

## N° 7226

## CHAMBRE DES DEPUTES

Session ordinaire 2017-2018

**PROJET DE LOI**

**portant approbation de la "Convention between the Grand Duchy of Luxembourg and the Republic of Cyprus for the elimination of double taxation with respect to taxes on income and on capital and the prevention of tax evasion and avoidance", faite à Nicosie, le 8 mai 2017**

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*(Dépôt: le 20.12.2017)***SOMMAIRE:**

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## ARRETE GRAND-DUCAL DE DEPOT

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

Sur le rapport de Notre Ministre des Affaires étrangères et européennes et après délibération du Gouvernement en Conseil;

Arrêtons:

*Article unique.*— Notre Ministre des Affaires étrangères et européennes est autorisé à déposer en Notre nom à la Chambre des Députés le projet de loi portant approbation de la "Convention between the Grand Duchy of Luxembourg and the Republic of Cyprus for the elimination of double taxation with respect to taxes on income and on capital and the prevention of tax evasion and avoidance", faite à Nicosie, le 8 mai 2017.

Palais de Luxembourg, le 18 décembre 2017

*Le Ministre des Affaires étrangères  
et européennes,*

Jean ASSELBORN

HENRI

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## TEXTE DU PROJET DE LOI

**Article unique.** Est approuvée la "Convention between the Grand Duchy of Luxembourg and the Republic of Cyprus for the elimination of double taxation with respect to taxes on income and on capital and the prevention of tax evasion and avoidance", faite à Nicosie, le 8 mai 2017.

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## EXPOSE DES MOTIFS

L'objet du présent projet de loi est d'approuver la "*Convention between the Grand Duchy of Luxembourg and the Republic of Cyprus for the elimination of double taxation with respect to taxes on income and on capital and the prevention of tax evasion and avoidance*", faite à Nicosie, le 8 mai 2017.

L'objet d'une telle Convention fiscale est l'élimination de la double imposition juridique et la conclusion d'un tel accord est indispensable au bon développement des relations économiques bilatérales et favorise l'échange de biens et de services ainsi que les mouvements de capitaux, de technologies et de personnes.

Le projet de loi confirme les efforts effectués ces dernières années par le Gouvernement luxembourgeois en vue de compléter et d'améliorer progressivement son réseau de conventions fiscales.

Dès que la procédure de ratification sera clôturée, le Luxembourg disposera d'une Convention contre les doubles impositions avec tous les États membres de l'Union européenne.

Bien que la République de Chypre ne soit pas membre de l'OCDE, la Convention s'inspire dans une assez large mesure du modèle de convention élaboré par cette organisation internationale.

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## COMMENTAIRE DES ARTICLES

La Convention retient le titre et le préambule préconisés par l'Action 6 des travaux BEPS. L'objectif est de mettre en évidence, dans le titre de la convention, le rôle des conventions dans la prévention de l'utilisation abusive des conventions fiscales. Au préambule, il est précisé qu'il s'agit d'éliminer la double imposition, et ce, sans créer des possibilités de double non-imposition ou d'imposition réduite par l'évasion ou la fraude fiscales, en particulier par des mécanismes de chalandage fiscal.

L'article 1 dispose que la Convention s'applique aux personnes qui sont des résidents de l'un des deux États contractants ou de ces deux États.

L'article 2 énumère les impôts couverts par la Convention.

Côté luxembourgeois, la Convention vise l'impôt sur le revenu des personnes physiques, l'impôt sur le revenu des collectivités, l'impôt sur la fortune et l'impôt commercial communal.

L'article 3 énonce les définitions qui sont nécessaires à l'interprétation des termes et expressions utilisés dans la Convention. Dans le domaine du trafic international, la notion de siège de direction effective est remplacée par la référence à l'entreprise d'un État contractant en tant que telle, c'est-à-dire la résidence de la personne qui exploite l'entreprise. Cette modification se retrouve également aux articles 8, 13, 14 et 22.

L'article 4 définit la notion de résidence. En donnant une définition de l'expression «résident d'un État contractant», l'article 4 permet de résoudre les cas de double résidence et constitue le critère essentiel de répartition du droit d'imposer entre les deux États.

Le paragraphe 1 vise en principe les personnes qui sont assujetties à l'impôt dans un État contractant en vertu de la législation interne de cet État. Il précise donc que sont des résidents les personnes assujetties à l'impôt en raison de leur domicile, leur résidence, leur siège de direction ou tout autre critère de nature analogue.

Le paragraphe 2 clarifie les règles applicables aux personnes physiques en cas de double résidence. Conformément au modèle de l'OCDE, il reprend les critères habituels de foyer d'habitation permanent, de centre des intérêts vitaux, de séjour habituel et de nationalité. En dernier lieu, les autorités compétentes doivent trancher la question d'un commun accord.

Le paragraphe 3 retient le siège de direction effective comme critère de préférence pour les personnes autres que les personnes physiques afin de déterminer l'État de résidence de ces personnes.

Le Protocole de la Convention confirme de façon explicite qu'un organisme de placement collectif est un résident au sens de la Convention sous certaines conditions et qu'il peut donc explicitement bénéficier des avantages de la Convention.

Ainsi, un organisme de placement collectif est un résident d'un État contractant si, en vertu de la législation de cet État, il est assujetti à l'impôt dans cet État en raison de son domicile, de sa résidence, de son siège de direction ou de tout autre critère de nature analogue.

Un organisme de placement collectif est également à considérer comme assujetti à l'impôt s'il est soumis à la législation fiscale de cet État mais exempté d'impôt lorsqu'il remplit conformément à la législation fiscale de cet État toutes les conditions prévues pour cette exemption. Dans ces cas, l'organisme à caractère collectif sera considéré comme étant le bénéficiaire effectif des revenus perçus.

L'article 5 donne une définition de l'établissement stable. Aux termes du paragraphe 1, l'expression «établissement stable» désigne une installation fixe d'affaires par l'intermédiaire de laquelle une entreprise exerce tout ou partie de son activité.

Conformément au paragraphe 3, la notion d'établissement stable comprend non seulement un chantier de construction ou de montage mais également les activités de surveillance qui s'exercent sur un chantier de construction ou de montage. La durée requise pour l'existence d'un établissement stable pour les chantiers de construction ou de montage reste fixée à douze mois.

L'article 6 qui traite de l'imposition des revenus immobiliers est conforme au modèle de l'OCDE. Le paragraphe 1 accorde le droit d'imposer le revenu des biens immobiliers à l'État de la source, c'est-

à-dire à l'État dans lequel est situé le bien immobilier qui produit ce revenu. Le paragraphe 2 définit la notion de biens immobiliers par référence au droit de l'État où le bien est situé. Le paragraphe 3 précise que la règle générale s'applique quelle que soit la forme d'exploitation des biens immobiliers. Le paragraphe 4 retient que les dispositions des paragraphes 1 et 3 s'appliquent également aux revenus de biens immobiliers des entreprises industrielles, commerciales ou autres.

L'article 7 qui concerne l'imposition des bénéfices des entreprises suit l'approche du modèle de l'OCDE dans sa version de l'année 2008.

L'article 8 concerne l'imposition des bénéfices d'une entreprise d'un État contractant provenant de l'exploitation en trafic international de navires et d'aéronefs ainsi que de l'exploitation de bateaux servant à la navigation intérieure.

L'article 9 règle, conformément au principe de pleine concurrence, le cas des transferts de bénéfices des entreprises associées. Il permet à un État d'opérer des ajustements de bénéfices à des fins fiscales lorsque des transactions ont été conclues entre des entreprises associées dans des conditions autres que celles de pleine concurrence.

Le paragraphe 2 vise à supprimer la double imposition économique provenant de la rectification de la comptabilité des transactions entre entreprises associées.

L'article 10 concernant l'imposition des dividendes accorde sous certaines conditions un droit d'imposition exclusif des dividendes à l'État de résidence du bénéficiaire. En effet, d'après les dispositions de l'alinéa a) du paragraphe 2, les dividendes ne sont pas imposables dans l'État contractant dont la société qui paie les dividendes est un résident, si le bénéficiaire effectif des dividendes est une société autre qu'une société de personnes qui est un résident de l'autre État contractant et qui détient directement au moins 10 pour cent du capital de la société qui paie les dividendes.

Lorsque ces conditions ne sont pas remplies, l'imposition dans l'État d'où proviennent les dividendes est limitée à 5 pour cent du montant brut des dividendes.

L'article 11 retient pour les intérêts une imposition exclusive dans l'État de résidence, divergeant ainsi du modèle de l'OCDE qui prévoit un droit d'imposition partagé. Le paragraphe 2 fournit une définition du terme «intérêts» qui ne diffère pas du modèle de l'OCDE dans sa version actuelle.

L'article 12 dispose que les redevances provenant d'un État contractant et payées à un résident de l'autre État contractant sont imposables exclusivement dans cet autre État. Le paragraphe 2 définit le terme «redevances» qui inclut également de manière expresse les logiciels.

L'article 13 traite des gains en capital. Le paragraphe 4 du modèle de l'OCDE concernant l'aliénation d'actions de sociétés à prépondérance immobilière a été intégré mais il ne concerne que les gains provenant de l'aliénation d'actions qui tirent directement plus de 50 pour cent de leur valeur de biens immobiliers.

L'article 14 concerne les revenus d'emploi. Le transport routier a été ajouté au domaine du trafic international au paragraphe 3. Les rémunérations reçues pour l'exercice d'un emploi salarié à bord d'un navire, d'un aéronef ou d'un véhicule routier exploité en trafic international, ou à bord d'un bateau servant à la navigation intérieure, ne sont donc imposables que dans l'État de résidence de l'entreprise.

L'article 15 vise les rémunérations perçues par un résident d'un État en sa qualité de membre du conseil d'administration ou de surveillance d'une société qui est un résident de l'autre État.

L'article 16 relatif aux artistes et aux sportifs attribue à l'État où se produisent les intéressés le droit d'imposer les revenus provenant des services rendus dans cet État.

En ce qui concerne les pensions du secteur privé, payées en vertu d'un emploi antérieur, visées au paragraphe 1 de l'article 17, un droit d'imposition exclusif est attribué à l'État de résidence du bénéficiaire.

Le paragraphe 2 de l'article 17 déroge à cette règle prévue au paragraphe 1, en stipulant que les pensions et autres sommes payées en application de la législation sur la sécurité sociale ne sont imposables que dans l'État de la source.

L'article 18 reprend les dispositions relatives aux rémunérations concernant les fonctions publiques.

L'article 19 relatif aux étudiants correspond au modèle de l'OCDE.

L'article 20 concerne les activités offshores qui sont en relation avec l'exploration et l'exploitation du lit de mer, de son sous-sol ou de leurs ressources naturelles. L'article a été introduit sur demande de Chypre en raison de sa situation géographique.

L'article 21 concerne le régime fiscal des revenus qui ne sont pas traités dans les articles précédents de la Convention. Ces revenus ne sont donc imposables que dans l'État de résidence de leur bénéficiaire, à moins qu'ils ne soient rattachables à un établissement stable que le bénéficiaire possède dans l'autre État.

L'article 22 reprend les règles habituelles relatives à l'imposition de la fortune.

L'article 23 contient les dispositions pour éliminer la double imposition.

Le Luxembourg a choisi la méthode de l'exemption avec réserve de progressivité pour éviter la double imposition. Cette méthode consiste à exonérer de l'impôt luxembourgeois les revenus et la fortune imposables à Chypre, mais à en tenir compte pour calculer le taux d'impôt applicable aux revenus et à la fortune qui sont imposables au Luxembourg.

En ce qui concerne les dividendes pour lesquels le droit d'imposition est, au terme de l'article 10, partagé entre l'État de la source des revenus et l'État de résidence du bénéficiaire, le Luxembourg applique la méthode de l'imputation. Il en est de même pour les revenus des artistes et sportifs visés à l'article 16.

Cette méthode consiste à intégrer ces revenus de source étrangère dans la base d'imposition luxembourgeoise, mais à déduire de l'impôt luxembourgeois l'impôt payé sur ces revenus à Chypre. La déduction ne peut toutefois pas dépasser l'impôt luxembourgeois relatif à ces revenus.

Chypre a opté d'une manière générale pour la méthode de l'imputation.

Les articles 24 à 30 contiennent certaines dispositions spéciales ainsi que les dispositions finales de la Convention.

L'article 24 comporte les clauses habituelles de non-discrimination, sauf que la disposition concernant les apatrides a été omise. Par ailleurs, le paragraphe 5 stipule que les dispositions de cet article ne s'appliquent qu'aux impôts visés par la Convention.

L'article 25 règle les cas où une procédure amiable peut être engagée entre les autorités compétentes des deux États. Les paragraphes 1 et 2 s'appliquent aux situations dans lesquelles une personne estime que les mesures prises par un État contractant ou les deux États contractants entraînent ou entraîneront pour elle une imposition non conforme aux dispositions de la Convention.

Le paragraphe 1 dispose qu'une personne peut soumettre son cas à l'autorité compétente de l'un ou l'autre État contractant et remplit la norme minima de l'Action 14 de BEPS afin d'accroître l'efficacité des mécanismes de règlement des différends.

La dernière phrase du paragraphe 2 précise que l'accord amiable est appliqué quels que soient les délais prévus par le droit interne des États contractants. Le paragraphe 3 couvre les questions d'interprétation ou d'application de la Convention.

L'article 26 réglemente l'échange de renseignements entre les États contractants. L'article suit l'approche adoptée au modèle de convention fiscale de l'OCDE dans sa version 2014.

L'article 27 reprend les règles applicables aux membres des missions diplomatiques et des postes consulaires. Il suit l'approche adoptée au modèle de l'OCDE.

L'article 28 reprend une disposition sur le droit aux avantages de la Convention. Il adopte la règle des objets principaux.

L'article reflète donc l'approche adoptée dans l'Action 6 des travaux BEPS selon laquelle les avantages d'une convention fiscale ne devraient pas être accordés lorsqu'un des objets principaux est de bénéficier d'un avantage d'une disposition conventionnelle et que l'octroi de cet avantage serait contraire à l'objet et au but des dispositions de la convention fiscale. L'article permet aux États de s'attaquer aux cas d'utilisation abusive de la Convention.

Par ailleurs, le paragraphe 2 prévoit une procédure de consultation entre les autorités compétentes des deux États contractants avant que l'autorité compétente d'un des États qui a été contacté par un contribuable ne rejette la demande d'application de la Convention de celui-ci.

L'article 29 établit les règles relatives à l'entrée en vigueur de la Convention dans les deux États contractants.

L'article 30 arrête les modalités selon lesquelles la Convention pourra être dénoncée.

La Convention est complétée par un Protocole dont la disposition a été commentée à l'article 4. Le Protocole forme partie intégrante de la Convention.

La Convention et le Protocole ont été signés en langue anglaise.

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## **FICHE FINANCIERE**

(art. 79 de la loi du 8 juin 1999 sur le Budget, la Comptabilité  
et la Trésorerie de l'État)

Le projet de loi portant approbation de la "*Convention between the Grand Duchy of Luxembourg and the Republic of Cyprus for the elimination of double taxation with respect to taxes on income and on capital and the prevention of tax evasion and avoidance*", faite à Nicosie, le 8 mai 2017 ne comporte pas de dispositions dont l'application est susceptible de grever le budget de l'État.

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## FICHE D'EVALUATION D'IMPACT

### Coordonnées du projet

<b>Intitulé du projet :</b>	<b>Projet de loi portant approbation de la "Convention between the Grand Duchy of Luxembourg and the Republic of Cyprus for the elimination of double taxation with respect to taxes on income and on capital and the prevention of tax evasion and avoidance", faite à Nicosie, le 8 mai 2017</b>
<b>Ministère initiateur :</b>	<b>Ministère des Finances</b>
<b>Auteur(s) :</b>	<b>Paul Roller</b>
<b>Tél :</b>	<b>40800-2206</b>
<b>Courriel :</b>	<b>paul.roller@co.etat.lu</b>
<b>Objectif(s) du projet :</b>	<b>Approbation d'un traité international en matière fiscale</b>
<b>Autre(s) Ministère(s)/Organisme(s)/Commune(s)impliqué(e)(s) :</b>	/
<b>Date :</b>	<b>21.11.17</b>

### Mieux légiférer

1. Partie(s) prenante(s) (organismes divers, citoyens, ...) consultée(s) : Oui  Non   
 Si oui, laquelle/lesquelles :  
 Remarques/Observations :
  
2. Destinataires du projet :
  - Entreprises/Professions libérales : Oui  Non
  - Citoyens : Oui  Non
  - Administrations : Oui  Non
  
3. Le principe « Think small first » est-il respecté ? Oui  Non  N.a.<sup>1</sup>   
 (c.-à-d. des exemptions ou dérogations sont-elles prévues suivant la taille de l'entreprise et/ou son secteur d'activité ?)  
 Remarques/Observations :
  
4. Le projet est-il lisible et compréhensible pour le destinataire ? Oui  Non   
 Existe-t-il un texte coordonné ou un guide pratique, mis à jour et publié d'une façon régulière ? Oui  Non   
 Remarques/Observations :
  
5. Le projet a-t-il saisi l'opportunité pour supprimer ou simplifier des régimes d'autorisation et de déclaration existants, ou pour améliorer la qualité des procédures ? Oui  Non   
 Remarques/Observations :

<sup>1</sup> N.a. : non applicable.

6. Le projet contient-il une charge administrative<sup>2</sup> pour le(s) destinataire(s) ? (un coût imposé pour satisfaire à une obligation d'information émanant du projet ?) Oui  Non
- Si oui, quel est le coût administratif<sup>3</sup> approximatif total ? (nombre de destinataires x coût administratif par destinataire)
7. a) Le projet prend-il recours à un échange de données interadministratif (national ou international) plutôt que de demander l'information au destinataire ? Oui  Non  N.a.
- Si oui, de quelle(s) donnée(s) et/ou administration(s) s'agit-il ?
- b) Le projet en question contient-il des dispositions spécifiques concernant la protection des personnes à l'égard du traitement des données à caractère personnel<sup>4</sup> ? Oui  Non  N.a.
- Si oui, de quelle(s) donnée(s) et/ou administration(s) s'agit-il ?
8. Le projet prévoit-il :
- une autorisation tacite en cas de non-réponse de l'administration ? Oui  Non  N.a.
  - des délais de réponse à respecter par l'administration ? Oui  Non  N.a.
  - le principe que l'administration ne pourra demander des informations supplémentaires qu'une seule fois ? Oui  Non  N.a.
9. Y a-t-il une possibilité de regroupement de formalités et/ou de procédures (p. ex. prévues le cas échéant par un autre texte) ? Oui  Non  N.a.
- Si oui, laquelle :
10. En cas de transposition de directives communautaires, le principe « la directive, rien que la directive » est-il respecté ? Oui  Non  N.a.
- Sinon, pourquoi ?
11. Le projet contribue-t-il en général à une :
- a) simplification administrative, et/ou à une Oui  Non
  - b) amélioration de la qualité réglementaire ? Oui  Non
- Remarques/Observations :
12. Des heures d'ouverture de guichet, favorables et adaptées aux besoins du/des destinataire(s), seront-elles introduites ? Oui  Non  N.a.
13. Y a-t-il une nécessité d'adapter un système informatique auprès de l'Etat (e-Government ou application back-office) ? Oui  Non
- Si oui, quel est le délai pour disposer du nouveau système ?
14. Y a-t-il un besoin en formation du personnel de l'administration concernée ? Oui  Non  N.a.
- Si oui, lequel ?
- Remarques/Observations :

2 Il s'agit d'obligations et de formalités administratives imposées aux entreprises et aux citoyens, liées à l'exécution, l'application ou la mise en oeuvre d'une loi, d'un règlement grand-ducal, d'une application administrative, d'un règlement ministériel, d'une circulaire, d'une directive, d'un règlement UE ou d'un accord international prévoyant un droit, une interdiction ou une obligation.

3 Coût auquel un destinataire est confronté lorsqu'il répond à une obligation d'information inscrite dans une loi ou un texte d'application de celle-ci (exemple: taxe, coût de salaire, perte de temps ou de congé, coût de déplacement physique, achat de matériel, etc.).

4 Loi modifiée du 2 août 2002 relative à la protection des personnes à l'égard du traitement des données à caractère personnel (www.cnpd.lu)

**Egalité des chances**

15. Le projet est-il :
- principalement centré sur l'égalité des femmes et des hommes ? Oui  Non
  - positif en matière d'égalité des femmes et des hommes ? Oui  Non
  - Si oui, expliquez de quelle manière :
  - neutre en matière d'égalité des femmes et des hommes ? Oui  Non
  - Si oui, expliquez pourquoi :
  - négatif en matière d'égalité des femmes et des hommes ? Oui  Non
  - Si oui, expliquez de quelle manière :
16. Y a-t-il un impact financier différent sur les femmes et les hommes ? Oui  Non  N.a.
- Si oui, expliquez de quelle manière :

**Directive « services »**

17. Le projet introduit-il une exigence relative à la liberté d'établissement soumise à évaluation<sup>5</sup> ? Oui  Non  N.a.
- Si oui, veuillez annexer le formulaire A, disponible au site Internet du Ministère de l'Economie et du Commerce extérieur : [www.eco.public.lu/attributions/dg2/d\\_consommation/d\\_march\\_int\\_rieur/Services/index.html](http://www.eco.public.lu/attributions/dg2/d_consommation/d_march_int_rieur/Services/index.html)
18. Le projet introduit-il une exigence relative à la libre prestation de services transfrontaliers<sup>6</sup> ? Oui  Non  N.a.
- Si oui, veuillez annexer le formulaire B, disponible au site Internet du Ministère de l'Economie et du Commerce extérieur : [www.eco.public.lu/attributions/dg2/d\\_consommation/d\\_march\\_int\\_rieur/Services/index.html](http://www.eco.public.lu/attributions/dg2/d_consommation/d_march_int_rieur/Services/index.html)

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<sup>5</sup> Article 15, paragraphe 2 de la directive « services » (cf. Note explicative, p. 10-11)

<sup>6</sup> Article 16, paragraphe 1, troisième alinéa et paragraphe 3, première phrase de la directive « services » (cf. Note explicative, p. 10-11)

**CONVENTION**  
**between the Grand Duchy of Luxembourg and the Republic of**  
**Cyprus for the elimination of double taxation with respect to**  
**taxes on income and on capital and the prevention of tax eva-**  
**sion and avoidance**

The Government of the Grand Duchy of Luxembourg and the Government of the Republic of Cyprus

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

*Intending* to conclude a Convention for the elimination of double taxation with respect to taxes on income and on capital 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 this Convention for the indirect benefit of residents of third States)

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.
3. The existing taxes to which the Convention shall apply are in particular:
  - a) 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”);
  - b) in the Republic of Cyprus:
    - (i) the income tax;
    - (ii) the corporate income tax;
    - (iii) the special contribution for the Defence of the Republic; and
    - (iv) the capital gains tax(hereinafter referred to as “Cyprus 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 “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 “Cyprus” means the Republic of Cyprus and, when used in a geographical sense, includes the national territory, the territorial sea thereof as well as any area outside the territorial sea, including the contiguous zone, the exclusive economic zone and the continental shelf, which has been or may hereafter be designated, under the laws of Cyprus and in accordance with international law, as an area within which Cyprus may exercise sovereign rights or jurisdiction;
  - c) the term “person” includes an individual, a company and any other body of persons;
  - d) the term “company” means any body corporate or any entity that is treated as a body corporate for tax purposes;
  - e) the term “enterprise” applies to the carrying on of any business;
  - f) 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;
  - g) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
  - h) the term “competent authority” means:
    - (i) in Luxembourg, the Minister of Finance or his authorised representative;
    - (ii) in Cyprus, the Minister of Finance or his authorised representative;
  - i) the term “national” means:
    - (i) any individual possessing the nationality or citizenship of a Contracting State;
    - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
  - j) the term “business” includes the performance of professional services and of other activities of an independent character.
2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that 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 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, exploration or exploitation of natural resources.
3. A building site, construction or installation project or any supervisory activities in connection with such site or project, constitute a permanent establishment only if they last 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 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*

##### ***Shipping, inland waterways transport and air transport***

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic, as well as from the operation of boats engaged in inland waterways transport, shall be taxable only in that State.

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

- a) the rental of ships or aircraft on a full (time or voyage) basis,
- b) the occasional rental of ships or aircraft on a bare-boat basis, and
- c) the use, maintenance or rental of containers (including trailers, barges and related equipment used for the transport of containers).

3. The provisions of this Article 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 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 directly at least 10 per cent of the capital of the company paying the dividends;
  - b) 5 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 State of which the company making the distribution 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. Subject to the legal acts of the European Union, interest arising in a Contracting State and paid to 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 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 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. 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 beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.
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, computer software, 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 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.
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 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 derived by an enterprise of a Contracting State 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 that State.
4. Gains derived by a resident of a Contracting State from the alienation of shares in a company, deriving more than 50 per cent of their value directly from immovable property situated in the other Contracting State may be taxed in that other State.
5. Gains from the alienation of any property other than that referred to in the preceding paragraphs 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:
  - a) the recipient is present 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 calendar 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. 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, by an enterprise of a Contracting State, shall be taxable only in that State.

*Article 15****Directors' fees***

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

*Article 16****Artists and sportsmen***

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 sportsman, 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 sportsman in his capacity as such accrues not to the entertainer or sportsman 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 sportsman 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 State in consideration of past employment shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting State shall be taxable only in that State.

*Article 18****Government service***

1. a) Salaries, wages and other similar remuneration 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. a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created 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 pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 14, 15, 16 and 17 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or 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****Offshore activities***

1. The provisions of this Article shall apply notwithstanding any other provision of this Convention.
2. A person who is a resident of a Contracting State and carries on activities offshore in the other Contracting State in connection with the exploration or exploitation of the seabed or subsoil or their natural resources situated in that other State shall, subject to paragraphs 3 and 4 of this Article, be deemed in relation to those activities to be carrying on business in that other State through a permanent establishment situated therein.
3. The provisions of paragraph 2 and sub-paragraph b) of paragraph 5 shall not apply where the activities are carried on for a period not exceeding 30 days in the aggregate in any twelve months period commencing or ending in the fiscal year concerned. However, for the purposes of this paragraph:
  - a) Activities carried on by an enterprise associated with another enterprise shall be regarded as carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise;
  - b) Two enterprises shall be deemed to be associated if:
    - (i) 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

- (ii) The same person or persons participate directly or indirectly in the management, control or at least 30% of the capital of both enterprises.

4. Profits derived by an enterprise of a Contracting State from the transportation of supplies or personnel to a location, or between locations, where activities in connection with the exploration or exploitation of the seabed or subsoil or their natural resources are being carried on in a Contracting State, or from the operation of tugboats and other vessels auxiliary to such activities, shall be taxable only in the Contracting State of which the enterprise is a resident.

5. a) Subject to sub-paragraph b) of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with the exploration or exploitation of the seabed or subsoil or their natural resources situated in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on offshore for an employer who is not a resident of the other State and provided that the employment is carried on for a period or periods not exceeding in the aggregate 30 days in any twelve-month period commencing or ending in the fiscal year concerned.

b) Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies or personnel to or from a location, or between locations, where activities connected with the exploration or exploitation of the seabed or subsoil or their natural resources are being carried on in the other Contracting State, or in respect of an employment exercised aboard tugboats or other vessels operated auxiliary to such activities, may be taxed in the State of which the enterprise carrying on such activities is a resident.

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

- a) Exploration or exploitation rights; or
- b) Property situated in the other Contracting State and used in connection with the exploration or exploitation of the seabed or subsoil or their natural resources situated in that other State; or
- c) Shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together,

may be taxed in that other State.

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

#### *Article 21*

#### ***Other income***

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that 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 22*

#### ***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 ships and aircraft operated in international traffic by an enterprise of a Contracting State, and by boats engaged in inland waterways transport by an enterprise of a Contracting State, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

*Article 23*

***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:
  - a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Cyprus, 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 and 16 may be taxed in Cyprus, 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 Cyprus. 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 Cyprus.
  - c) The provisions of sub-paragraph a) shall not apply to income derived or capital owned by a resident of Luxembourg where Cyprus 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. Subject to the provisions of Cyprus tax law regarding credit for foreign tax, there shall be allowed as a credit against Cyprus tax payable in respect of any item of income derived from Luxembourg, the tax paid under the laws of Luxembourg and in accordance with this Convention. The credit shall not, however, exceed that part of the Cyprus tax, as computed before the credit is given, which is appropriate to such items of income.

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

*Article 24*

***Non-discrimination***

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other 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 net residents of one or both of the Contracting States.
2. 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.

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 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.
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 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.
5. The provisions of this Article shall apply to taxes covered by this Convention.

#### *Article 25*

##### ***Mutual agreement procedure***

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

#### *Article 26*

##### ***Exchange of information***

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

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

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

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

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

#### *Article 27*

#### ***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 28*

#### ***Entitlement to benefits***

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

2. Where a benefit under this Convention is denied to a person under paragraph 1, 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. The competent authority of the Contracting State to which the request has been made will consult with the competent authority of the other State before rejecting a request made under this paragraph by a resident of that other State.

*Article 29****Entry into force***

1. The Contracting States shall notify each other in writing, through diplomatic channels, that the procedures required by its law for the entry into force of this Convention have been satisfied. The Convention shall enter into force on the date of receipt of the last notification.
2. The Convention shall be applicable:
  - 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 Convention 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 Convention enters into force.

*Article 30****Termination***

1. This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic 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 Convention shall cease to have effect:
  - a) in respect of taxes withheld at source, to income derived on or after 1 January in 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 in the calendar year 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 Nicosia, on the 8th of May 2017, in the English language.

*For the Government  
of the Grand Duchy of Luxembourg*  
Pierre GRAMEGNA  
*Minister of Finance  
of the Grand Duchy of Luxembourg*

*For the Government  
of the Republic of Cyprus*  
Harry GEORGIADES  
*Minister of Finance  
of the Republic of Cyprus*

## PROTOCOL

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

### With reference to Article 4:

It is understood that a collective investment vehicle is a resident of a Contracting State if under the domestic laws of that State it is liable to tax therein by reason of its domicile, residence, place of management or any other criterion of a similar nature. A collective investment vehicle is also considered liable to tax if it is subject to the tax laws of that Contracting State but is exempt from tax only if it meets all the requirements for exemption specified in the tax laws of that Contracting State. Such a collective investment vehicle is for the purposes the Convention the beneficial owner of the income it receives. This provision shall not be construed as restricting in any way a Contracting State's right to tax the residents of that State.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Nicosia, on the 8th of May 2017, in the English language.

*For the Government  
of the Grand Duchy of Luxembourg*

Pierre GRAMEGNA  
*Minister of Finance  
of the Grand Duchy of Luxembourg*

*For the Government  
of the Republic of Cyprus*

Harry GEORGIADES  
*Minister of Finance  
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