

No. 27136

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**IRELAND
and
SWEDEN**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains. Signed at Stockholm on 8 October 1986

Authentic text: English.

Registered by Ireland on 1 March 1990.

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**IRLANDE
et
SUÈDE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune. Signée à Stockholm le 8 octobre 1986

Texte authentique : anglais.

Enregistrée par l'Irlande le 1^{er} mars 1990.

CONVENTION¹ BETWEEN IRELAND AND SWEDEN FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION
OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME
AND CAPITAL GAINS

The Government of Ireland and the Government of Sweden, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains, have agreed as follows:

Article 1

Personal scope

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

Article 2

Taxes covered

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

(a) in Ireland:

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

(hereinafter referred to as "Irish tax");

(b) in Sweden:

(i) the State income tax, including sailors' tax and coupon tax (den statliga inkomstskatten, sjömansskatten och kupongskatten däri inbegripna);

(ii) the tax on undistributed profits of companies (ersättningsskatten);

(iii) the tax on distribution in connection with reduction of share capital or the winding-up of a company (utskiftningsskatten);

(iv) the tax on public entertainers (bevillningsavgiften för vissa offentliga föreställningar);

(v) the communal income tax (den kommunala inkomstskatten); and

(vi) the profit sharing tax (vinstdelningskatten);

(hereinafter referred to as "Swedish tax").

¹ Came into force on 5 April 1986 by the exchange of the instruments of ratification, which took place at Dublin, in accordance with article 30 (2).

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

Article 3

General definitions

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

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

(b) the term "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea as well as other maritime areas over which Sweden, in accordance with international law, exercises sovereign rights or jurisdiction;

(c) 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 Sweden, all Swedish subjects and all legal persons, partnerships and associations deriving their status as such from the law in force in Sweden;

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

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

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

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

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

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

(j) the term "competent authority" means:

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

(ii) in the case of Sweden, the Minister of Finance, his authorised representative or the authority which is designated as a competent authority for the purposes of this Convention.

(2) As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4

Residence

(1) For the purposes of this Convention, the term "resident of a Contracting State" means, subject to the provisions of paragraphs (2) and (3) of this Article, any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State. The terms "resident of Ireland" and "resident of Sweden" shall be construed accordingly.

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

(a) he shall be deemed to be a resident of the 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 State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either 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 of neither of them the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

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 other place of extraction of natural resources;
- (g) an installation or structure used for the exploration or exploitation of natural resources.

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

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

(5) Notwithstanding the preceding provisions of this Article the term "permanent establishment" shall be deemed not to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

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

(6) Notwithstanding the provisions of paragraphs (1) and (2) of this Article where a person—other than an agent of independent status to whom paragraph (7) of this Article applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enter-

prise 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 (5) 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.

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

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

Article 6

Limitation of relief

Where under any provision of this Convention income is relieved from tax in a Contracting State and, under the law in force in the other Contracting State, an individual, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other State, and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income as is remitted to or received in that other State.

Article 7

Income from immovable property

(1) Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

(2) The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

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

(5) The provisions of paragraphs (1) and (3) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 8

Business profits

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

(2) Subject to the provisions of paragraph (3) of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including 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 of this Article, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

(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 9

Shipping and air transport

(1) Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

(2) For the purposes of this Article, profits derived from the operation of ships or aircraft in international traffic include profits derived from the rental on a bareboat basis of ships or aircraft, if such rental profits are incidental to other profits described in paragraph (1) of this Article.

(3) With respect to profits derived by the Scandinavian Airlines System (SAS) the provisions of paragraphs (1) and (2) of this Article shall apply, but only to such part of the profits as arise to AB Aerotransport (ABA), the Swedish partner of the Scandinavian Airlines System (SAS).

(4) The provisions of paragraphs (1) and (2) of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 10

Associated enterprises

(1) Where

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

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

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

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

Article 11

Dividends

(1) (a) Dividends paid by a company which is a resident of Ireland to a resident of Sweden may be taxed in Sweden.

(b) Where a resident of Sweden is entitled to a tax credit in respect of a dividend under paragraph (2) of this Article tax may also be charged in Ireland and according to the laws of Ireland on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.

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

(2) A resident of Sweden who receives dividends from a company which is a resident of Ireland shall, subject to the provisions of paragraph (3) of this Article and provided he is the beneficial owner of the dividends, be entitled to the tax credit in respect thereof to which an individual resident in Ireland would have been entitled had he received those dividends, and to the payment of any excess of that tax credit over any tax chargeable in Ireland in accordance with the provisions of paragraph (1) (b) of this Article on those dividends.

(3) Paragraph (2) of this Article shall not apply where the beneficial owner of the dividend is, or is associated with, a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend. For the purposes of this paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company.

(4) Dividends paid by a company which is a resident of Sweden to a resident of Ireland may be taxed in Ireland. Such dividends may also be taxed in Sweden, according to the laws of Sweden, but if the resident of Ireland 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 beneficial owner is a company which holds directly at least 10 per cent of the voting power of the company paying the dividends;

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

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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

(6) The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as any distribution assimilated to

income from shares by the taxation law of the State of which the company making the distribution is a resident.

(7) Where the company paying a dividend is a resident of Ireland and the beneficial owner of the dividend, being a resident of Sweden, owns 10 per cent or more of the class of shares in respect of which the dividend is paid, paragraphs (1) and (2) of this Article shall not apply to the dividend to the extent that it can have been paid only out of profits which the company paying the dividend earned or other income which it received in a period ending 12 months or more before the relevant date. For the purposes of this paragraph the term "relevant date" means the date on which the beneficial owner of the dividend became the owner of 10 per cent or more of the class of shares in question. Provided that this paragraph shall not apply if the shares were acquired for bona fide commercial reasons and not primarily for the purpose of securing the benefit of this Article.

(8) The provisions of paragraphs (1), (2) and (4) 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 dividend 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 8 or Article 15, as the case may be, shall apply.

(9) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 12

Interest

(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the interest.

(2) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, but does not include any income dealt with in Article 11. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

(3) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 8 or Article 15, as the case may be, shall apply.

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

(5) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(6) The provisions of paragraph (1) of this Article shall not apply if the debt-claim in respect of which the interest is paid was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

Article 13

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 if such resident is the beneficial owner of the royalties.

(2) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, recordings on tape, other media used for video or television broadcasting or other means of reproduction or transmission, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(3) The provisions of paragraph (1) 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 8 or Article 15, as the case may be, shall apply.

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

(5) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds 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.

(6) The provisions of paragraph (1) of this Article shall not apply if the right or property giving rise to the royalties was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

Article 14

Capital gains

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

(2) Capital gains from the alienation of—

(a) shares deriving their value or the greater part of their value directly or indirectly from immovable property situated in a Contracting State, or

(b) an interest in a partnership or trust the assets of which consist principally of immovable property situated in a Contracting State or of shares referred to in subparagraph (a) above,

may be taxed in the Contracting State in which such immovable property is situated. In this paragraph the term "shares" does not include shares quoted or listed on a stock exchange.

(3) Capital gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State. Provided that if such movable property consists of shares or of an interest in a partnership or trust the gains from which under paragraph (2) of this Article may be taxed in the Contracting State of which the alienator is a resident, because the relevant immovable property is situated in that State, the said gains shall be taxable only in that State.

(4) Except as provided in paragraph (2) of this Article and notwithstanding the provisions of paragraph (3) of this Article, capital gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

(5) Notwithstanding the preceding provisions of this Article, capital gains derived by a resident of a Contracting State from the alienation of rights to assets to be produced by the exploration or exploitation of the sea bed and subsoil and their natural resources situated in the other Contracting State, including rights to interests in or to the benefit of such assets, or from the alienation of shares deriving their value or the greater part of their value directly or indirectly from such rights, may be taxed in that other State.

(6) Capital gains from the alienation of any property other than those referred to in paragraphs (1) to (5) of this Article shall be taxable only in the Contracting State of which the alienator is a resident. Provided that where under the law of that Contracting State an individual, in respect of such gains, is subject to tax thereon by reference only to the amount thereof which is remitted to or received in that State, the foregoing provisions of this paragraph shall not operate in relation to so much of such gains as is not remitted to or received in that State.

(7) The provisions of paragraph (6) of this Article shall not affect the right of a Contracting State to levy, according to its law, a tax on capital gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned State at any time during the ten years immediately preceding the alienation of the property.

(8) For the purposes of this Article the term "immovable property" means immovable property as defined in paragraph (2) of Article 7.

Article 15

Independent personal services

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

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

Article 16

Dependent personal services

(1) Subject to the provisions of Articles 17, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1) 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 within any period of 12 months, and

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

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

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by a resident of a Contracting State may be taxed in that State. Where a resident of Sweden derives remuneration in respect of employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

Article 17

Company directors

(1) 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.

(2) In relation to remuneration of a director of a company derived from the company in respect of the discharge of functions of an executive, managerial or technical nature the provisions of Article 16 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 18

Entertainers and sportsmen

(1) Notwithstanding the provisions of Articles 15 and 16, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, snooker player, card player or musician, or as a sportsman such as an athlete, footballer, golfer or boxer, from his personal activities as such exercised in the other Contracting State whether individually or as a member of a group, may be taxed in that other State.

(2) Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 8, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

Article 19

Pensions and annuities

(1) Subject to the provisions of paragraph (2) of Article 20, pensions and other similar remuneration paid in consideration of past employment in a Contracting State, payments under the social security legislation of a Contracting State and any annuity derived from sources within a Contracting State may be taxed 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 20

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 purposes 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 16, 17 and 19 shall apply to remuneration or pensions 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 21

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 that State, provided that such payments arise from sources outside that State.

Article 22

Other income

(1) Items of income of a resident of a Contracting State, wherever arising, other than income paid out of trusts, which are not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

(2) The provisions of paragraph (1) of this Article shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 7, if the beneficial owner of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 8 or Article 15, as the case may be, shall apply.

Article 23

Miscellaneous rules applicable to certain offshore activities

(1) The provisions of this Article shall apply notwithstanding any other provision of this Convention where activities (in this Article called "relevant activities") are carried on offshore in connection with the exploration or exploitation of the sea bed and subsoil and their natural resources situated in a Contracting State.

(2) An enterprise of a Contracting State which carries on relevant activities in the other Contracting State shall, subject to paragraph (3) of this Article, be deemed to be carrying on business in that other State through a permanent establishment situated therein.

(3) Relevant activities which are carried on by an enterprise of a Contracting State in the other Contracting State for a period or periods not exceeding in the aggregate 30 days within any period of 12 months shall not constitute the carrying on of business through a permanent establishment situated therein. For the purposes of this paragraph:

(a) where an enterprise of a Contracting State carrying on relevant activities in the other Contracting State is associated with another enterprise carrying on substantially similar relevant activities there, the former enterprise shall be deemed to be carrying on all such activities of the later enterprise, except to the extent that those activities are carried on at the same time as its own activities;

(b) an enterprise shall be regarded as associated with another enterprise if one participates directly or indirectly in the management, control or capital of the other or if the same persons participate directly or indirectly in the management, control or capital of both enterprises.

(4) A resident of a Contracting State who carries on relevant activities in the other Contracting State, which consist of professional services or other activities of an independent character, shall be deemed to be performing those activities from a fixed base in that other State. However, income derived by a resident of a Contracting State in respect of such activities performed in the other Contracting State shall not be taxable in that other State if the activities are performed in that other State for a period or periods not exceeding in the aggregate 30 days within any period of 12 months.

(5) Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with relevant activities in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State.

Article 24

Elimination of double taxation

(1) 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 (which shall not affect the general principle hereof)—

(a) Swedish tax payable under the laws of Sweden and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Sweden (excluding in the case of a dividend tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Irish tax computed by reference to the same profits, income or chargeable gains by reference to which the Swedish tax is computed.

(b) In the case of a dividend paid by a company which is a resident of Sweden to a company which is a resident of Ireland and which controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Swedish tax creditable under the provisions of subparagraph (a) of this paragraph) the Swedish tax payable by the company in respect of the profits out of which such dividend is paid.

(2) Where a resident of Sweden derives income or chargeable gains which under the laws of Ireland and in accordance with the provisions of this Convention may be taxed in Ireland, Sweden shall allow, subject to the provisions of the law of Sweden (as it may be amended from time to time without changing the general principle hereof), as a deduction from the tax on such income or chargeable gains, an amount equal to the Irish tax paid in respect of such income or chargeable gains.

(3) Notwithstanding the provisions of paragraph (2) of this Article, where a resident of Sweden derives income which, in accordance with the provisions of Article 8 or paragraph (1) of Article 15, may be taxed in Ireland, Sweden shall exempt such income from tax, provided that the principal part of the income of the permanent establishment or fixed base arises from business activities, other than the management of securities and other similar property, and such activities are carried on within Ireland through the permanent establishment or fixed base.

(4) Notwithstanding the provisions of paragraph (2) of this Article, dividends paid by a company which is a resident of Ireland to a company which is a resident of Sweden shall be exempt from Swedish tax to the extent that the dividends would have been exempt from Swedish tax if both companies had been Swedish companies.

(5) Where a resident of Sweden derives income which shall be taxable only in Ireland in accordance with the provisions of paragraph (1) or (2) of Article 20, or shall be exempt from Swedish tax in accordance with paragraph (3) of this Article, Sweden shall exempt such income from tax but may, 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 had not been so exempted.

(6) Where a resident of Ireland derives income which in accordance with the provisions of paragraph (1) or (2) of Article 20 shall be taxable only in Sweden Ireland may include the income in the tax base but shall allow as a deduction from the tax chargeable that part of the tax which is appropriate to that income.

(7) For the purposes of the preceding paragraphs of this Article, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

(8) (a) Where income is a dividend paid by a company which is a resident of Ireland to a person who is a resident of Sweden, not being a company which is exempt from Swedish tax according to the provisions of paragraph (4) of this Article, the Swedish tax shall be charged on the aggregate of the amount or value of the dividend and the amount of the tax credit in respect of it to which the resident of Sweden is entitled under paragraph (2) of Article 11 and the amount of the Irish tax charged on that aggregate under paragraph (1) of the said Article 11 shall be allowed as a deduction in accordance with paragraph (2) of this Article from the Swedish tax payable in respect of that income.

(b) Where under Part IV, V or VI of the Corporation Tax Act, 1976 or Chapter VI of Part I of the Finance Act, 1980 (as any of these provisions may be amended from time to time without changing the general principle thereof), the profits of a company were relieved from Irish tax or were not taken into account for the purposes of Irish tax and the recipient of a dividend out of those profits if he were a resident of Ireland would not be entitled to a tax credit, or would be entitled to a reduced tax credit, in respect of the dividend, the amount to be allowed as a deduction under subparagraph (a) of this paragraph shall be the amount representing the difference between—

(i) the amount determined by applying to the aggregate brought into charge to Swedish tax the rate by reference to which the amount of the tax credit in respect of dividends is determined under section 88 of the Corporation Tax Act, 1976 (as it may be amended from time to time without changing the general principle thereof), for the year of assessment in which the dividend is paid, and

(ii) the amount of any excess payable under paragraph (2) of Article 11.

(c) Subparagraph (b) of this paragraph shall not have effect in relation to dividends paid out of profits arising after 31 December, 2000.

Article 25

Personal allowances for non-residents

(1) Individuals who are residents of Sweden shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Irish tax as citizens of Ireland who are not resident in Ireland.

(2) Individuals who are residents of Ireland shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Swedish tax as Swedish nationals who are not resident in Sweden.

Article 26

Non-discrimination

(1) 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) Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs or reductions for tax purposes which it grants to its own residents nor as conferring any exemption from tax in a Contracting State in respect of dividends or other similar payments paid to a company which is a resident of the other Contracting State.

(4) Except where the provisions of paragraph (1) of Article 10, paragraph (6) of Article 11, paragraph (5) of Article 12, or paragraph (5) of Article 13, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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

Article 27

Mutual agreement procedure

(1) Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph (1) of Article 26 to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution,

to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with 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 interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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

Article 28

Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in court proceedings or in judicial decisions.

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

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

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

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

Article 29

Diplomatic agents and consular officers

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

Article 30

Entry into force

(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:

(a) in Ireland:

(i) as respects income tax and capital gains tax for any year of assessment beginning on or after 6 April in the year immediately following that in which such exchange takes place; and

(ii) as respects corporation tax, for any financial year beginning on or after 1 January in the year immediately following that in which such exchange takes place;

(b) in Sweden:

as respects income or capital gains derived on or after 1 January in the year immediately following that in which such exchange takes place.

(3) The Agreement between the Government of Ireland and the Royal Government of Sweden for the avoidance of double taxation with respect to taxes on income and capital, signed at Dublin on 6 November, 1959,¹ shall cease to have effect from the dates on which this Convention becomes effective in accordance with paragraph (2) of this Article. With regard to the Swedish capital tax, the Agreement shall be applied for the last time as respects capital owned at the expiration of the year in which this Convention enters into force.

Article 31

Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention by giving notice of termination, through diplomatic channels, at least six months before the end of any year following after five years from the date on which the Convention enters into force. In such event, this Convention shall cease to have effect:

(a) in Ireland:

(i) as respects income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the year immediately following that in which such notice is given; and

(ii) as respects corporation tax, for any financial year beginning on or after 1 January in the year immediately following that in which such notice is given;

(b) in Sweden:

as respects income or capital gains derived on or after 1 January in the year immediately following that in which such notice is given.

¹United Nations, *Treaty Series*, vol. 428, p. 231.

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

Done at Stockholm, this 8th day of October, 1986, in duplicate in the English language.

For the Government
of Ireland:

[Signed — Signé]¹

For the Government
of Sweden:

[Signed — Signé]²

¹ Signed by Gearóid Ó Broin — Signé par Gearóid Ó Broin.

² Signed by Sten Andersson — Signé par Sten Andersson.