

# **SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN THE KINGDOM OF BELGIUM AND THE REPUBLIC OF ICELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

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

## **General disclaimer on the Synthesised text**

This document presents the synthesised text for the application of the Convention between the Kingdom of Belgium and the Republic of Iceland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed on 23 May 2000, as amended by the Protocol signed at Brussels on 15 September 2009 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Iceland and Belgium on 7 June 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of Belgium submitted to the Depository upon ratification on 26 June 2019 and of the MLI position of Iceland submitted to the Depository upon acceptance on 26 September 2019. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on this Convention.

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

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

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

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

### References

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

The MLI:

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

The Convention:

In Iceland:

Convention:

<https://www.stjornartidindi.is/Advert.aspx?ID=11a9b6c1-dbe2-463e-abc1-e50006803b4c>

Protocol:

<https://www.stjornartidindi.is/Advert.aspx?recordID=e194f8a7-1971-4226-8bee-93c09598d3fc>

In Belgium:

Convention:

<http://www.ejustice.just.fgov.be/eli/loi/2003/05/13/2003015099/moniteur>

Protocol:

<http://www.ejustice.just.fgov.be/eli/loi/2013/12/26/2014015257/moniteur>

The MLI position of Iceland submitted to the Depository upon acceptance on 26 September 2019 and of the MLI position of Belgium submitted to the Depository upon ratification on 26 June 2019 can be found on the MLI Depository (OECD) webpage.

### **Disclaimer on the entry into effect of the provisions of the MLI**

#### Entry into Effect of the MLI Provisions

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by Belgium and Iceland in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 26 June 2019 for Belgium and 26 September 2019 for Iceland.

Entry into force of the MLI: 1 October 2019 for Belgium and 1 January 2020 for Iceland.

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

In Belgium:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2020;
- with respect to all other taxes levied by Belgium from 1 July 2020.

In Iceland:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2020;
- with respect to all other taxes levied by Iceland from 1 January 2021.

**CONVENTION BETWEEN THE KINGDOM OF BELGIUM AND THE REPUBLIC OF ICELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL, SIGNED AT BRUSSELS ON 23 MAY 2000, AS AMENDED BY THE PROTOCOL SIGNED AT BRUSSELS ON 15 SEPTEMBER 2009**

THE GOVERNMENT OF THE KINGDOM OF BELGIUM, AND  
THE GOVERNMENT OF THE REPUBLIC OF ICELAND,

**[REPLACED by paragraph 1 of Article 6 of the MLI]** ~~[DESIRING to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,]~~

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

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

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

have agreed as follows:

## **Chapter I. Scope of the Convention**

### Article 1 PERSONS COVERED

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

### Article 2 TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amount of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular :

a) in the case of Iceland :

- 1° the national income tax (tekjuskattur til ríkisins);
- 2° the extraordinary national income tax (sérstakur tekjuskattur til ríkisins);
- 3° the municipal income tax (tekjuútsvar til sveitarfélaga);
- 4° the national capital tax (eignarskattur til ríkisins);
- 5° the extraordinary national capital tax (sérstakur eignarskattur til ríkisins); and
- 6° the tax levied on the income and capital of banking institutions (skattur á tekjur og eignir lánastofnana), including any withholding tax, prepayment and advance payment with respect to these taxes, (hereinafter referred to as "Icelandic tax");

b) in the case of Belgium :

- 1° the individual income tax (de personenbelasting, l'impôt des personnes physiques);
- 2° the corporate income tax (de vennootschapsbelasting, l'impôt des sociétés);
- 3° the income tax on legal entities (de rechtspersonenbelasting, l'impôt des personnes morales);
- 4° the income tax on non-residents (de belasting van niet-inwoners, l'impôt des non-résidents); and
- 5° the supplementary crisis contribution (de aanvullende crisisbijdrage, la contribution complémentaire de crise), including the prepayments, the

surcharges on these taxes and prepayments, and the supplements to the individual income tax, (hereinafter referred to as "Belgian tax").

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.

## **Chapter II. Definitions**

### **Article 3 GENERAL DEFINITIONS**

1. For the purposes of this Convention, unless the context otherwise requires :
  - a) 1° the term "Iceland", means the Republic of Iceland and, when used in a geographical sense, means the territory of the Republic of Iceland, including its territorial sea, and any area beyond the territorial sea within which Iceland, in accordance with international law, exercises jurisdiction or sovereign rights with respect to the seabed, its subsoil and its superjacent waters, and their natural resources;  
2° the term "Belgium", means the Kingdom of Belgium and, when used in a geographical sense, means the territory of the Kingdom of Belgium, including the territorial sea and any other area in the sea and in the air within which the Kingdom of Belgium, in accordance with international law, exercises sovereign rights or its jurisdiction;
  - b) the terms "a Contracting State" and "the other Contracting State" mean Iceland or Belgium as the context requires;
  - c) the term "person" includes an individual, a company and any other body of persons;
  - d) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;
  - e) 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;
  - f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
  - g) the term "competent authority" means in the case of both Contracting States, the Minister of Finance or his authorised representative;
  - h) the term "national" means :
    - 1° any individual possessing the nationality of a Contracting State;
    - 2° any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of the Convention at any time by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### Article 4 RESIDENT

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

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

a) he shall be deemed to be a resident only 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 only 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 only 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 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

#### Article 5 PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially :

a) a place of management;

b) a branch;

c) an office;

d) a factory;

- e) a workshop, and
  - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include :
- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
  - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
  - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person -other than an agent of an independent status to whom paragraph 6 applies- is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

**Chapter III.**  
**Taxation of Income**

Article 6  
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 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

#### Article 7 BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

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

## Article 8 SHIPPING AND AIR TRANSPORT

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

2. For the purpose of this Article, profits from the operation in international traffic of ships or aircraft shall include in particular :

a) profits derived from the rental on a full basis of ships or aircraft and profits derived from the incidental rental on a bareboat basis of ships or aircraft used in international traffic;

b) profits derived from the use or rental of containers, unless the containers are used solely between places in the other Contracting State.

3. 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.

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

## Article 9 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 such an adjustment as it considers appropriate 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 10 DIVIDENDS

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed :

a) if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends :

(i) 5 per cent of the gross amount of the dividends; or

(ii) 15 per cent of the gross amount of the dividends distributed by an Icelandic company, insofar as such dividends are deductible from the taxable base in Iceland or can be carried forward as an operating loss of the company in Iceland.

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

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 -even paid in the form of interest- which is treated as income from shares by the internal tax legislation of the State of which the paying company is a resident.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such 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. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest shall be exempted from tax in the Contracting State in which it arises if it is :

- a) interest on commercial debt-claims -including debt-claims represented by commercial paper- resulting from deferred payments for goods, merchandise or services supplied by an enterprise;
- b) interest paid in respect of a loan made, guaranteed or insured or a credit extended, guaranteed or insured by public entities the objective of which is to promote the export;
- c) interest on loans of any nature -not represented by bearer instruments- granted by a banking enterprise;
- d) interest on deposits made by enterprises -not represented by bearer instruments- with a banking enterprise;
- e) interest paid to the other Contracting State, a political subdivision or a local authority thereof.

4. 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. However, the term "interest" shall not include for the purpose of this Article penalty charges for late payment nor interest regarded as dividends under paragraph 3 of Article 10.

5. The provisions of paragraphs 1, 2 and 3 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 7 or Article 14, as the case may be, shall apply.

6. 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.

7. 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, 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 payments shall remain taxable in the Contracting State in which the interest arises according to the laws of that State.

## 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 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 and films or tapes for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

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

4. Royalties 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 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 liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties 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 royalties, 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 in the Contracting State in which the royalties arise, according to the laws of that State.

### Article 13 CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

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 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.

3. Gains 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 the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains derived by an individual who is a resident of a Contracting State from the alienation of shares or "jouissance" rights which form part of a participation in a company which is a resident of the other Contracting State may be taxed in that other State if such individual is a national of that other State and has been a resident of that other State during at least two years in the course of the last seven years preceding the alienation of the shares or "jouissance" rights. This provision shall only apply to that part of the gains that relates to the period preceding the moment where such individual has become a resident of the first-mentioned State and provided that such gains amount, in any income year concerned, at least to 10.000.000 Icelandic Kronur, or the equivalent in the currency used for the transaction.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

### Article 14 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 15 DEPENDENT PERSONAL SERVICES

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

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

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the income year concerned, and

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

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

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

#### Article 16 COMPANY MANAGERS

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 or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

The preceding provision shall also apply to payments derived in respect of the discharge of functions which, under the laws of the Contracting State of which the company is a resident, are regarded as functions of a similar nature as those exercised by a person referred to in the said provision.

2. Remuneration derived by a person referred to in paragraph 1 from the company in respect of the discharge of day-to-day functions of a managerial or technical nature and remuneration received by a resident of a Contracting State in respect of his personal activity as a partner of a company, other than a company with share capital, which is a resident of the other Contracting State, may be taxed in accordance with the provisions of Article 15, as if such remuneration were remuneration derived by an employee in respect of an employment and as if references to the "employer" were references to the company.

Article 17  
ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

Article 18  
PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, 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.
2. However, pensions and other allowances, periodic or non periodic, paid under the social security legislation of a Contracting State or under a public scheme organised by a Contracting State for social welfare purposes shall be taxable only in that State.

Article 19  
GOVERNMENT SERVICE

1.
  - a) Salaries, wages and other similar 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 salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who :
    - 1° is a national of that State; or
    - 2° did not become a resident of that State solely for the purpose of rendering the services.
2.
  - a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
  - b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

#### Article 20 STUDENTS

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

#### Article 21 OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such 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 7 or Article 14, as the case may be, shall apply.

### **Chapter IV. Taxation of Capital**

#### Article 22 CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by 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 by 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, may be taxed in that other State.

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

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

## **Chapter V. Methods for Elimination of Double Taxation**

### Article 23

1. In the case of Iceland, double taxation shall be avoided as follows :

a) where a resident of Iceland derives income or owns capital which, in accordance with the provisions of this Convention, shall be taxable only or may be taxed in Belgium, Iceland shall, subject to the provisions of sub-paragraph b), allow as a deduction from the income tax or capital tax that part of the income tax or capital tax, respectively, which is applicable, as the case may be, to the income derived from or the capital owned in Belgium;

b) where a resident of Iceland derives items of income which, in accordance with the provisions of Articles 10, 11, paragraph 1 of Article 16 and Article 17, may be taxed in Belgium, Iceland shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Belgium. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Belgium.

2. In the case of Belgium, double taxation shall be avoided as follows :

a) Where a resident of Belgium derives income or owns elements of capital which are taxed in Iceland in accordance with the provisions of this Convention, other than those of paragraph 2 of Article 10, of paragraphs 2 and 7 of Article 11 and of paragraph 5 of Article 12, Belgium shall exempt such income or such elements of capital from tax but may, in calculating the amount of tax on the remaining income or capital of that resident, apply the rate of tax which would have been applicable if such income or elements of capital had not been exempted.

b) Subject to the provisions of Belgian law regarding the deduction from Belgian tax of taxes paid abroad, where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are dividends not exempt from Belgian tax according to sub-paragraph c) hereinafter, interest, or royalties, the Icelandic tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.

c) Dividends, derived by a company which is a resident of Belgium from a company which is a resident of Iceland, shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.

d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Iceland, have been effectively deducted from the profits of that enterprise for its taxation in Belgium the exemption provided for in sub-paragraph a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Iceland by reason of compensation for the said losses.

## Chapter VI. Special Provisions

### Article 24 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, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 5 of Article 12, 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted 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.
6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

### Article 25 MUTUAL AGREEMENT PROCEDURE

1. **[The first sentence of paragraph 1 of Article 25 of this Convention is REPLACED by the first sentence of paragraph 1 of Article 16 of the MLI] [~~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 24, 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.

*The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 25 of this Convention:*

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

Where a person considers that the actions of one or both of the [*Contracting States*] result or will result for that person in taxation not in accordance with the provisions of [*this Convention*], that person may, irrespective of the remedies provided by the domestic law of those [*Contracting States*], present the case to the competent authority of either [*Contracting State*].

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 which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

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

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

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 shall agree on administrative measures necessary to carry out the provisions of the Convention and particularly on the proofs to be furnished by residents of either Contracting State in order to benefit in the other State from the exemptions or reductions in tax provided for in the Convention.

5. The competent authorities of the Contracting States shall communicate directly with each other for the application of the Convention.

Article 26  
EXCHANGE OF INFORMATION

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

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

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

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

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

5. In no case shall the provisions of paragraph 3 of this Article be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, trust, foundation, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person. In order to obtain such information the tax administration of the requested Contracting State shall have the power to ask for the disclosure of information and to conduct investigations and hearings notwithstanding any contrary provisions in its domestic tax laws.

## Article 27

### MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.
2. For the purposes of the Convention, individuals who are members of diplomatic missions or consular posts of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State, shall be deemed to be residents of the sending State if they are subjected therein to the same obligations in respect of taxes on income and on capital as are residents of that State.
3. The Convention shall not apply to international organisations, to organs or officials thereof and to individuals who are members of diplomatic missions or consular posts of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income or on capital.

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

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

*(Principal purposes test provision)*

Notwithstanding any provisions of [*the Convention*], a benefit under [*the Convention*] shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of [*the Convention*].

## CHAPTER VII - Final provisions

### Article 28

#### ENTRY INTO FORCE

1. Each Contracting State shall notify the other Contracting State of the completion of the procedures required by its laws for the bringing into force of this Convention. The Convention shall enter into force on the date of receipt of the later of these notifications.
2. The provisions of the Convention shall have effect :
  - a) in respect of taxes withheld at source on income credited or payable on or after January 1 of the year next following the year in which the Convention entered into force;
  - b) in respect of other taxes charged on income of taxable periods beginning on or after January 1 of the year next following the year in which the Convention entered into force;

c) with respect to taxes on capital charged on elements of capital existing on January 1 of any year following the year in which the Convention entered into force.

3. The Convention between the Republic of Iceland and the Kingdom of Belgium for the avoidance of double taxation on the income of shipping enterprises, signed on December 21, 1928, shall terminate and cease to be effective from the date upon which this Convention has effect in respect of taxes to which this Convention applies in accordance with the provisions of paragraph 2 of this Article.

4. The Convention between the Republic of Iceland and the Kingdom of Belgium for the avoidance of double taxation on the income of air transport enterprises, signed in Brussels on July 9, 1970, shall terminate and cease to be effective from the date upon which this Convention has effect in respect of taxes to which this Convention applies in accordance with the provisions of paragraph 2 of this Article.

#### Article 29 TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the Convention entered into force. In the event of termination before July 1 of such year, the Convention shall cease to have effect :

- a) in respect of taxes withheld at source on income credited or payable on or after January 1 of the year in which the notice of termination is given;
- b) in respect of other taxes charged on income of taxable periods beginning on or after January 1 of the year next following the year in which the notice of termination is given;
- c) with respect to taxes on capital charged on elements of capital existing on January 1 of the year next following the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Brussels, this 23rd day of May 2000, in the English language.

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM :

L. MICHEL, Minister for Foreign Affairs.

FOR THE GOVERNMENT OF THE REPUBLIC OF ICELAND :

Halldór Asgrimsson, Minister for Foreign Affairs.

## **PROTOCOL**

At the moment of signing the Convention between the Republic of Iceland and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

### ***I. Ad paragraph 2 of Article 2 :***

As long as at least ninety per cent of the amount of the payroll tax (tryggingagjald) levied in Iceland is used to finance the Icelandic social security system, this payroll tax shall not be considered for the application of the Convention as an income tax on the total amounts of wages or salaries paid by enterprises.

### ***II. Ad paragraph 2 of Article 10 :***

It is understood that the term "partnership" as used in paragraph 2 of Article 10 only refers to partnerships the profits of which are taxable in the hands of their partners.

### ***III. Ad paragraph 4 of Article 13 :***

It is understood that the provision of paragraph 4 of Article 13 shall only apply to gains derived by an individual from the sale of shares or "jouissance" rights in the course of the private administration of his patrimony and if such gains are exempted from taxation in the Contracting State of which the individual is a resident.

It is understood that the taxation in a Contracting State of capital gains referred to in paragraph 4 of Article 13 shall not apply to that part of those gains that relates to a permanent establishment which a company of that Contracting State has in the other Contracting State.

### ***IV. Ad paragraph 1 of Article 18 and paragraph 1 of Article 21 :***

Lump-sum payments in consideration of past employment or in consideration of life insurance contracts shall remain taxable in the Contracting State from which they are derived if they are not taxed in the Contracting State of which the recipient is a resident.

### ***V. Ad paragraph 1 of Article 23 :***

If in the future Iceland exempts from the national income tax dividends that a company which is a resident of Iceland derives from a company which is a resident of a third country, Iceland shall also exempt, under the conditions and within the limits provided for in Icelandic law, dividends that a company which is a resident of Iceland derives from a company which is a resident of Belgium.

### ***VI. Ad paragraph 2, c) of Article 23 :***

Dividends referred to in paragraph 2, a), (ii) of Article 10, shall not be exempt from corporate income tax in Belgium. In that case, Belgium shall allow as a deduction from the corporate income tax of the company which is a resident of Belgium an amount equal to the tax paid in Iceland on those dividends.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

DONE in duplicate at Brussels, this 23rd day of May 2000, in the English language.

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM :

L. MICHEL, Minister for Foreign Affairs.

FOR THE GOVERNMENT OF THE REPUBLIC OF ICELAND :

Halldór Asgrimsson, Minister for Foreign Affairs.