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**Convention between the Government of Ireland and the Government
of the Republic of Kazakhstan for the Avoidance of Double Taxation
and the Prevention of Fiscal Evasion with respect to Taxes on Income**

Done at Astana on 26 April 2017

Notifications of the completion of the procedures necessary for the entry into force of
this Agreement exchanged on 27 December 2017 and 29 December 2017

Entered into force on 29 December 2017

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

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

Article 1
Persons Covered

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

Article 2
Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its administrative subdivisions, central or local authorities, 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 and taxes on the total amounts of wages or salaries paid by enterprises.
3. The existing taxes to which the Convention shall apply are in particular:
 - a) in Ireland:
 - (i) the income tax;
 - (ii) the universal social charge;
 - (iii) the corporation tax; and
 - (iv) the capital gains tax;(hereinafter referred to as “Irish tax”);
 - b) in Kazakhstan:
 - (i) the corporate income tax; and
 - (ii) the individual income tax;(hereinafter referred to as “Kazakhstan tax”).
4. The Convention shall apply also to any identical or substantially similar taxes that 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 that have been made in their taxation laws.

Article 3
General definitions

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

- a) the terms “a Contracting State” and “the other Contracting State” mean Ireland or Kazakhstan, as the context requires;
- b) the term “Ireland” includes any area outside the territorial waters of Ireland which has been or may hereafter be designated, under the laws of Ireland concerning the Exclusive Economic Zone and the Continental Shelf, as an area within which Ireland may exercise such sovereign rights and jurisdiction as are in conformity with international law;
- c) the term “Kazakhstan” means the Republic of Kazakhstan and, when used in a geographical sense, the term “Kazakhstan” includes the state territory of the Republic of Kazakhstan and areas where Kazakhstan exercises its sovereign rights and jurisdiction according to its legislation and international law;
- d) the term “person” includes an individual, a company and any other body of persons;
- e) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
- f) the term “enterprise” applies to the carrying on of any business;
- 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 “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;
- i) The term “competent authority” means:
 - i) in Ireland: the Revenue Commissioners or their authorised representative;
 - ii) in Kazakhstan: the Ministry of Finance or its authorised representative;
- j) the term “national” means:
 - i) any individual possessing the citizenship of a Contracting State;
 - ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- k) the term “business” includes the performance of professional services and of other activities of an independent character.

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

Article 4

Resident

1. For the purposes of this Convention, the term «resident of a Contracting State» means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, place of registration or incorporation, residence, place of management or any other criterion of a similar nature, and also includes that Contracting State and any administrative subdivision, central or local authority thereof. This term, however, does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that Contracting 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 Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident only of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

b) if the Contracting 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 Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;

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

d) if the residence status of an individual cannot be determined in accordance with the provisions of sub-paragraphs a), b), c), then the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5

Permanent establishment

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

2. The term “permanent establishment” includes especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop;

f) sales outlet;

g) a warehouse in relation to a person providing storage facilities for others; and

h) a mine, a pit, an oil or gas well, a quarry, an installation, a structure (including a drilling rig or ship) or any other place of exploration, exploitation or extraction of natural resources, as well as supervisory services connected therewith.

3. The term “permanent establishment” also includes:

- a) a building site, a construction, assembly or installation project that lasts for a period of more than twelve months;
- b) the furnishing of services, including consultancy services, by a resident through employees or other personnel engaged by the resident for such purpose or through associated enterprises, but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods aggregating more than 183 days within any twelve-month period.

For the purposes of this paragraph:

- a) where an enterprise of a Contracting State carrying on activities in the other Contracting State is associated with another enterprise carrying on substantially similar activities there, the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise, except to the extent that those activities are carried on at the same time as its own activities;
- b) an enterprise shall be regarded as associated with another enterprise if one participates directly or indirectly in the management, control or capital of the other or if the same persons participate directly or indirectly in the management, control or capital of both enterprises.

4. 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;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e),

provided that such activity referred to in subparagraphs a)-e) or, in the case of subparagraph f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

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

- a) that place or other place constitutes a permanent establishment for the enterprise or

the closely related enterprise under the provisions of this Article, or

- b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

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

5. Notwithstanding the provisions of paragraphs 1 and 2 but subject to the provisions of paragraph 6, where a person is acting in a Contracting State on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are

- a) in the name of the enterprise, or
- b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use, or
- c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that Contracting 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. a) Paragraph 5 shall not apply where the person acting in a Contracting State on behalf of an enterprise of the other Contracting State carries on business in the first-mentioned Contracting State as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

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

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 Contracting 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 Contracting State.
2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7
Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting State unless that 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 Contracting 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 Contracting 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

Profits from international traffic

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 Contracting State.

2. For the purposes of this Article, profits derived from the operation of ships or aircraft in international traffic include profits derived from:

- a) the rental of ships or aircraft if such ships or aircraft are operated in international traffic or if such rental profits are incidental to other profits described in paragraph 1, and
- b) the rental of aircraft engines.

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. Where

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

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

2. Where a Contracting State includes in the profits of an enterprise of that 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 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 and beneficially owned by a resident of the other Contracting State may be taxed in that other Contracting 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 Contracting 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 capital 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. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of a Contracting State shall be taxable only in the other Contracting State if the beneficial owner of the dividends is:

- a) in Ireland:
 - (i) the Government of Ireland or a central or local authority thereof;
 - (ii) the Central Bank of Ireland;
 - (iii) any institution wholly owned by the Government of Ireland as may be agreed from time to time between the competent authorities of the Contracting States;
- b) in Kazakhstan:
 - (i) the Government of the Republic of Kazakhstan or a central or local authority thereof;
 - (ii) the National Bank of the Republic of Kazakhstan; or
 - (iii) any institution wholly owned by the Government of the Republic of Kazakhstan as may be agreed from time to time between the competent authorities of the Contracting States.

4. The term “dividends” as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

5. 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, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the

other Contracting State, that other Contracting 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 Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Contracting 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 Contracting State.

7. Nothing in this Convention shall be construed as preventing a Contracting State from imposing a special tax on the profits of a company attributable to a permanent establishment in that Contracting State, in addition to the tax which would be chargeable in the profits of a company which is a resident of that Contracting State, provided that any additional tax so charged shall not exceed 5 per cent of the amount of such profits. For the purpose of this paragraph, the profits shall be determined after deducting therefrom all taxes, other than the additional tax referred to in this paragraph, imposed in the Contracting State in which the permanent establishment is situated.

Article 11

Interest

1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that Contracting 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 paid by a company which is a resident of a Contracting State shall be taxable only in the other Contracting State if the beneficial owner of the interest is:

a) in Ireland:

- (i) the Government of Ireland or a central or local authority thereof;
- (ii) the Central Bank of Ireland;
- (iii) any institution wholly owned by the Government of Ireland as may be agreed from time to time between the competent authorities of the Contracting States;

b) in Kazakhstan:

- (i) the Government of the Republic of Kazakhstan or a central or local authority thereof;
- (ii) the National Bank of the Republic of Kazakhstan; or
- (iii) any institution wholly owned by the Government of the Republic of Kazakhstan as may be agreed from time to time between the competent authorities of the Contracting States.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government/state securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as all other income treated as income from money lent by the laws of the Contracting State in which

the income arises but does not include any income which is treated as a dividend under Article 10.

5. The provisions of paragraphs 1 and 2 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, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment 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 beneficial owner which is a resident of the other Contracting State may be taxed in that other Contracting State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that Contracting State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of such royalties.

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 cinematographic films and 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 information concerning industrial, commercial or scientific experience, and payments for the use of, or the right to use, industrial, commercial or scientific equipment.

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, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that Contracting 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent

establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment 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 Contracting State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Contracting State.

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

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

- a) Shares or comparable interests in the capital of a company, other than shares quoted on a recognised stock exchange, deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State;
- b) an interest in a partnership or trust deriving more than 50 per cent of its value directly or indirectly from immovable property situated in the other Contracting State; or
- c) exploration or exploitation rights or shares (or comparable instruments) deriving their value or the greater part of their value directly or indirectly from such rights,

may be taxed in that other Contracting State.

In this paragraph “exploration or exploitation rights” mean rights to assets to be produced by the exploration or exploitation of natural resources in the other Contracting State, including rights to interests in or to the benefit of such assets.

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

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 has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation of the property.

Article 14
Income from employment

1. Subject to the provisions of Articles 15, 17, 18 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 Contracting 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 Contracting 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 Contracting State if:
 - a) the recipient is present in the other Contracting 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 Contracting State, and
 - c) the remuneration is not borne by a permanent establishment which the employer has in the other Contracting 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 15
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 of a similar organ of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

Article 16
Entertainers and sportspersons

1. Notwithstanding the provisions of Articles 7 and 14, 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 sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other Contracting State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportspersons if the visit to that Contracting State is wholly or mainly supported by public funds of one or both of the Contracting States or an administrative subdivision, a central or a local authority thereof. In such a case, the income shall be taxable only in the Contracting State in which the entertainer or sportsperson is a resident.

Article 17
Pensions and annuities

1. Subject to the provisions of paragraph 2 of Article 18, 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 Contracting 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 18
Government service

1. a) Salaries, wages and other similar remuneration, paid by a Contracting State or an administrative subdivision, a central or a local authority thereof to an individual in respect of services rendered to that Contracting State, administrative subdivision, central or local authority, shall be taxable only in that Contracting 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 other Contracting State and the individual is a resident of that other Contracting State who:

- (i) is a national of that other Contracting State; or
- (ii) did not become a resident of that other Contracting State solely for the purpose of rendering the services.

2. a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or an administrative subdivision, a central or a local authority thereof to an individual in respect of services rendered to that Contracting State, administrative subdivision, central or local authority, shall be taxable only in that Contracting State.

b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other Contracting State.

3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or an administrative subdivision, a central or a local authority thereof.

Article 19
Students or business apprentices

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting 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 Contracting State, provided that such payments arise from sources outside that Contracting State.

2. In respect of grants, scholarships and other similar remuneration and remuneration from employment not covered by paragraph 1, a student or business apprentice referred to in paragraph 1 shall, in addition, be entitled during such education or training to the same exemptions, reliefs or

reductions in respect of taxes available to residents of the Contracting State which he is visiting.

Article 20

Teachers, professors and researchers

1. An individual who is, or immediately before visiting a Contracting State was, a resident of the other Contracting State and is present in the first-mentioned Contracting State for the primary purpose of teaching, giving lectures or conducting research at a university, college or other recognised research institute or other establishment of higher education in that Contracting State shall be exempt from tax in that Contracting State, for a period of two years from the date of his first arrival in the first-mentioned Contracting State, in respect of remuneration for such teaching, lectures or research.
2. The preceding provisions of this Article shall not apply to remuneration which a professor or teacher receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

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 Contracting 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 beneficial owner of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in that other Contracting State.

Article 22

Miscellaneous rules applicable to certain offshore activities

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention where activities (in this Article called “relevant activities”) are carried on offshore in connection with the exploration or exploitation of the sea bed and subsoil and their natural resources situated in a Contracting State.
2. An enterprise of a Contracting State which carries on relevant activities in the other Contracting State shall, subject to paragraph 3 of this Article, be deemed to be carrying on business in that other Contracting State through a permanent establishment situated therein.
3. Relevant activities which are carried on by an enterprise of a Contracting State in the other Contracting State for a period or periods not exceeding in the aggregate 30 days within any period of twelve months shall not constitute the carrying on of business through a permanent establishment situated therein. For the purposes of this paragraph:
 - a) where an enterprise of a Contracting State carrying on relevant activities in the other

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

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

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

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

a) exploration or exploitation rights; or

b) shares (or comparable instruments) deriving their value or the greater part of their value directly or indirectly from such rights,

may be taxed in that other Contracting State.

In this paragraph “exploration or exploitation rights” mean rights to assets to be produced by the exploration or exploitation of the seabed or subsoil or their natural resources in the other Contracting State, including rights to interests in or to the benefit of such assets.

Article 23

Elimination of double taxation

1. Double taxation shall be eliminated as follows:

a) In Ireland, 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):

(i) Kazakhstan tax payable under the laws of Kazakhstan and in accordance with this Convention, whether directly or by deduction, on profits, income or gains from sources within Kazakhstan (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 Kazakhstan tax is computed;

(ii) in the case of a dividend paid by a company which is a resident of Kazakhstan to a company which is a resident of Ireland and which controls directly or indirectly 5 per cent or more of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Kazakhstan tax creditable under the provisions of subparagraph a)(i)) Kazakhstan tax payable by the company in respect of the profits out of which such dividend is paid.

b) in Kazakhstan, where a resident of Kazakhstan derives income which, in accordance

with the provisions of this Convention, may be taxed in Ireland, Kazakhstan shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Ireland.

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

2. Where in accordance with any provision of the Convention income derived by a resident of a Contracting State is exempt from tax in that Contracting State, such Contracting State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

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, under any provision of this Convention (“the provisions”), 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 Contracting State, and not by reference to the full amount thereof, then notwithstanding the provisions, the relief to be allowed in the first-mentioned Contracting State shall apply only to so much of the income or gains as is remitted to or received in that other Contracting 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 Contracting State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the Contracting State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 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 Contracting State.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting 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 Contracting State are or may be subjected.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25

Mutual agreement procedure

1. 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 Contracting 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 of the Contracting State 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 of this Article.

Article 26

Exchange of information

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

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

other purposes under the laws of both Contracting States and the competent authority of the supplying Contracting State authorises such use.

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

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

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

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 27

Assistance in the collection of taxes

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term “revenue claim” as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their administrative subdivisions, central or local authorities, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. When a revenue claim of a Contracting State is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of collection by the competent authority of the other Contracting State. That revenue claim shall be collected by that other Contracting State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that other Contracting State.

4. When a revenue claim of a Contracting State is a claim in respect of which that Contracting State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that Contracting State, be accepted for purposes of taking

measures of conservancy by the competent authority of the other Contracting State. That other Contracting State shall take measures of conservancy in respect of that revenue claim in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other Contracting State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned Contracting State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 shall not, in that Contracting State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that Contracting State by reason of its nature as such. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 shall not, in that Contracting State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned Contracting State, the relevant revenue claim ceases to be:

- a) in the case of a request under paragraph 3, a revenue claim of the first-mentioned Contracting State that is enforceable under the laws of that Contracting State and is owed by a person who, at that time, cannot, under the laws of that Contracting State, prevent its collection, or
- b) in the case of a request under paragraph 4, a revenue claim of the first-mentioned Contracting State in respect of which that Contracting State may, under its laws, take measures of conservancy with a view to ensure its collection,

the competent authority of the first-mentioned Contracting State shall promptly notify the competent authority of the other Contracting State of that fact and, at the option of the other Contracting State, the first-mentioned Contracting State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to carry out measures which would be contrary to public policy (*ordre public*);
- c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
- d) to provide assistance in those cases where the administrative burden for that Contracting State is clearly disproportionate to the benefit to be derived by the other Contracting State.

Article 28

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 29

Entitlement to benefits

Notwithstanding the other provisions of this Convention, a benefit under this 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 this Convention.

Article 30

Entry into force

1. This Convention shall enter into force on the date of the receipt through diplomatic channels of the later of the written notifications, informing that the internal procedures required for the entry into force of this Convention have been completed by the Contracting State.

2. The Convention shall have effect:

a) in Ireland:

(i) in respect of income tax, the universal social charge and capital gains tax, for any year of assessment beginning on or after the first day of January 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 Kazakhstan:

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

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

Article 31

Termination

This Convention is concluded for a period of 5 years and shall be extended automatically for each next calendar year unless either of the Contracting States notifies in writing through diplomatic channels the other Contracting State by at least June 30 of the calendar year its intention to terminate

this Convention.

In such event this Convention shall cease to have effect:

- a) in Ireland:
 - (i) in respect of income tax, the universal social charge and capital gains tax, for any year of assessment beginning on or after the first day of January next following the year in which the notice of termination is given;
 - (ii) in respect of corporation tax, for any financial year beginning on or after the first day of January next following the year in which the notice of termination is given.
- b) in Kazakhstan:
 - (i) in respect of taxes withheld at source, to income derived on or after the first day of January of the calendar year next following the year in which the notice of termination is given;
 - (ii) in respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after the first day of January of the calendar year next following the year in which the notice of termination is given.

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

Done in duplicate at Astana this 26 day of April, 2017, in the Kazakh, Russian and English languages, all texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

**For the Government
of Ireland**

Adrian McDaid

**For the Government of
the Republic of Kazakhstan**

Bakhyt Sultanov

**PROTOCOL TO THE CONVENTION BETWEEN THE GOVERNMENT OF IRELAND AND
THE GOVERNMENT OF THE REPUBLIC OF KAZAKHSTAN FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME**

At the moment of signing the Convention between the Government of Ireland and the Government of the Republic of Kazakhstan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, this day concluded between the Government of Ireland and the Government of the Republic of Kazakhstan, the undersigned, being duly authorised thereto, have agreed upon the following provision which shall be an integral part of the Convention:

It is understood that:

1. With respect to Article 4:

(i) the term “place of registration or incorporation” means place of incorporation in the case of Ireland, place of registration in the case of Kazakhstan;

(ii) a Common Contractual Fund (CCF) established in Ireland shall not be regarded as a resident of Ireland and shall be treated as fiscally transparent for the purposes of granting tax treaty benefits;

2. With respect to Article 7, where the information available to or readily obtainable by the competent authority of a Contracting State is not adequate to determine the profits of a permanent establishment, profits may be calculated in accordance with the tax laws of that Contracting State, provided that the determination of the profits is in accordance with the principles of Article 7;

3. With respect to Articles 10 and 11, in the case of Ireland, the National Treasury Management Agency and the bodies under its management wholly owned by the Government are included in paragraph 3 b) of Article 10 and paragraph 3 b) of Article 11;

4. Nothing in this Convention shall prevent a Contracting State from applying a provision of its domestic law in accordance with the principle set out in Article 29.

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

Done in duplicate at Astana this 26 day of April, 2017, in the Kazakh, Russian and English languages, all texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

**For the Government
of Ireland**

Adrian McDaid

**For the Government of
the Republic of Kazakhstan**

Bakhyt Sultanov