Convention between the government of Ireland and the government of the Republic of Lithuania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains

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

Article 1

Personal Scope

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

Article 2

Taxes Covered

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

2. There shall be regarded as taxes on income and capital gains all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property.

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

    a. in the case of Ireland:

        i. the income tax;

        ii. the corporation tax;

        iii. the capital gains tax;(hereinafter referred to as "Irish tax");

    b. in the case of Lithuania:

        . the tax on profits of legal persons (juridiniu asmenu pelno mokestis);

    i. the tax on income of natural persons (fiziniu asmenu pajamu mokestis);(hereinafter referred to as "Lithuanian tax").

4. 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 significant changes which have been made in their respective taxation laws.

Article 3

General Definitions

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

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

   b. the term "Lithuania" means the Republic of Lithuania and, when used in the geographical sense, means the territory of the Republic of Lithuania and any other area adjacent to the territorial waters of the Republic of Lithuania within which under the laws of the Republic of Lithuania and in accordance with international law, the rights of Lithuania may be exercised with respect to the sea bed and its subsoil and their natural resources;

   c. the terms "a Contracting State" and "the other Contracting State" mean Ireland or Lithuania, as the context requires; and the term "Contracting States" means Ireland and Lithuania;

   d. the term "person" includes an individual, a company, a trust and any other body of persons;

   e. the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

f. 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;

g. 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;

h. the term "competent authority" means:

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

ii. in the case of Lithuania, the Minister of Finance or his authorised representative;

i. the term "national" means:

. in relation to Ireland, any citizen of Ireland and any legal person, partnership, association or other entity deriving its status as such from the laws in force in Ireland;

i. in relation to Lithuania, any individual possessing the nationality of Lithuania and any legal person, partnership, association or other entity deriving its status as such from the laws in force in Lithuania.

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 laws of that State for the purposes of the taxes to which the Convention applies.

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, place of incorporation or any other criterion of a similar nature, and also includes that State and any 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.

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, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement. In the absence of such agreement, for the purposes of the Convention, the person shall not be entitled to claim any benefits provided by this Convention.

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, a construction, assembly or installation project constitutes a permanent establishment only if such site or project lasts more than six months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

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

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

   b. the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

   c. the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

   d. 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;

   e. 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. However, where the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise and where the conditions between the agent and the enterprise differ from those which would be made between independent persons, such agent shall not be considered an agent of an independent status within the meaning of this paragraph. In such case the provisions of paragraph 5 shall apply.
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.

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 provisions of this Convention relating to immovable property shall also apply to 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, any option or similar right to acquire immovable property, 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. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. The provisions of paragraphs 1, 3 and 4 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 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. 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 or gains 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 paragraph 1, profits derived from the operation of ships or aircraft in international traffic include profits derived from the rental on a bare-boat basis of ships or aircraft where such rental is incidental to the operation by the enterprise of ships or aircraft in international traffic.

3. 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.

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

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

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

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

Article 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. 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the voting power of the company paying the dividends;

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

    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 or other rights, not being debt-claims, participating in profits and includes any income or distribution assimilated to income from shares under the taxation laws of the Contracting State of which the company paying the dividends or income or making the distribution 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 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 a resident is the beneficial owner of the interest, provided the payer or recipient of the interest is the Government of a Contracting State, a local authority or any agency of that Government, the Central bank or any financial institution wholly owned by that Government, or if such interest is paid on loans guaranteed by the Government of a Contracting State.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures as well as all other income assimilated to income from money lent by the laws of the State in which the income arises but does not include any income which is treated as a dividend under Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
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 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 according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

Royalties

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

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

   a. 5 per cent of the gross amount of royalties paid for the use of industrial, commercial or scientific equipment;

   b. 10 per cent of the gross amount of royalties in all other cases.

3. 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 motion pictures or films, recordings on tape or other media used for radio or television broadcasting or other means of reproduction or transmission), any patent, trade mark, design or model, plan, secret formula or process, or for the use of,

or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 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.

5. Royalties shall be deemed to arise in a Contracting State where the payer is 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 Contracting State in which the permanent establishment or fixed base is situated.

6. 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 according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital Gains

1. Gains 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. For the purposes of paragraph 1, gains from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State shall include gains from the alienation of shares or other rights in a company or other legal entity, or of an interest in a partnership or under a trust, the greater part of the assets of which consist, directly or indirectly, of immovable property situated in that other Contracting State or of any other right pertaining to such immovable property.

3. 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.

4. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic by that enterprise, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

5. Gains from the alienation of any property, other than that referred to in the preceding paragraphs of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

6. The provisions of paragraph 5 shall not affect the right of a Contracting State to levy, according to its law, a tax on gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and was a resident of the first-mentioned State at any time during the three years immediately preceding the alienation of the property if the property was held by the individual before he became a resident of that other State.

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 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. For this purpose, where an individual who is a resident of a Contracting State is present in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any twelve month period commencing or ending in any fiscal year, he shall be deemed for that fiscal year to have a fixed base regularly available to him in that other State and the income that is derived from his activities referred to above that are performed in that other State shall be attributable to that deemed 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 fiscal year concerned, and

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that Contracting State.

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

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.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or local authorities thereof. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

Article 18

Pensions And Annuities

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 and any annuity paid to such a resident shall be taxable only in that State.
2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19

Government Service

1.
    a. Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State 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:
        i. is a national of that State; or
        ii. did not become a resident of that State solely for the purpose of rendering the services.
2.
    . Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.
    a. 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 local authority thereof or an agency thereof or an entity wholly owned by such State or authority.

Article 20

Students

Payments which a student, apprentice or a trainee 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. However, such items of income, arising in the other Contracting State, may also be taxed in that other 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.

Article 22

Miscellaneous Rules Applicable To Certain Offshore Activities

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention.

2. For the purposes of this Article, the term "offshore activities" means any activity carried on offshore in a Contracting State in connection with the exploration or exploitation of the sea bed and subsoil and their natural resources situated therein.

3. A person who is a resident of a Contracting State and carries on offshore activities in the other Contracting State shall, subject to paragraph 4, be deemed to be carrying on business in that other State through a permanent establishment or a fixed base situated therein.

4. The provisions of paragraph 3 shall not apply where the offshore activities are carried on through a permanent establishment for a period or periods not exceeding in the aggregate 30 days within any twelve month period commencing or ending in the fiscal year concerned. For the purposes of this paragraph:

a. where a person carrying on offshore activities in the other Contracting State is associated with another person carrying on substantially similar offshore activities there, the first-mentioned person shall be deemed to be carrying on all such activities of the last-mentioned person, except to the extent that those activities are carried on at the same time as its own activities;

   b. a person shall be regarded as associated with another person if one participates directly or indirectly in the management, control or capital of the other or if a third person or third persons participate directly or indirectly in the management, control or capital of both the first-mentioned person and the second-mentioned person.

5. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment connected with offshore activities in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on for an employer who is not a resident of the other State and for a period or periods not exceeding in the aggregate 30 days within any twelve month period commencing or ending in the fiscal year concerned.

6. Gains derived by a resident of a Contracting State from the alienation of:

   . exploration or exploitation rights; or

a. property situated in the other Contracting State which is used in connection with the offshore activities carried on in that other State; or

b. 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 the term "exploration or exploitation rights" means rights to assets to be produced by offshore activities carried on in the other Contracting State, or to interests in or to the benefit of such assets.

Article 23

Elimination Of Double Taxation

1. Subject to the provisions of the laws of Ireland regarding the allowance as a credit against Irish tax of tax payable in a territory outside Ireland (which shall not affect the general principle hereof) -

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

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

2.

. Where a resident of Lithuania derives income or capital gains which, in accordance with this Convention, may be taxed in Ireland, unless a more favourable treatment is provided in its domestic law, Lithuania shall allow as a deduction from the tax on the income of that resident, an amount equal to the Irish income tax or capital gains tax paid thereon in Ireland. Such deduction in either case shall not, however, exceed that part of the income tax in Lithuania, as computed before the deduction is given, which is attributable to the income or capital gains which may be taxed in Ireland.

a. For the purposes of sub-paragraph (a) of this paragraph, where a company that is a resident of Lithuania receives a dividend from a company that is a resident of Ireland in which it owns at least 10 per cent of its shares having full voting rights, the tax paid in Ireland shall include not only the tax paid on the dividend, but also the tax paid on the underlying profits of the company out of which the dividend was paid.

3. For the purposes of paragraphs 1 and 2 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 be derived from sources in that other Contracting State.
4. Where in accordance with any provisions of this Convention income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.
5. Where, under any provision of this Convention, income or gains is or are wholly or partly relieved from tax in a Contracting State and, under the laws in force in the other Contracting State, an individual, in respect of the said income or gains, is subject to tax by reference to the amount thereof which is remitted to or received in that other State, and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income or gains as is remitted to or received in that other State.

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. 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.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 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.

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

5. The provisions of this Article shall apply to the taxes which are the subject of this Convention.

Article 25

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States,

present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 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.

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.

4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26

Exchange Of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or 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. The exchange of information is not restricted by Article 1. 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) concerned with 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 be construed so as to impose on a Contracting State the obligation:

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

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

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

Article 27

Members Of Diplomatic Missions And Consular Posts

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.

Article 28

Entry Into Force

1. Each of the Contracting States shall notify the other of the completion of the procedure required by its law for the bringing into force of this Convention.

2. This Convention shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect:

    a. in Ireland:

        i. in respect of income tax and capital gains tax, for any year of assessment beginning on or after the sixth day of April in the calendar year next following the year in which the Convention enters into force;

ii. in respect of corporation tax, for any financial year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

b. in Lithuania:

. in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

i. in respect of other taxes on income, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

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 written notice of termination at least six months before the end of any calendar year. In such event, this Convention shall cease to have effect:

a. in Ireland:

i. in respect of income tax and capital gains tax, for any year of assessment beginning on or after the sixth day of April in the calendar year next following the year in which the notice has been given;

ii. in respect of corporation tax, for any financial year beginning on or after the first day of January in the calendar year next following the year in which the notice has been given;

b. in Lithuania:

. in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the notice has been given;

i. in respect of other taxes on income, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice has been given.

In witness whereof, the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at Dublin this 18th day of November, 1997, in the English and Lithuanian languages, both texts being equally authentic.

Noel Treacy

For the Government of the Ireland

Justas Vincas Paleckis

For the Government of Republic of Lithuania

Protocol

At the signing today of the Convention between the Government of Ireland and the Government of the Republic of Lithuania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains, the undersigned have agreed the following provisions, which shall form an integral part of the Convention:

1. With reference to paragraph 1 of Article 4
   It is understood that a person which is incorporated or otherwise constituted under the laws of a Contracting State shall not be considered a resident of that State for the purposes of this Convention unless such person is liable to tax in that State on its worldwide income, wherever arising, as a resident of that State.
2. With reference to paragraph 3 of Article 4
   Where a person other than an individual is a resident of both Contracting States and the competent authorities of the Contracting States endeavour to determine its status by mutual agreement , they shall have regard to such factors as the place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors.
3. With reference to paragraph 3 of Article 6
   The Contracting States understand that all income and gains arising from the alienation of immovable property situated in a Contracting State may be taxed in that Contracting State in accordance with Article 13 of this Convention.

4. With reference to paragraph 1 of Article 7

   It is understood that profits of an enterprise of a Contracting State derived from the sale of goods or merchandise in the other Contracting State of the same or similar kind as those sold, or from other business activities carried on in the other Contracting State of the same or similar kind as those effected, through a permanent establishment situated in that other State may be considered attributable to that permanent establishment if it is established that such sales or activities were not carried out for valid business reasons or were primarily for the purposes of avoiding tax in that other State.
5. With reference to paragraph 3 of Article 7

   In determining the profits of a permanent establishment, it is understood that expenses to be allowed as deductions by a Contracting State include only expenses that are deductible under the domestic laws of that State.
6. With reference to Article 12

   If in any Convention for the avoidance of double taxation signed after the date of signature of this Convention by Lithuania and a third State which is a member of the Organisation for Economic Co-operation and Development at the date of signature of this Convention, Lithuania agrees to a definition of royalties which excludes any rights or other property referred to in paragraph 3 or to exempt royalties arising in Lithuania from Lithuanian tax on royalties or to lower rates of tax than those provided for in paragraph 2, such definition, exemption, or lower rates shall automatically apply under this Convention as there were specified respectively in paragraph 3 or paragraph 2 with effect from the date on which the provisions of that Convention, or of this Convention, whichever is the later, become effective.
7. With reference to Article 16

   The Contracting States understand that the Article only applies to the organ which is concerned with the central management and control of the company.

In witness whereof, the undersigned, duly authorised thereto, have signed this Protocol.

Done in duplicate at Dublin this 18th day of November, 1997, in the English and Lithuanian languages, both texts being equally authentic.

Noel Treacy

For the Government of the Ireland

Justas Vincas Paleckis

For the Government of Republic of Lithuania

Given under the Official Seal of the Government, this 16th day of December, 1997.

Mary Harney,

Tánaiste.

Explanatory Note

This Order gives the force of law to the Convention with the Republic of Lithuania which is set out in the Schedule. The effect of the Convention is summarised below.

This Convention with the Republic of Lithuania, which was signed in Dublin on 18th November, 1997, is comprehensive in scope and is based on the OECD Model Convention.

It provides for the allocation of taxing rights between Ireland and she Republic of Lithuania and for the granting of relief from double taxation with regard to items of income and capital gams which, under the laws of Ireland and the taws of Lithuania, may be taxed in both countries.

In many cases, the Convention awards a taxation right over items of income and gains to the country of residence of the recipient only, for example, items such as business profits and gams on movable property, provided neither arises through a permanent establishment or fixed base in the country of source, profits from the operation of ships or aircraft engaged in international traffic and non-governmental pensions. In other cases, such as remuneration in respect of services rendered to the Government of either country, the Convention awards the sole taxation right to the country of source.

Where both countries continue to have taxing rights, for example in the case of dividend, interest and royalty income, business profits arising through a permanent establishment which a person resident m one country has in the other country, or m the case of capital gains arising from the disposal of immovable property or shares linked with immovable property, the Convention provides that the country of residence of the recipient of the income or gain will give credit against its tax on the income or gains for the tax paid in the other country on the same income or gains.

Reduced rates of withholding tax are provided for m the case of dividend, interest and royalty income In the case of dividends, the Convention reduces withholding tax rates to 5% and 15%. The lower rate of 596 of the gross dividend applies where the recipient is a company that owns 25% of the company paying the dividends, otherwise, the 15% rate applies, However. under current domestic law, neither Ireland nor Lithuania at present impose withholding taxes on dividends paid to non-residents.

A reduced withholding tax rate of 10% is provided for in respect of interest payments. Exemption from withholding tax is provided where the payer or the recipient of the interest is the Government of either country, a local authority or any agency of either such Government, the Central Bank or any financial institution wholly owned by either such Government, or if the interest is paid on loans guaranteed by either such Government.

For royalties, provision is made for reduced withholding tax rates of 5% for royalties paid for the use of industrial, commercial or scientific equipment and 15% in ail other cases.

The Convention preserves the taxation rights of each country in respect of income and capital gains arising from the oft-shore exploration or exploitation of natural resources in its territory, provided such activities are carried out for an aggregate of 30 days or more in any twelve months. Where associated enterprises also carry out offshore exploration or exploitation activities, the duration of such activities is taken into account in calculating the 30 day period.

The Convention also provides for safeguarding nationals and enterprises of ono country against discriminatory taxation in the other country, for consultation between the competent authorities of the two countries for the purpose of resolving any doubts or difficulties arising as to the interpretation or application of the Convention and for the exchange of information between these authorities that is necessary for carrying out the provisions of the Convention or of the domestic law of either country in relation to the taxes covered by the Convention.

The Convention will enter into force on the date of the later of the notification by each country to the other of the completion of its procedures for bringing it into force. it will thereupon have effect in both countries for tax periods beginning in the following year.