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RECUEIL DE LEGISLATION

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Sommaire

Loi du 1er juillet 2014 portant

1. **approbation du Protocole, signé à Bruxelles, le 9 juillet 2013 modifiant la Convention entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Royaume de Danemark tendant à éviter les doubles impositions et à établir des règles d'assistance administrative réciproque en matière d'impôts sur le revenu et sur la fortune;**
2. **approbation du Protocole, signé à Luxembourg, le 20 juin 2013, modifiant la Convention entre le Grand-Duché de Luxembourg et la République de Slovénie tendant à éviter les doubles impositions en matière d'impôts sur le revenu et sur la fortune, signée à Ljubljana, le 2 avril 2001;**
3. **approbation de la Convention entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Royaume de l'Arabie Saoudite tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, et le Protocole y relatif, signés à Riyad, le 7 mai 2013;**
4. **approbation de la Convention entre le Grand-Duché de Luxembourg et Guernesey tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, et le Protocole y relatif, signés à Londres, le 10 mai 2013;**
5. **approbation de la Convention entre le Grand-Duché de Luxembourg et l'Ile de Man tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, et le Protocole y relatif, signés à Londres, le 8 avril 2013;**
6. **approbation de la Convention entre le Grand-Duché de Luxembourg et Jersey tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, ainsi que le Protocole et l'échange de lettres y relatifs, signés à Londres, le 17 avril 2013;**
7. **approbation de la Convention entre le Grand-Duché de Luxembourg et la République tchèque tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, et le Protocole y relatif, signés à Bruxelles, le 5 mars 2013;**

et prévoyant la procédure y applicable en matière d'échange de renseignements sur demande.

Nous Henri, Grand-Duc de Luxembourg, Duc de Nassau,

Notre Conseil d'Etat entendu;

De l'assentiment de la Chambre des Députés;

Vu la décision de la Chambre des Députés du 5 juin 2014 et celle du Conseil d'Etat du 24 juin 2014 portant qu'il n'y a pas lieu à second vote;

Avons ordonné et ordonnons:

Art. 1er. Sont approuvés:

- le Protocole, signé à Bruxelles, le 9 juillet 2013 modifiant la Convention entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Royaume de Danemark tendant à éviter les doubles impositions et à établir des règles d'assistance administrative réciproque en matière d'impôts sur le revenu et sur la fortune;
- le Protocole, signé à Luxembourg, le 20 juin 2013, modifiant la Convention entre le Grand-Duché de Luxembourg et la République de Slovénie tendant à éviter les doubles impositions en matière d'impôts sur le revenu et sur la fortune, signée à Ljubljana, le 2 avril 2001;
- la Convention entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Royaume de l'Arabie Saoudite tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, et le Protocole y relatif, signés à Riyad, le 7 mai 2013;
- la Convention entre le Grand-Duché de Luxembourg et Guernesey tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, et le Protocole y relatif, signés à Londres, le 10 mai 2013;
- la Convention entre le Grand-Duché de Luxembourg et l'Ile de Man tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, et le Protocole y relatif, signés à Londres, le 8 avril 2013;
- la Convention entre le Grand-Duché de Luxembourg et Jersey tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, ainsi que le Protocole et l'échange de lettres y relatifs, signés à Londres, le 17 avril 2013;
- la Convention entre le Grand-Duché de Luxembourg et la République tchèque tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, et le Protocole y relatif, signés à Bruxelles, le 5 mars 2013.

Art. 2. Les demandes de renseignements introduites par application de l'échange de renseignements prévu par les conventions visées par l'article 1er sont traitées suivant la procédure instituée par les articles 2 à 6 de la loi du 31 mars 2010 portant approbation des conventions fiscales et prévoyant la procédure y applicable en matière d'échange de renseignements sur demande.

Art. 3. La référence à la présente loi peut se faire sous une forme abrégée en recourant à l'intitulé suivant: «Loi du 1er juillet 2014 portant approbation de conventions fiscales et prévoyant la procédure y applicable en matière d'échange de renseignements sur demande».

Mandons et ordonnons que la présente loi soit insérée au Mémorial pour être exécutée et observée par tous ceux que la chose concerne.

Le Ministre des Finances,
Pierre Gramegna

Palais de Luxembourg, le 1er juillet 2014.
Henri

Doc. parl. 6633, sess. extraord. 2013-2014.

PROTOCOLE

MODIFIANT LA CONVENTION

ENTRE

LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG

ET

LE GOUVERNEMENT DU ROYAUME DE DANEMARK

TENDANT À ÉVITER LES DOUBLES IMPOSITIONS ET À

ÉTABLIR DES RÈGLES D'ASSISTANCE

ADMINISTRATIVE RÉCIPROQUE EN MATIÈRE

D'IMPÔTS SUR LE REVENU ET SUR LA FORTUNE

Le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Royaume de Danemark,

désireux de conclure un Protocole modifiant la Convention entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Royaume de Danemark tendant à éviter les doubles impositions et à établir des règles d'assistance administrative réciproque en matière d'impôts sur le revenu et sur la fortune et le Protocole final, signés à Luxembourg, le 17 novembre 1980, («la Convention»), tels que modifiés par le Protocole signé à Luxembourg le 4 juin 2009,

sont convenus de ce qui suit:

Article 1

L'article 18 (Pensions et prestations de la sécurité sociale publique) de la Convention est supprimé et remplacé par celui qui suit:

«Article 18

Pensions, paiements de la sécurité sociale et paiements similaires

1. Les paiements reçus par une personne physique qui est un résident d'un État contractant, en application de la législation sur la sécurité sociale de l'autre État contractant, ou en application de tout autre régime par prélèvement sur des fonds constitués par cet autre État ou l'une de ses subdivisions politiques ou collectivités locales ne sont imposables que dans cet autre État.
2. Sous réserve des dispositions des paragraphes 1 et 3 du présent article et du paragraphe 2 de l'article 19, les pensions et autres rémunérations similaires provenant d'un État contractant et payées à un résident de l'autre État contractant, au titre d'un emploi antérieur ou non, ne sont imposables que dans cet autre État. Toutefois, ces pensions et autres rémunérations similaires sont imposables dans le premier État lorsque:
   a) les cotisations payées par le bénéficiaire au régime complémentaire de pension ont été déduites du revenu imposable du bénéficiaire dans le premier État en application de la législation de cet État; ou
   b) les cotisations payées par un employeur n'ont pas constitués pour le bénéficiaire un revenu imposable dans le premier État en application de la législation de cet État.
3. Les pensions et autres rémunérations similaires (y compris les versements forfaitaires) provenant d'un État contractant et payées à un résident de l'autre État contractant, ne sont imposables que dans le premier État si ces paiements découlent des cotisations, allocations ou primes d'assurance versées à un régime complémentaire de pension par le bénéficiaire ou pour son compte, ou des dotations faites par l'employeur à un régime interne, et si ces cotisations, allocations, primes d'assurance ou dotations ont été effectivement soumises à l'impôt dans le premier État contractant.»

Article 2

Un Protocole est ajouté à la Convention avec la disposition suivante:

«Protocole

Le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Royaume de Danemark,

sont convenus lors de la signature du Protocole modifiant la Convention entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Royaume de Danemark tendant à éviter les doubles impositions et à établir des règles d'assistance administrative réciproque en matière d'impôts sur le revenu et sur la fortune et le Protocole final, signés à Luxembourg, le 17 novembre 1980, («la Convention»), tels que modifiés par le Protocole signé à Luxembourg le 4 juin 2009, de la disposition suivante qui forme partie intégrante de la Convention:

En ce qui concerne le paragraphe 1 de l'article 18:

Il est entendu que les paiements reçus en application de tout autre régime par prélèvement sur des fonds constitués par un État contractant comprennent en particulier les indemnités de chômage, les indemnités de maladie, les indemnités de maternité et les aides d'éducation.»

Article 3

En ce qui concerne une personne physique qui:

1. était un résident du Luxembourg à la date de signature du présent Protocole, et
2. recevait à cette date des pensions qui n'étaient imposables qu'au Luxembourg conformément au paragraphe 1 de l'article 18 de la Convention,

ces pensions ne sont, nonobstant les dispositions de l'article 1 du présent Protocole, imposables qu'au Luxembourg aussi longtemps que cette personne physique reste un résident du Luxembourg.

Article 4

1. Chacun des États contractants notifiera à l'autre par la voie diplomatique l'accomplissement des procédures constitutionnelles requises pour la mise en vigueur du présent Protocole.
2. Le Protocole entrera en vigueur à la date de la dernière des notifications visées au paragraphe 1 et ses dispositions seront applicables, en ce qui concerne les impôts, à l'année d'imposition qui suit immédiatement l'année de l'entrée en vigueur du Protocole et aux années d'imposition subséquentes.

En foi de quoi, les soussignés, dûment autorisés à cet effet par leurs gouvernements respectifs, ont signé le présent Protocole.

Fait en deux exemplaires, à Bruxelles, le 9 juillet 2013 en langues française et danoise, les deux textes faisant également foi.

Pour le Gouvernement
du Grand-Duché de Luxembourg
(signature)

Pour le Gouvernement
du Royaume de Danemark
(signature)

PROTOCOLE
MODIFIANT LA CONVENTION
ENTRE
LE GRAND-DUCHÉ DE LUXEMBOURG
ET
LA RÉPUBLIQUE DE SLOVÉNIE
TENDANT À ÉVITER LES DOUBLES IMPOSITIONS
EN MATIÈRE D'IMPÔTS SUR LE REVENU
ET SUR LA FORTUNE,
SIGNÉE À LJUBLJANA LE 2 AVRIL 2001

Le Grand-Duché de Luxembourg et la République de Slovénie

Désireux de conclure un Protocole modifiant la Convention entre le Grand-Duché de Luxembourg et la République de Slovénie tendant à éviter les doubles impositions en matière d'impôts sur le revenu et sur la fortune, signée à Ljubljana, le 2 avril 2001, (ci-après dénommée «la Convention»),

Sont convenus de ce qui suit:

Article 1

L'article 27 (ÉCHANGE DE RENSEIGNEMENTS) de la Convention est supprimé et remplacé par celui qui suit:

«Article 27

ÉCHANGE DE RENSEIGNEMENTS

1. Les autorités compétentes des États contractants échangent les renseignements vraisemblablement pertinents pour appliquer les dispositions de la présente Convention ou pour l'administration ou l'application de la législation interne relative aux impôts de toute nature ou dénomination perçus pour le compte des États contractants, de leurs subdivisions politiques ou de leurs collectivités locales dans la mesure où l'imposition qu'elle prévoit n'est pas contraire à la Convention. L'échange de renseignements n'est pas restreint par les articles 1 et 2.
2. Les renseignements reçus en vertu du paragraphe 1 par un État contractant sont tenus secrets de la même manière que les renseignements obtenus en application de la législation interne de cet État et ne sont communiqués qu'aux personnes ou autorités (y compris les tribunaux et organes administratifs) concernées par l'établissement ou le recouvrement des impôts mentionnés au paragraphe 1, par les procédures ou poursuites concernant ces impôts, par les décisions sur les recours relatifs à ces impôts, ou par le contrôle de ce qui précède. Ces personnes ou autorités n'utilisent ces renseignements qu'à ces fins. Elles peuvent révéler ces renseignements au cours d'audiences publiques de tribunaux ou dans des jugements.
3. Les dispositions des paragraphes 1 et 2 ne peuvent en aucun cas être interprétées comme imposant à un État contractant l'obligation:
   a) de prendre des mesures administratives dérogeant à sa législation et à sa pratique administrative ou à celles de l'autre État contractant;
   b) de fournir des renseignements qui ne pourraient être obtenus sur la base de sa législation ou dans le cadre de sa pratique administrative normale ou de celles de l'autre État contractant;
   c) de fournir des renseignements qui révéleraient un secret commercial, industriel, professionnel ou un procédé commercial ou des renseignements dont la communication serait contraire à l'ordre public.
4. Si des renseignements sont demandés par un État contractant conformément à cet article, l'autre État contractant utilise les pouvoirs dont il dispose pour obtenir les renseignements demandés, même s'il n'en a pas besoin à ses propres fins fiscales. L'obligation qui figure dans la phrase précédente est soumise aux limitations prévues au paragraphe 3 sauf si ces limitations sont susceptibles d'empêcher un État contractant de communiquer des renseignements uniquement parce que ceux-ci ne présentent pas d'intérêt pour lui dans le cadre national.
5. En aucun cas les dispositions du paragraphe 3 ne peuvent être interprétées comme permettant à un État contractant de refuser de communiquer des renseignements uniquement parce que ceux-ci sont détenus par une banque, un autre établissement financier, un mandataire ou une personne agissant en tant qu'agent ou fiduciaire ou parce que ces renseignements se rattachent aux droits de propriété d'une personne.»

Article 2

Un Protocole additionnel est ajouté à la Convention qui se lit comme suit:

«Protocole additionnel à la Convention

Au moment de procéder à la signature du Protocole modifiant la Convention, les deux parties sont convenues que les dispositions suivantes forment partie intégrante de la Convention:

En référence à l'article 27:

1. Il est convenu que l'autorité compétente de l'État requis fournit sur demande de l'autorité compétente de l'État requérant les renseignements aux fins visées à l'article 27.
2. L'autorité compétente de l'État requérant fournit les informations suivantes à l'autorité compétente de l'État requis lorsqu'elle soumet une demande de renseignements en vertu de la Convention, afin de démontrer la pertinence vraisemblable des renseignements demandés:
   a) l'identité de la personne faisant l'objet d'un contrôle ou d'une enquête;
   b) les indications concernant les renseignements recherchés, notamment leur nature et la forme sous laquelle l'État requérant souhaite recevoir les renseignements de l'État requis;
   c) le but fiscal dans lequel les renseignements sont demandés;
   d) les raisons qui donnent à penser que les renseignements demandés sont détenus dans l'État requis ou sont en la possession ou sous le contrôle d'une personne relevant de la compétence de l'État requis;
   e) dans la mesure où ils sont connus, les nom et adresse de toute personne dont il y a lieu de penser qu'elle est en possession des renseignements demandés;
   f) une déclaration précisant que l'État requérant a utilisé pour obtenir les renseignements tous les moyens disponibles sur son propre territoire, hormis ceux qui susciteraient des difficultés disproportionnées.»

Article 3

1. Le présent Protocole sera ratifié conformément aux procédures applicables au Luxembourg et en Slovénie. Chacun des États contractants notifiera à l'autre par écrit, par la voie diplomatique, l'accomplissement des procédures applicables respectives.
2. Le Protocole entrera en vigueur à la date de réception de la dernière des notifications visées au paragraphe 1. Les dispositions du présent Protocole seront applicables aux années d'imposition commençant le ou après le 1er janvier de l'année civile suivant immédiatement l'année de l'entrée en vigueur du présent Protocole.

En foi de quoi, les soussignés, dûment autorisés à cet effet, ont signé le présent Protocole.

Fait en deux exemplaires, à Luxembourg, le 20 juin 2013 en langues française, slovène et anglaise, tous les textes faisant également foi.

Pour le Grand-Duché de Luxembourg
(signature)

Pour la République de Slovénie
(signature)

CONVENTION ENTRE LE GOUVERNEMENT DU GRAND-DUCHÉ DE LUXEMBOURG ET LE GOUVERNEMENT DU ROYAUME DE L'ARABIE SAOUDITE TENDANT À ÉVITER LES DOUBLES IMPOSITIONS ET À PRÉVENIR LA FRAUDE FISCALE EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LA FORTUNE

Le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Royaume de l'Arabie Saoudite

Désireux de conclure une Convention tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune,

Sont convenus de ce qui suit:

Article 1

PERSONNES VISÉES

La présente Convention s'applique aux personnes qui sont des résidents d'un État contractant ou des deux États contractants.

Article 2

IMPÔTS VISÉS

1. La présente Convention s'applique aux impôts sur le revenu et sur la fortune perçus pour le compte d'un État contractant, de ses subdivisions administratives ou de ses collectivités locales, quel que soit le système de perception.

2. Sont considérés comme impôts sur le revenu et sur la fortune les impôts perçus sur le revenu total, sur la fortune totale, ou sur des éléments du revenu ou de la fortune, y compris les impôts sur les gains provenant de l'aliénation de biens mobiliers ou immobiliers, les impôts sur le montant global des salaires payés par les entreprises, ainsi que les impôts sur les plus-values.

3. Les impôts actuels auxquels s'applique la présente Convention sont notamment:

a) en ce qui concerne le Royaume de l'Arabie Saoudite:

(i) le Zakat; et

(ii) l'impôt sur le revenu y compris l'impôt sur les investissements en gaz naturel;

(ci-après dénommés «impôt saoudien»);

b) au Grand-Duché de Luxembourg:

(i) l'impôt sur le revenu des personnes physiques;

(ii) l'impôt sur le revenu des collectivités;

(iii) l'impôt sur la fortune; et

(iv) l'impôt commercial communal;

(ci-après dénommés «impôt luxembourgeois»).

4. La présente Convention s'applique aussi aux impôts de nature identique ou analogue qui seraient établis après la date de signature de la présente Convention et qui s'ajouteraient aux impôts actuels ou qui les remplaceraient. Les autorités compétentes des États contractants se communiquent les modifications significatives apportées à leurs législations fiscales respectives.

Article 3

DÉFINITIONS GÉNÉRALES

1. Au sens de la présente Convention, à moins que le contexte n'exige une interprétation différente:

a) l'expression «Royaume de l'Arabie Saoudite» désigne le territoire du Royaume de l'Arabie Saoudite qui comprend également les zones en dehors des eaux territoriales, sur lesquelles le Royaume de l'Arabie Saoudite exerce ses droits souverains et son autorité judiciaire dans leurs eaux, lit de mer, sous-sol et ressources naturelles en vertu de sa législation et du droit international;

b) le terme «Luxembourg» désigne le Grand-Duché de Luxembourg et, lorsqu'il est employé dans un sens géographique, il désigne le territoire du Grand-Duché de Luxembourg;

c) les expressions «un État contractant» et «l'autre État contractant» désignent, suivant le contexte, le Royaume de l'Arabie Saoudite ou le Grand-Duché de Luxembourg;

d) le terme «personne» comprend les personnes physiques, les sociétés et tous autres groupements de personnes, y compris l'État, ses subdivisions administratives ou autorités locales;

e) le terme «société» désigne toute personne morale ou toute entité qui est considérée comme une personne morale aux fins d'imposition;

f) les expressions «entreprise d'un État contractant» et «entreprise de l'autre État contractant» désignent respectivement une entreprise exploitée par un résident d'un État contractant et une entreprise exploitée par un résident de l'autre État contractant;

g) l'expression «trafic international» désigne tout transport effectué par un navire ou un aéronef exploité par une entreprise dont le siège de direction effective est situé dans un État contractant, sauf lorsque le navire ou l'aéronef n'est exploité qu'entre des points situés dans l'autre État contractant;

h) l'expression «autorité compétente» désigne:

(i) en ce qui concerne le Royaume de l'Arabie Saoudite, le Ministère des Finances représenté par le Ministre des Finances ou son représentant autorisé;

(ii) en ce qui concerne le Luxembourg, le Ministre des Finances ou son représentant autorisé;

i) le terme «national» désigne:

(i) toute personne physique qui possède la nationalité d'un État contractant;

(ii) toute personne morale, société de personnes ou association constituée conformément à la législation en vigueur dans un État contractant.

2. Pour l'application de la présente Convention à un moment donné par un État contractant, tout terme ou expression qui n'y est pas défini a, sauf si le contexte exige une interprétation différente, le sens que lui attribue, à ce moment, le droit de cet État concernant les impôts auxquels s'applique la présente Convention, le sens attribué à ce terme ou expression par le droit fiscal de cet État prévalant sur le sens que lui attribuent les autres branches du droit de cet État.

Article 4

RÉSIDENT

1. Au sens de la présente Convention, l'expression «résident d'un État contractant» désigne toute personne qui, en vertu de la législation de cet État, est assujettie à l'impôt dans cet État, en raison de son domicile, de sa résidence, de

son lieu d'enregistrement, de son siège de direction ou de tout autre critère de nature analogue et s'applique aussi à cet État ainsi qu'à toutes ses subdivisions administratives ou à ses collectivités locales. Toutefois, cette expression ne comprend pas les personnes qui ne sont assujetties à l'impôt dans cet État que pour les revenus de sources situées dans cet État ou pour la fortune qui y est située.

2. Lorsque, selon les dispositions du paragraphe 1 du présent article, une personne physique est un résident des deux États contractants, sa situation est réglée de la manière suivante:

a) cette personne est considérée comme un résident seulement de l'État contractant où elle dispose d'un foyer d'habitation permanent; si elle dispose d'un foyer d'habitation permanent dans les deux États contractants, elle est considérée comme un résident seulement de l'État contractant avec lequel ses liens personnels et économiques sont les plus étroits (centre des intérêts vitaux);

b) si l'État contractant où cette personne a le centre de ses intérêts vitaux ne peut pas être déterminé, ou si elle ne dispose d'un foyer d'habitation permanent dans aucun des États contractants, elle est considérée comme un résident seulement de l'État contractant où elle séjourne de façon habituelle;

c) si cette personne séjourne de façon habituelle dans les deux États contractants ou si elle ne séjourne de façon habituelle dans aucun d'eux, elle est considérée comme un résident seulement de l'État contractant dont elle possède la nationalité;

d) si cette personne possède la nationalité des deux États contractants ou si elle ne possède la nationalité d'aucun d'eux, les autorités compétentes des États contractants tranchent la question d'un commun accord.

3. Lorsque, selon les dispositions du paragraphe 1 du présent article, une personne autre qu'une personne physique est un résident des deux États contractants, elle est considérée comme un résident seulement de l'État où son siège de direction effective est situé.

Article 5

ÉTABLISSEMENT STABLE

1. Au sens de la présente Convention, l'expression «établissement stable» désigne une installation fixe d'affaires par l'intermédiaire de laquelle une entreprise exerce tout ou partie de son activité.

2. L'expression «établissement stable» comprend notamment:

a) un siège de direction,

b) une succursale,

c) un bureau,

d) une usine,

e) un atelier et

f) tout lieu d'extraction de ressources naturelles.

3. L'expression «établissement stable» comprend également:

a) un chantier de construction, de dragage ou de montage ou des activités de surveillance s'y exerçant, mais seulement lorsque ce chantier ou ces activités ont une durée supérieure à 6 mois,

b) la fourniture de services, y compris les services de consultants, par une entreprise agissant par l'intermédiaire de salariés ou d'autre personnel engagé par l'entreprise à cette fin, mais seulement lorsque des activités de cette nature se poursuivent (pour le même projet ou un projet connexe) dans un État contractant pendant une période ou des périodes excédant 6 mois durant toute période de 12 mois.

4. Nonobstant les dispositions précédentes du présent article, on considère qu'il n'y a pas «établissement stable» si:

a) il est fait usage d'installations aux seules fins de stockage, d'exposition ou de livraison de marchandises appartenant à l'entreprise;

b) des marchandises appartenant à l'entreprise sont entreposées aux seules fins de stockage, d'exposition ou de livraison;

c) des marchandises appartenant à l'entreprise sont entreposées aux seules fins de transformation par une autre entreprise;

d) une installation fixe d'affaires est utilisée aux seules fins d'acheter des marchandises ou de réunir des informations, pour l'entreprise;

e) une installation fixe d'affaires est utilisée aux seules fins d'exercer, pour l'entreprise, toute autre activité de caractère préparatoire ou auxiliaire;

f) une installation fixe d'affaires est utilisée aux seules fins de l'exercice cumulé d'activités mentionnées aux alinéas a) à e), à condition que l'activité d'ensemble de l'installation fixe d'affaires résultant de ce cumul garde un caractère préparatoire ou auxiliaire;

g) la vente de marchandises appartenant à l'entreprise exposées lors d'une foire ou exposition occasionnelle et temporaire après la fermeture de ladite foire ou exposition.

5. Nonobstant les dispositions des paragraphes 1 et 2 du présent article, lorsqu'une personne - autre qu'un agent jouissant d'un statut indépendant auquel s'applique le paragraphe 6 du présent article - agit dans un État contractant pour le compte d'une entreprise de l'autre État contractant et dispose dans un État contractant de pouvoirs qu'elle y

exerce habituellement lui permettant de conclure des contrats au nom de l'entreprise, cette entreprise est considérée comme ayant un établissement stable dans cet État contractant pour toutes les activités que cette personne exerce pour l'entreprise, à moins que les activités de cette personne ne soient limitées à celles qui sont mentionnées au paragraphe 4 du présent article et qui, si elles étaient exercées par l'intermédiaire d'une installation fixe d'affaires, ne permettraient pas de considérer cette installation comme un établissement stable selon les dispositions de ce paragraphe.

6. Une entreprise d'un État contractant n'est pas considérée comme ayant un établissement stable dans l'autre État contractant du seul fait qu'elle y exerce son activité par l'entremise d'un courtier, d'un commissionnaire général ou de tout autre agent jouissant d'un statut indépendant, à condition que ces personnes agissent dans le cadre ordinaire de leur activité.

7. Le fait qu'une société qui est un résident d'un État contractant contrôle ou est contrôlée par une société qui est un résident de l'autre État contractant ou qui y exerce son activité (que ce soit par l'intermédiaire d'un établissement stable ou non) ne suffit pas, en lui-même, à faire de l'une quelconque de ces sociétés un établissement stable de l'autre.

Article 6

REVENUS IMMOBILIERS

1. Les revenus qu'un résident d'un État contractant tire de biens immobiliers (y compris les revenus des exploitations agricoles ou forestières) situés dans l'autre État contractant, sont imposables dans cet autre État contractant.

2. L'expression «biens immobiliers» a le sens que lui attribue le droit de l'État contractant où les biens considérés sont situés. L'expression comprend en tous cas les accessoires, le cheptel mort ou vif des exploitations agricoles et forestières, les droits auxquels s'appliquent les dispositions du droit privé concernant la propriété foncière, l'usufruit des biens immobiliers et les droits à des paiements variables ou fixes pour l'exploitation ou la concession de l'exploitation de gisements minéraux, sources et autres ressources naturelles; les navires, bateaux et aéronefs ne sont pas considérés comme des biens immobiliers.

3. Les dispositions du paragraphe 1 du présent article s'appliquent aux revenus provenant de l'exploitation directe, de la location ou de l'affermage, ainsi que de toute autre forme d'exploitation des biens immobiliers.

4. Les dispositions des paragraphes 1 et 3 du présent article s'appliquent également aux revenus provenant des biens immobiliers d'une entreprise ainsi qu'aux revenus des biens immobiliers servant à l'exercice d'une profession indépendante.

Article 7

BÉNÉFICES DES ENTREPRISES

1. Les bénéfices d'une entreprise d'un État contractant ne sont imposables que dans cet État, à moins que l'entreprise n'exerce son activité dans l'autre État contractant par l'intermédiaire d'un établissement stable qui y est situé. Si l'entreprise exerce son activité d'une telle façon, les bénéfices de l'entreprise sont imposables dans l'autre État, mais uniquement dans la mesure où ils sont imputables à cet établissement stable.

2. Sous réserve des dispositions du paragraphe 3 du présent article, lorsqu'une entreprise d'un État contractant exerce son activité dans l'autre État contractant par l'intermédiaire d'un établissement stable qui y est situé, il est imputé, dans chaque État contractant, à cet établissement stable les bénéfices qu'il aurait pu réaliser s'il avait constitué une entreprise distincte exerçant des activités identiques ou analogues dans des conditions identiques ou analogues et traitant en toute indépendance avec l'entreprise dont il constitue un établissement stable.

3. Pour déterminer les bénéfices d'un établissement stable, sont admises en déduction les dépenses exposées aux fins poursuivies par cet établissement stable, y compris les dépenses de direction et les frais généraux d'administration ainsi exposés, soit dans l'État où est situé cet établissement stable, soit ailleurs. Toutefois, aucune déduction n'est admise pour les sommes qui seraient, le cas échéant, versées (à d'autres titres que le remboursement de frais encourus) par l'établissement stable au siège central de l'entreprise ou à l'un quelconque de ses autres bureaux, comme redevances, honoraires ou autres paiements similaires, pour l'usage de brevets ou d'autres droits, ou comme commission pour des services précis rendus ou pour une activité de direction ou, sauf dans le cas d'une entreprise bancaire, comme revenus de créances sur des sommes prêtées à l'établissement stable. De même, il n'est pas tenu compte, dans le calcul des bénéfices d'un établissement stable, des sommes (autres que le remboursement des frais encourus) portées par l'établissement stable au débit du siège central de l'entreprise ou de l'un quelconque de ses autres bureaux, comme redevances, honoraires ou autres paiements similaires, pour l'usage de brevets ou d'autres droits, ou comme commission pour des services précis rendus ou pour une activité de direction ou, sauf dans le cas d'une entreprise bancaire, comme revenus de créances sur des sommes prêtées au siège central de l'entreprise ou à l'un quelconque de ses autres bureaux.

4. Nonobstant les autres dispositions, les bénéfices qu'une entreprise d'un État contractant tire de l'exportation de marchandises dans l'autre État contractant ne sont pas imposables dans cet autre État contractant. Lorsque les contrats d'exportation comprennent d'autres activités exercées par l'intermédiaire d'un établissement stable dans l'autre État contractant les bénéfices provenant de telles activités sont imposables dans l'autre État contractant.

5. L'expression «bénéfices des entreprises» comprend mais n'est pas limitée aux revenus tirés d'activités de fabrication, commerciales, bancaires ou d'assurances, d'opérations de transport intérieur, de la fourniture de services et de la location de biens mobiliers corporels. Une telle expression ne comprend pas l'exercice par une personne physique d'une profession dépendante ou indépendante.

6. Chaque État contractant applique son droit interne en ce qui concerne les activités d'assurance.

7. Lorsque les bénéfices comprennent des éléments de revenu traités séparément dans d'autres articles de la présente Convention, les dispositions de ces articles ne sont pas affectées par les dispositions du présent article.

Article 8

NAVIGATION MARITIME ET AÉRIENNE

1. Les bénéfices provenant de l'exploitation, en trafic international, de navires ou d'aéronefs ne sont imposables que dans l'État contractant où le siège de direction effective de l'entreprise est situé.

2. Si le siège de direction effective d'une entreprise de navigation maritime est à bord d'un navire, ce siège est considéré comme situé dans l'État contractant où se trouve le port d'attache de ce navire, ou à défaut de port d'attache, dans l'État contractant dont l'exploitant du navire est un résident.

3. Les dispositions du paragraphe 1 du présent article s'appliquent aussi aux bénéfices provenant de la participation à un pool, une exploitation en commun ou un organisme international d'exploitation.

Article 9

ENTREPRISES ASSOCIÉES

1. Lorsque

   a) une entreprise d'un État contractant participe directement ou indirectement à la direction, au contrôle ou au capital d'une entreprise de l'autre État contractant, ou que

   b) les mêmes personnes participent directement ou indirectement à la direction, au contrôle ou au capital d'une entreprise d'un État contractant et d'une entreprise de l'autre État contractant,

et que, dans l'un et l'autre cas, les deux entreprises sont, dans leurs relations commerciales ou financières, liées par des conditions convenues ou imposées, qui diffèrent de celles qui seraient convenues entre des entreprises indépendantes, les bénéfices qui, sans ces conditions, auraient été réalisés par l'une des entreprises, mais n'ont pu l'être en fait à cause de ces conditions, peuvent être inclus dans les bénéfices de cette entreprise et imposés en conséquence.

2. Lorsqu'un État contractant inclut dans les bénéfices d'une entreprise de cet État - et impose en conséquence - des bénéfices sur lesquels une entreprise de l'autre État contractant a été imposée dans cet autre État, et que les bénéfices ainsi inclus sont des bénéfices qui auraient été réalisés par l'entreprise du premier État si les conditions convenues entre les deux entreprises avaient été celles qui auraient été convenues entre des entreprises indépendantes, l'autre État procède à un ajustement approprié du montant de l'impôt qui y a été perçu sur ces bénéfices. Pour déterminer cet ajustement, il est tenu compte des autres dispositions de la présente Convention et, si c'est nécessaire, les autorités compétentes des États contractants se consultent.

Article 10

DIVIDENDES

1. Les dividendes payés par une société qui est un résident d'un État contractant à un résident de l'autre État contractant, sont imposables dans cet autre État.

2. Toutefois, ces dividendes sont aussi imposables dans l'État contractant dont la société qui paie les dividendes est un résident, et selon la législation de cet État, mais si le bénéficiaire effectif des dividendes est un résident de l'autre État contractant, l'impôt ainsi établi ne peut excéder 5 pour cent du montant brut des dividendes. Le présent paragraphe n'affecte pas l'imposition de la société au titre des bénéfices qui servent au paiement des dividendes.

3. Le terme «dividendes» employé dans le présent article désigne les revenus provenant d'actions, actions ou bons de jouissance, parts de mine, parts de fondateur ou autres parts bénéficiaires à l'exception des créances, ainsi que les revenus d'autres parts sociales soumis au même régime fiscal que les revenus d'actions par la législation de l'État dont la société distributrice est un résident.

4. Les dispositions des paragraphes 1 et 2 du présent article ne s'appliquent pas, lorsque le bénéficiaire effectif des dividendes, résident d'un État contractant, exerce dans l'autre État contractant dont la société qui paie les dividendes est un résident, soit une activité industrielle ou commerciale par l'intermédiaire d'un établissement stable qui y est situé, soit une profession indépendante au moyen d'une base fixe qui y est située, et que la participation génératrice des dividendes s'y rattache effectivement. Dans ce cas, les dispositions de l'article 7 ou de l'article 14 de la présente Convention, suivant les cas, sont applicables.

5. Lorsqu'une société qui est un résident d'un État contractant tire des bénéfices ou des revenus de l'autre État contractant, cet autre État ne peut percevoir aucun impôt sur les dividendes payés par la société, sauf dans la mesure où ces dividendes sont payés à un résident de cet autre État ou dans la mesure où la participation génératrice des dividendes se rattache effectivement à un établissement stable ou à une base fixe situés dans cet autre État, ni prélever aucun impôt, au titre de l'imposition des bénéfices non distribués, sur les bénéfices non distribués de la société, même si les dividendes payés ou les bénéfices non distribués consistent en tout ou en partie en bénéfices ou revenus provenant de cet autre État.

Article 11

REVENUS DE CRÉANCES

1. Les revenus de créances provenant d'un État contractant et dont le bénéficiaire effectif est un résident de l'autre État contractant ne sont imposables que dans cet autre État.

2. L'expression «revenus de créances» employée dans le présent article désigne les revenus des créances de toute nature, assorties ou non de garanties hypothécaires ou d'une clause de participation aux bénéfices du débiteur, et notamment les revenus des fonds publics et des obligations d'emprunts, y compris les primes et lots attachés à ces titres. Les pénalisations pour paiement tardif ne sont pas considérées comme des revenus de créances au sens du présent article.

3. Les dispositions du paragraphe 1 du présent article ne s'appliquent pas, lorsque le bénéficiaire effectif des revenus de créances, résident d'un État contractant, exerce dans l'autre État contractant d'où proviennent les revenus de créances, soit une activité industrielle ou commerciale par l'intermédiaire d'un établissement stable qui y est situé, soit une profession indépendante au moyen d'une base fixe qui y est située, et que la créance génératrice de ces revenus s'y rattache effectivement. Dans ce cas, les dispositions de l'article 7 ou de l'article 14 de la présente Convention, suivant les cas, sont applicables.

4. Lorsque, en raison de relations spéciales existant entre le débiteur et le bénéficiaire effectif ou que l'un et l'autre entretiennent avec de tierces personnes, le montant de ces revenus, compte tenu de la créance pour laquelle ils sont payés, excède celui dont seraient convenus le débiteur et le bénéficiaire effectif en l'absence de pareilles relations, les dispositions du présent article ne s'appliquent qu'à ce dernier montant. Dans ce cas, la partie excédentaire des paiements reste imposable selon la législation de chaque État contractant et compte tenu des autres dispositions de la présente Convention.

Article 12

REDEVANCES

1. Les redevances provenant d'un État contractant et payées à un résident de l'autre État contractant sont imposables dans cet autre État.

2. Toutefois, ces redevances sont aussi imposables dans l'État contractant d'où elles proviennent et selon la législation de cet État contractant, mais si le bénéficiaire effectif des redevances est un résident de l'autre État contractant, l'impôt ainsi établi ne peut excéder

   a) 5 pour cent du montant brut des redevances qui sont payées pour l'usage ou la concession de l'usage d'un équipement industriel, commercial ou scientifique;

   b) 7 pour cent du montant brut des redevances, dans tous les autres cas.

3. Le terme «redevances» employé dans le présent article, désigne les rémunérations de toute nature payées pour l'usage ou la concession de l'usage d'un droit d'auteur sur une oeuvre littéraire, artistique ou scientifique, y compris les films cinématographiques, ou les films ou bandes utilisés pour la radio ou la télévision, d'un brevet, d'une marque de fabrique ou de commerce, d'un dessin ou d'un modèle, d'un plan, d'une formule ou d'un procédé secrets, ainsi que pour l'usage ou la concession de l'usage d'un équipement industriel, commercial ou scientifique et pour des informations ayant trait à une expérience acquise dans le domaine industriel, commercial ou scientifique.

4. Les dispositions des paragraphes 1 et 2 du présent article ne s'appliquent pas, lorsque le bénéficiaire effectif des redevances, résident d'un État contractant, exerce dans l'autre État contractant d'où proviennent les redevances, soit une activité industrielle ou commerciale par l'intermédiaire d'un établissement stable qui y est situé, soit une profession indépendante au moyen d'une base fixe qui y est située, et que le droit ou le bien générateur des redevances s'y rattache effectivement. Dans ce cas, les dispositions de l'article 7 ou de l'article 14 de la présente Convention, suivant les cas, sont applicables.

5. Les redevances sont considérées comme provenant d'un État contractant lorsque le débiteur est un résident de cet État. Toutefois, lorsque le débiteur des redevances, qu'il soit ou non un résident d'un État contractant, a dans un État contractant un établissement stable, ou une base fixe, pour lequel l'engagement donnant lieu au paiement des redevances a été contracté et qui supporte la charge de ces redevances, celles-ci sont considérées comme provenant de l'État où l'établissement stable, ou la base fixe, est situé.

6. Lorsque, en raison de relations spéciales existant entre le débiteur et le bénéficiaire effectif ou que l'un et l'autre entretiennent avec de tierces personnes, le montant des redevances, compte tenu de la prestation pour laquelle elles sont payées, excède celui dont seraient convenus le débiteur et le bénéficiaire effectif en l'absence de pareilles relations, les dispositions du présent article ne s'appliquent qu'à ce dernier montant. Dans ce cas, la partie excédentaire des paiements reste imposable selon la législation de chaque État contractant et compte tenu des autres dispositions de la présente Convention.

Article 13

GAINS EN CAPITAL

1. Les gains qu'un résident d'un État contractant tire de l'aliénation de biens immobiliers visés à l'article 6 de la présente Convention, et situés dans l'autre État contractant, sont imposables dans cet autre État.

2. Les gains provenant de l'aliénation de biens mobiliers qui font partie de l'actif d'un établissement stable qu'une

entreprise d'un État contractant a dans l'autre État contractant, ou de biens mobiliers qui appartiennent à une base fixe dont un résident d'un État contractant dispose dans l'autre État contractant pour l'exercice d'une profession indépendante, y compris de tels gains provenant de l'aliénation de cet établissement stable (seul ou avec l'ensemble de l'entreprise) ou de cette base fixe, sont imposables dans cet autre État.

3. Les gains provenant de l'aliénation de navires ou aéronefs exploités en trafic international, ou de biens mobiliers affectés à l'exploitation de ces navires ou aéronefs, ne sont imposables que dans l'État contractant où le siège de direction effective de l'entreprise est situé.

4. Les gains provenant de l'aliénation des actions en capital d'une société dont les biens consistent à titre principal, directement ou indirectement, en biens immobiliers situés dans un État contractant sont imposables dans cet État.

5. Les gains provenant de l'aliénation d'actions autres que celles visées au paragraphe 4 représentant une participation d'au moins 25 pour cent dans une société qui est un résident d'un État contractant sont imposables dans cet État.

6. Les gains provenant de l'aliénation de tous biens autres que ceux visés aux paragraphes précédents du présent article ne sont imposables que dans l'État contractant dont le cédant est un résident.

Article 14

PROFESSIONS INDÉPENDANTES

1. Les revenus qu'un résident d'un État contractant tire d'une profession libérale ou d'autres activités de caractère indépendant ne sont imposables que dans cet État; toutefois, ces revenus sont aussi imposables dans l'autre État contractant dans les cas suivants:

a) si ce résident dispose de façon habituelle, dans l'autre État contractant, d'une base fixe pour l'exercice de ses activités; en ce cas, seule la fraction des revenus qui est imputable à ladite base fixe est imposable dans l'autre État contractant; ou

b) si son séjour dans l'autre État contractant s'étend sur une période ou des périodes d'une durée totale égale ou supérieure à 183 jours durant toute période de douze mois commençant ou s'achevant pendant l'année fiscale considérée; en ce cas, seule la fraction des revenus qui est tirée des activités exercées dans cet autre État est imposable dans cet autre État.

2. L'expression «profession libérale» comprend notamment les activités indépendantes d'ordre scientifique, littéraire, artistique, éducatif ou pédagogique, ainsi que les activités indépendantes des médecins, avocats, ingénieurs, architectes, dentistes et comptables.

Article 15

PROFESSIONS DÉPENDANTES

1. Sous réserve des dispositions des articles 16, 18, 19, 20 et 21 de la présente Convention, les salaires, traitements et autres rémunérations similaires qu'un résident d'un État contractant reçoit au titre d'un emploi salarié, ne sont imposables que dans cet État, à moins que l'emploi ne soit exercé dans l'autre État contractant. Si l'emploi y est exercé, les rémunérations reçues à ce titre sont imposables dans cet autre État.

2. Nonobstant les dispositions du paragraphe 1 du présent article, les rémunérations qu'un résident d'un État contractant reçoit au titre d'un emploi salarié exercé dans l'autre État contractant, ne sont imposables que dans le premier État si:

a) le bénéficiaire séjourne dans l'autre État pendant une période ou des périodes n'excédant pas au total 183 jours durant toute période de douze mois commençant ou se terminant durant l'année fiscale considérée, et

b) les rémunérations sont payées par un employeur ou pour le compte d'un employeur qui n'est pas un résident de l'autre État, et

c) la charge des rémunérations n'est pas supportée par un établissement stable ou une base fixe que l'employeur a dans l'autre État.

3. Nonobstant les dispositions précédentes du présent article, les rémunérations reçues au titre d'un emploi salarié exercé à bord d'un navire ou d'un aéronef exploité en trafic international sont imposables dans l'État contractant où le siège de direction effective de l'entreprise est situé.

Article 16

TANTIÈMES

Les tantièmes, jetons de présence et autres rétributions similaires qu'un résident d'un État contractant reçoit en sa qualité de membre du conseil d'administration ou de surveillance d'une société qui est un résident de l'autre État contractant, sont imposables dans cet autre État.

Article 17

ARTISTES ET SPORTIFS

1. Nonobstant les dispositions des articles 14 et 15 de la présente Convention, les revenus qu'un résident d'un État contractant tire de ses activités personnelles exercées dans l'autre État contractant en tant qu'artiste du spectacle, tel qu'un artiste de théâtre, de cinéma, de la radio ou de la télévision, ou qu'un musicien, ou en tant que sportif, sont imposables dans cet autre État.

2. Lorsque les revenus d'activités qu'un artiste du spectacle ou un sportif exerce personnellement et en cette qualité, sont attribués non pas à l'artiste ou au sportif lui-même, mais à une autre personne, ces revenus sont imposables, nonobstant les dispositions des articles 7, 14 et 15 de la présente Convention, dans l'État contractant où les activités de l'artiste ou du sportif sont exercées.

3. Les paragraphes 1 et 2 du présent article ne sont pas applicables aux revenus qu'un résident d'un État contractant tire d'activités exercées dans l'autre État contractant lorsque le séjour dans cet autre État est financé entièrement ou principalement par des fonds publics du premier État, de l'une de ses subdivisions politiques ou collectivités locales, ou lorsque le séjour a lieu dans le cadre d'un accord culturel ou d'un arrangement entre les Gouvernements des États contractants. Dans ce cas, les revenus ne sont imposables que dans l'État contractant dont l'artiste du spectacle ou le sportif est un résident.

Article 18

PENSIONS

Les pensions et autres paiements similaires provenant d'un État contractant et payés à un résident de l'autre État contractant ne sont imposables que dans le premier État.

Article 19

FONCTIONS PUBLIQUES

1. a) Les salaires, traitements et autres rémunérations similaires payés par un État contractant ou l'une de ses subdivisions administratives ou collectivités locales ou l'un de ses établissements publics à une personne physique, au titre de services rendus à cet État, à cette subdivision, à cette collectivité ou à cet établissement, ne sont imposables que dans cet État.

   b) Toutefois, ces salaires, traitements et autres rémunérations similaires ne sont imposables que dans l'autre État contractant si les services sont rendus dans cet État et si la personne physique est un résident de cet État qui:

      (i) possède la nationalité de cet État, ou

      (ii) n'est pas devenu un résident de cet État à seule fin de rendre les services.

2. Les dispositions des articles 15, 16 et 17 de la présente Convention s'appliquent aux salaires, traitements et autres rémunérations similaires payés au titre de services rendus dans le cadre d'une activité industrielle ou commerciale exercée par un État contractant ou l'une de ses subdivisions administratives ou collectivités locales ou l'un de ses établissements publics.

Article 20

ENSEIGNANTS ET CHERCHEURS

1. Une personne physique qui est ou qui était un résident d'un État contractant immédiatement avant de se rendre dans l'autre État contractant et qui sur invitation d'une université, d'un collège, d'une école ou d'une autre institution d'enseignement similaire ou d'une institution de recherche scientifique, séjourne dans l'autre État contractant à seule fin d'y enseigner, de faire des recherches ou les deux auprès d'une telle institution d'enseignement ou de recherche, est exempte d'impôt dans cet autre État sur toute rémunération tirée de cet enseignement ou de cette recherche pour une période n'excédant pas deux ans.

2. Les dispositions du paragraphe 1 du présent article ne sont pas applicables aux revenus touchés pour des recherches lorsque ces recherches sont entreprises principalement pour l'avantage particulier d'une ou de personnes spécifiques.

Article 21

ÉTUDIANTS

Les sommes qu'un étudiant, un apprenti ou un stagiaire qui est, ou qui était immédiatement avant de se rendre dans un État contractant, un résident de l'autre État contractant et qui séjourne dans le premier État à seule fin d'y poursuivre ses études ou sa formation, reçoit pour couvrir ses frais d'entretien, d'études ou de formation ne sont pas imposables dans cet État, à condition qu'elles proviennent de sources situées en dehors de cet État.

Article 22

AUTRES REVENUS

1. Les éléments du revenu d'un résident d'un État contractant, d'où qu'ils proviennent, qui ne sont pas traités dans les articles précédents de la présente Convention, ne sont imposables que dans cet État.

2. Les dispositions du paragraphe 1 du présent article ne s'appliquent pas aux revenus autres que les revenus provenant de biens immobiliers tels qu'ils sont définis au paragraphe 2 de l'article 6 de la présente Convention, lorsque le bénéficiaire de tels revenus, résident d'un État contractant, exerce dans l'autre État contractant, soit une activité industrielle ou commerciale par l'intermédiaire d'un établissement stable qui y est situé, soit une profession indépendante au moyen d'une base fixe qui y est située, et que le droit ou le bien générateur des revenus s'y rattache effectivement. Dans ce cas, les dispositions de l'article 7 ou de l'article 14 de la présente Convention, suivant les cas, sont applicables.

Article 23

FORTUNE

1. La fortune constituée par des biens immobiliers visés à l'article 6 de la présente Convention, que possède un résident d'un État contractant et qui sont situés dans l'autre État contractant, est imposable dans cet autre État contractant.

2. La fortune constituée par des biens mobiliers qui font partie de l'actif d'un établissement stable qu'une entreprise d'un État contractant a dans l'autre État contractant, ou par des biens mobiliers qui appartiennent à une base fixe dont un résident d'un État contractant dispose dans l'autre État contractant pour l'exercice d'une profession indépendante, est imposable dans cet autre État contractant.

3. La fortune constituée par des navires et des aéronefs exploités en trafic international par une entreprise d'un État contractant ainsi que par des biens mobiliers affectés à l'exploitation de ces navires ou aéronefs, n'est imposable que dans l'État contractant où le siège de direction effective de l'entreprise est situé.

4. Tous les autres éléments de la fortune d'un résident d'un État contractant ne sont imposables que dans cet État contractant.

Article 24

ÉLIMINATION DES DOUBLES IMPOSITIONS

La double imposition est éliminée de la manière suivante:

1. En ce qui concerne le Royaume de l'Arabie Saoudite:

   a) lorsqu'un résident du Royaume de l'Arabie Saoudite reçoit des revenus ou possède de la fortune qui, conformément aux dispositions de la présente Convention, sont imposables au Luxembourg, le Royaume de l'Arabie Saoudite exempte de l'impôt ces revenus ou cette fortune, sous réserve des dispositions du sous-paragraphe b) du paragraphe 2 du présent article;

   b) lorsqu'une société de capitaux qui est un résident du Royaume de l'Arabie Saoudite reçoit des éléments de revenu qui, conformément aux dispositions de la présente Convention, sont imposables au Luxembourg, le Royaume de l'Arabie Saoudite accorde sur l'impôt sur le revenu de cette société de capitaux une déduction d'un montant égal à l'impôt payé au Luxembourg. Cette déduction ne peut toutefois excéder la fraction de l'impôt, calculé avant déduction, correspondant à ces éléments de revenus reçus du Luxembourg;

   c) les méthodes pour éliminer la double imposition ne porte pas préjudice aux dispositions relatives au système de recouvrement du Zakat concernant les nationaux saoudiens.

2. En ce qui concerne le Luxembourg:

Sous réserve des dispositions de la législation luxembourgeoise concernant l'élimination de la double imposition qui n'en affectent pas le principe général:

   a) lorsqu'un résident du Luxembourg reçoit des revenus ou possède de la fortune qui, conformément aux dispositions de la présente Convention, sont imposables en Arabie Saoudite, le Luxembourg exempte de l'impôt ces revenus ou cette fortune, sous réserve des dispositions des sous-paragraphes b), c) et d), mais peut, pour calculer le montant de l'impôt sur le reste du revenu ou de la fortune du résident, appliquer les mêmes taux d'impôt que si les revenus ou la fortune n'avaient pas été exemptés;

   b) lorsqu'un résident du Luxembourg reçoit des éléments de revenu qui, conformément aux dispositions des articles 7, 10, 12, 13(2) et 17, sont imposables en Arabie Saoudite, le Luxembourg accorde sur l'impôt sur le revenu de ce résident une déduction d'un montant égal à l'impôt payé en Arabie Saoudite, mais seulement, en ce qui concerne les articles 7 et 13(2), si les bénéfices et les gains en capital ne proviennent pas d'activités agricoles, industrielles, d'infrastructure et touristiques en Arabie Saoudite. Cette déduction ne peut toutefois excéder la fraction de l'impôt, calculé avant déduction, correspondant à ces éléments de revenus reçus de l'Arabie Saoudite;

   c) lorsqu'une société qui est un résident du Luxembourg reçoit des dividendes provenant de l'Arabie Saoudite, le Luxembourg exempte de l'impôt ces dividendes pourvu que la société qui est un résident du Luxembourg détienne directement depuis le début de son exercice social au moins 10 pour cent du capital de la société qui paie les dividendes et si cette société est assujettie en Arabie Saoudite à un impôt sur le revenu correspondant à l'impôt luxembourgeois sur le revenu des collectivités. Les actions ou parts susvisées de la société de l'Arabie Saoudite sont, aux mêmes conditions, exonérées de l'impôt luxembourgeois sur la fortune. L'exemption prévue par le présent sous-paragraphe s'applique aussi même si la société de l'Arabie Saoudite est exempte d'impôt ou imposée à un taux réduit en Arabie Saoudite et si ces dividendes proviennent de bénéfices en relation avec des activités agricoles, industrielles, d'infrastructure ou touristiques en Arabie Saoudite;

   d) les dispositions du sous-paragraphe a) ne s'appliquent pas au revenu reçu ou à la fortune possédée par un résident du Luxembourg, lorsque l'Arabie Saoudite applique les dispositions de la présente Convention pour exempter d'impôt ce revenu ou cette fortune ou applique les dispositions du paragraphe 2 des articles 10 et 12 à ce revenu.

Article 25

PROCÉDURE AMIABLE

1. Lorsqu'une personne estime que les mesures prises par un État contractant ou par les deux États contractants entraînent ou entraîneront pour elle une imposition non conforme aux dispositions de la présente Convention, elle peut, indépendamment des recours prévus par le droit interne de ces États, soumettre son cas à l'autorité compétente de l'État contractant dont elle est un résident. Le cas doit être soumis dans les trois ans qui suivent la première notification de la mesure qui entraîne une imposition non conforme aux dispositions de la Convention.

2. L'autorité compétente s'efforce, si la réclamation lui paraît fondée et si elle n'est pas elle-même en mesure d'y apporter une solution satisfaisante, de résoudre le cas par voie d'accord amiable avec l'autorité compétente de l'autre État contractant, en vue d'éviter une imposition non conforme à la Convention. L'accord est appliqué quels que soient les délais prévus par le droit interne des États contractants.

3. Les autorités compétentes des États contractants s'efforcent, par voie d'accord amiable, de résoudre les difficultés ou de dissiper les doutes auxquels peuvent donner lieu l'interprétation ou l'application de la Convention. Elles peuvent aussi se concerter en vue d'éliminer la double imposition dans les cas non prévus par la présente Convention.

4. Les autorités compétentes des États contractants peuvent communiquer directement entre elles en vue de parvenir à un accord comme il est indiqué aux paragraphes précédents.

Article 26

ÉCHANGE DE RENSEIGNEMENTS

1. Les autorités compétentes des États contractants échangent les renseignements vraisemblablement pertinents pour appliquer les dispositions de la présente Convention ou pour l'administration ou l'application de la législation interne des États contractants relative aux impôts visés par la présente Convention dans la mesure où l'imposition qu'elles prévoient n'est pas contraire à la présente Convention. L'échange de renseignements n'est pas restreint par l'article 1 de la présente Convention.

2. Les renseignements reçus en vertu du paragraphe 1 du présent article par un État contractant sont tenus secrets de la même manière que les renseignements obtenus en application de la législation interne de cet État et ne sont communiqués qu'aux personnes ou autorités (y compris les tribunaux et organes administratifs) concernées par l'établissement ou le recouvrement des impôts mentionnés au paragraphe 1 du présent article, par les procédures ou poursuites concernant ces impôts, par les décisions sur les recours relatifs à ces impôts, ou par le contrôle de ce qui précède. Ces personnes ou autorités n'utilisent ces renseignements qu'à ces fins. Elles peuvent révéler ces renseignements au cours d'audiences publiques de tribunaux ou dans des jugements.

3. Les dispositions des paragraphes 1 et 2 du présent article ne peuvent en aucun cas être interprétées comme imposant à un État contractant l'obligation:

a) de prendre des mesures administratives dérogeant à sa législation et à sa pratique administrative ou à celles de l'autre État contractant;

b) de fournir des renseignements qui ne pourraient être obtenus sur la base de sa législation ou dans le cadre de sa pratique administrative normale ou de celles de l'autre État contractant;

c) de fournir des renseignements qui révéleraient un secret commercial, industriel, professionnel ou un procédé commercial ou des renseignements dont la communication serait contraire à l'ordre public.

4. Si des renseignements sont demandés par un État contractant conformément à cet article, l'autre État contractant utilise les pouvoirs dont il dispose pour obtenir les renseignements demandés, même s'il n'en a pas besoin à ses propres fins fiscales. L'obligation qui figure dans la phrase précédente est soumise aux limitations prévues au paragraphe 3 sauf si ces limitations sont susceptibles d'empêcher un État contractant de communiquer des renseignements uniquement parce que ceux-ci ne présentent pas d'intérêt pour lui dans le cadre national.

5. En aucun cas les dispositions du paragraphe 3 du présent article ne peuvent être interprétées comme permettant à un État contractant de refuser de communiquer des renseignements demandés uniquement parce que ceux-ci sont détenus par une banque, un autre établissement financier, un mandataire ou une personne agissant en tant qu'agent ou fiduciaire ou parce que ces renseignements se rattachent aux droits de propriété d'une personne.

Article 27

MEMBRES DES MISSIONS DIPLOMATIQUES ET POSTES CONSULAIRES

Les dispositions de la présente Convention ne portent pas atteinte aux privilèges fiscaux dont bénéficient les membres des missions diplomatiques ou postes consulaires en vertu soit des règles générales du droit international, soit des dispositions d'accords particuliers.

Article 28

ENTRÉE EN VIGUEUR

1. Chacun des États contractants notifiera à l'autre par écrit, par la voie diplomatique, l'accomplissement des procédures requises par sa législation pour la mise en vigueur de la présente Convention. La présente Convention entrera en vigueur le premier jour du deuxième mois suivant le mois où la dernière de ces notifications a été reçue.

2. La présente Convention sera applicable:

a) en ce qui concerne les impôts retenus à la source, aux montants payés le ou après le 1er janvier suivant immédiatement la date à laquelle la Convention entrera en vigueur; et

b) en ce qui concerne les autres impôts, aux années d'imposition commençant le ou après le 1er janvier suivant immédiatement la date à laquelle la Convention entrera en vigueur.

Article 29

DÉNONCIATION

1. La présente Convention demeurera en vigueur tant qu'elle n'aura pas été dénoncée par un État contractant. Chaque État contractant peut dénoncer la présente Convention par voie diplomatique en adressant à l'autre État contractant un préavis écrit au moins six mois avant la fin de chaque année civile commençant après l'expiration d'une période de cinq années à partir de la date de son entrée en vigueur.

2. La présente Convention cessera d'être applicable:

a) en ce qui concerne les impôts retenus à la source, aux montants payés après la fin de l'année civile au cours de laquelle le préavis est donné; et

b) en ce qui concerne les autres impôts, aux années d'imposition commençant après la fin de l'année civile au cours de laquelle le préavis est donné.

En foi de quoi, les soussignés, dûment autorisés à cet effet, ont signé la présente Convention.

Fait en doubles exemplaires à Riyad, le 7 mai 2013 correspondant au 27 JUMADA'II 1434H en langues française, arabe et anglaise, tous les textes faisant également foi. En cas de divergence dans l'interprétation, le texte anglais prévaut.

Pour le Gouvernement du
Grand-Duché de Luxembourg
Luc Frieden
Ministre des Finances

Pour le Gouvernement du
Royaume de l'Arabie Saoudite
Ibrahim A. Al-Assaf
Ministre des Finances

*

PROTOCOLE

Au moment de procéder à la signature de la Convention entre le Gouvernement du Grand-Duché de Luxembourg et le Gouvernement du Royaume de l'Arabie Saoudite tendant à éviter les doubles impositions et à prévenir la fraude fiscale en matière d'impôts sur le revenu et sur la fortune, les soussignés sont convenus que les dispositions suivantes forment partie intégrante de la Convention:

I. <u>En référence à l'article 4 de la Convention:</u>

1. Une personne morale organisée en vertu de la législation d'un État contractant et qui est généralement exempte d'impôt ou qui n'est pas assujettie à l'impôt dans cet État et qui est établie et maintenue dans cet État soit:

a) pour des raisons religieuses, charitables, éducatives ou scientifiques ou pour d'autres raisons similaires; soit

b) pour fournir des pensions ou d'autres avantages similaires aux employés

est considérée comme un résident de cet État contractant.

2. Un organisme de placement collectif qui est établi dans un État contractant est considéré comme un résident de l'État contractant dans lequel il est établi et comme le bénéficiaire effectif des revenus qu'il reçoit.

II. <u>En référence à l'article 26 de la Convention:</u>

1. L'autorité compétente de l'État requérant fournit les informations suivantes à l'autorité compétente de l'État requis lorsqu'elle soumet une demande de renseignements en vertu de la Convention, afin de démontrer la pertinence vraisemblable des renseignements demandés:

a) l'identité de la personne faisant l'objet d'un contrôle ou d'une enquête;

b) les indications concernant les renseignements recherchés, notamment leur nature et la forme sous laquelle l'État requérant souhaite recevoir les renseignements de l'État requis;

c) le but fiscal dans lequel les renseignements sont demandés;

d) les raisons qui donnent à penser que les renseignements demandés sont détenus dans l'État requis ou sont en la possession ou sous le contrôle d'une personne relevant de la compétence de l'État requis;

e) dans la mesure où ils sont connus, les nom et adresse de toute personne dont il y a lieu de penser qu'elle est en possession des renseignements demandés;

f) une déclaration précisant que l'État requérant a utilisé pour obtenir les renseignements tous les moyens disponibles sur son propre territoire, hormis ceux qui susciteraient des difficultés disproportionnées.

2. Il est entendu que le paragraphe 5 de l'article 26 de la Convention n'oblige pas les États contractants de procéder à un échange de renseignements spontané ou automatique.

3. Il est entendu que les renseignements reçus en vertu de l'article 26 de la Convention par un État contractant sont utilisés aux seules fins d'appliquer les dispositions de la Convention ou pour l'administration ou l'application de la législation interne relative aux impôts visés par la Convention.

III. Général:

Lorsque le Royaume de l'Arabie Saoudite introduira un impôt sur le revenu applicable à ses nationaux qui sont des résidents du Royaume de l'Arabie Saoudite ou que les impôts existants seront modifiés en conséquence, alors les États contractants entreront en négociation afin d'introduire dans la Convention un article sur la non-discrimination.

En foi de quoi, les soussignés, dûment autorisés à cet effet, ont signé le présent Protocole.

Fait en doubles exemplaires à Riyad, le 7 mai 2013 correspondant au 27 JUMADA'II 1434H en langues française, arabe et anglaise, tous les textes faisant également foi. En cas de divergence dans l'interprétation, le texte anglais prévaut.

Pour le Gouvernement du
Grand-Duché de Luxembourg
Luc Frieden
Ministre des Finances

Pour le Gouvernement du
Royaume de l'Arabie Saoudite
Ibrahim A. Al-Assaf
Ministre des Finances

AGREEMENT BETWEEN THE GRAND DUCHY OF LUXEMBOURG AND GUERNSEY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Grand Duchy of Luxembourg and the States of Guernsey

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

Article 1

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting Parties.

Article 2

TAXES COVERED

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

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

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

a) in Guernsey: the income tax;
(hereinafter referred to as «Guernsey tax»);

b) in Luxembourg:
(i) the income tax on individuals (l'impôt sur le revenu des personnes physiques);
(ii) the corporation tax (l'impôt sur le revenu des collectivités);
(iii) the capital tax (l'impôt sur la fortune); and
(iv) the communal trade tax (l'impôt commercial communal);
(hereinafter referred to as «Luxembourg tax»).

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties 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 term «Guernsey» means the States of Guernsey and, when used in a geographical sense, means Guernsey, Alderney and Herm, including the territorial sea adjacent to those islands, in accordance with international law; save that any reference to the law of Guernsey is to the law of the island of Guernsey as it applies there and in the islands of Alderney and Herm;

b) the term «Luxembourg» means the Grand Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand Duchy of Luxembourg;

c) the term «business» includes the performance of professional services and of other activities of an independent character;

d) the term «company» means any body corporate or any entity that is treated as a body corporate for tax purposes;

e) the term «competent authority» means:

(i) in Guernsey, the Director of Income Tax or his delegate;

(ii) in Luxembourg, the Minister of Finance or his authorised representative;

f) the terms «a Contracting Party» and «the other Contracting Party» mean Guernsey or Luxembourg as the context requires;

g) the term «enterprise» applies to the carrying on of any business;

h) the terms «enterprise of a Contracting Party» and «enterprise of the other Contracting Party» mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

i) the term «international traffic» means any transport by a ship, aircraft or road vehicle operated by an enterprise that has its place of effective management in a Contracting Party, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting Party;

j) the term «national» means:

(i) in relation to Guernsey, any individual who has a place of abode in Guernsey and possesses British citizenship and any legal person, partnership or association deriving its status as such under the laws of Guernsey;

(ii) in relation to Luxembourg:

a) any individual possessing the nationality of Luxembourg; and

b) any legal person, partnership or association deriving its status as such from the laws in force in Luxembourg;

k) the term «person» includes an individual, a company and any other body of persons.

2. As regards the application of the Agreement at any time by a Contracting Party, 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 Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term «resident of a Contracting Party» means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that Party and any local authority thereof. This term, however, does not include any person who is liable to tax in that Party in respect only of income from sources in that Party or capital situated therein.

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

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

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

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

d) if he is a national of both Parties or of neither of them, the competent authorities of the Contracting Parties 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 Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, 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 or a dredging project constitutes a permanent establishment only if it lasts more than 12 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 Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party 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 Party merely because it carries on business in that Party 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 Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (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 Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.

2. The term «immovable property» shall have the meaning which it has under the law of the Contracting Party 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, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7

BUSINESS PROFITS

1. Profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other Party.

2. For the purposes of this Article and Article 22, the profits that are attributable in each Contracting Party to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting Party adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting Parties and taxes accordingly profits of the enterprise that have been charged to tax in the other Party, the other Party shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting Parties shall if necessary consult each other.

4. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

2. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

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

a) derived from the rental of ships and aircraft if such ships or aircraft are operated in international traffic; and

b) derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods and merchandise,

where such rental profits or profits from such use, maintenance or rental, as the case may be, are incidental to the profits described in paragraph 1.

4. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting Party in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting Party of which the operator of the ship or boat is a resident.

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

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

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 Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party 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 Agreement and the competent authorities of the Contracting Parties shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party may be taxed in that other Party.

2. However, such dividends may also be taxed in the Contracting Party of which the company paying the dividends is a resident and according to the laws of that Party, but if the beneficial owner of the dividends is a resident of the other Contracting Party, 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 10 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. The term «dividends» as used in this Article means income from shares, «jouissance» shares or «jouissance» rights, mining shares, founders' 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 Party of which the company making the distribution is a resident, and in the case of Luxembourg, the investor's share of the profit in a commercial, industrial, mining or craft undertaking, paid proportionally to the profits and by virtue of his capital outlay, as well as interest and payments on bonds, where, over and above the fixed rate of interest, a right of assignment is granted for supplementary interest varying according to the unretained earnings.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

5. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party 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 Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, 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 Party.

Article 11

INTEREST

1. Interest arising in a Contracting Party and beneficially owned by a resident of the other Contracting Party shall be taxable only in that other Party.

2. 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 securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, the term «interest» shall not include income referred to in Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

4. 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 Party, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in a Contracting Party and beneficially owned by a resident of the other Contracting Party shall be taxable only in that other Party.

2. 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 cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

4. 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 Party, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.

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

3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

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

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Party if:

a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the calendar year concerned, and

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

c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting Party in which the place of effective management of the enterprise is situated.

Article 15

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the other Contracting Party may be taxed in that other Party.

Article 16

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting Party 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 Party, may be taxed in that other Party.

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 Party in which the activities of the entertainer or sportsperson are exercised.

Article 17

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration (including lump-sum payments) paid to a resident of a Contracting Party in consideration of past employment shall be taxable only in that Party.

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting Party shall be taxable only in that Party.

3. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including lump-sum payments) arising in a Contracting Party and paid to a resident of the other Contracting Party shall be taxable only in the first-mentioned Party, provided that such payments derive from contributions paid to or from provisions made under a pension scheme by the recipient or on his behalf and that these contributions, provisions or the pensions or other similar remuneration have been subjected to tax in the first-mentioned Party under the ordinary rules of its tax laws or have been deducted from the taxable base in the first-mentioned Party under the ordinary rules of its tax laws.

Article 18

Government service

1. a) Salaries, wages and other similar remuneration paid by a Contracting Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:

(i) is a national of that Party; or

(ii) did not become a resident of that Party solely for the purpose of rendering the services.

2. a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including lump sum payments) paid by, or out of funds created by, a Contracting Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party.

b) However, such pensions and other similar remuneration (including lump sum payments) shall be taxable only in the other Contracting Party if the individual is a resident of, and a national of, that Party.

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 Party or a local authority thereof.

Article 19

STUDENTS

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

Article 20

OTHER INCOME

1. Items of income of a resident of a Contracting Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

Article 21

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting Party and situated in the other Contracting Party, may be taxed in that other Party.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party may be taxed in that other Party.

3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting Party shall be taxable only in that Party.

Article 22

ELIMINATION OF DOUBLE TAXATION

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

a) subject to the provisions of sub-paragraph c), where a resident of Guernsey derives income which, in accordance with the provisions of this Agreement, may be taxed in Luxembourg, Guernsey shall allow as a deduction from the tax payable in respect of that income, an amount equal to the income tax paid in Luxembourg;

b) such deduction shall not, however, exceed that part of the income tax, as computed before deduction is given, which is attributable to the income which may be taxed in Luxembourg;

c) where a resident of Guernsey derives income which, in accordance with the provisions of the Agreement shall be taxable only in Luxembourg, Guernsey may include this income in calculating the amount of tax on the remaining income of such resident.

2. Subject to the provisions of Luxembourg law regarding the elimination of double taxation which shall not affect the general principle hereof, double taxation shall be eliminated as follows:

a) where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Guernsey, Luxembourg shall, subject to the provisions of sub-paragraphs b), c) and d), exempt such income or capital from tax, but may, in order to calculate the amount of tax on the remaining income or capital of the resident, apply the same rates of tax as if the income or capital had not been exempted;

b) where a resident of Luxembourg derives income which, in accordance with the provisions of Articles 7, 10, 13(2) and 16 may be taxed in Guernsey, Luxembourg shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Guernsey, but only, with respect to Articles 7 and 13(2), if the business profits and the capital gains are not derived from activities in agriculture, industry, infrastructure and tourism in Guernsey. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Guernsey;

c) where a company which is a resident of Luxembourg derives dividends from Guernsey sources, Luxembourg shall exempt such dividends from tax, provided that the company which is a resident of Luxembourg holds directly at least 10 per cent of the capital of the company paying the dividends since the beginning of the accounting year and if this company is subject to Guernsey tax corresponding to the Luxembourg corporation tax. The above-mentioned shares in the Guernsey company are, under the same conditions, exempt from the Luxembourg capital tax. This exemption under this sub-paragraph shall also apply notwithstanding that the Guernsey company is exempted from tax or taxed at a reduced rate in Guernsey and if these dividends are derived out of profits from activities in agriculture, industry, infrastructure or tourism in Guernsey;

d) the provisions of sub-paragraph a) shall not apply to income derived or capital owned by a resident of Luxembourg where Guernsey applies the provisions of this Agreement to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 to such income.

Article 23

NON-DISCRIMINATION

1. Nationals of a Contracting Party shall not be subjected in the other Contracting Party 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 Party 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 Parties.

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

3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party 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 Party. Similarly, any debts of an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned Party.

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

5. 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. Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Contracting Party of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting Party 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 Agreement.

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 Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Parties.

3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

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

5. Where,

a) under paragraph 1, a person has presented a case to the competent authority of a Contracting Party on the basis that the actions of one or both of the Contracting Parties have resulted for that person in taxation not in accordance with the provisions of this Agreement, and

b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting Party,

any unresolved issues arising from the case shall be submitted to arbitration if both competent authorities and the taxpayer agree and the taxpayer agrees in writing to be bound by the decision of the arbitration board. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Party. The decision of the arbitration board in a particular case shall be binding on both Parties with respect to that case and shall be implemented notwithstanding any time limits in the domestic laws of these Parties. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of this paragraph.

Article 25

EXCHANGE OF INFORMATION

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

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party 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.

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

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

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 Party;

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 Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party 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 Party 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 Party to decline to supply information upon request 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 26

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement 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 27

ENTRY INTO FORCE

1. Each Contracting Party shall notify the other in writing, through appropriate channels, that the procedures required by its law for the entry into force of this Agreement have been satisfied. The Agreement shall enter into force on the date of receipt of the last notification.

2. The Agreement shall have effect:

a) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the Agreement enters into force;

b) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January of the calendar year next following the year in which the Agreement enters into force.

Article 28

TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement, through appropriate channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force.

2. The Agreement shall cease to have effect:

a) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the notice is given;

b) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January of the calendar year next following the year in which the notice is given.

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

Done in duplicate at London this 10th day of May 2013, in the English language.

For the Government of the Grand Duchy of Luxembourg
(signature)

For the States of Guernsey
(signature)

*

PROTOCOL

At the moment of the signing of the Agreement between the Grand Duchy of Luxembourg and Guernsey for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, both Contracting Parties have agreed upon the following provisions, which shall form an integral part of the Agreement:

I. With reference to Article 4:

1. A collective investment vehicle which is established in a Contracting Party and that is treated as a body corporate for tax purposes in that Contracting Party shall be considered as a resident of the Contracting Party in which it is established and as the beneficial owner of the income it receives.

2. A collective investment vehicle which is established in a Contracting Party and that is not treated as a body corporate for tax purposes in that Contracting Party shall be considered as an individual who is resident of the Contracting Party in which it is established and as the beneficial owner of the income it receives.

II. With reference to Article 25:

Any request for information under the Agreement shall be formulated with the greatest detail possible and, in particular, the competent authority of the requesting Party shall provide the following information to the competent authority of the requested Party:

a) the identity of the person under examination or investigation;

b) the period for which the information is sought;

c) the nature of the information sought and the form in which the requesting Party wishes to receive it;

d) the reason for believing that the information requested is foreseeably relevant to the carrying out of the provisions of the Agreement or to the administration or enforcement of the domestic laws concerning taxes imposed on behalf of the requesting Party;

e) the tax purpose for which the information is sought;

f) grounds for believing that the information requested is held in the requested Party or is in the possession of or obtainable by a person within the jurisdiction of the requested Party;

g) to the extent known the name and address of any person believed to be in possession of or able to obtain the requested information;

h) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

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

Done in duplicate at London this 10th day of May 2013, in the English language.

For the Government of the Grand Duchy of Luxembourg
(signature)

For the States of Guernsey
(signature)

AGREEMENT BETWEEN THE GRAND DUCHY OF LUXEMBOURG AND THE ISLE OF MAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

the Government of the Grand Duchy of Luxembourg

and

the Government of the Isle of Man

DESIRING to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

HAVE AGREED as follows:

Article 1

PERSONS COVERED

This Agreement shall apply to persons who are residents of one or both of the Contracting Parties.

Article 2

TAXES COVERED

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

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

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

a) in the Grand Duchy of Luxembourg:

(i) the income tax on individuals (l'impôt sur le revenu des personnes physiques);

(ii) the corporation tax (l'impôt sur le revenu des collectivités);

(iii) the capital tax (l'impôt sur la fortune); and

(iv) the communal trade tax (l'impôt commercial communal);

(hereinafter referred to as «Luxembourg tax»);

b) in the Isle of Man:

the Income Tax;

(hereinafter referred to as «Manx tax»).

4. The Agreement shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties 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 Agreement, unless the context otherwise requires:

a) the term «Luxembourg» means the Grand Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand Duchy of Luxembourg;

b) the term «Isle of Man» means the island of the Isle of Man, including its territorial sea, in accordance with international law;

c) the terms «a Contracting Party» and «the other Contracting Party» mean Luxembourg or the Isle of Man as the context requires; the term «Contracting Parties» means Luxembourg and the Isle of Man;

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 Party» and «enterprise of the other Contracting Party» mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

h) the term «international traffic» means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting Party, except when the ship or aircraft is operated solely between places in the other Contracting Party;

i) the term «competent authority» means:
   (i) in Luxembourg, the Minister of Finance or his authorised representative; and
   (ii) in the Isle of Man, the Assessor of Income Tax or his delegate;

j) the term «national», in relation to a Contracting Party, means:
   (i) any individual possessing the nationality or citizenship of that Contracting Party; and
   (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting Party;

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 Agreement at any time by a Contracting Party, 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 Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4

RESIDENT

1. For the purposes of this Agreement, the term «resident of a Contracting Party» means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes that Party and any local authority thereof and any pension fund or pension scheme recognised by that Party. This term, however, does not include any person who is liable to tax in that Party in respect only of income from sources in that Party or capital situated therein.

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

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

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

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

d) if he is a national of both Parties or of neither of them, the competent authorities of the Contracting Parties 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 Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, 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 constitutes a permanent establishment only if it lasts more than 12 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 Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party 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 Party merely because it carries on business in that Party 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 Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (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 Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.

2. The term «immovable property» shall have the meaning which it has under the law of the Contracting Party 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, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7

BUSINESS PROFITS

1. Profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other Party.

2. For the purposes of this Article and Article 22, the profits that are attributable in each Contracting Party to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting Party adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting Parties and taxes accordingly profits of the enterprise that have been charged to tax in the other Party, the other Party shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting Parties shall if necessary consult each other.

4. Where profits include items of income which are dealt with separately in other Articles of this Agreement, 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 Party in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship then it shall be deemed to be situated in the Contracting Party in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting Party of which the operator of the ship is a resident.

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

a) derived from the rental on a bareboat basis of ships and aircraft if operated in international traffic; and

b) derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise,

where such rental profits or profits from such use, maintenance or rental, as the case may be, are incidental to the profits described in paragraph 1.

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

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

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 Party includes in the profits of an enterprise of that Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party 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 Agreement and the competent authorities of the Contracting Parties shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party may be taxed in that other Party.

2. However, such dividends may also be taxed in the Contracting Party of which the company paying the dividends is a resident and according to the laws of that Party, but if the beneficial owner of the dividends is a resident of the other Contracting Party, 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 10 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. The term «dividends» as used in this Article means income from shares, «jouissance» shares or «jouissance» rights, mining shares, founders' 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 Party of which the company making the distribution is a resident, and in the case of Luxembourg the investor's share of the profit in a commercial, industrial, mining or craft undertaking, paid proportionally to the profits and by virtue of his capital outlay, as well as interest and payments on bonds, where, over and above the fixed rate of interest, a right of assignment is granted for supplementary interest varying according to the unretained earnings.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

5. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party 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 Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, 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 Party.

Article 11

INTEREST

1. Interest arising in a Contracting Party and beneficially owned by a resident of the other Contracting Party shall be taxable only in that other Party.

2. 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 securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, the term «interest» shall not include income referred to in Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

4. Interest shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the interest, whether he is a resident of a Contracting Party or not, has in a Contracting Party 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 Party in which the permanent establishment is situated.

5. 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 Party, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

1. Royalties arising in a Contracting Party and beneficially owned by a resident of the other Contracting Party shall be taxable only in that other Party.

2. 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 cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

4. Royalties shall be deemed to arise in a Contracting Party when the payer is a resident of that Party. Where, however, the person paying the royalties, whether he is a resident of a Contracting Party or not, has in a Contracting Party 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 Party in which the permanent establishment is situated.

5. 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 Party, due regard being had to the other provisions of this Agreement.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.

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

3. Gains 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 the Contracting Party in which the place of effective management of the enterprise is situated.

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

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Party if:

a) the recipient is present in the other Party 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 Party, and

c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic, may be taxed in the Contracting Party in which the place of effective management of the enterprise is situated.

Article 15

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the other Contracting Party may be taxed in that other Party.

Article 16

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting Party 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 Party, may be taxed in that other Party.

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 Party 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 exercised in a Contracting Party by an entertainer or a sportsperson if the visit to that Party is wholly or mainly supported by public funds of one or both of the Contracting Parties or local authorities thereof. In such case, the income shall be taxable only in the Contracting Party of which the entertainer or a sportsperson is a resident.

Article 17

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting Party shall be taxable only in that Party.

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting Party shall be taxable only in that Party.

3. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration arising in a Contracting Party paid to a resident of the other Contracting Party in consideration of past employment shall be taxable only in the first mentioned Party.

Article 18

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration paid by a Contracting Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:

(i) is a national of that Party; or

(ii) did not become a resident of that Party 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 Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party.

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

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 Party or a local authority thereof.

Article 19

STUDENTS

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

Article 20

OTHER INCOME

1. Items of income of a resident of a Contracting Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that Party.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

Article 21

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting Party and situated in the other Contracting Party, may be taxed in that other Party.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party may be taxed in that other Party.

3. Capital represented by ships and aircraft operated in international traffic, and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting Party shall be taxable only in that Party.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of Luxembourg law regarding the elimination of double taxation which shall not affect the general principle hereof, double taxation shall be eliminated as follows:

   a) where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in the Isle of Man, Luxembourg shall, subject to the provisions of sub-paragraphs b), c) and d), exempt such income or capital from tax, but may, in order to calculate the amount of tax on the remaining income or capital of the resident, apply the same rates of tax as if the income or capital had not been exempted;

   b) where a resident of Luxembourg derives income which, in accordance with the provisions of Articles 7, 10, 13(2) and 16 may be taxed in the Isle of Man, Luxembourg shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in the Isle of Man, but only, with respect to Articles 7 and 13(2), if the business profits and the capital gains are not derived from activities in agriculture, industry, infrastructure and tourism in the Isle of Man. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from the Isle of Man;

   c) where a company which is a resident of Luxembourg derives dividends from Isle of Man sources, Luxembourg shall exempt such dividends from tax, provided that the company which is a resident of Luxembourg holds directly at least 10 per cent of the capital of the company paying the dividends since the beginning of the accounting year and if this company is subject to the Isle of Man tax corresponding to the Luxembourg corporation tax. The above-mentioned shares in the Isle of Man company are, under the same conditions, exempt from the Luxembourg capital tax. This exemption under this sub-paragraph shall also apply notwithstanding that the Isle of Man company is exempted from tax or taxed at a reduced rate in the Isle of Man and if these dividends are derived out of profits from activities in agriculture, industry, infrastructure or tourism in the Isle of Man;

   d) the provisions of sub-paragraph a) shall not apply to income derived or capital owned by a resident of Luxembourg where the Isle of Man applies the provisions of this Agreement to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 to such income.

2. In the case of the Isle of Man, double taxation shall be avoided as follows:

   a) When imposing tax on its residents the Isle of Man may include in the basis upon which such taxes are imposed the items of income, which, according to the provisions of this Agreement, may be taxed in Luxembourg.

   b) Where a resident of the Isle of Man derives income which, in accordance with the provisions of this Agreement, may be taxed in Luxembourg the Isle of Man shall allow as a deduction from the tax on the income of that

resident, an amount equal to the income tax paid in Luxembourg. 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 Luxembourg.

c) Where in accordance with any provision of this Agreement income derived by a resident of the Isle of Man is exempt from tax in the Isle of Man, the Isle of Man may nevertheless in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

Article 23

NON-DISCRIMINATION

1. Nationals of a Contracting Party shall not be subjected in the other Contracting Party 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 Party 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 Parties.

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

3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party 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 Party. Similarly, any debts of an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned Party.

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

5. 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. Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Contracting Party of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting Party 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 Agreement.

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 Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Parties.

3. The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

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

5. Where,

a) under paragraph 1, a person has presented a case to the competent authority of a Contracting Party on the basis that the actions of one or both of the Contracting Parties have resulted for that person in taxation not in accordance with the provisions of this Agreement, and

b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting Party,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Party. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting Parties and shall be implemented notwithstanding any time limits in the domestic laws of these Parties. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of this paragraph.

Article 25

EXCHANGE OF INFORMATION

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

2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party 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.

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

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

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 Party;

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 Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party 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 Party 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 Party to decline to supply information upon request 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 26

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Agreement 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 27

ENTRY INTO FORCE

1. The Contracting Parties shall notify each other in writing, that the procedures required by its law for the entry into force of this Agreement have been satisfied. The Agreement shall enter into force on the date of receipt of the last notification.

2. The Agreement shall have effect:

a) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the Agreement enters into force;

b) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January of the calendar year next following the year in which the Agreement enters into force.

Article 28

TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Agreement, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force.

2. The Agreement shall cease to have effect:

a) in respect of taxes withheld at source, to income derived on or after 1 January of the calendar year next following the year in which the notice is given;

b) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January of the calendar year next following the year in which the notice is given.

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

Done in duplicate at London this 8th day of April 2013.

For the Government of the
Grand Duchy of Luxembourg
(signature)

For tthe Gouvernment of the Isle of Man
(signature)

*

PROTOCOL

At the moment of the signing of the Agreement between the Grand Duchy of Luxembourg and the Isle of Man for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, both sides have agreed upon the following provisions, which shall form an integral part of the Agreement:

I. With reference to Article 4:

1. A collective investment vehicle which is established in a Contracting Party and that is treated as a body corporate for tax purposes in this Contracting Party shall be considered as a resident of the Contracting Party in which it is established and as the beneficial owner of the income it receives.

2. A collective investment vehicle which is established in a Contracting Party and that is not treated as a body corporate for tax purposes in this Contracting Party shall be considered as an individual who is a resident of the Contracting Party in which it is established and as the beneficial owner of the income it receives. However, this provision shall not prevent the other Contracting Party from taxing its residents if they receive income from such a collective investment vehicle.

II. With Reference to Article 6:

It is understood that, for the purpose of paragraph 3 of Article 6, the term «income derived from the direct use, letting, or use in any other form of immovable property» shall include any income or gains derived from the development of land and property in which the person receiving that income or gain has an interest.

III. With reference to Article 25:

The competent authority of the requesting Party shall provide the following information to the competent authority of the requested Party when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:

a) the identity of the person under examination or investigation;

b) a statement of the information sought including its nature and the form in which the requesting Party wishes to receive the information from the requested Party;

c) the tax purpose for which the information is sought;

d) grounds for believing that the information requested is held in the requested Party or is in the possession or control of a person within the jurisdiction of the requested Party;

e) to the extent known the name and address of any person believed to be in possession of the requested information;

f) a statement that the request is in conformity with the Agreement;

g) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

IV. With Reference to the Agreement in General:

This Agreement shall not affect the application of the provisions of the Agreement in the form of an exchange of letters on the taxation of savings income of 13th May 2004 and 19th November 2004 between the Grand Duchy of Luxembourg and the Isle of Man.

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

Done in duplicate at London this 8th day of April 2013.

For the Government of the
Grand Duchy of Luxembourg
(signature)

For the Government of the Isle of Man
(signature)

CONVENTION

BETWEEN

THE GRAND DUCHY OF LUXEMBOURG

AND

JERSEY

FOR THE AVOIDANCE OF DOUBLE TAXATION

AND THE PREVENTION OF FISCAL EVASION WITH RESPECT

TO TAXES ON INCOME AND ON CAPITAL

The Government of the Grand Duchy of Luxembourg

and

the Government of Jersey

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

Article 1

PERSONS COVERED

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

Article 2

TAXES COVERED

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

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

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

a) in Luxembourg:

(i) the income tax on individuals (l'impôt sur le revenu des personnes physiques);

(ii) the corporation tax (l'impôt sur le revenu des collectivités);

(iii) the capital tax (l'impôt sur la fortune); and

(iv) the communal trade tax (l'impôt commercial communal);

(hereinafter referred to as «Luxembourg tax»);

b) in Jersey:

(i) the income tax;

(hereinafter referred to as «Jersey 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 Parties 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 term «Luxembourg» means the Grand Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand Duchy of Luxembourg;

b) the term «Jersey» means, when used in a geographical sense, the Bailiwick of Jersey, including its territorial sea;

c) the terms «a Party» and «the other Party» mean Jersey or Luxembourg as the context requires; the term «Parties» means Jersey and Luxembourg;

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 Party» and «enterprise of the other Contracting Party» mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;

h) the term «international traffic» means any transport by a ship, aircraft or road vehicle operated by an enterprise that has its place of effective management in a Contracting Party, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting Party;

i) the term «competent authority» means:

(i) in Luxembourg, the Minister of Finance or his authorised representative;

(ii) in Jersey, the Treasury and Resources Minister or his authorised representative;

j) the term «national», in relation to a Contracting Party, means:

(i) any individual possessing the nationality or citizenship of that Contracting Party; and

(ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting Party;

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 Party, 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 Party for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4

RESIDENT

1. For the purposes of this Convention, the term «resident of a Contracting Party» means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that Party, any local authority thereof and any pension fund or pension scheme recognised by that Party. This term, however, does not include any person who is liable to tax in that Contracting Party in respect only of income from sources in that Contracting Party or capital situated therein.

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

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

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

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

d) if he is a national of both Parties or of neither of them, the competent authorities of the Contracting Parties 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 Parties, then it shall be deemed to be a resident only of the Party 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, 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 or a dredging project constitutes a permanent establishment only if it lasts more than twelve 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 Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party 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 of a Contracting Party shall not be deemed to have a permanent establishment in the other Contracting Party merely because it carries on business in that Party 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 Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (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 Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.

2. The term «immovable property» shall have the meaning which it has under the law of the Contracting Party 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, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

Article 7

BUSINESS PROFITS

1. Profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other Party.

2. For the purposes of this Article and Article 22, the profits that are attributable in each Contracting Party to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.

3. Where, in accordance with paragraph 2, a Contracting Party adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting Parties and taxes accordingly profits of the enterprise that have been charged to tax in the other Party, the other Party shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting Parties shall if necessary consult each other.

4. 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, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

2. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

3. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting Party in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting Party of which the operator of the ship or boat is a resident.

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

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

   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 Party includes in the profits of an enterprise of that Party, and taxes accordingly, profits on which an enterprise of the other Contracting Party has been charged to tax in that other Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party 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 Parties shall if necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting Party to a resident of the other Contracting Party may be taxed in that other Party.

2. However, such dividends may also be taxed in the Contracting Party of which the company paying the dividends is a resident and according to the laws of that Party, but if the beneficial owner of the dividends is a resident of the other Contracting Party, 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 10 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. The term «dividends» as used in this Article means income from shares, «jouissance» shares or «jouissance» rights, mining shares, founders' 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 Party of which the company making the distribution is a resident, and in the case of Luxembourg, the investor's share of the profit in a commercial, industrial, mining or craft undertaking, paid proportionally to the profits and by virtue of his capital outlay, as well as interest and payments on bonds, where, over and above the fixed rate of interest, a right of assignment is granted for supplementary interest varying according to the unretained earnings.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

5. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party 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 Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, 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 Party.

Article 11

INTEREST

1. Interest arising in a Contracting Party and beneficially owned by a resident of the other Contracting Party shall be taxable only in that other Party.

2. 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 securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, the term «interest» shall not include income referred to in Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

4. 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 Party, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

1. Royalties arising in a Contracting Party and beneficially owned by a resident of the other Contracting Party shall be taxable only in that other Party.

2. 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 cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

4. 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 Party, due regard being had to the other provisions of this Convention.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.

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

3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

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

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Party if:

a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the calendar year concerned, and

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

c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting Party in which the place of effective management of the enterprise is situated.

Article 15

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the other Contracting Party may be taxed in that other Party.

Article 16

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting Party 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 Party, may be taxed in that other Party.

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 Party in which the activities of the entertainer or sportsperson are exercised.

Article 17

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting Party in consideration of past employment shall be taxable only in that Party.

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting Party shall be taxable only in that Party.

3. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including lump-sum payments) arising in a Contracting Party and paid to a resident of the other Contracting Party shall be taxable only in the first-mentioned Party, provided that such payments derive from contributions paid to or from provisions made under a pension scheme by the recipient or on his behalf and that these contributions, provisions or the pensions or other similar remuneration have been subjected to tax in the first-mentioned Party under the ordinary rules of its tax laws.

Article 18

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration paid by a Contracting Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party.

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:

(i) is a national of that Party; or

(ii) did not become a resident of that Party 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 Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party.

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

3. The provisions of Articles 14, 15 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 Party or a local authority thereof.

Article 19

STUDENTS

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

Article 20

OTHER INCOME

1. Items of income of a resident of a Contracting Party, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that Party.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party 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.

Article 21

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting Party and situated in the other Contracting Party, may be taxed in that other Party.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party may be taxed in that other Party.

3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting Party shall be taxable only in that Party.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of Luxembourg law regarding the elimination of double taxation which shall not affect the general principle hereof, double taxation shall be eliminated as follows:

   a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Jersey, Luxembourg shall, subject to the provisions of sub-paragraphs b), c) and d), exempt such income or capital from tax, but may, in order to calculate the amount of tax on the remaining income or capital of the resident, apply the same rates of tax as if the income or capital had not been exempted.

   b) Where a resident of Luxembourg derives income which, in accordance with the provisions of Articles 7, 10, 13(2) and 16 may be taxed in Jersey, Luxembourg shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Jersey, but only, with respect to Articles 7 and 13(2), if the business profits and the capital gains are not derived from activities in agriculture, industry, infrastructure and tourism in Jersey. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Jersey.

   c) Where a company which is a resident of Luxembourg derives dividends from Jersey sources, Luxembourg shall exempt such dividends from tax, provided that the company which is a resident of Luxembourg holds directly at least 10 per cent of the capital of the company paying the dividends since the beginning of the accounting year and if this company is subject in Jersey to an income tax corresponding to the Luxembourg corporation tax. The above-mentioned shares in the Jersey company are, under the same conditions, exempt from the Luxembourg capital tax. This exemption under this sub-paragraph shall also apply notwithstanding that the Jersey company is exempted from tax or taxed at a reduced rate in Jersey and if these dividends are derived out of profits from activities in agriculture, industry, infrastructure or tourism in Jersey.

   d) The provisions of sub-paragraph a) shall not apply to income derived or capital owned by a resident of Luxembourg where Jersey applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 to such income.

2. In the case of Jersey, double taxation shall be avoided as follows:

   Subject to the provisions of the laws of Jersey regarding the allowance of a credit against Jersey tax in respect of foreign tax, where, in accordance with the provisions of this Convention:

   a) When imposing tax on its residents Jersey may include in the basis upon which such taxes are imposed the items of income, which, according to the provisions of this Convention, may be taxed in Luxembourg.

   b) Where a resident of Jersey derives income which, in accordance with the provisions of this Convention, may be taxed in Luxembourg, Jersey shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Luxembourg. Such deduction in either case 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 Luxembourg.

Article 23

NON-DISCRIMINATION

1. Nationals of a Contracting Party shall not be subjected in the other Contracting Party 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 Party 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 Parties.

2. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party 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 Party. Similarly, any debts of an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned Party.

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

5. The provisions of this Article shall not be construed as obliging a Party to grant to residents of the other Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

6. 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. Where a person considers that the actions of one or both of the Contracting Parties 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 Parties, present his case to the competent authority of the Contracting Party of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting Party of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with the Convention. An agreement shall be reached within a period of two years after the question was formally raised by the competent authority and the agreement shall be implemented notwithstanding any time limits in the domestic law of the Parties.

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

5. Where,

a) under paragraph 1, a person has presented a case to the competent authority of a Contracting Party on the basis that the actions of one or both of the Contracting Parties have resulted for that person in taxation not in accordance with the provisions of this Convention,

and

b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting Party,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal of either Party. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting Parties and shall be implemented notwithstanding any time limits in the domestic laws of these Parties. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of this paragraph.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting Parties 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 Parties, or of their 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 Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party 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.

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

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

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 Party;

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 Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party 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 Party 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 Party to decline to supply information upon request 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 26

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 27

ENTRY INTO FORCE

1. Each Party shall notify the other Party of the completion of the procedures required by its laws for the bringing into force of this Convention. The Convention shall enter into force on the date of the later of these notifications.

2. The Convention shall have effect:

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

b) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxation year beginning on or after the first day of January next following the year in which the Convention enters into force.

Article 28

TERMINATION

1. This Convention shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Convention by giving to the other Party written notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force.

2. The Convention shall cease to have effect:

a) in respect of taxes withheld at source, to income derived on or after the first day of January next following the year in which the notice is given;

b) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxation year beginning on or after the first day of January next following the year in which the notice is given.

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

Done in duplicate at London this 17th day of April 2013.

For the Government of the Grand Duchy of Luxembourg
(signature)

For the Government of Jersey
(signature)

*

PROTOCOL

At the moment of the signing of the Convention between the Grand Duchy of Luxembourg and Jersey for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, both sides have agreed upon the following provisions, which shall form an integral part of the Convention:

I. With reference to Article 4:

1. A collective investment vehicle which is established in a Contracting Party and that is treated as a body corporate for tax purposes in this Contracting Party shall be considered as a resident of the Contracting Party in which it is established and as the beneficial owner of the income it receives.

2. A collective investment vehicle which is established in a Contracting Party and that is not treated as a body corporate for tax purposes in this Contracting Party shall be considered as an individual who is resident of the Contracting Party in which it is established and as the beneficial owner of the income it receives.

II. With reference to Article 25:

The competent authority of the requesting Party shall provide the following information to the competent authority of the requested Party when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:

a) the identity of the person under examination or investigation;

b) a statement of the information sought including its nature and the form in which the requesting Party wishes to receive the information from the requested Party;

c) the tax purpose for which the information is sought;

d) grounds for believing that the information requested is held in the requested Party or is in the possession or control of a person within the jurisdiction of the requested Party;

e) to the extent known the name and address of any person believed to be in possession of the requested information;

f) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

III. With reference to the Convention in general:

This Convention shall not affect the application of the provisions of the Agreement in the form of an exchange of letters on the taxation of savings income of 13th May 2004 and 19th November 2004 between the Grand Duchy of Luxembourg and Jersey.

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

Done in duplicate at London this 17th day of April 2013.

For the Government of the Grand Duchy of Luxembourg
(signature)

For the Government of Jersey
(signature)

*

ÉCHANGE DE LETTRES

17 April 2013

Assistant Chief Minister
External Relations
Cyril Le Marquand House
St Helier, Jersey, JE4 8QT
Tel.: +44 (0)1534 440401

Ms Béatrice Kirsch
Chargé d'Affaires a.i.
Embassy of the Grand Duchy of Luxembourg
London
SW1X 8SD

Dear Ms Kirsch

I have the honour to acknowledge receipt of your Note of 17 April 2013, which reads as follows:

«I have the honour to refer to the Convention between the Government of the Grand Duchy of Luxembourg and the Government of Jersey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income and Capital, signed at London on the 17 April 2013 (the «Convention») and to propose on behalf of the Government of the Grand Duchy of Luxembourg the following understanding:

It is understood that Jersey source dividend income will be exempt from Luxembourg tax provided the Luxembourg company owns at least 10% of the capital of the Jersey company at the beginning of the accounting year and provided the Jersey company is subject to tax at a rate of at least 10,5%. The rate of 10,5% is based on the current interpretation in Luxembourg that an income tax rate corresponding to that in Luxembourg is 50% of the prevailing corporate tax rate, which is currently 21%. This is publicly stated and cannot be varied. As a result the only Jersey entities in respect of which such an exemption would apply would be those subject to tax at 20%, at present being utility companies and those with property income. Any future reduction in Luxembourg tax to 20% or below would result in Jersey financial services companies which are currently subject to tax at 10% falling within this exemption.

In that case, or if Luxembourg interprets in a different manner the interpretation of what a corresponding tax to a Luxembourg tax comprises so that dividends paid from companies subject to Jersey tax at a rate lower than 10,5% become eligible for the exemption from Luxembourg tax, then Jersey would agree to exempt dividends flowing from Luxembourg to Jersey in all cases provided the Jersey company owns at least 10% of the capital of the Luxembourg company at the beginning of the accounting year.

If the foregoing understanding meets with the approval of the Government of Jersey, I have the further honour to propose that this Note and your affirmative Note in reply shall constitute an agreement between our Governments which shall become an integral part of the Convention on the date of entry into force of the Convention.»

I have the further honour to accept the understanding contained in your Note on behalf of the Government of Jersey. Therefore your Note and this Note shall constitute an agreement between our Governments which shall become an integral part of the Convention on the date of entry into force of the Convention.

Please accept, Ms Kirsch, the expression of my highest consideration.

Senator Sir Philip BAILHACHE
Assistant Chief Minister
External Relations

*

Chief Minister
Cyril Le Marquand House
St Helier, Jersey, JE4 8QT
Tel.: +44 (0)1534 440400
Fax: +44 (0)1534 440408

This is to confirm that in accordance with the provisions of Article 18(2) of the States of Jersey Law 2005 and paragraph 1.8.5 of the Strategic Plan 2006-2011 adopted by the States on 28 June 2006 the Council of Ministers have authorised Senator Sir Philip Bailhache, Assistant Chief Minister, to sign on behalf of the Government of Jersey a Double Taxation Agreement with the Government of the Grand Duchy of Luxembourg which agreement when signed will be presented to the States of Jersey, the Island's Parliament, for formal ratification.

27th March 2013

For the Council of Ministers
Senator Ian GORST
Chief Minister

CONVENTION BETWEEN THE GRAND DUCHY OF LUXEMBOURG AND THE CZECH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Grand Duchy of Luxembourg and the Czech Republic,

desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

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 and on capital 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 and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

a) in the Czech Republic:
   (i) the tax on income of individuals;
   (ii) the tax on income of legal persons; and
   (iii) the tax on immovable property;
   (hereinafter referred to as «Czech tax»);

b) in the Grand Duchy of Luxembourg:
   (i) the income tax on individuals;
   (ii) the corporation tax;
   (iii) the capital tax; and
   (iv) the communal trade tax;
   (hereinafter referred to as «Luxembourg 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 term «the Czech Republic» means the territory of the Czech Republic over which, under Czech legislation and in accordance with international law, the sovereign rights of the Czech Republic are exercised;

b) the term «Luxembourg» means the Grand Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand Duchy of Luxembourg;

c) the terms «a Contracting State» and «the other Contracting State» mean Luxembourg or the Czech Republic, as the context requires;

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 «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;

i) the term «business» includes also the performance of professional services and of other activities of an independent character;

j) the term «international traffic» means any transport by a ship, boat, aircraft, road or railway vehicle operated by an enterprise that has its place of effective management in a Contracting State, except when the ship, boat, aircraft, road or railway vehicle is operated solely between places in the other Contracting State;

k) the term «competent authority» means:

(i) in the case of the Czech Republic, the Minister of Finance or his authorised representative;

(ii) in the case of Luxembourg, the Minister of Finance or his authorised representative.

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 effective management 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 or capital situated 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 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, then it shall be deemed to be a resident only of the 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, and

f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term «permanent establishment» likewise encompasses:

a) a building site or a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than twelve months;

b) the furnishing of services, including consultancy or managerial services, by an enterprise of a Contracting State or through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue in the territory of the other Contracting State for a period or periods exceeding in the aggregate six months within any twelve month period.

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.

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. 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, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. 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 State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. Where profits include items of income 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

INTERNATIONAL TRAFFIC

1. Profits from the operation of ships, boats, aircraft, road or railway vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

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

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

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

a) 0 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds for an uninterrupted period of at least one year directly at least 10 per cent of the capital of the company paying the dividends;

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

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term «dividends» as used in this Article means income from shares, «jouissance» shares or «jouissance» rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as other income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution or the payment is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein 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.

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 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 beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

2. 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 securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purposes of this Article. The term «interest» shall not include any item of income which is considered as a dividend under the provisions of paragraph 3 of Article 10.

3. The provisions of paragraph 1 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.

4. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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 State in which the permanent establishment is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

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

2. However, such royalties, except in the case of payments of the kind referred to in sub-paragraph a) of paragraph 3, may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 percent of the gross amount of the 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:

a) any copyright of literary, artistic or scientific work except of computer software and including cinematograph films, and films or tapes for television or radio broadcasting;

b) any patent, trade mark, design or model, plan, secret formula or process, computer software, or industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein 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 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 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 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 State.

3. Gains from the alienation of property forming part of the business property of an enterprise and consisting of ships, boats, aircraft, road or railway vehicles operated by such enterprise in international traffic or of movable property pertaining to the operation of such ships, boats, aircraft, road or railway vehicles, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, 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 all the following conditions are met:

a) the recipient exercises the employment in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and

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

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

3. In the computation of the periods mentioned in sub-paragraph a) of paragraph 2, the following days shall be included:

a) all days of physical presence including days of arrivals and departures, and

b) days spent outside the State of activity such as Saturdays and Sundays, national holidays, holidays, and business trips directly connected with the employment of the recipient in that State, after which the activity was resumed in the territory of that State.

4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, boat, aircraft, road or railway vehicle operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 15

DIRECTORS' FEES

Directors' fees and other similar remuneration derived by a resident of a Contracting State in his capacity as a member of the board of directors or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16

ARTISTES 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 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.

Article 17

PENSIONS

1. Pensions and other similar remuneration (including government service pensions and payments made under the social security legislation) arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in the first-mentioned State.

2. The provision of paragraph 1 shall apply to pensions and other similar remuneration, regardless of whether these payments are paid in consideration of past employment.

Article 18

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

   b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

      (i) is a national of that State; or

      (ii) did not become a resident of that State solely for the purpose of rendering the services.

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

Article 19

STUDENTS

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 State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 20

OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein 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.

Article 21

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by 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, may be taxed in that other State.

3. Capital represented by property forming part of the business property of an enterprise and consisting of ships, boats, aircraft, road or railway vehicles operated by such enterprise in international traffic or of movable property pertaining to the operation of such ships, boats, aircraft, road or railway vehicles shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the law of Luxembourg regarding the elimination of double taxation which shall not affect the general principle hereof, double taxation shall be eliminated as follows in Luxembourg:

   a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the Czech Republic, Luxembourg shall, subject to the provisions of sub-paragraphs b) and c), exempt such income or capital from tax, but may, in order to calculate the amount of tax on the remaining income or capital of the resident, apply the same rates of tax as if the income or capital had not been exempted.

   b) Where a resident of Luxembourg derives income which, in accordance with the provisions of Articles 10, 12 and 16, may be taxed in the Czech Republic, Luxembourg shall allow as a deduction from the income tax on individuals or from the corporation tax of that resident an amount equal to the tax paid in the Czech Republic. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from the Czech Republic.

   c) The provisions of sub-paragraph a) shall not apply to income derived or capital owned by a resident of Luxembourg where the Czech Republic applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 or 12 to such income.

2. Subject to the provisions of the laws of the Czech Republic regarding the elimination of double taxation, in the case of a resident of the Czech Republic, double taxation shall be eliminated as follows:

a) The Czech Republic, when imposing taxes on its residents, may include in the tax base upon which such taxes are imposed the items of income or of capital which according to the provisions of this Convention may also be taxed in Luxembourg, but shall allow as a deduction from the amount of tax computed on such a base an amount equal to the tax paid in Luxembourg. Such deduction shall not, however, exceed that part of the Czech tax, as computed before the deduction is given, which is appropriate to the income or capital which, in accordance with the provisions of this Convention, may be taxed in Luxembourg.

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of the Czech Republic is exempt from tax in the Czech Republic, the Czech Republic may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

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

4. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned 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 State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

6. 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. 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 State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. 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.

Article 25

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 political subdivisions 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 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.

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 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 26

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 27

MISCELLANEOUS PROVISIONS

It is understood for the purposes of the Convention that the competent authority of a Contracting State may, after consultation with the competent authority of the other Contracting State, deny the benefits of the Convention to any person, or with respect to any transaction, if the granting of those benefits would constitute an abuse of this Convention.

Article 28

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other, through the diplomatic channels, the completion of the procedures required by its domestic law for the bringing into force of this Convention. This Convention shall enter into force on the date of the later of these notifications and its provisions shall have effect:

a) in respect of taxes withheld at source, to income paid or credited on or after 1st January in the calendar year next following that in which the Convention enters into force;

b) in respect of other taxes on income and taxes on capital, to income or capital in any taxable year beginning on or after 1st January in the calendar year next following that in which the Convention enters into force.

2. The Convention between the Government of the Grand Duchy of Luxembourg and the Government of the Czech and Slovak Federative Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital signed at Luxembourg on March 18, 1991, shall cease to be in force and in effect in relation between Luxembourg and the Czech Republic on the date of the entry into effect of this Convention.

Article 29

TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through the 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:

a) in respect of taxes withheld at source, to income paid or credited on or after 1st January in the calendar year next following that in which the notice is given;

b) in respect of other taxes on income and taxes on capital, to income or capital in any taxable year beginning on or after 1st January in the calendar year next following that in which the notice is given.

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

Done in duplicate at Brussels this 5th day of March 2013 in the English language.

For the Grand Duchy of Luxembourg
(signature)

For the Czech Republic
(signature)

*

PROTOCOL

At the moment of the signing of the Convention between the Grand Duchy of Luxembourg and the Czech Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, both sides have agreed upon the following provisions, which shall form an integral part of the Convention:

I. With reference to Article 4:

For the purposes of the first sentence of paragraph 1 of Article 4, it is understood that the term «resident of a Contracting State» also includes a fiscally non transparent person (including a collective investment vehicle) that is established in that State according to its laws even in the case where the income of that person is taxed at a zero rate in that State or is exempt from tax there.

II. With reference to Article 12 paragraph 2:

In the case that, after the signing of this Convention, the Czech Republic signs with any other EU member State a Convention which limits the taxation of royalties arising in the Czech Republic to a rate lower, including exemption, than the rate provided for in this Article, that lower rate or exemption will automatically be applicable for the purposes of this Article from the date of which the Convention between the Czech Republic and the EU member State concerned will have effect.

III. With reference to Article 25:

The competent authority of the requesting State shall provide the following information to the competent authority of the requested State when making a request for information under the Convention to demonstrate the foreseeable relevance of the information to the request:

a) the identity of the person under examination or investigation;

b) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;

c) the tax purpose for which the information is sought;

d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;

e) to the extent known the name and address of any person believed to be in possession of the requested information;

f) a statement that the requesting State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

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

Done in duplicate at Brussels this 5th day of March 2013 in the English language.

For the Grand Duchy of Luxembourg
(signature)

For the Czech Republic
(signature)

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