

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

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 Jersey for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed on 17 April 2013 (“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 Jersey 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 Jersey submitted to the Depository upon ratification on 15 December 2017. 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 Parties”), 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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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 Jersey submitted to the Depositary upon ratification on 15 December 2017 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 Jersey in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 9 April 2019 for Luxembourg and 15 December 2017 for Jersey.

Entry into force of the MLI: 1 August 2019 for Luxembourg and 1 July 2018 for Jersey.

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 Jersey:

- 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 January 2021.

CONVENTION

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

The Government of the Grand Duchy of Luxembourg and the Government of Jersey

[Replaced by paragraph 1 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 of Article 6 of the MLI replaces 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

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 1

PERSONS COVERED

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

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting Party or of its local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
 - a) in Luxembourg:
 - (i) the income tax on individuals (l'impôt sur le revenu des personnes physiques);

- (ii) the corporation tax (l'impôt sur le revenu des collectivités);
 - (iii) the capital tax (l'impôt sur la fortune); and
 - (iv) the communal trade tax (l'impôt commercial communal);
(hereinafter referred to as "Luxembourg tax");
- b) in Jersey:
- (i) the income tax;
(hereinafter referred to as "Jersey tax").
4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting Parties shall notify each other of any significant changes that have been made in their taxation laws.

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
- a) the term "Luxembourg" means the Grand Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand Duchy of Luxembourg;
 - b) the term "Jersey" means, when used in a geographical sense, the Bailiwick of Jersey, including its territorial sea;
 - c) the terms "a Party" and "the other Party" mean Jersey or Luxembourg as the context requires; the term "Parties" means Jersey and Luxembourg;
 - d) the term "person" includes an individual, a company and any other body of persons;
 - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - f) the term "enterprise" applies to the carrying on of any business;
 - g) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of a Contracting Party and an enterprise carried on by a resident of the other Contracting Party;
 - h) the term "international traffic" means any transport by a ship, aircraft or road vehicle operated by an enterprise that has its place of effective management in a Contracting Party, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting Party;

- i) the term "competent authority" means:
 - (i) in Luxembourg, the Minister of Finance or his authorised representative;
 - (ii) in Jersey, the Treasury and Resources Minister or his authorised representative;
 - j) the term "national", in relation to a Contracting Party, means:
 - (i) any individual possessing the nationality or citizenship of that Contracting Party;
and
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in that Contracting Party;
 - k) the term "business" includes the performance of professional services and of other activities of an independent character.
2. As regards the application of the Convention at any time by a Contracting Party, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that Party for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that Party prevailing over a meaning given to the term under other laws of that Party.

Article 4

RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting Party" means any person who, under the laws of that Party, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that Party, any local authority thereof and any pension fund or pension scheme recognised by that Party. This term, however, does not include any person who is liable to tax in that Contracting Party in respect only of income from sources in that Contracting Party or capital situated therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting Parties, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident only of the Party in which he has a permanent home available to him; if he has a permanent home available to him in both Parties, he shall be deemed to be a resident only of the Party with which his personal and economic relations are closer (centre of vital interests);
 - b) if the Party in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Party, he shall be deemed to be a resident only of the Party in which he has an habitual abode;
 - c) if he has an habitual abode in both Parties or in neither of them, he shall be deemed to be a resident only of the Party of which he is a national;

- d) if he is a national of both Parties or of neither of them, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting Parties, then it shall be deemed to be a resident only of the Party in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop, and
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or construction or installation or a dredging project constitutes a permanent establishment only if it lasts more than twelve months.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Party in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
 6. An enterprise of a Contracting Party shall not be deemed to have a permanent establishment in the other Contracting Party merely because it carries on business in that Party through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
 7. The fact that a company which is a resident of a Contracting Party controls or is controlled by a company which is a resident of the other Contracting Party, or which carries on business in that other Party (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the other Contracting Party may be taxed in that other Party.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting Party in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

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

Article 7

BUSINESS PROFITS

1. Profits of an enterprise of a Contracting Party shall be taxable only in that Party unless the enterprise carries on business in the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits that are attributable to the permanent establishment in accordance with the provisions of paragraph 2 may be taxed in that other Party.
2. For the purposes of this Article and Article 22, the profits that are attributable in each Contracting Party to the permanent establishment referred to in paragraph 1 are the profits it might be expected to make, in particular in its dealings with other parts of the enterprise, if it were a separate and independent enterprise engaged in the same or similar activities under the same or similar conditions, taking into account the functions performed, assets used and risks assumed by the enterprise through the permanent establishment and through the other parts of the enterprise.
3. Where, in accordance with paragraph 2, a Contracting Party adjusts the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting Parties and taxes accordingly profits of the enterprise that have been charged to tax in the other Party, the other Party shall, to the extent necessary to eliminate double taxation on these profits, make an appropriate adjustment to the amount of the tax charged on those profits. In determining such adjustment, the competent authorities of the Contracting Parties shall if necessary consult each other.
4. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.
2. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.
3. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting Party in which the home harbour of the ship or boat is situated, or, if

there is no such home harbour, in the Contracting Party of which the operator of the ship or boat is a resident.

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

1. Where

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

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

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

Article 10

DIVIDENDS

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

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;
- b) 15 per cent of the gross amount of the dividends in all other cases.

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

- 3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Party of which the company making the distribution is a resident, and in the case of Luxembourg, the investor's share of the profit in a commercial, industrial, mining or craft undertaking, paid proportionally to the profits and by virtue of his capital outlay, as well as interest and payments on bonds, where, over and above the fixed rate of interest, a right of assignment is granted for supplementary interest varying according to the unretained earnings.
- 4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting Party, carries on business in the other Contracting Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
- 5. Where a company which is a resident of a Contracting Party derives profits or income from the other Contracting Party, that other Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Party or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other Party, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Party.

Article 11

INTEREST

- 1. Interest arising in a Contracting Party and beneficially owned by a resident of the other Contracting Party shall be taxable only in that other Party.
- 2. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income

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

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the interest arises, through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Convention.

Article 12

ROYALTIES

1. Royalties arising in a Contracting Party and beneficially owned by a resident of the other Contracting Party shall be taxable only in that other Party.
2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting Party, carries on business in the other Contracting Party in which the royalties arise through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Convention.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting Party from the alienation of immovable property referred to in Article 6 and situated in the other Contracting Party may be taxed in that other Party.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other Party.
3. Gains from the alienation of ships or aircraft operated in international traffic, boats engaged in inland waterways transport or movable property pertaining to the operation of such ships, aircraft or boats, shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting Party of which the alienator is a resident.

Article 14

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting Party in respect of an employment shall be taxable only in that Party unless the employment is exercised in the other Contracting Party. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Party.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting Party in respect of an employment exercised in the other Contracting Party shall be taxable only in the first-mentioned Party if:
 - a) the recipient is present in the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the calendar year concerned, and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Party, and
 - c) the remuneration is not borne by a permanent establishment which the employer has in the other Party.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road vehicle operated in international traffic, or aboard a boat engaged in inland waterways transport, may be

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

Article 15

DIRECTORS' FEES

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

Article 16

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting Party, may be taxed in that other Party.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting Party in which the activities of the entertainer or sportsperson are exercised.

Article 17

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 18, pensions and other similar remuneration paid to a resident of a Contracting Party in consideration of past employment shall be taxable only in that Party.
2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting Party shall be taxable only in that Party.
3. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including lump-sum payments) arising in a Contracting Party and paid to a resident of the other Contracting Party shall be taxable only in the first-mentioned Party, provided that such payments derive from contributions paid to or from provisions made under a pension scheme by the recipient or on his behalf and that these contributions, provisions or the pensions or other similar remuneration have been subjected to tax in the first-mentioned Party under the ordinary rules of its tax laws.

Article 18

GOVERNMENT SERVICE

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

b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting Party if the services are rendered in that Party and the individual is a resident of that Party who:
 - (i) is a national of that Party; or
 - (ii) did not become a resident of that Party solely for the purpose of rendering the services.
2. a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid by, or out of funds created by, a Contracting Party or a local authority thereof to an individual in respect of services rendered to that Party or authority shall be taxable only in that Party.

b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting Party if the individual is a resident of, and a national of, that Party.
3. The provisions of Articles 14, 15 and 17 shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting Party or a local authority thereof.

Article 19

STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting Party a resident of the other Contracting Party and who is present in the first-mentioned Party solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that Party, provided that such payments arise from sources outside that Contracting Party.

Article 20

OTHER INCOME

1. Items of income of a resident of a Contracting Party, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that Party.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting Party, carries on business in the other Contracting Party through a permanent establishment situated therein and the right or

property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

Article 21

CAPITAL

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting Party and situated in the other Contracting Party, may be taxed in that other Party.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party may be taxed in that other Party.
3. Capital represented by ships and aircraft operated in international traffic and by boats engaged in inland waterways transport, and by movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting Party in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting Party shall be taxable only in that Party.

Article 22

ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of Luxembourg law regarding the elimination of double taxation which shall not affect the general principle hereof, double taxation shall be eliminated as follows:
 - a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Jersey, Luxembourg shall, subject to the provisions of sub-paragraphs b), c) and d), exempt such income or capital from tax, but may, in order to calculate the amount of tax on the remaining income or capital of the resident, apply the same rates of tax as if the income or capital had not been exempted.
 - b) Where a resident of Luxembourg derives income which, in accordance with the provisions of Articles 7, 10, 13(2) and 16 may be taxed in Jersey, Luxembourg shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Jersey, but only, with respect to Articles 7 and 13(2), if the business profits and the capital gains are not derived from activities in agriculture, industry, infrastructure and tourism in Jersey. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Jersey.

- c) Where a company which is a resident of Luxembourg derives dividends from Jersey sources, Luxembourg shall exempt such dividends from tax, provided that the company which is a resident of Luxembourg holds directly at least 10 per cent of the capital of the company paying the dividends since the beginning of the accounting year and if this company is subject in Jersey to an income tax corresponding to the Luxembourg corporation tax. The above-mentioned shares in the Jersey company are, under the same conditions, exempt from the Luxembourg capital tax. This exemption under this sub-paragraph shall also apply notwithstanding that the Jersey company is exempted from tax or taxed at a reduced rate in Jersey and if these dividends are derived out of profits from activities in agriculture, industry, infrastructure or tourism in Jersey.
- d) The provisions of sub-paragraph a) shall not apply to income derived or capital owned by a resident of Luxembourg where Jersey applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 to such income.

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

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

- a) When imposing tax on its residents Jersey may include in the basis upon which such taxes are imposed the items of income, which, according to the provisions of this Convention, may be taxed in Luxembourg.
- b) Where a resident of Jersey derives income which, in accordance with the provisions of this Convention, may be taxed in Luxembourg, Jersey shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Luxembourg. Such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Luxembourg.

Article 23

NON-DISCRIMINATION

- 1. Nationals of a Contracting Party shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other Party in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting Parties.

2. The taxation on a permanent establishment which an enterprise of a Contracting Party has in the other Contracting Party shall not be less favourably levied in that other Party than the taxation levied on enterprises of that other Party carrying on the same activities.
3. Except where the provisions of paragraph 1 of Article 9, paragraph 4 of Article 11, or paragraph 4 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned Contracting Party. Similarly, any debts of an enterprise of a Contracting Party to a resident of the other Contracting Party shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned Party.
4. Enterprises of a Contracting Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting Party, shall not be subjected in the first-mentioned Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned Party are or may be subjected.
5. The provisions of this Article shall not be construed as obliging a Party to grant to residents of the other Party any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 24

MUTUAL AGREEMENT PROCEDURE

1. **[The first sentence of paragraph 1 of Article 24 of this Convention is replaced by the first sentence of paragraph 1 of Article 16 of the MLI]** [Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those Parties, present his case to the competent authority of the Contracting Party of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting Party of which he is a national.]

The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 24 of this Convention:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

Where a person considers that the actions of one or both of the [Contracting Parties] 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 Parties], present the case to the competent authority of either [Contracting Party].

The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Party, with a view to the avoidance of taxation which is not in accordance with the Convention. An agreement shall be reached within a period of two years after the question was formally raised by the competent authority and the agreement shall be implemented notwithstanding any time limits in the domestic law of the Parties.
3. The competent authorities of the Contracting Party shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.
4. The competent authorities of the Contracting Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.
5. Where,
 - a) under paragraph 1, a person has presented a case to the competent authority of a Contracting Party on the basis that the actions of one or both of the Contracting Parties have resulted for that person in taxation not in accordance with the provisions of this Convention, and
 - b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 within two years from the presentation of the case to the competent authority of the other Contracting Party,

any unresolved issues arising from the case shall be submitted to arbitration if the person so requests. These unresolved issues shall not, however, be submitted to arbitration if a decision on these issues has already been rendered by a court or administrative tribunal

of either Party. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting Parties and shall be implemented notwithstanding any time limits in the domestic laws of these Parties. The competent authorities of the Contracting Parties shall by mutual agreement settle the mode of application of this paragraph.

Article 25

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting Parties, or of their local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.
2. Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting Party the obligation:
 - a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting Party;
 - b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting Party;
 - c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).
4. If information is requested by a Contracting Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though that other Party may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting Party to decline to supply information solely because it has no domestic interest in such information.

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

Article 26

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions 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 Party*] 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 Party*] to which a request has been made under this paragraph by a resident of the other [*Contracting Party*] shall consult with the competent authority of that other [*Contracting Party*] before rejecting the request.

Article 27

ENTRY INTO FORCE

1. Each Party shall notify the other Party of the completion of the procedures required by its laws for the bringing into force of this Convention. The Convention shall enter into force on the date of the later of these notifications.
2. The Convention shall have effect:
 - a) in respect of taxes withheld at source, to income derived on or after the first day of January next following the year in which the Convention enters into force;
 - b) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxation year beginning on or after the first day of January next following the year in which the Convention enters into force.

Article 28

TERMINATION

1. This Convention shall remain in force until terminated by a Contracting Party. Either Contracting Party may terminate the Convention by giving to the other Party written notice of termination at least six months before the end of any calendar year beginning after the expiration of a period of five years from the date of its entry into force.
2. The Convention shall cease to have effect:
 - a) in respect of taxes withheld at source, to income derived on or after the first day of January next following the year in which the notice is given;
 - b) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxation year beginning on or after the first day of January next following the year in which the notice is given.

PROTOCOL

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

I. With reference to Article 4:

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

II. With reference to Article 25:

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

- a) the identity of the person under examination or investigation;
- b) a statement of the information sought including its nature and the form in which the requesting Party wishes to receive the information from the requested Party;
- c) the tax purpose for which the information is sought;
- d) grounds for believing that the information requested is held in the requested Party or is in the possession or control of a person within the jurisdiction of the requested Party;
- e) to the extent known the name and address of any person believed to be in possession of the requested information;
- f) a statement that the requesting Party has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

III. With reference to the Convention in general:

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

EXCHANGE OF NOTES

Assistant Chief Minister
External Relations
Cyril Le Marquand House
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Tel.: +44 (0)1534 440401

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

Dear Ms Kirsch,

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

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

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

In that case or if Luxembourg interprets in a different manner the interpretation of what a corresponding tax to a Luxembourg tax comprises so that dividends paid from companies paid from companies subject to Jersey tax at a rate lower than 10.5% become eligible for the exemption from Luxembourg tax, then Jersey would agree to exempt dividends flowing

from Luxembourg to Jersey in all cases provided the Jersey company owns at least 10% of the capital of the Luxembourg company at the beginning of the accounting year.

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

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

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

Senator Sir Philip BAILHACHE

Assistant Chief Minister

External relations

*

Chief Minister

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

27th March 2013

For the Council of Ministers

Senator Ian GORST

Chief Minister