TREATY SERIES 2007
Nº 134

Protocol amending the Convention of 23 July 1990 on the
Elimination of Double Taxation in connection with the
Adjustment of Profits of Associated Enterprises

Done at Brussels on 25 May 1999

Notification of the completion of requirements for entry into force on 11
February 2004

Entered into force on 1 November 2004

Presented to Dáil Éireann by the Minister for Foreign Affairs
PROTOCOL AMENDING THE CONVENTION OF 23 JULY 1990 ON THE ELIMINATION OF DOUBLE TAXATION IN CONNECTION WITH THE ADJUSTMENT OF PROFITS OF ASSOCIATED ENTERPRISES

THE HIGH CONTRACTING PARTIES TO THE TREATY ESTABLISHING THE EUROPEAN COMMUNITY,

Desiring to give effect to Article 293 of the Treaty establishing the European Community, by virtue of which they have undertaken to enter into negotiations with each other with a view to securing for the benefit of their nationals the elimination of double taxation,

Having regard to the Convention of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (1) (hereinafter Arbitration Convention.),

Having regard to the Convention of 21 December 1995 on the accession of the Republic of Austria, the Republic of Finland and the Kingdom of Sweden to the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (2),

Whereas the Arbitration Convention entered into force on 1 January 1995, pursuant to Article 18 thereof; whereas it will expire on 31 December 1999 unless it is extended,

HAVE DECIDED to conclude this Protocol amending the Arbitration Convention, and to this end have designated as their Plenipotentiaries:

THE KINGDOM OF BELGIUM:
Mr Jean-Jacques VISEUR
Minister for Finance;

THE KINGDOM OF DENMARK:
Ms Marianne JELVED
Minister for Economic Affairs and Nordic Co-operation;

THE FEDERAL REPUBLIC OF GERMANY:
Mr Hans EICHEL
Federal Minister for Finance;

THE HELLENIC REPUBLIC:
Mr Yannos PAPANTONIOU
Minister for Economic Affairs;

THE KINGDOM OF SPAIN:
Mr Cristóbal Ricardo MONTORO MORENO
State Secretary for Economic Affairs;

THE FRENCH REPUBLIC:
Mr Dominique STRAUSS-KAHN
Minister for Economic Affairs, Finance and Industry;

IRELAND:
Mr Charlie McCREEVY
Minister for Finance;

THE ITALIAN REPUBLIC:
Mr Vincenzo VISCO
Minister for Finance;

THE GRAND DUCHY OF LUXEMBOURG:
Mr Jean-Claude JUNCKER
Prime Minister, Ministre d'Etat, Minister for Finance, Minister for Labour and Employment;

THE KINGDOM OF THE NETHERLANDS:
Mr Wilhelms Adrianus Franciscus Gabriël (Willem) VERMEEND
State Secretary for Finance;

THE REPUBLIC OF AUSTRIA:
Mr Rudolf EDLINGER
Federal Minister for Finance;

THE PORTUGUESE REPUBLIC:
Mr António Luciano Pacheco DE SOUSA FRANCO
Minister for Finance;

THE REPUBLIC OF FINLAND:
Mr Sauli NIINISTÖ
Deputy Prime Minister and Minister for Finance;

THE KINGDOM OF SWEDEN:
Mr Bosse RINGHOLM
Minister for Finance;

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND:
Sir Stephen WALL, K.C.M.G., L.V.O.
Ambassador, permanent Representative of the United Kingdom of Great Britain and Northern Ireland to the European Union;

WHO, meeting within the Council and having exchanged their Full Powers, found in good and due form,

HAVE AGREED as follows:

Article 1

The Convention of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises is hereby amended as follows: Article 20 shall read as follows:
‘Article 20

This Convention is concluded for a period of five years. It shall be extended for further periods of five years at a time, unless a Contracting State informs the Secretary-General of the Council of the European Union of its objection thereto in writing at least six months before the expiry of any five year period.’

Article 2

1. This Protocol shall be subject to ratification, acceptance or approval by the Signatory States. The instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the Council of the European Union.

2. The Secretary-General of the Council of the European Union shall notify the Signatory States of:

(a) the deposit of each instrument of ratification, acceptance or approval;

(b) the date on which this Protocol will enter into force.

Article 3

1. This Protocol shall enter into force on the first day of the third month following the deposit of the instrument of ratification, acceptance or approval by the last Signatory State to take this step.

2. This Protocol shall take effect as from 1 January 2000.

3. The period beginning on 1 January 2000 and ending on the date of entry into force of this Protocol shall not be taken into account in determining whether a case has been presented within the time specified in Article 6(1) of the Arbitration Convention.

Article 4

This Protocol, drawn up in a single original in the Danish, Dutch, English, Finnish, French, German, Greek, Irish, Italian, Portuguese, Spanish and Swedish languages, all twelve texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Union. The Secretary-General shall transmit a certified copy to the Government of each Signatory State.

In witness whereof the undersigned Plenipotentiaries have signed this Protocol.

DONE at Brussels, on the twenty-fifth day of May in the year one thousand nine hundred and ninety-nine.
THE REPRESENTATIVES OF THE GOVERNMENTS OF THE MEMBER STATES, MEETING WITHIN THE Council on 25 May 1999,

Recalling the conclusions of 19 May 1998 on the extension of the Convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises (the ‘Arbitration Convention’), in which they agreed that the Arbitration Convention should be extended for a further period of five years from the date of its expiry and that after the end of that period it should automatically be extended for further periods of five years at a time, provided that no Contracting State objected;

HAVE AGREED on the need to extend the Arbitration Convention for a further period of five years from 1 January 2000;

HAVE PROCEEDED to sign the Protocol amending the Convention of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises.

DONE at Brussels, on the twenty-fifth day of May in the year one thousand nine hundred and ninety-nine.