance with Belgian law on the dividends derived from those shares, provided that it so requests in writing not later than the time limited for the submission of its annual return; on the redistribution to its own shareholders of the dividends so exempted those dividends may not be deducted from dividends distributed by that company which are subject to the prepayment on income from movable property *(précompte mobilier)*. This provision shall not apply when the first-mentioned company has elected that its profits be charged to the individual income tax. However, the application of this provision shall be limited to dividends paid by a company which is a resident of Ireland to a company which is a resident of Belgium and which controls directly or indirectly not less than 10 per cent of the voting power in the first-mentioned company where, for the application of the exemption referred to in subparagraph (iii), a similar limitation would be imposed by Belgian legislation in respect of dividends paid by companies which are residents of Belgium.

(v) When in accordance with Belgian law, losses incurred by an enterprise of Belgium in a permanent establishment situated in Ireland have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided in subparagraph (i) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that these profits have also been exempted from Irish tax by reason of compensation for the said losses.

2. Subject to the provisions of the law of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland and to any subsequent modifications of these provisions—which, however, shall not affect the principle hereof—Belgian tax payable under the laws of Belgium and in accordance with this Convention, whether directly or by deduction, in respect of income from sources within Belgium shall be allowed as a credit against any Irish tax payable in respect of that income.

Where such income is a dividend paid by a company (hereafter called the "paying company") which is a resident of Belgium:

(i) in the case of any dividend paid to a company which controls directly or indirectly not less than 10 per cent of the entire voting power of the paying company, the credit shall also take into account the Belgian tax payable by the paying company on its profits;

(ii) in any other case, where the dividend is an ordinary dividend the credit shall likewise take into account the Belgian tax payable by the paying company on its profits and, where it is a dividend paid on participating preference shares and representing both a dividend at a fixed rate and an additional participation in profits, the Belgian tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

3. In the case of an individual who is resident in Ireland for the purposes of Irish tax and who is also a resident of Belgium for the purposes of Belgian tax:

(i) income derived from sources in Ireland shall remain taxable there according to Irish law. Such income shall also be taxable in Belgium according to Belgian law and double taxation shall be relieved in accordance with the principles of paragraph 1;

(ii) income derived from sources in Belgium shall remain taxable there according to Belgian law. Such income shall also be taxable in Ireland according to Irish law and double taxation shall be relieved in accordance with the principles of paragraph 2.

4. For the purposes of this article:

(i) a company which is a resident of Ireland shall be regarded as subject to Irish tax notwithstanding that its profits may have been relieved in whole or in part from such tax for a limited period of time;

(ii) profits or remuneration arising from the exercise of a profession or employment in a Contracting State shall be deemed to be income from sources within that Contracting State, and the services of an individual whose profession or employment is exercised wholly or mainly aboard ships or aircraft operated by an enterprise having its place of effective management in a Contracting State shall be deemed to be performed in that Contracting State;

(iii) income derived from sources in the United Kingdom by an individual who is resident in Ireland for the purposes of Irish tax shall be deemed to be income from sources in Ireland if such income is not subject to United Kingdom income tax.

V. SPECIAL PROVISIONS

Article 24. NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The term "nationals" means:

(i) in relation to Ireland, all citizens of Ireland and all legal persons, partnerships and associations deriving their status as such from the law in force in Ireland;

(ii) in relation to Belgium, all individuals possessing the nationality of Belgium and all legal persons, partnerships and associations deriving their status as such from the law in force in Belgium.

3. (i) Individuals who are residents of a Contracting State and taxable in the other Contracting State shall be entitled there to the same personal allowances, reliefs and reductions as are granted to nationals of that other State who are not residents thereof.

(ii) A resident of Ireland who has a residence available for him in Belgium shall be taxable there in the same way as a Belgian national who is not a resident of Belgium on a minimum amount of income equal to twice the cadastral income of that residence.

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

This provision shall not be construed as preventing Belgium from charging the profits of a permanent establishment in Belgium of a company which is a resident of Ireland at a rate of tax which does not—before the application of surcharges mentioned in paragraph 1 (i) (*f*) of article 2—exceed the basic rate (at present 30 per cent) charged on a company which is a resident of Belgium by more than 5 percentage points.

5. Save where article 9, article 11, paragraph 5, and article 12, paragraph 4, apply, interest, royalties and other expenses 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 that enterprise, be deductible to the same extent and subject to the same conditions as if they had been paid to a resident of the first-mentioned State.

6. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

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

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

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

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

8. In this article the term "taxation" means taxes of every kind and description.

Article 25. 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 double taxation prohibited by this Convention, he may, independently of the remedies provided by the national laws of those States, address to the competent authority of the State of which he is a resident an application in writing stating the grounds for claiming revision of his taxation. The said application must be submitted before the expiry of a period of two years from the notification of liability to or the deduction at source of the second charge to tax.

2. Such 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 double taxation prohibited by the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of the Convention.

In case of differing interpretations of the same concept in the laws of both Contracting States their competent authorities may, on a basis of reciprocity, reach a common interpretation for the purpose of applying 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 or for the purpose of giving effect to the provisions of the Convention.

Article 26. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of the Convention.

Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court) concerned with the assessment or collection of, or the determination of appeals in relation to, the taxes which are the subject of the Convention.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

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

(ii) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

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

Article 27. MISCELLANEOUS

1. Nothing in this Convention shall have the effect of limiting the taxation of a company which is a resident of Belgium in the event of the repurchase of its own shares *(actions ou parts)* or in the event of a distribution of its assets.

2. Nothing in this Convention shall affect the fiscal privileges which members of diplomatic or consular missions enjoy by virtue of the general rules of international law or of the provisions of special agreements.

3. For the purpose of the Convention, persons who are members of a diplomatic or consular mission of a Contracting State accredited to the other Contracting State or to another State, and who are nationals of the accrediting State, shall be deemed to be residents of the last-mentioned State if they are subjected therein to the same obligations for the purposes of taxes on income as are residents of that State.

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

VI. FINAL PROVISIONS

Article 28. ENTRY INTO FORCE AND SUSPENSION OF THE OPERATION OF PREVIOUS CONVENTIONS

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

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

(i) in Belgium:

(*a*) as respects all tax due at source on income normally credited or payable after the 31st December of the calendar year in which the instruments of ratification are exchanged;

(*b*) as respects all tax other than tax due at source on income of any accounting period ending on or after the 31st December of the same year;

(ii) in Ireland:

(*a*) as respects income tax (including sur-tax) for the year of assessment beginning on the 6th April of the calendar year in which the instruments of ratification are exchanged and for subsequent years of assessment;

(*b*) as respects corporation profits tax for any accounting period beginning on or after the 1st April of the calendar year in which the instruments of ratification are exchanged, and for the unexpired portion of any accounting period current at that date.

3. The Agreement, dated the 4th December, 1967, between Belgium and Ireland for the purpose of avoiding double taxation of income derived from the business of sea and air transport[1] shall not have effect for any period for which article 8 of the present Convention has effect.

Article 29. TERMINATION

This Convention shall remain in force indefinitely, but either of the Contracting States may terminate the Convention, through diplomatic channels, by giving notice of termination not later than the 30th June of any calendar year after the fifth year following that in which the instruments of ratification were exchanged. In such event the Convention shall cease to have effect:

(i) in Belgium:

(*a*) as respects all tax due at source normally credited or payable after the 31st December of the calendar year next following that in which the notice is given;

(*b*) as respects all tax other than tax due at source on income of any accounting period ending on or after the 31st December of the calendar year next following that in which such notice is given;

(ii) in Ireland:

(*a*) as respects income tax (including sur-tax) for the year of assessment beginning on the 6th April of the calendar year next following that in which such notice is given and for subsequent years of assessment;

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

[1] United Nations, *Treaty Series*, vol. 737, p. 359.

EN FOI DE QUOI les Plénipotentiaires des deux Etats ont signé la présente Convention et y ont apposé leurs sceaux.

FAIT à Bruxelles, le 24 juin 1970, en double exemplaire, en langues française, néerlandaise, irlandaise et anglaise, les quatre textes faisant également foi.

TEN BLIJKE WAARVAN de Gevolmachtigden van beide Staten deze Overeenkomst hebben ondertekend en daaraan hun zegel hebben gehecht.

GEDAAN te Brussel, op 24 juni 1970, in tweevoud in de Nederlandse, de Franse, de Ierse en de Engelse taal, zijnde de vier teksten gelijkelijk authentiek.

DA FHIANU SIN rinne na Lánchumhachtaigh thuasluaite an Coinbhinsiún seo a shíniú agus a séalaí a ghreamú de.

ARNA DHEANAMH t ndúblach i mBruiséal an 24ú Meitheamh 1970, inGaeilge, i mBéarla, i bh Fraincis, agus Isiltiris, na ceithre théacs chomh barantúil lena chéile.

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

DONE in duplicate at Brussels, this 24th June 1970, in the Irish, English, French and Netherlands languages, the four texts being equally authoritative.

Pour sa Majesté
le Roi des Belges :

Voor zijne Majesteit
de Koning der Belgen :

Thar ceann a Shoilse Ri
na mBeilgeach :

For His Majesty
the King of the Belgians:

PIERRE HARMEL

Pour le Président de l'Irlande :

Voor de President van Ierland :

Thar ceann Uachtaran
na hEireann :

For the President of Ireland:

PATRICK J. HILLERY