

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

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Denmark with respect to Taxes on Income and on Capital signed on 11 November 1980 and the Protocols signed on 1 July 1991 and 15 October 1996 (together the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the United Kingdom and the Kingdom of Denmark on 7 June 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of the United Kingdom submitted to the Depositary upon ratification on 29 June 2018 and of the MLI position of the Kingdom of Denmark submitted to the Depositary upon ratification on 30 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 the Convention.

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

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

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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

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

References

The copies of the 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>

In the United Kingdom:

http://www.legislation.gov.uk/ukSI/1980/1960/pdfs/ukSI_19801960_en.pdf

<http://www.legislation.gov.uk/ukSI/1991/2877/made>

<https://www.legislation.gov.uk/ukSI/1996/3165/contents/made>

The MLI position of the United Kingdom submitted to the Depositary upon ratification on 29 June 2018 and of the MLI position of Denmark submitted to the Depositary upon ratification on 30 September 2019 can be found [on the MLI Depositary \(OECD\) webpage](#).

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

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 the United Kingdom and Denmark in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 29 June 2018 for the United Kingdom and 30 September 2019 for Denmark.

Entry into force of the MLI: 1 October 2018 for the United Kingdom and 1 January 2020 for Denmark.

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

- In the United Kingdom and Denmark, for taxes withheld at source, from 1 January 2020;
- In the United Kingdom, from 1 April 2021 for corporation tax and from 6 April 2021 for income tax and capital gains tax; and
- In Denmark, for other taxes for taxable periods beginning on or after 1 January 2021.

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

The Government of the Kingdom of Denmark and the Government of the United Kingdom of Great Britain and Northern Ireland:

[REPLACED by paragraph 1 of Article 6 of the MLI] [Desiring to conclude a new 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:

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),

Article 1

Personal Scope

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

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

ARTICLE 3 OF THE MLI – TRANSPARENT ENTITIES

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

taxation by that [Contracting State], as the income of a resident of that [Contracting State].

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

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

[The Convention] shall not affect the taxation by a [Contracting State] of its residents, except with respect to the benefits granted under *paragraph 2 of Article 9, paragraph 4 of Article 15, paragraph 3 of Article 18, Articles 19, 20, 22, 23, 24 and 26, and paragraph 5 of Article 28A* of [the Convention].

Article 2

Taxes Covered

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

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

- (i) the income tax;
- (ii) the corporation tax;
- (iii) the capital gains tax;
- (iv) the petroleum revenue tax; and
- (v) the development land tax;

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

(b) in the case of Denmark the income taxes to the state and to the municipalities (indkomstskatterne til staten og til kommunerne); (hereinafter referred to as "Danish tax").

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

Article 3

General Definitions

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

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

(b) the term "Denmark" means the Kingdom of Denmark, including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil; the term does not comprise the Faroe Islands and Greenland;

(c) the term "national" means:

(i) in relation to the United Kingdom, any British citizen or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;

(ii) in relation to Denmark, any individual possessing the nationality of Denmark and any legal person, partnership or association deriving its status as such from the law in force in Denmark;

(d) the term "tax" means United Kingdom tax or Danish tax, as the context requires;

(e) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Denmark, as the context requires;

(f) the term "person" comprises an individual, a company and any other body of persons, but does not include partnerships;

(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" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term "competent authority" means in the case of the United Kingdom the Commissioners of Inland Revenue or their authorised representative, and in the case of Denmark the Minister for Inland Revenue, Customs and Excise or his authorised representative.

(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

Fiscal Domicile

(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. 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 or capital situated therein.

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

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

ARTICLE 4 OF THE MLI – DUAL RESIDENT ENTITIES

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

Article 5

Permanent Establishment

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

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

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop; and
- (g) 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.

(3A) Notwithstanding the provisions of paragraph (3) of this Article, a project for the construction or installation of a pipeline for the transportation of oil or gas, or a building site associated with such construction or installation, shall constitute a permanent establishment whether or not it lasts for more than 12 months.

(3B) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on the activity of making an oil or gas well in the other Contracting State.

(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 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.

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

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

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

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

(5) Notwithstanding the provisions of paragraphs (1) and (2), of this Article, where a person -- other than an agent of an independent status to whom paragraph (6) 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 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) 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.

(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.

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

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

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

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) of this Article shall apply to income derived from the direct use, letting, or use in any other form, of immovable property.

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

(5) 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 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 from the operation of ships or aircraft in international traffic include:

(a) profits from the rental on a bareboat basis of ships or aircraft; and

(b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

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

(3) 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, but only to so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.

(4) With respect to profits derived by the Danish, Norwegian and Swedish air transport consortium, known as the Scandinavian Airlines System (SAS), the provisions of paragraphs (1), (2) and (3) of this Article shall apply only to such proportion of the profits as corresponds

to the participation in that consortium by Det Danske Luftfartsselskab (DDL), the Danish partner of the Scandinavian Airlines System (SAS).

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 income, deductions, receipts or outgoings which would, but for those conditions, have been attributed to one of the enterprises, but, by reason of those conditions, have not been so attributed, may be included in the profits or losses of that enterprise and taxed accordingly.

[REPLACED by paragraph 1 of Article 17 of the MLI] [(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 items so included comprise income, deductions, receipts or outgoings which would have been attributed 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 the competent authorities of the Contracting States may consult together with a view to reaching an agreement on the adjustment of profits or losses in both Contracting States.]

The following paragraph 1 of Article 17 of the MLI replaces paragraph 2 of Article 9 of the Convention:

ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

Where a [Contracting State] includes in the profits of an enterprise of that [Contracting State] — and taxes accordingly — profits on which an enterprise of the other [Contracting State] has been charged to tax in that other [Contracting State] and the profits so included are profits which would have accrued to the enterprise of the first-mentioned [Contracting State] if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other [Contracting State] shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of [the Convention] and the competent authorities of the [Contracting 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, subject to the provisions of Council Directive 90/435/EEC of 23rd July 1990, such dividends:

(a) 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 15 per cent. of the gross amount of the dividends;

(b) shall be exempt from tax in the first-mentioned State if the beneficial owner referred to in subparagraph (a) of this paragraph is a company which holds directly at least 25 per cent. of the issued share capital of the company paying the dividends.

(3) The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident and also includes any other item (other than interest relieved from tax under the provisions of Article 11 of this Convention) which, under the laws of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

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

(5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment 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 that other State.

(6) **[REPLACED by paragraph 1 of Article 7 of the MLI¹]** [The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person

¹ Refer to the box following Article 26 of the Convention

concerned with the creation or assignment of the shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.]

Article 11

Interest

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

(2) The term "interest" as used in this Article means income from 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 income dealt with in Article 10. Penalty charges for late payment shall not be regarded as interest for the purposes 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 a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(5) Any provision in the law of either Contracting State relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a resident of the other Contracting State to be treated as a distribution by the company paying such interest.

(6) **[REPLACED by paragraph 1 of Article 7 of the MLI²]** [The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.]

Article 12

Royalties

² Refer to the box following Article 26 of the Convention

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

(2) 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 radio or television 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) 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 a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(5) **[REPLACED by paragraph 1 of Article 7 of the MLI³]** [The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.]

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 a fixed base, may be taxed in that other State.

(3) Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic by an enterprise of that Contracting State or movable

³ Refer to the box following Article 26 of the Convention

property pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.

With respect to gains derived by the Danish, Norwegian and Swedish air transport consortium known as the Scandinavian Airlines System (SAS), the provisions of this paragraph shall apply only to such proportion of the gains as corresponds to the participation in that consortium by Det Danske Luftfartsselskab (DDL), the Danish partner of the Scandinavian Airlines System (SAS).

(4) Gains derived by a resident of a Contracting State from the alienation of--

(a) exploration or exploitation rights, or

(b) property situated in the other Contracting State and used in connection with offshore activities, as defined in paragraph (1) of Article 28A of this Convention, carried on in that other State, or

(c) shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together,

may be taxed in that other State.

In this paragraph "exploration or exploitation rights" means rights to assets to be produced by the exploration or exploitation of the sea-bed and subsoil and their natural resources in the other Contracting State, including rights to interests in or to the benefit of such assets.

(5) A gain on property referred to in sub-paragraph (b) of paragraph (4) of this Article which is deemed to be derived by a resident of a Contracting State when an activity in which the property is used ceases to be subject to tax in the other State shall not be taxed by that other State.

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

Article 14

Independent Personal Services

(1) Income derived by an individual who is 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. However, such income may also be taxed in the other Contracting State if:

(a) the individual is present in the other State for a period or periods exceeding in the aggregate 183 days in any period of 12 months; or

(b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities;

but only so much thereof that is attributable to services performed in that other State.

(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 Article 16, 18, 19 and 20 of this Convention, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect to 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 and subject to paragraph (3) of this Article, remuneration derived by a resident of 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 period of 12 months, and
- (b) the remuneration is paid by, or on behalf of, an employer who is a resident of the State of which the recipient is a resident, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Paragraph (2) of this Article shall not apply to remuneration derived by a resident of a Contracting State, in this paragraph called "the employee", and paid by or on behalf of an employer who is a resident of that State in respect of any employment exercised in the other Contracting State where:

- (a) the employee renders services in the course of that employment to a person other than the employer who, directly or indirectly, supervises, directs or controls the manner in which those services are performed; and
- (b) the employer is not responsible for carrying out the purpose for which the services are performed.

(4) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in the Contracting State of which the enterprise operating the ship or aircraft is a resident provided that such remuneration is subject to tax in that Contracting State.

Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Denmark.

(5) For the purposes of paragraph (4) of this Article, remuneration derived aboard a ship registered in the Danish International Shipping Register and covered by Section 48D of the Law on Tax at Source, introduced by Law No 364 of 1st July 1988, shall be deemed to be subject to tax in Denmark.

Article 16

Directors' Fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Artistes and Athletes

(1) Notwithstanding the provisions of 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 an athlete, 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 by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete 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 athlete are exercised.

Article 18

Pensions and Similar Payments

(1) Subject to the provisions of paragraph (2) of this Article and paragraph (2) of Article 19, pensions, annuities and other similar remuneration paid to an individual who is a resident of a Contracting State and is subject to tax in respect thereof in that State, shall be taxable only in that State.

(2) In the case of an individual who was a resident of a Contracting State and has become a resident of the other Contracting State, nothing in paragraph (1) of this Article shall affect the right of the first-mentioned State under its national laws to tax pensions, annuities and other similar remuneration arising in that State and paid to that individual.

(3) Notwithstanding the provisions of paragraph (1) of this Article, payments received by an individual who is a resident of a Contracting State, under the social security legislation of the other Contracting State, shall be taxable only in that other State.

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

Article 19

Government Service

(1)

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

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

(i) is a national of that State; or

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

(c) Notwithstanding the provisions of sub-paragraph (b)(ii) of this paragraph, the provisions of sub-paragraph (a) shall apply to remuneration paid to:

(i) employees at the British Embassy or at the British Council in Copenhagen who are not nationals of Denmark, and

(ii) employees at the Danish Embassy in London who are not nationals of the United Kingdom.

(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 remuneration and 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, wherever arising, other than income paid out of trusts or the estates of deceased persons in the course of administration, which are beneficially owned by a resident of a Contracting State and not expressly mentioned 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 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.

Article 22

Elimination of Double Taxation

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):

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

(b) in the case of a dividend paid by a company which is a resident of Denmark to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Danish tax creditable under the provisions of sub-paragraph (a) of this paragraph) the Danish tax payable by the company in respect of the profits out of which such dividend is paid.

(2)

(a) Subject to the provisions of sub-paragraph (f) of this paragraph, where a resident of Denmark derives income which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom, Denmark shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax on the income paid in the United Kingdom.

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

(c) Subject to the provisions of sub-paragraph (d) of this paragraph, dividends paid by a company which is a resident of the United Kingdom to a company which is a resident of Denmark and which holds directly at least 25 per cent. of the issued share capital of the company paying the dividends shall be exempt from tax in Denmark.

(d) The provisions of sub-paragraph (c) of this paragraph shall apply only to the extent that:

(i) the profits out of which the dividends are paid have been subject to corporation tax in the United Kingdom, or to any other tax in the United Kingdom or elsewhere which is comparable to Danish tax; or

(ii) the dividends paid by the company which is a resident of the United Kingdom represent dividends received in respect of shares or other rights in a company which is a resident of a third State, which would have been exempt from Danish tax if those shares or rights were held directly by the company which is a resident of Denmark.

(e) In the case of dividends paid by a company which is a resident of the United Kingdom to a company which is a resident of Denmark and which holds directly at least 25 per cent. of the issued share capital of the company paying the dividends, if the dividends are not exempt from Danish tax in accordance with the provisions of sub-paragraph (c) of this paragraph, the credit shall take into account United Kingdom tax payable by the company paying the dividends in respect of the profits out of which such dividends are paid.

(f) Where a resident of Denmark derives income which, in accordance with the provisions of this Convention shall be taxable only in the United Kingdom, Denmark may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from the United Kingdom.

(3) For the purposes of paragraphs (1) and (2) 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.

Article 23

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 contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.

(4) Except where the provisions of paragraph (1) of Article 9, paragraph (4) of Article 11, or paragraph (4) 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.

(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 apply to taxes of every kind and description.

Article 24

Mutual Agreement Procedure

(1) [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].

The following first sentence of paragraph 1 of Article 16 of the MLI replaces paragraph 1 of Article 24 of this Convention:⁴

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*].

⁴ In accordance with paragraph 4 of Article 35 of the MLI, Article 16 of the MLI has effect with respect to this Convention for a case presented to the competent authority of a *Contracting State* on or after 1 January 2020, except for cases that were not eligible to be presented as of that date under this Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates

*The following second sentence of paragraph 1 of Article 16 of the MLI applies and supersedes the provisions of this Convention:*⁵

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of *[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 which is not in accordance with the Convention.

*The following second sentence of paragraph 2 of Article 16 of the MLI applies to this Convention:*⁶

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of *[the Contracting States]*.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together to consider measures to counteract improper use of the provisions of the Convention.

*The following second sentence of paragraph 3 of Article 16 of the MLI applies to this Convention:*⁷

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]*.

⁵ In accordance with paragraph 4 of Article 35 of the MLI, Article 16 of the MLI has effect with respect to this Convention for a case presented to the competent authority of a *Contracting State* on or after 1 January 2020, except for cases that were not eligible to be presented as of that date under this Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates

⁶ In accordance with paragraph 4 of Article 35 of the MLI, Article 16 of the MLI has effect with respect to this Convention for a case presented to the competent authority of a *Contracting State* on or after 1 January 2020, except for cases that were not eligible to be presented as of that date under this Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates

⁷ In accordance with paragraph 4 of Article 35 of the MLI, Article 16 of the MLI has effect with respect to this Convention for a case presented to the competent authority of a *Contracting State* on or after 1 January 2020, except for cases that were not eligible to be presented as of that date under this Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates

(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.

*The following Part VI of the MLI applies to this Convention:*⁸

PART VI OF THE MLI (ARBITRATION)

Article 19 (Mandatory Binding Arbitration) of the MLI

1. Where:

- a) under *[paragraph (1) of Article 24 of this Convention]*, a person has presented a case to the competent authority of a *[Contracting State]* on the basis that the actions of one or both of the *[Contracting States]* have resulted for that person in taxation not in accordance with the provisions of *[the Convention]*; and
- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to *[paragraph (2) of Article 24 of the Convention]*, within a period of two years beginning on the start date referred to in paragraph 8 or 9 *[of Article 19 of the MLI]*, as the case may be (unless, prior to the expiration of that period the competent authorities of the *[Contracting States]* have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in *[Part VI of the MLI]*, according to any rules or procedures agreed upon by the competent authorities of the *[Contracting States]* pursuant to the provisions of *[paragraph 10 of Article 19 of the MLI]*.

2. Where a competent authority has suspended the mutual agreement procedure referred to in paragraph 1 *[of Article 19 of the MLI]* because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in subparagraph b) of paragraph 1 *[of Article 19 of the MLI]* will stop running until either a final decision has been rendered by the court or administrative tribunal or the case has been suspended or withdrawn. In addition, where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in

⁸ In accordance with paragraph 1 of Article 36 of the MLI, the provisions of Part VI (Arbitration) of the MLI have effect with respect to this Convention:

- a) with respect to cases presented to the competent authority of a Contracting State on or after 1 January 2020; and
- b) with respect to cases presented to the competent authority of a Contracting State prior to 1 January 2020, on the date when both Contracting States have notified the Secretary-General of the OECD that they have reached mutual agreement pursuant to paragraph 10 of Article 19 of the MLI (Mandatory Binding Arbitration), along with information regarding the date or dates on which such cases shall be considered to have been presented to the competent authority of a Contracting State (as described in subparagraph a) of paragraph 1 of Article 19 of the MLI (Mandatory Binding Arbitration)) according to the terms of that mutual agreement.

subparagraph b) of paragraph 1 [*of Article 19 of the MLI*] will stop running until the suspension has been lifted.

3. Where both competent authorities agree that a person directly affected by the case has failed to provide in a timely manner any additional material information requested by either competent authority after the start of the period provided in subparagraph b) of paragraph 1 [*of Article 19 of the MLI*], the period provided in subparagraph b) of paragraph 1 [*of Article 19 of the MLI*] shall be extended for an amount of time equal to the period beginning on the date by which the information was requested and ending on the date on which that information was provided.

4. a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1 [*of Article 19 of the MLI*]. The arbitration decision shall be final.

b) The arbitration decision shall be binding on both [*Contracting States*] except in the following cases:

- i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.
- ii) if a final decision of the courts of one of the [*Contracting States*] holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 [*of Article 19 of the MLI*] shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings) [*of the MLI*]). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.
- iii) if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.

5. The competent authority that received the initial request for a mutual agreement procedure as described in subparagraph a) of paragraph 1 [*of Article 19 of the MLI*] shall, within two calendar months of receiving the request:

a) send a notification to the person who presented the case that it has received and request; and

b) send a notification of that request, along with the copy of the request, to the competent authority of the other [*Contracting State*]

6. Within three calendar months after a competent authority receives the request for a mutual agreement procedure (or a copy thereof from the competent authority of the other [*Contracting State*]) it shall either:

a) notify the person who has presented the case and the other competent authority that it has received the information necessary to undertake substantive consideration of the case; or

b) request additional information from that person for that purpose.

7. Where pursuant to subparagraph b) of paragraph 6 [*of Article 19 of the MLI*], one or both of the competent authorities have requested from the person who presented the case additional information necessary to undertake substantive consideration of the case, the competent authority that requested the additional information shall, within three calendar months of receiving the additional information from that person, notify that person and the other competent authority either:

a) that it has received the requested information; or

b) that some of the requested information is still missing.

8. Where neither competent authority has requested additional information pursuant to subparagraph b) of paragraph 6 [*of Article 19 of the MLI*], the start date referred to in paragraph 1 [*of Article 19 of the MLI*] shall be the earlier of:

a) the date on which both competent authorities have notified the person who presented the case pursuant to subparagraph a) of paragraph 6 [*of Article 19 of the MLI*]; and

b) the date that is three calendar months after the notification to the competent authority of the other [*Contracting State*] pursuant to subparagraph b) of paragraph 5 [*of Article 19 of the MLI*].

9. Where additional information has been requested pursuant to subparagraph b) of paragraph 6 [*of Article 19 of the MLI*], the start date referred to in paragraph 1 [*of Article 19 of the MLI*] shall be the earlier of:

a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other

competent authority pursuant to subparagraph a) of paragraph 7 [of Article 19 of the MLI]; and

- b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

If, however, one or both of the competent authorities send the notification referred to in subparagraph b) of paragraph 7 [of Article 19 of the MLI], such notification shall be treated as a request for additional information under subparagraph b) of paragraph 6 [of Article 19 of the MLI].

10. The competent authorities of the [Contracting States] shall by mutual agreement pursuant to [Article 24 of the Agreement] settle the mode of application of the provisions contained in [Part VI of the MLI], including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

12. Notwithstanding the other provisions of [Article 19 of the MLI]

- a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for [by the MLI] shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either [Contracting State];
- b) if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting States], a decision concerning the issue is rendered by a court or administrative tribunal of one of the [Contracting States], the arbitration process shall terminate.

Article 20 (Appointment of Arbitrators) of the MLI

1. Except to the extent that the competent authorities of the [Contracting States] mutually agree on different rules, paragraphs 2 through 4 [of Article 20 of the MLI] shall apply for the purposes of [Part VI of the MLI].

2. The following rules shall govern the appointment of the members of an arbitration panel:

- a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.
- b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 [of Article 19 of the MLI]. The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either [Contracting State].

- c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the [Contracting States] and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

3. In the event that the competent authority of a [Contracting State] fails to appoint a member of the arbitration panel in the manner and within the time periods specified in paragraph 2 [of Article 20 of the MLI] or agreed to by the competent authorities of the [Contracting States], a member shall be appointed on behalf of that competent authority by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either [Contracting State].

4. If the two initial members of the arbitration panel fail to appoint the Chair in the manner and within the time periods specified in paragraph 2 [of Article 20 of the MLI] or agreed to by the competent authorities of the [Contracting States], the Chair shall be appointed by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either [Contracting State].

Article 21 (Confidentiality of Arbitration Proceedings) of the MLI

1. Solely for the purposes of the application of the provisions of [Part VI of the MLI] and of the provisions of [the Convention] and of the domestic laws of the [Contracting States] related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective arbitrators and information that the competent authorities receive from the arbitration panel shall be considered information that is exchanged under the provisions of [the Convention] related to the exchange of information and administrative assistance.

2. The competent authorities of the [Contracting States] shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in the provisions of [the Convention] related to exchange of information and administrative assistance and under the applicable laws of the [Contracting States].

Article 22 (Resolution of a Case Prior to the Conclusion of the Arbitration) of the MLI

For the purposes of [Part VI of the MLI] and the provisions of [the Convention] that provide for resolution of cases through mutual agreement, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a

request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting States]:

- a) the competent authorities of the Contracting Jurisdictions reach a mutual agreement to resolve the case; or
- b) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure.

Article 23 (Type of Arbitration Process) of the MLI

[Final offer]

1. Except to the extent that the competent authorities of the [Contracting States] mutually agree on different rules, the following rules shall apply with respect to an arbitration proceeding pursuant to [Part VI of the MLI]:

- a) After a case is submitted to arbitration, the competent authority of each [Contracting State] shall submit to the arbitration panel, by a date set by agreement, a proposed resolution which addresses all unresolved issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities of the [Contracting States]). The proposed resolution shall be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax charged pursuant to [the Convention], for each adjustment or similar issue in the case. In a case in which the competent authorities of the [Contracting States] have been unable to reach agreement on an issue regarding the conditions for application of a provision of [the Convention] (hereinafter referred to as a “threshold question”), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.
- b) The competent authority of each [Contracting State] may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or supporting position paper shall provide a copy to the other competent authority by the date on which the proposed resolution and supporting position paper were due. Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.
- c) The arbitration panel shall select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and shall not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the panel members. The arbitration panel shall deliver its decision in writing to

the competent authorities of the [Contracting States]. The arbitration decision shall have no precedential value.

5. Prior to the beginning of arbitration proceedings, the competent authorities of the [Contracting States] shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under [the Convention], as well as the arbitration proceeding under [Part VI of the MLI] with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting States], a person that presented the case or one of that person's advisors materially breaches that agreement.

Article 24 (Agreement on a Different Resolution) of the MLI

2. Notwithstanding paragraph 4 of Article 19 [of the MLI], an arbitration decision pursuant to [Part VI of the MLI] shall not be binding on the [Contracting States] and shall not be implemented if the competent authorities of the [Contracting States] agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

Article 25 (Costs of Arbitration Proceedings of the MLI)

In an arbitration proceeding under [Part VI of the MLI], the fees and expenses of the members of the arbitration panel, as well as any costs incurred in connection with the arbitration proceedings by the [Contracting States], shall be borne by the [Contracting States] in a manner to be settled by mutual agreement between the competent authorities of the [Contracting States]. In the absence of such agreement, each [Contracting State] shall bear its own expenses and those of its appointed panel member. The cost of the chair of the arbitration panel and other expenses associated with the conduct of the arbitration proceedings shall be borne by the [Contracting States] in equal shares.

Article 26 (Compatibility) of the MLI

2. Any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for in [Part VI of the MLI] shall not be submitted to arbitration if the issue falls within the scope of a case with respect to which an arbitration panel or similar body has previously been set up in accordance with a bilateral or multilateral agreement that provides for mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case.

3. [Nothing] in [Part VI of the MLI] shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other agreements to which the [Contracting States] are or will become parties.

Subparagraph a) of paragraph 2 of Article 28 of the MLI

Pursuant to subparagraph a) of paragraph 2 of Article 28 of the MLI, the Kingdom of Denmark formulates the following reservations with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI of the MLI:

1. Part VI (Arbitration) of the Convention shall not apply to cases that fall within the scope of application of the Convention on the Elimination of Double Taxation in Connection with the Adjustment of Profits of Associated Enterprises (90/436/EEC) as amended, of Council Directive (EU) 2017/1852 on tax dispute resolution mechanisms in the European Union, or subsequent regulation.
2. Part VI (Arbitration) of the Convention shall apply to a tax case only insofar the Parties agree that
 - a) the Chair of the arbitration panel shall be a judge, and
 - b) Denmark shall be permitted to publish abstracts of decisions made by the arbitration panel.
3. Part VI (Arbitration) of the Convention shall not apply to cases where penalties were imposed on an individual or a legal person by a Party for tax fraud, wilful default or gross negligence.

Article 25

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 public 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 practices 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 26

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 the provisions of special agreements.

The following paragraph 1 of Article 7 of the MLI replaces paragraph 6 of Article 10 of this Convention, paragraph 6 of Article 11 of this Convention and paragraph 5 of Article 12 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*].

Article 27

Territorial Extension

(1) This convention may be extended, either in its entirety or with any necessary modifications, to any State or territory for whose international relations the United Kingdom or Denmark is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

(2) Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 30 shall also terminate, in the manner provided for in that Article, the application of the Convention to any State or territory to which it has been extended under this Article.

Article 28

Miscellaneous Rules

(1) Where under any provision of this Convention income is relieved from Danish tax and, under the law in force in the United Kingdom, 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 the United Kingdom and not by reference to the full amount thereof, then the relief to be allowed under this Convention in Denmark shall apply only to so much of the income as is taxed in the United Kingdom.

(2) The term "political subdivision," in relation to the United Kingdom, includes Northern Ireland.

(3) Subject to the conditions specified in paragraph (4) of this Article, where an individual, who is a resident of a Contracting State, is a member of a pension scheme which is established in, and recognised for tax purposes by, the other Contracting State and exercises an employment in the first-mentioned State:

(a) contributions paid by the individual to that pension scheme shall be relieved from tax in the first-mentioned State in the same way as if the pension scheme was recognised for tax purposes by that State; and

(b) payments made to the pension scheme by or on behalf of the individual's employer:

(i) shall not be deemed to be taxable income of the individual, and

(ii) shall be allowed as a deduction in computing the profits of the employer, in the first-mentioned State in the same way as if the pension scheme was recognised for tax purposes by that State.

(4) The conditions specified in this paragraph are that:

(a) the individual exercises his employment in the first-mentioned State for an employer who was his employer immediately before he began to exercise his employment in that State or is an associated employer of that employer;

(b) the individual was a member of the pension scheme immediately before he became a resident of the first-mentioned State;

(c) the pension scheme is accepted by the competent authority of the firstmentioned State as corresponding to a pension scheme which is recognised for tax purposes by that State.

(5) For the purposes of this Article:

(a) the term "pension scheme" means:

(i) in the case of Denmark, a compulsory, employment-related arrangement (other than a social security scheme) in which the individual participates in order to secure retirement benefits, or in the absence of such an arrangement, a personal pension scheme, and

(ii) in the case of the United Kingdom, an employment-related arrangement established for the sole purpose of providing retirement benefits, or in the absence of such an arrangement, a personal pension scheme;

(b) a pension scheme is recognised for tax purposes by a Contracting State if in that State:

(i) the individual's contributions to the pension scheme qualify for tax relief, or

(ii) payments made to the pension scheme by or on behalf of the individual's employer are not deemed to be taxable income of the individual;

(c) employers are associated where:

(i) one participates directly or indirectly in the management, control or capital of the other, or

(ii) the same persons participate directly or indirectly in the management, control or capital of each of them.

Article 28A

Miscellaneous Rules Applicable to Certain Offshore Activities

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

(2) An enterprise of a Contracting State which carries on offshore activities in the other Contracting State shall be deemed to be carrying on a business in that other Contracting State through a permanent establishment situated therein.

(3) A resident of a Contracting State who carries on offshore 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 Contracting State.

(4) Notwithstanding the provisions of paragraph (2) of this Article, profits derived by an enterprise of a Contracting State from the operation, in connection with offshore activities, of ships or aircraft which are in their existing state designed primarily for the purpose of transporting supplies or personnel, or of tugboats or anchor handling vessels, shall be taxable only in the State in which the place of effective management of the enterprise is situated.

However, the provisions of this paragraph shall not apply to profits derived during any period in which such a ship or aircraft is contracted to be used mainly for purposes other than to transport supplies or personnel to or between places where offshore activities are being carried on.

(5)

(a) Subject to sub-paragraphs (b) and (c) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with offshore activities in the other Contracting State shall, to the extent that the duties are performed offshore in that other Contracting State, be taxable only in that other Contracting State.

(b) Subject to sub-paragraph (c) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft, to the profits from the operation of which paragraph (4) of this Article applies, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(c) Unless documentary evidence is produced to the competent authority of the other Contracting State that arrangements have been made for the payment of tax thereon in the Contracting State which has the sole right to tax the remuneration in accordance with sub-paragraph (a) or (b) of this paragraph, such remuneration may also be taxed in that other Contracting State.

Article 29

Entry Into Force

(1) This Convention shall come into force on the date when the last of all such things shall have been done in the United Kingdom and Denmark as are necessary for the entry into force in the United Kingdom and Denmark, and shall thereupon have effect:

(a) in the United Kingdom:

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April 1978;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 April 1978;

(iii) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January 1978; and

(iv) in respect of development land tax, for any realised development value accruing on or after 1 January 1978.

(b) in Denmark, in respect of income assessable for the calendar year 1978 and subsequent years.

(2) Subject to the provisions of paragraph (3) of this Article the Convention between the United Kingdom of Great Britain and Northern Ireland and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed at London on 27 March 1950, as amended by the Protocol signed at London on 7 July 1966, and by the Supplementary Protocol signed at London on 18 December 1968 and by the Supplementary Protocol signed at Copenhagen on 8 February 1973, (hereinafter referred to as "the 1950 Convention"), shall terminate upon the entry into force of this Convention and thereupon cease to have effect in respect of taxes to which this Convention, in accordance with the provisions of paragraph (1) of this Article, applies.

(3) Where any provision of the 1950 Convention would have afforded any greater relief from tax any such provision as aforesaid shall continue to have effect:

(a) in the United Kingdom, for any year of assessment or financial year; and

(b) in Denmark, for any taxable year beginning, in either case, before 1 January 1981.

(4) This Convention shall not affect any Agreement in force extending the 1950 Convention in accordance with Article I thereof.

(5) The Agreement dated 18 December 1924 between the United Kingdom and Denmark for the reciprocal exemption from income tax in certain cases of profits accruing from the business of shipping shall terminate upon entry into force of this Convention.

Article 30

Termination

(1) This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1983. In such event, the Convention shall cease to have effect:

(a) in the United Kingdom:

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

(ii) in respect of corporation tax and development land tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given;

(iii) in respect of petroleum reserve tax, for any chargeable period beginning on or after 1 January in the calendar year next following that in which the notice is given.

(b) in Denmark, in respect of income assessable for the calendar year next following that in which the notice of termination is given, and subsequent years.

(2) The termination of this Convention shall not have the effect of reviving any treaty or arrangement abrogated by this Convention or by treaties previously concluded between the Contracting States.