

**SYNTHESISED TEXT OF THE MULTILATERAL CONVENTION TO IMPLEMENT TAX
TREATY RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT
SHIFTING(MLI) AND THE CONVENTION BETWEEN THE REPUBLIC OF KOREA AND
THE REPUBLIC OF FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

This document presents the synthesised text for the application of the Convention between the Republic of Korea and the Republic of Finland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed on 8 February 1979 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Korea and Finland on 7 June 2017 (the “MLI”).

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

This document was prepared on the basis of the MLI position of Korea submitted to the Depositary upon ratification on 13 May 2020 and of the MLI position of Finland submitted to the Depositary upon acceptance on 25 February 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 sole purpose of this document is to facilitate the understanding of the application of the MLI to the Convention and the document does not constitute a source of law. 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 authentic legal text of the MLI can be found at the following link:

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

The authentic legal text of the Convention can be found at the following link:

<http://www.law.go.kr/trtyInfoP.do?mode=4&trtySeq=1664&vSct=%ED%95%80%EB%9E%9C%EB%93%9C>

The MLI position of Korea submitted to the Depositary upon ratification on 13 May 2020 and of the MLI position of Finland submitted to the Depositary upon acceptance on 25 February 2019 can be found on the MLI Depositary(OECD) webpage.

Entry into force and entry into effect of the MLI

The MLI enters into force for Korea on 1 September 2020 and for Finland on 1 June 2019 and has effect as follows:

(a) The provisions of the MLI shall have effect in each Contracting State with respect to the Convention:

(i) in Korea:

(aa) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2021; and

(bb) with respect to all other taxes levied by Korea, for taxes levied with respect to taxable periods beginning on or after 1 March 2021; and

(ii) in Finland:

(aa) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2021; and

(bb) with respect to all other taxes levied by Finland, for taxes levied with respect to taxable periods beginning on or after 1 January 2022.

**CONVENTION BETWEEN THE REPUBLIC OF KOREA AND THE REPUBLIC OF
FINLAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION
OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME**

The Government of the Republic of Korea and the Government of the Republic of Finland,

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

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 the Convention:

Article 6 of the MLI- Purpose of a Covered Tax Agreement

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

Have agreed as follows:

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 imposed on behalf of a Contracting State or of its political subdivisions, local authorities or public communities, irrespective of the manner in which they are levied.

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

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

a) in Korea:

- (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the inhabitant tax
- (hereinafter referred to as "Korean tax") ;

b) in Finland :

- (i) the state income tax;
 - (ii) the communal tax;
 - (iii) the church tax;
 - (iv) the sailors ' tax; and
 - (v) the tax with held at source from non-residents ' income
- (hereinafter referred to as "Finnish 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 change which has 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 "Korea" means the Republic of Korea, and when used in a geographical sense, the term means all the territory in which the laws relating to Korean tax are in force. The term also includes the territorial sea thereof, and the seabed and sub-soil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which Korea exercises sovereign rights, in accordance with international law, for the purpose of exploration and exploitation of the natural resources of such area ;
- b) the term "Finland" means the Republic of Finland and, when used in a geographical sense, means the territory of the Republic of Finland and any area adjacent to the territorial water of the Republic of Finland within which, under the laws of Finland and in accordance with international law, the rights of Finland with respect to the exploration and exploitation of the natural resources of the sea bed and its sub-soil may be exercised ;
- c) the terms "a Contracting State" and "the other Contracting State" mean Korea or Finland, as the context requires ;
- d) the term "tax" means Korean tax or Finnish tax, as the context requires;
- e) the term "person" includes an individual, a company and any other body of persons;
- f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- g) 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;
- h) the term "national" means :
 - (i) in respect of Korea all individuals possessing the nationality of Korea and all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in Korea;
 - (ii) in respect of Finland, any individual possessing the nationality of Finland, and any legal person, partnership and association deriving its status as such from the laws in force in Finland:
- i) the term "competent authority" means :
 - (i) in Korea, the Minister of Finance or his authorised representative;
 - (ii) in Finland, the Minister of Finance or its authorised representative;

j) the term "international traffic" means any transport by 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.

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 laws of that State concerning the taxes to which the Convention applies.

Article 4

Resident

1. For the purpose 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 head or main office, place of management or any other criterion of a similar nature. However, this term does not include any person who is liable to tax in that State in respect only of income from sources therein.

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

a) he shall be deemed to be a resident of the State in which he has a permanent home available to him, if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests) ;

b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. In case of doubts the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5

Permanent Establishment

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

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop; and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

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

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

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise ;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise ;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity, if it has a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person other than an agent of an independent status to whom paragraph 6 applies-is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

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

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.
 - a) The term "immovable property" shall, subject to the provisions of sub-paragraph b) and c), be defined in accordance with the law of the Contracting State in which the property in question is situated.
 - b) The term "immovable property" 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 rights to work, mineral deposits, sources and other natural resources.
 - c) Ships 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. 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 owned by the company, the income from the direct use, letting, or use in any other form of such right to the enjoyment may be taxed in the Contracting State in which the immovable property is situated.
5. The provisions of paragraphs 1 and 3 of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

The provisions of paragraph 4 shall likewise apply to the income from a right of enjoyment referred to in that paragraph of an enterprise and to income from such right of enjoyment used for

the performance of professional 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. 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 from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State of which the enterprise is a resident.
2. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9
Associated Enterprise

Where

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

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

The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions 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, 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 the tax so charged shall not exceed:

- a) 10 per cent of the gross amount of the dividends if the recipient is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. 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, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient 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 the State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and received by the Government of the other Contracting State, its political subdivision, local authority or public community or the Central Bank of that other Contracting State shall be taxable only in that other Contracting State.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent according to the taxation laws of the State in which the income arises.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient 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.

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

7. Where, by reason of a special relationship between the payer and the recipient 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

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 the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration

- a) for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, and films or tapes for television or radio broadcasting ;
- b) for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, or any industrial, commercial, or scientific equipment;
- c) for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraph 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the 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.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, a public community of 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 recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right of information for which they are paid, exceeds the amount which would have been agreed

upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital Gains

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated
2. Gains from the alienation of shares or other corporate rights referred to in paragraph 4 of Article 6 may be taxed in the Contracting State in which the immovable property owned by the company is situated.
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 a fixed base, may be taxed in the other State. However, gains from the alienation of ships or aircraft operated in international traffic and movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State of which the enterprise is a resident.
4. Gains from the alienation of any property other than referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.
5. The provisions of paragraph 4 of this Article shall not affect the right of a State to tax according to its own law a tax on capital gains from the alienation of movable property derived by

an individual who is a resident of the other State and has been a resident of the first mentioned State at any time during the five years immediately preceding the alienation of the property, in case it has been acquired during his residency in the first mentioned State.

Article 14

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes, especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18, 19 and 20 salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, 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 the calendar year concerned ;

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 in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State of which the enterprise is a resident.

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 another 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 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 exercised by an entertainer or 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.

3. Income in respect of personal activities exercised in a Contracting State by an entertainer or an athlete, being a resident of the other Contracting State in his capacity as such, whether or not that income accrues to that entertainer or athlete himself, shall, notwithstanding the provisions of paragraphs 1 and 2 of this Article and of Articles 7, 14 and 15, be taxable only in that other State if his visit to the first-mentioned State is supported substantially from public funds of the other State, a political subdivision, a local authority or a public community thereof, or if the recipient of the income is a non-profit making organization of the other State.

Article 18

Pensions

1. Subject to the provisions of paragraph 2 of this Article or paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.
2. Subject to the provisions of paragraph 2 of Article 19, pensions and other payments made under the social security legislation of a Contracting State shall be taxable only in that State.

Article 19

Government Service

1.
 - a) Remuneration, other than a pension, paid by a Contracting State, a political subdivision, a local authority or a public community thereof to any individual in respect of services rendered to that State, political subdivision, local authority or public community 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.
- 2.
 - a) Any pension paid by, or out of funds created by, a Contracting State, a political subdivision, a local authority or a public community thereof to any individual in respect of services rendered to that State political subdivision, local authority or public community 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 any business carried on by a Contracting State, a political subdivision, a local authority or a public community thereof.
- 4. The provisions of paragraph 1 of this Article shall likewise apply in respect of remuneration or pensions paid, in the case of Korea, by the Bank of Korea, the Korea Trade Promotion Corporation and other government owned institutions performing functions of a governmental nature and, in the case of Finland, by the Bank of Finland, the Finnish Foreign Trade Association and other government owned institutions performing functions of a governmental nature.

Article 20

Students and Apprentices

- 1. An individual 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 Contracting State solely as a student at a recognised university, college, school or other similar recognised educational institution in the first mentioned Contracting State or as a business or technical apprentice therein, for a period not exceeding five years from the date of his first arrival in the first mentioned

Contracting State in connection with that visit, shall be exempt from tax in that first-mentioned Contracting State on

- a) all remittances from abroad for the purpose of his maintenance, education or training and
- b) any remuneration for personal services rendered in the first-mentioned Contracting State with a view to supplementing the resources available to him for such purpose.

2. An individual 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 Contracting State for the purpose of study, research or training solely as a recipient of a grant, allowance or award from one of the Contracting States, a political subdivision, a local authority or a public community thereof or from a scientific educational religious or charitable organisation or under a technical assistance programme entered into by one of the Contracting States, a political subdivision, a local authority or a public community thereof for a period not exceeding five years from the date of his first arrival in the first-mentioned Contracting State in connection with that visit shall be exempt from tax in that first-mentioned State on:

- a) the amount of such grant, allowance or award;
- b) all remittances from abroad for the purpose of his maintenance, education or training; and
- c) any remuneration in respect of services in the first-mentioned State if the services are performed in connection with his study, research or training or are incidental thereto.

3. An individual 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 Contracting State solely as an employee of, or under contract with, one of the Contracting States, a political subdivision, a local authority or a public community thereof, or an enterprise of the other Contracting State solely for the purpose of acquiring technical, professional or business experience for a period not exceeding two years from the date of his arrival in the first-mentioned Contracting State in connection with that visit shall be exempt from tax in that first-mentioned Contracting State on :

- a) all remittances from abroad for the purposes of his maintenance, education or training; and

b) any remuneration for personal services rendered in the first-mentioned Contracting State, provided such services are in connection with his studies or training or are incidental thereto.

Article 21

Other Income

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.

Article 22

Elimination of Double Taxation

1. In case of a resident of Korea, double taxation shall be avoided as follows:
Subject to the existing provisions of the law of Korea regarding credit for foreign tax, Finnish tax payable in respect of income derived from Finland shall be allowed as a credit against Korean tax payable in respect of that income.
2. In case of a resident of Finland, double taxation shall be avoided as follows:
 - a) Where a resident of Finland derives income which, in accordance with the provisions of this Convention, may be taxed in Korea, Finland shall, where the provisions of sub-paragraph b) are not applicable, allow as a deduction from the taxes on income of that person, an amount equal to the taxes on income paid in Korea. The deduction shall not, however, exceed that part of the tax on income as computed before the deduction is given, which is appropriate to the income which may be taxed in Finland.
 - b) Notwithstanding the provisions of sub-paragraph a), dividends paid by a company which is a resident of Korea to a company which is a resident of Finland shall be exempt from Finnish tax to the extent that the dividends would have been exempt from tax under

Finnish taxation law if both companies had been residents of Finland.

3. For the purpose of paragraph 2 a) of this Article, the Korean tax payable on dividends, interest and royalties shall be deemed to include any amount which would have been payable under Korean tax law for any year but for an exemption or reduction of tax granted for that year or any part thereof under :

- a) Article 15 and Article 24 of the Foreign Capital Inducement Law of Korea (so far as they were in force on and have not been modified since the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character), in any case where the induced capital, loan or technology in question is certified by the competent authority of Korea as being for the purpose of promoting new industrial, commercial scientific or educational development in Korea; or
- b) any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

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. 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 favorably 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, relief 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 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 condition 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 Contracting State to any taxation or any requirement connected therewith is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. In this Article the term "taxation" means taxes of every kind and description. The provisions of this Article shall, notwithstanding the provisions of Article 2, 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 or, if his case comes under paragraph 1 of Article 23, to that of the Contracting Stat of which he is a national.]

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

Article 16 of the MLI – Mutual Agreement Procedure

Where a person considers that the actions of one or both of the [Contracting States] result or will result for that person in taxation not in accordance with the provisions of the [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*].

This 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. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 25

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the 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 this Convention, or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes covered by this 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) 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 be construed so as to impose on one of the Contracting States the obligation:

- a) to carry out administrative measures at variance with the laws or 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 (order public).

ARTICLE 26

Diplomatic and Consular Officials

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

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of the 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 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

Entry into Force

1. The Governments of the Contracting States shall notify an each other that the constitutional requirements for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force thirty days after the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect in both Contracting States:

- a) in respect of taxes withheld at source, to amounts derived on or after 1 January in the calendar year next following the year in which the Convention enters into force ;
- b) in respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following the year in which the Convention enters into force.

Article 28

Termination

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

- a) in respect of taxes withheld at source, to amounts derived on or after 1 January in the calendar year next following the year in which the notice is given ;
- b) in respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

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

Done in duplicate at Seoul this eighth day of February of the year one thousand nine

hundred and seventy-nine in the English language.

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

Park Dong-jin,
Minister of Foreign Affairs

FOR THE GOVERNMENT OF
THE REPUBLIC OF FINLAND

Henrik Blomstedt,
Ambassador to the Republic of Korea

PROTOCOL

At the moment of signing the Convention between the Government of the Republic of Korea and the Government of the Republic of Finland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

1. In respect of paragraph 1 of Article 2, it is understood that the term "public communities" in this Convention shall be applicable only in the case of Finland and mean Congregations of the Evangelical Lutheran Church and the Greek Orthodox Church in Finland.
2. In respect of subparagraph a) of paragraph 3 of Article 2 of the Convention, it is understood that the Convention shall apply to the Korean defense tax where charged by reference to the income tax or the corporation tax.
3. The competent authorities of the Contracting State shall by mutual agreement resolve cases where double taxation results from the fact that an undivided estate of a deceased person, being resident of Finland, may be taxed in Finland as such and its beneficiaries, being residents of Korea, may be taxed in Korea, in respect of the income which is derived in Korea.

4. In respect of Article 22, it is understood that in case where an individual who is a resident of Korea and is subject to the taxes referred to in Article 2 on the basis of residency in Korea is regarded as a resident of Finland under the provisions of Section 9 of the act on Tax on Income and Capital (31 December 1974 No. 1043) of Finland, the provisions of this Convention shall not prevent Finland from taxing him as a resident of Finland according to the said Act. However, Finland shall allow Korean taxes payable in respect of the income as a deduction from Finnish taxes in respect of that income in accordance with the provisions of paragraph 2 of Article 22. These provisions shall apply only to nationals of Finland.

In witness whereof, the undersigned have signed the present Protocol which shall have the same force and validity as if it were inserted word by word in the Convention.

Done in duplicate at Seoul this eighth day of February the year one thousand nine hundred and seventy-nine in the English language.

FOR THE GOVERNMENT OF
THE REPUBLIC OF KOREA

Park Dong-jin,

Minister of Foreign Affairs

FOR THE GOVERNMENT OF
THE REPUBLIC OF FINLAND

Henrik Blomstedt,

Ambassador to the Republic of Korea