

No. 47372

**Lithuania
and
Republic of Korea**

Convention between the Government of the Republic of Lithuania and the Government of the Republic of Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Seoul, 20 April 2006

Entry into force: *14 July 2007 by notification, in accordance with article 28*

Authentic texts: *English, Korean and Lithuanian*

Registration with the Secretariat of the United Nations: *Lithuania, 21 April 2010*

**Lituanie
et
République de Corée**

Convention entre le Gouvernement de la République de Lituanie et le Gouvernement de la République de Corée tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Séoul, 20 avril 2006

Entrée en vigueur : *14 juillet 2007 par notification, conformément à l'article 28*

Textes authentiques : *anglais, coréen et lituanien*

Enregistrement auprès du Secrétariat des Nations Unies : *Lituanie, 21 avril 2010*

[ENGLISH TEXT – TEXTE ANGLAIS]

CONVENTION
BETWEEN
THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA
AND THE GOVERNMENT OF THE REPUBLIC OF KOREA

FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

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

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 political subdivisions 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, as well as taxes on capital appreciation.

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

a) in Korea:

- (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the special tax for rural development; and
 - (iv) the inhabitant tax;
- (hereinafter referred to as "Korean tax");

b) in Lithuania:

- (i) the tax on profits (*pelno mokestis*); and
 - (ii) the tax on income (*pajamu mokestis*);
- (hereinafter referred to as "Lithuanian tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws within a reasonable period of time after such changes.

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, means the territory of the Republic of Korea, including its territorial sea, and any area adjacent to the territorial sea of the Republic of Korea which, in accordance with international law, has been or may hereafter be designated under the laws of the Republic of Korea as an area within which the sovereign rights or jurisdiction of the Republic of Korea with respect to the waters, the sea-bed and subsoil, and their natural resources may be exercised;
- b) the term "Lithuania" means the Republic of Lithuania and, when used in the geographical sense, means the territory of the Republic of Lithuania and any other area adjacent to the territorial sea of the Republic of Lithuania within which under the laws of the Republic of Lithuania and in accordance with international law, the rights of Lithuania may be exercised with respect to the sea-bed and its subsoil and their natural resources;
- c) the terms "a Contracting State" and "the other Contracting State" mean Lithuania or Korea, as the context requires;
- d) the term "tax" means Lithuanian tax or Korean 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 "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 Korea, the Minister of Finance and Economy or his authorised representative;
 - (ii) in Lithuania, the Minister of Finance or his authorised representative;
- j) the term "national" means:
 - (i) any individual possessing the nationality 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.

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 State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that 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 State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement having regard to its place of effective management, place of main or head office, place of incorporation, or any other relevant factors.

Article 5

Permanent establishment

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

2. The term "permanent establishment" includes especially:

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

3. A building site, a construction, assembly or installation project or a supervisory activity connected therewith constitutes a permanent establishment only if such site, project or activity lasts for a period of more than nine 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 of 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.