

**SYNTHESISED TEXT OF THE MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY
RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING AND THE
CONVENTION BETWEEN THE GRAND DUCHY OF LUXEMBOURG AND THE UNITED
KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE AVOIDANCE OF DOUBLE
TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON
INCOME AND ON CAPITAL**

This document was prepared in consultation with the competent authorities of Luxembourg and the United Kingdom and represents a shared understanding of the modifications made to the Convention by the Multilateral Convention.

General disclaimer on the synthesised text document

This document presents the synthesised text for the application of the Convention between the Grand Duchy of Luxembourg and the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed on 24 May 1967, as amended by the Protocols signed on 18 July 1978, 28 January 1983 and 2 July 2009 (together “the Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Luxembourg on 7 June 2017 and by the United Kingdom on 7 June 2017 (“the MLI”).

The document was prepared on the basis of the MLI position of Luxembourg submitted to the Depository upon ratification on 9 April 2019 and of the MLI position of the United Kingdom submitted to the Depository upon ratification on 29 June 2018. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

The authentic legal texts of the Convention and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Convention are included in boxes throughout the text of this document in the context of the relevant provisions of the Convention. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Convention (such as “Covered Tax Agreement” and “Convention”, “Contracting Jurisdictions” and “Contracting States”), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Convention or to the Convention must be understood as referring to the Convention as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

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

impotsdirects.public.lu

The text of the MLI and the MLI position of Luxembourg submitted to the Depositary upon ratification on 9 April 2019 and of the MLI position of the United Kingdom submitted to the Depositary upon ratification on 29 June 2018 can be found on the [MLI Depositary \(OECD\) webpage](#).

Disclaimer on the entry into effect of the provisions of the MLI

Entry into Effect of the MLI Provisions

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by Luxembourg and the United Kingdom in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 9 April 2019 for Luxembourg and 29 June 2018 for the United Kingdom.

Entry into force of the MLI: 1 August 2019 for Luxembourg and 1 October 2018 for the United Kingdom.

Unless it is stated otherwise elsewhere in this document, the provisions of the MLI have effect with respect to the Convention:

In Luxembourg:

- with respect of taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2020;
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 February 2020.

In the United Kingdom :

- with respect of taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2020;
- with respect to corporation tax, from 1 April 2020 ;
- with respect to income tax and capital gains tax from 6 April 2020.

CONVENTION BETWEEN

THE GRAND DUCHY OF LUXEMBOURG AND THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND 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 United Kingdom of Great Britain and Northern Ireland;

[Replaced by paragraph 1 and paragraph 3 of Article 6 of the MLI] [desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital;]

The following paragraph 1 and paragraph 3 of Article 6 of the MLI replace the text referring to an intent to eliminate double taxation in the preamble of this Convention:

ARTICLE 6 OF THE MLI – PURPOSE OF A COVERED TAX AGREEMENT

Desiring to further develop their economic relationship and to enhance their co-operation in tax matters,

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

have agreed as follows:

Article I

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

The following paragraphs 1 and 3 of Article 3 of the MLI apply and supersede the provisions of this Convention:

ARTICLE 3 OF THE MLI – TRANSPARENT ENTITIES

For the purposes of the [*Convention*], income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either [*Contracting State*] shall be considered to be income of a resident of a [*Contracting State*] but only to the extent that the income is treated, for purposes of taxation by that [*Contracting State*], as the income of a resident of that [*Contracting State*]. In no case shall the provisions of this paragraph be construed to affect a [*Contracting State's*] right to tax the residents of that [*Contracting State*].

Article II

(1) The taxes which are the subject of this Convention are:

(a) In the United Kingdom of Great Britain and Northern Ireland:

- (i) the income tax;
 - (ii) the corporation tax;
 - (iii) the petroleum revenue tax;
 - (iv) the development land tax; and
 - (v) the capital gains tax
- (hereinafter referred to as "United Kingdom tax").

(b) In Luxembourg:

- (i) the income tax on individuals (l'impôt sur le revenu des personnes physiques);
 - (ii) the tax on fees of directors of companies (l'impôt sur les tantièmes);
 - (iii) the corporation tax (l'impôt sur le revenu des collectivités);
 - (iv) the capital tax (l'impôt sur la fortune); and
 - (v) the communal trade tax, including tax on the total amount of wages and salaries (l'impôt commercial communal, y compris l'impôt sur le total des salaires)
- (hereinafter referred to as "Luxembourg tax").

- (2) The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

Article III

- (1) In this Convention, unless the context otherwise requires:

- (a) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;
- (b) the term "Luxembourg" means the Grand Duchy of Luxembourg;
- (c) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Luxembourg, as the context requires;
- (d) the term "competent authority" means, in the case of Luxembourg, the Ministre du Trésor or his authorised representative; in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; and, in the case of any territory to which the Convention is extended under Article XXXI, the competent authority for the administration in such territory of the taxes to which the Convention applies;
- (e) the term "tax" means United Kingdom tax or Luxembourg tax, as the context requires;

- (f) the term "person" comprises an individual, a company and any other body of persons;
 - (g) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (h) 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;
 - (i) the term "profits of an enterprise" includes rents or royalties in respect of cinematograph including television films;
 - (j) the term "international traffic" includes traffic between places in any State in the course of a voyage which extends over two or more States.
- (2) As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

Article IV

- (1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
- (2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:
- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
 - (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
 - (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
 - (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
- (3) Where by reason of the provisions of paragraph (1) a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article V

- (1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
- (2) The term "permanent establishment" shall include especially:
 - (a) a place of management;
 - (b) a branch;
 - (c) an office;
 - (d) a factory;
 - (e) a workshop;
 - (f) a mine, quarry or other place of extraction of natural resources;
 - (g) a building site or construction or assembly project which exists for more than six months.
- (3) The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
 - (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.
- (4) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph (5) applies - shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.
- (5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

- (6) 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 VI

- (1) Income from immovable property may be taxed in the Contracting State in which such property is situated.
- (2) The term "immovable property" shall be defined in accordance with 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 and to income from immovable property used for the performance of professional services.

Article VII

- (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 and in particular Luxembourg shall not impose tax on the basis of minimum taxable income.
- (2) 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 the determination of 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 laid down 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 VIII

- (1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State 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 State 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 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.

Article IX

Where

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

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

The following paragraph 1 of Article 17 of the MLI replaces paragraph 3 of Article XXV of this Convention:

ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

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

Article X

(1) Dividends derived from a company which is a resident of one of the Contracting States by 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 law 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) 5 per cent of the gross amount of the dividends if the beneficial owner is a company the capital of which is wholly or partly divided into shares and it controls directly or indirectly at least 25 per cent of the voting power in the company paying the dividends;

(b) in all other cases 15 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid. For the purposes of sub-paragraph (a) of this paragraph indirect control of the voting power shall be deemed to exist when a company being a resident of one Contracting State controls together with one or more companies at least 25 per cent of the voting power in a company that is a resident of the other Contracting State provided that the first-mentioned company controls more than 50 per cent of the voting power in the one or more companies aforementioned.

(3) As long as an individual resident in the United Kingdom is entitled under United Kingdom law to a tax credit in respect of dividends paid by a company which is resident in the United Kingdom, paragraph (2) of this Article shall not apply to dividends derived from a company which is a resident of the United Kingdom by a resident of Luxembourg. In these circumstances the following provisions of this paragraph shall apply:

(a) (i) Where a resident of Luxembourg is entitled to a tax credit in respect of such a dividend under sub-paragraph (b) of this paragraph, tax may also be charged in the United Kingdom, and according to the laws of the United Kingdom, on

the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.

- (ii) Where a resident of Luxembourg is entitled to a tax credit in respect of such a dividend under sub-paragraph (c) of this paragraph, tax may also be charged in the United Kingdom and according to the laws of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 5 per cent.
 - (iii) Except as provided in sub-paragraphs (a) (i) and (a) (ii) of this paragraph, dividends derived from a company which is a resident of the United Kingdom by a resident of Luxembourg who is the beneficial owner of those dividends shall be exempt from any tax which is chargeable in the United Kingdom on dividends.
- (b) A resident of Luxembourg who receives a dividend from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraphs (c) and (d) of this paragraph and provided he is the beneficial owner of the dividend, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received that dividend, and to the payment of any excess of that tax credit over his liability to United Kingdom tax.
- (c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the beneficial owner of the dividend is a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend. In these circumstances a company which is a resident of Luxembourg and receives a dividend from a company which is a resident of the United Kingdom shall, provided it is the beneficial owner of the dividend and subject to the provisions of sub-paragraph (d) of this paragraph, be entitled to a tax credit equal to one half of the tax credit to which an individual resident in the United Kingdom would have been entitled had he received that dividend, and to the payment of any excess of that tax credit over its liability to United Kingdom tax. For the purpose of this sub-paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company; and a company shall be deemed to be controlled by another company if the latter controls more than 50 per cent of the voting power in the first-mentioned company.
- (d) **[Replaced by paragraph 1 and paragraph 4 of Article 7 of the MLI]**¹
- (i) The provisions of neither sub-paragraph (b) nor sub-paragraph (c) of this paragraph shall apply unless the recipient of a dividend shows (if required to do so by the competent authority of the United Kingdom on receipt of a claim

¹ In accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention, refer to the box following Article XXIX of the Convention

by the recipient to have the tax credit set against United Kingdom income tax chargeable on him or to have the excess of the credit over that income tax paid to him) that the shareholding in respect of which the dividend was paid was acquired by the recipient for bona fide commercial reasons or in the ordinary course of making or managing investments and it was not the main object nor one of the main objects of that acquisition to obtain entitlement to the tax credit referred to in sub-paragraph (b) or sub-paragraph (c) as the case may be.

- (ii) Luxembourg may, on or before 30 June in any calendar year, give the United Kingdom through the diplomatic channel, notice of termination of this sub-paragraph and, in such event, it shall cease to have effect in relation to dividends paid on or after 6 April in the calendar year next following that in which such notice is given.]
- (4) The term "dividends" for United Kingdom tax purposes includes any item which under the law of the United Kingdom is treated as a distribution and for Luxembourg tax purposes includes any item which under the law of Luxembourg is treated as a distribution out of earnings and profits, and the income derived by a sleeping partner from his participation as such.
- (5) The provisions of paragraph (1) and of paragraph (2) or (3) of this Article, as the case may be, shall not apply if the recipient of the dividends, being a resident of one of the Contracting States, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment. In such a case the provisions of Article VII shall apply.
- (6) Where a company which is a resident of one of the Contracting States derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State, except insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State.

Article XI

- (1) Interest arising in one of the Contracting States which is derived 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 Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

- (3) The provisions of paragraph (1) shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article VII shall apply.
- (4) Subject to paragraph (5) of this Article, the provisions of paragraph (1) of this Article shall not apply to any payment of interest by a company where, under the law of the Contracting State of which the company is a resident, that payment is treated as a distribution.
- (5) Any provision in the law of either of the Contracting States relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a company which is a resident of the other State to be treated as a distribution of the company paying such interest. The preceding sentence shall not apply to interest paid to a company which is a resident of one of the Contracting States in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons resident in the other State.
- (6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
- (7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article XII

- (1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State. However such royalties may also be taxed in the Contracting State in which they arise and according to the law of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.
- (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, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

- (3) The provisions of paragraph (1) shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article VII shall apply.
- (4) Royalties paid by a company which is a resident of one of the Contracting States to a resident of the other Contracting State shall not be treated as a distribution by such company. The preceding sentence shall not apply to royalties paid to a company which is a resident of one of the Contracting States where
 - (a) the same persons participate directly or indirectly in the management or control of the company paying the royalties and the company deriving the royalties, and
 - (b) more than 50 per cent of the voting power in the company deriving the royalties is controlled, directly or indirectly, by a person or persons resident in the other Contracting State.
- (5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or 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 obligation to pay the royalties was incurred, and the royalties are borne by the permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
- (6) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article XIII

- (1) Gains from the alienation of immovable property, as defined in paragraph (2) of Article VI, may be taxed in the Contracting State in which such property is situated.
- (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, or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph (3) of Article XXIII shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

- (3) Gains from the alienation of any property other than those mentioned in paragraphs (1) and (2) shall be taxable only in the Contracting State of which the alienator is a resident.

Article XIII A

Notwithstanding any other provision of this Convention, gains derived by a resident of Luxembourg from the alienation of rights to oil, gas, etc. to be produced by the exploration or exploitation of the sea bed and its sub-soil situated in the United Kingdom, under the authority of a licence granted by the United Kingdom, including rights to interests in or to the benefit of such oil, gas, etc., or from the alienation of shares deriving their value or the greater part of their value directly or indirectly from such rights, may be taxed in the United Kingdom.

Article XIV

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

Article XV

- (1) Subject to the provisions of Articles XVI, XVIII, XIX and XX, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
- (2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the 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 or a fixed base which the employer has in the other State.
- (3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.
- (4) In relation to remuneration of a director of a company derived from the company the preceding provisions of this Article shall apply as if the remuneration were

remuneration of an employee in respect of an employment, and as if references to "employer" were references to the company.

Article XVI

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

Article XVII

Notwithstanding the provisions of Articles XIV and XV, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article XVIII

- (1) Subject to the provisions of paragraphs (1) and (2) of Article XIX pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.
- (2) Notwithstanding the provisions of paragraph (1) of this Article, pensions paid under the social security legislation of a Contracting State may be taxed in that State.

Article XIX

- (1) Remuneration, including pensions, paid out of public funds of the United Kingdom or Northern Ireland or the funds of any local authority in the United Kingdom to any individual in respect of services rendered to the government of the United Kingdom or Northern Ireland or a local authority in the United Kingdom in the discharge of functions of a governmental nature shall be taxable only in the United Kingdom.
- (2) Remuneration, including pensions, paid by, or out of funds created by, Luxembourg or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in Luxembourg.
- (3) The provisions of paragraphs (1) and (2) of this Article shall not apply to remuneration or pensions in respect of services rendered in connection with any trade or business. The provisions of Articles XV, XVI and XVIII shall apply to such remuneration or pensions.

Article XX

A professor or teacher from a Contracting State, who receives remuneration for teaching during a period of temporary residence not exceeding two years, at a university, college, school, or other educational institution in the other Contracting State, shall be exempt from tax in that other Contracting State in respect of that remuneration.

Article XXI

Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of

his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

Article XXII

- (1) Items of income of a resident of a Contracting State, wherever arising, other than income paid out of trusts, which are 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 VI, 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article VII or Article XIV, as the case may be, shall apply.

Article XXIII

- (1) Capital represented by immovable property, as defined in paragraph (2) of Article VI, may be taxed in the Contracting State in which such property is situated.
- (2) Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.
- (3) Ships and aircraft operated in international traffic and boats engaged in inland waterways transport, and movable property pertaining to the operation of such ships, aircraft and boats, 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 XXIV

- (1) Subject to paragraph (3) of this Article, individuals who are residents of Luxembourg shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.
- (2) Subject to paragraph (3) of this Article, individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Luxembourg tax as those to which Luxembourg nationals not resident in Luxembourg may be entitled.
- (3) Nothing in this Convention shall entitle an individual who is a resident of one of the Contracting States and whose income from the other Contracting State consists solely of dividends, interest or royalties (or solely of any combination thereof) to the personal

allowances, reliefs and reductions of the kind referred to in this Article for the purposes of taxation in that other Contracting State.

Article XXV

- (1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof), Luxembourg tax payable under the laws of Luxembourg and in accordance with this Convention (excluding, in the case of a dividend, any tax payable on the profits, income or chargeable gains of the company paying the dividend) whether directly or by deduction, on profits, income or chargeable gains from sources within Luxembourg shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Luxembourg tax is computed. In the case of a dividend paid by a company which is a resident of Luxembourg to a company which is a resident of the United Kingdom and which controls directly not less than 25 per cent of the voting power in the Luxembourg company, the credit shall take into account (in addition to any Luxembourg tax payable in respect of the dividend) the Luxembourg tax payable by the company in respect of its profits. For the purpose of this paragraph:
- (a) the term "Luxembourg tax" shall not include capital tax (l'impôt sur la fortune) or communal trade tax (l'impôt commercial communal) computed on a basis other than profits;
 - (b) income which under the Convention may be taxed in Luxembourg shall be deemed to be income from sources in Luxembourg.
- (2) (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 United Kingdom, Luxembourg shall, subject to the provisions of sub-paragraphs (b) and (d) of this paragraph, exempt such income or capital from tax.

The following paragraph 2 of Article 5 of the MLI applies to subparagraph (a) of paragraph (2) of Article XXV of this Convention with respect to the residents of Luxembourg:

ARTICLE 5 OF THE MLI – APPLICATION OF METHODS FOR ELIMINATION OF DOUBLE TAXATION (Option A)

[Subparagraph (a) of paragraph (2) of Article XXV of the Convention] shall not apply where the [United Kingdom] applies the provisions of [the Convention] to exempt income derived or capital owned by a resident of [Luxembourg] from tax or to limit the rate at which such income or capital may be taxed. In the latter case, [Luxembourg] shall allow as a deduction from the tax on the income or capital of that resident an amount equal to the tax paid in [the United Kingdom]. 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 or capital which may be taxed in [the United Kingdom].

- (b) Where a resident of Luxembourg derives items of income which, in accordance with the provisions of Articles X, XII, XIII A and paragraph (2) of Article XVIII, may be taxed

in the United Kingdom, Luxembourg shall, subject to the provisions of sub-paragraph (c) of this paragraph, allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in respect of such items of income in the United Kingdom. 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 United Kingdom.

Where, in the case of a dividend to which the provisions of sub-paragraph (c) of paragraph (3) of Article X apply, the company receiving the dividend is outside the scope of sub-paragraph (c) of this paragraph, then the difference between the tax credit referred to in sub-paragraph (b) of paragraph (3) of Article X and the tax credit referred to in sub-paragraph (c) of paragraph (3) of Article X shall be assimilated, for the purposes of the preceding sentence, to United Kingdom tax, but the total of this difference and the tax charged in the United Kingdom in accordance with the provisions of sub-paragraph (a) (ii) of paragraph (3) of Article X shall not exceed the amount of tax referred to in sub-paragraph (b) of paragraph (2) of Article X.

- (c) Where dividends paid by a company which is a resident of the United Kingdom to a company which is a resident of Luxembourg are exempt from Luxembourg tax in accordance with Luxembourg law, the tax deducted in the United Kingdom on such dividends shall not be credited against Luxembourg tax.
 - (d) Where in accordance with any provision of this Convention income derived and capital owned by a resident of Luxembourg is exempt from tax in Luxembourg, that State 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.
- (3) **[Replaced by paragraph 1 of Article 17 of the MLI]**² [Where profits on which an enterprise of one of the Contracting States has been charged to tax in that Contracting State are also included in the profits of an enterprise of the other Contracting State and the profits so included are profits which would have accrued to that enterprise of the other Contracting State if the conditions made between each of the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount of such profits included in the profits of both enterprises shall be treated for the purpose of this Article as income from a source in the other Contracting State of the enterprise of the first-mentioned Contracting State and relief shall be given accordingly under paragraph (1) or paragraph (2) of this Article.]

Article XXVI

- (1) The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
- (2) The term "nationals" means:

² In accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention, refer to the box following Article IX of the Convention

- (a) in relation to the United Kingdom, all British subjects and British protected persons
- (i) residing in the United Kingdom or any territory to which this Convention is extended under Article XXXI, or
 - (ii) deriving their status as such from connection with the United Kingdom or any territory to which the Convention is extended under Article XXXI,
- and all legal persons, partnerships and associations deriving their status as such from the law in force in the United Kingdom or in any territory to which the Convention is extended under Article XXXI;
- (b) in relation to Luxembourg, all individuals possessing the nationality of Luxembourg and all legal persons, partnerships and associations deriving their status as such from the law in force in Luxembourg.
- (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.
- (4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.
- (5) This Article shall not be construed as entitling a resident of one of the Contracting States to any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which the law of the other Contracting State grants only to residents of that other Contracting State or as restricting the taxation of dividends paid by a company which is a resident of one of the Contracting States to a company which is a resident of the other Contracting State.
- (6) In this Article the term "taxation" means taxes of every kind and description.

Article XXVII

- (1) **[The first sentence of paragraph 1 of Article XXVII of this Convention is replaced by the first sentence of paragraph 1 of Article 16 of the MLI]** [Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.]

*The following first sentence of paragraph 1 of Article 16 of the MLI replaces paragraph (1) of Article XXVII of this Convention:*³

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

Where a person considers that the actions of one or both of the [Contracting States] result or will result for that person in taxation not in accordance with the provisions of [this Convention], that person may, irrespective of the remedies provided by the domestic law of those [Contracting States], present the case to the competent authority of either [Contracting State].

*The following second sentence of paragraph 1 of Article 16 of the MLI applies and supersedes the provisions of this Convention:*⁴

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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 an appropriate 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 not in accordance with the Convention.

*The following second sentence of paragraph 2 of Article 16 of the MLI applies to this Convention:*⁵

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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 or for the purpose of giving effect to the provisions of the Convention and

³ In accordance with paragraph 4 of Article 35 of the MLI, Article 16 of the MLI has effect with respect to this Convention for a case presented to the competent authority of a Contracting State on or after 1 August 2019, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

⁴ In accordance with paragraph 4 of Article 35 of the MLI, Article 16 of the MLI has effect with respect to this Convention for a case presented to the competent authority of a Contracting State on or after 1 August 2019, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

⁵ In accordance with paragraph 4 of Article 35 of the MLI, Article 16 of the MLI has effect with respect to this Convention for a case presented to the competent authority of a Contracting State on or after 1 August 2019, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

for resolving any difficulty or doubt as to the application or interpretation of the Convention.

The following Part VI of the MLI applies to this Convention.⁶⁷

PART VI OF THE MLI (ARBITRATION)

Article 19 (Mandatory Binding Arbitration) of the MLI

1. Where:

- a) under *[paragraph (1) of Article XXVII of this Convention]*, a person has presented a case to the competent authority of a *[Contracting State]* on the basis that the actions of one or both of the *[Contracting States]* have resulted for that person in taxation not in accordance with the provisions of *[the Convention]*; and
- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to *[paragraph (2) of Article XXVII of the Convention]*, within a period of two years beginning on the start date referred to in paragraph 8 or 9 *[of Article 19 of the MLI]*, as the case may be (unless, prior to the expiration of that period the competent authorities of the *[Contracting States]* have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in *[Part VI of the MLI]*, according to any rules or procedures agreed upon by the competent authorities of the *[Contracting States]* pursuant to the provisions of *[paragraph 10 of Article 19 of the MLI]*.

2. Where a competent authority has suspended the mutual agreement procedure referred to in paragraph 1 *[of Article 19 of the MLI]* because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in subparagraph b) of paragraph 1 *[of Article 19 of the MLI]* will stop running until either a final decision has been rendered by the court or administrative tribunal or the case has been suspended or withdrawn. In addition, where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in subparagraph b) of paragraph 1 *[of Article 19 of the MLI]* will stop running until the suspension has been lifted.

⁶ In accordance with paragraph 1 of Article 36 of the MLI, the provisions of Part VI (Arbitration) of the MLI have effect with respect to this Convention with respect to cases presented to the competent authority of a Contracting State on or after 1 August 2019.

⁷ In accordance with paragraph 2 of Article 36 of the MLI, the provisions of Part VI (Arbitration) of the MLI apply to a case presented to the competent authority of a Contracting State prior to 1 August 2019 only to the extent that the competent authorities of both Contracting States agree that it will apply to that specific case.

3. Where both competent authorities agree that a person directly affected by the case has failed to provide in a timely manner any additional material information requested by either competent authority after the start of the period provided in subparagraph b) of paragraph 1 [of Article 19 of the MLI], the period provided in subparagraph b) of paragraph 1 [of Article 19 of the MLI] shall be extended for an amount of time equal to the period beginning on the date by which the information was requested and ending on the date on which that information was provided.
4. a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1 [of Article 19 of the MLI]. The arbitration decision shall be final.
- b) The arbitration decision shall be binding on both [Contracting States] except in the following cases:
- i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.
 - ii) if a final decision of the courts of one of the [Contracting States] holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 [of Article 19 of the MLI] shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings) [of the MLI]). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.
 - iii) if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.

5. The competent authority that received the initial request for a mutual agreement procedure as described in subparagraph a) of paragraph 1 [of Article 19 of the MLI] shall, within two calendar months of receiving the request:
- a) send a notification to the person who presented the case that it has received the request; and
 - b) send a notification of that request, along with a copy of the request, to the competent authority of the other [Contracting State].
6. Within three calendar months after a competent authority receives the request for a mutual agreement procedure (or a copy thereof from the competent authority of the other [Contracting State]) it shall either:
- a) notify the person who has presented the case and the other competent authority that it has received the information necessary to undertake substantive consideration of the case; or
 - b) request additional information from that person for that purpose.
7. Where pursuant to subparagraph b) of paragraph 6 [of Article 19 of the MLI], one or both of the competent authorities have requested from the person who presented the case additional information necessary to undertake substantive consideration of the case, the competent authority that requested the additional information shall, within three calendar months of receiving the additional information from that person, notify that person and the other competent authority either:
- a) that it has received the requested information; or
 - b) that some of the requested information is still missing.
8. Where neither competent authority has requested additional information pursuant to subparagraph b) of paragraph 6 [of Article 19 of the MLI], the start date referred to in paragraph 1 [of Article 19 of the MLI] shall be the earlier of:
- a) the date on which both competent authorities have notified the person who presented the case pursuant to subparagraph a) of paragraph 6 [of Article 19 of the MLI]; and
 - b) the date that is three calendar months after the notification to the competent authority of the other [Contracting State] pursuant to subparagraph b) of paragraph 5 [of Article 19 of the MLI].
9. Where additional information has been requested pursuant to subparagraph b) of paragraph 6 [of Article 19 of the MLI], the start date referred to in paragraph 1 [of Article 19 of the MLI] shall be the earlier of:
- a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case

and the other competent authority pursuant to subparagraph a) of paragraph 7 [of Article 19 of the MLI]; and

- b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

If, however, one or both of the competent authorities send the notification referred to in subparagraph b) of paragraph 7 [of Article 19 of the MLI], such notification shall be treated as a request for additional information under subparagraph b) of paragraph 6 [of Article 19 of the MLI].

10. The competent authorities of the [Contracting States] shall by mutual agreement pursuant to [Article XXVII of the Convention] settle the mode of application of the provisions contained in [Part VI of the MLI], including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

12. Notwithstanding the other provisions of [Article 19 of the MLI],

- a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by [the MLI] shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either [Contracting State];
- b) if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting States], a decision concerning the issue is rendered by a court or administrative tribunal of one of the [Contracting States], the arbitration process shall terminate.

Article 20 (Appointment of Arbitrators) of the MLI

1. Except to the extent that the competent authorities of the [Contracting States] mutually agree on different rules, paragraphs 2 through 4 [of Article 20 of the MLI] shall apply for the purposes of [Part VI of the MLI].

2. The following rules shall govern the appointment of the members of an arbitration panel:

- a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.
- b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 of Article 19 [of the MLI]. The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third

member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either [*Contracting State*].

- c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the [*Contracting States*] and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.

3. In the event that the competent authority of a [*Contracting State*] fails to appoint a member of the arbitration panel in the manner and within the time periods specified in paragraph 2 [*of Article 20 of the MLI*] or agreed to by the competent authorities of the [*Contracting States*], a member shall be appointed on behalf of that competent authority by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either [*Contracting State*].

4. If the two initial members of the arbitration panel fail to appoint the Chair in the manner and within the time periods specified in paragraph 2 [*of Article 20 of the MLI*] or agreed to by the competent authorities of the [*Contracting States*], the Chair shall be appointed by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either [*Contracting State*].

Article 21 (Confidentiality of Arbitration Proceedings) of the MLI

1. Solely for the purposes of the application of the provisions of [*Part VI of the MLI*] and of the provisions of [*the Convention*] and of the domestic laws of the [*Contracting States*] related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective arbitrators and information that the competent authorities receive from the arbitration panel shall be considered information that is exchanged under the provisions of [*the Convention*] related to the exchange of information and administrative assistance.

2. The competent authorities of the [*Contracting States*] shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in the provisions of [*the Convention*] related to exchange of

information and administrative assistance and under the applicable laws of the [Contracting States].

Article 22 (Resolution of a Case Prior to the Conclusion of the Arbitration) of the MLI

For the purposes of [Part VI of the MLI] and the provisions of [the Convention] that provide for resolution of cases through mutual agreement, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting States]:

- a) the competent authorities of the [Contracting States] reach a mutual agreement to resolve the case; or
- b) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure.

Article 23 (Type of Arbitration Process) of the MLI

Final offer arbitration

1. Except to the extent that the competent authorities of the [Contracting States] mutually agree on different rules, the following rules shall apply with respect to an arbitration proceeding pursuant to [Part VI of the MLI]:

- a) After a case is submitted to arbitration, the competent authority of each [Contracting State] shall submit to the arbitration panel, by a date set by agreement, a proposed resolution which addresses all unresolved issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities of the [Contracting States]). The proposed resolution shall be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax charged pursuant to [the Convention], for each adjustment or similar issue in the case. In a case in which the competent authorities of the [Contracting States] have been unable to reach agreement on an issue regarding the conditions for application of a provision of [the Convention] (hereinafter referred to as a “threshold question”), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.
- b) The competent authority of each [Contracting State] may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or supporting position paper shall provide a copy to the other competent

authority by the date on which the proposed resolution and supporting position paper were due. Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.

- c) The arbitration panel shall select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and shall not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the panel members. The arbitration panel shall deliver its decision in writing to the competent authorities of the [*Contracting States*]. The arbitration decision shall have no precedential value.

5. Prior to the beginning of arbitration proceedings, the competent authorities of the [*Contracting States*] shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under [*the Convention*], as well as the arbitration proceeding under [*Part VI of the MLI*], with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [*Contracting States*], a person that presented the case or one of that person's advisors materially breaches that agreement.

Article 25 (Costs of Arbitration Proceedings) of the MLI

In an arbitration proceeding under [*Part VI of the MLI*], the fees and expenses of the members of the arbitration panel, as well as any costs incurred in connection with the arbitration proceedings by the [*Contracting States*], shall be borne by the [*Contracting States*] in a manner to be settled by mutual agreement between the competent authorities of the [*Contracting States*]. In the absence of such agreement, each [*Contracting State*] shall bear its own expenses and those of its appointed panel member. The cost of the chair of the arbitration panel and other expenses associated with the conduct of the arbitration proceedings shall be borne by the [*Contracting States*] in equal shares.

Paragraphs 2 and 3 of Article 26 (Compatibility) of the MLI

2. Any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for in [*Part VI of the MLI*] shall not be submitted to arbitration if the issue falls within the scope of a case with respect to which an arbitration panel or similar body has previously been set up in accordance with a bilateral or multilateral convention that provides for

mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case.

3. [Nothing] in [Part VI of the MLI] shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the [Contracting States] are or will become parties.

Article XXVIII

- (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 I and II.
- (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, or 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 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 XXIX

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

The following paragraph 1 of Article 7 of the MLI replaces paragraph (3) (d) of Article X of this Convention:

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE

(Principal purposes test provision)

Notwithstanding any provisions of *[the Convention]*, a benefit under *[the Convention]* shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of *[the Convention]*.

The following paragraph 4 of Article 7 of the MLI applies to paragraph 1 of Article 7 of the MLI:

Where a benefit under *[the Convention]* is denied to a person under *[paragraph 1 of Article 7 of the MLI]*, the competent authority of the *[Contracting State]* that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or capital, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in *[paragraph 1 of Article 7 of the MLI]*. The competent authority of the *[Contracting State]* to which a request has been made under this paragraph by a resident of the other *[Contracting State]* shall consult with the competent authority of that other *[Contracting State]* before rejecting the request.

Article XXX

This Convention shall not apply to holding companies entitled to any special tax benefit under the Luxembourg laws of 31st July, 1929, or 27th December, 1937, or any similar law enacted by Luxembourg after the signature of the Convention.

Article XXXI

- (1) This Convention may be extended, either in its entirety or with any necessary modifications, to any territory for whose international relations the United Kingdom is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels.
- (2) Unless otherwise agreed by both Contracting States, the denunciation of the Convention by one of them under Article XXXIII shall terminate, in the manner provided

for in that Article, the application of the Convention to any territory to which it has been extended under this Article.

Article XXXII

- (1) This Convention shall be ratified and the instruments of ratification shall be exchanged at Luxembourg as soon as possible.
- (2) The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:
 - (a) in the United Kingdom:
 - (i) as respects income tax (including surtax) for any year of assessment beginning on or after 6th April, 1966 other than income tax in respect of dividends paid before 6th April, 1966;
 - (ii) as respects corporation tax for any financial year beginning on or after 1st April, 1966; and
 - (iii) as respects capital gains tax for any year of assessment beginning on or after 6th April, 1966;
 - (b) in Luxembourg:

for periods of assessment beginning after 31st December, 1965.

Article XXXIII

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1970. In such event, the Convention shall cease to have effect:

- (a) in the United Kingdom:
 - (i) as respects income tax (including surtax) for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;
 - (ii) as respects corporation tax for any financial year beginning on or after 1st April in the calendar year next following that in which the notice is given; and
 - (iii) as respects capital gains tax for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;
- (b) in Luxembourg:

for periods of assessment beginning after the end of the calendar year in which the notice is given.

Exchange of Letters

I

Excellency,

I have the honour to refer to the Convention between the United Kingdom of Great Britain and Northern Ireland and the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital, signed at London 24 May 1967, as amended by a first Protocol signed on 18 July 1978, by a second Protocol signed on 28 January 1983 and by the Protocol signed today ("the Convention") and to make on behalf of the Government of the Grand Duchy of Luxembourg the following proposal:

With reference to Article XXVIII

The competent authority of the requested State shall provide upon request by the competent authority of the applicant State information for the purposes referred to in Article XXVIII of the Convention.

The competent authority of the applicant 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 applicant 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 request is in conformity with the law and administrative practices of the applicant State, that if the requested information was within the jurisdiction of the applicant State then the competent authority of the applicant State would be able to obtain the information under the laws of the applicant State or in the normal course of administrative practice and that it is in conformity with the Convention;
- (g) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

If the foregoing understanding meets with the approval of your Government, 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 Protocol.

Accept, Your Excellency, the expression of my highest considerations.

II

London, 2 July 2009

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note of July 2 2009, which reads as follows:

"I have the honour to refer to the Convention between the United Kingdom of Great Britain and Northern Ireland and the Grand Duchy of Luxembourg for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital, signed at London 24 May 1967, as amended by a first Protocol signed on 18 July 1978, by a second Protocol signed on 28 January 1983 and by the Protocol signed today ("the Convention") and to make on behalf of the Government of the Grand Duchy of Luxembourg the following proposal:

With reference to Article XXVIII

The competent authority of the requested State shall provide upon request by the competent authority of the applicant State information for the purposes referred to in Article XXVIII of the Convention.

The competent authority of the applicant 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 applicant 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 request is in conformity with the law and administrative practices of the applicant State, that if the requested information was within the jurisdiction of the applicant State then the competent authority of the applicant State would be able to obtain the information under the laws of the applicant State or in the normal course of administrative practice and that it is in conformity with the Convention;
- (g) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

If the foregoing understanding meets with the approval of your Government, 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 Protocol."

I have the honour to confirm that the foregoing understanding is acceptable for the Government of the United Kingdom of Great Britain and Northern Ireland and that your Note and this Note in reply shall constitute an Agreement between our two Governments.

Accept, Your Excellency, the expression of my highest considerations.