

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

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

General disclaimer on the synthesised text document

This document presents the synthesised text for the application of the Convention between the Grand Duchy of Luxembourg and the Republic of Panama for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed on 7 October 2010 (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 Panama on 24 January 2018 (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 Panama submitted to the Depository upon ratification on 5 November 2020. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

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

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

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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

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

References

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

impotsdirects.public.lu

The text of the MLI and the MLI position of Luxembourg submitted to the Depositary upon ratification on 9 April 2019 and of the MLI position of Panama submitted to the Depositary upon ratification on 5 November 2020 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 Panama in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 9 April 2019 for Luxembourg and 5 November 2020 for Panama.

Entry into force of the MLI: 1 August 2019 for Luxembourg and 1 March 2021 for Panama.

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 2022;
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 September 2021.

In Panama:

- 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 2022;
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 September 2021.

CONVENTION

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

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

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

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

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

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

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

have agreed as follows:

CHAPTER I - SCOPE OF THE CONVENTION

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 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 Panama:
 - i. the income tax ("impuesto sobre la renta") provided in the Fiscal Code, Book IV, Title I, and its related decrees and regulations;
 - ii. the notice of operations tax;
(hereinafter referred to as "Panama tax");
 - b) in Luxembourg:
 - i. the income tax on individuals (l'impôt sur le revenu des personnes physiques);
 - ii. the corporation tax (l'impôt sur le revenu des collectivités);
 - iii. the capital tax (l'impôt sur la fortune); and
 - iv. the communal trade tax (l'impôt commercial communal);
(hereinafter referred to as "Luxembourg tax").
4. The 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.

CHAPTER II - DEFINITIONS

ARTICLE 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term "Panama" means the Republic of Panama and, when used in a geographical sense, means the territory of the Republic of Panama, including inland waters, its airspace, the territorial sea and any area outside the territorial sea upon which, in accordance with International Law and on application of its domestic legislation, the Republic of Panama exercises, or may exercise in the future, jurisdiction or sovereign rights with respect to the seabed, its subsoil and superjacent waters, and their natural resources;
 - b) the term "Luxembourg" means the Grand Duchy of Luxembourg and, when used in a geographical sense, means the territory of the Grand Duchy of Luxembourg;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Panama or Luxembourg as the context requires;
 - d) the term "person" includes an individual, a company and any other body of persons;
 - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - f) the term "enterprise" applies to the carrying on of any business;
 - g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

- i) the term "competent authority" means:
 - i. in Panama, the Ministry of Economy and Finance ("Ministerio de Economía y Finanzas ") or its authorized representative;
 - ii. in Luxembourg, the Minister of Finance or his authorized representative;
 - j) the term "national", in relation to a Contracting State, means:
 - i. any individual possessing the nationality or citizenship of that Contracting State; and
 - ii. any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
 - 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 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 incorporation, place of management or any other criterion of a similar nature, and also includes that State and any 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 drilling rig or ship used for, or in connection with, the exploration or exploitation of natural resources;
 - f) a workshop; and
 - g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. Likewise the term "permanent establishment" encompasses:
 - a) a building site, a construction, assembly or installation project, or supervisory activities in connection therewith, but only where such site, project or activities continue for a period or periods exceeding in the aggregate more than 183 days within any twelve-month period;
 - b) the rendering of services in a Contracting State, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise, but only where these employees or personnel are present in that Contracting State for the performance of the same or connected project, during a period or periods aggregating more than 183 days in any twelve month period.
4. For the purposes of determining the duration of activities under paragraph 3, the period during which activities are carried on in a Contracting State by an enterprise associated with another enterprise shall be aggregated with the period during which activities are carried on by the enterprise with which it is associated if the first-mentioned activities are connected with the activities carried on in that State by the last-mentioned enterprise, provided that any period during which two or more associated enterprises are carrying on concurrent activities is counted only once. An enterprise shall be deemed to be associated with another enterprise if one is controlled directly or indirectly by the other, or if both are controlled directly or indirectly by a third person or persons. If necessary, the competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this provision.
5. 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 subparagraphs 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.
6. Notwithstanding the provisions of paragraphs 1 and 2 where a person, other than an agent of an independent status to whom the provisions of paragraph 7 apply, is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned State in respect of any activities which that person undertakes for the enterprise if such person:
- a) has, and habitually exercises, in that Contracting State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 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; or
 - b) has no such powers, but habitually maintains in the first-mentioned State a warehouse for goods or merchandise which is regularly used to deliver goods or merchandise in the name of the enterprise, if the goods or merchandise are sold in the Contracting State where the warehouse is located.
7. 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, and conditions are made or imposed between that enterprise and the agent in their commercial and financial relations which differ from those which would have been made between independent enterprises, he will not be considered an agent of an independent status within the meaning of this paragraph.
8. 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.

CHAPTER III - TAXATION OF INCOME

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. Where the ownership of shares, participations or other rights in an enterprise or any other legal person attributes directly or indirectly to a resident of a Contracting State a right to use an immovable property situated in the other Contracting State that such enterprise or legal person possesses therein, the income derived by the owner of the shares, participations or rights as a result of the direct use, letting, or use in any other form of that property, may be taxed in the Contracting State in which the immovable property is situated, to the same extent to which the owner of such rights would be taxed if he were a resident of that other State.
5. The provisions of paragraphs 1, 3 and 4 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 AND AIR TRANSPORT

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.
2. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.
3. The provisions of this Convention shall not apply with regards to the taxes, tolls, duties or similar payments that might be applicable upon crossing the Panama Canal.

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) 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, 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.

6. Notwithstanding any other provision of this Convention, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State, the profits taxable under Article 7, paragraph 1, may be subject to an additional tax in that other State, in accordance with its laws, but the additional charge shall not exceed 5 per cent of the amount of those profits.

ARTICLE 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, if
 - a) the beneficial owner of the interest is that other Contracting State, the Central Bank or a local authority thereof; or
 - b) the interest is paid by the State in which the interest arises or by a local authority or statutory body thereof; or
 - c) the interest is paid in relation with the sale on credit of merchandise or equipment to an enterprise of a Contracting State; or
 - d) the interest is paid to other entities or bodies (including financial institutions) as a result of financing provided by such institutions or bodies in connection with agreements concluded between the Governments of the Contracting States; or
 - e) the interest is paid by a financial institution of one of the Contracting States to a financial institution of the other Contracting State.
4. 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 or 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.
5. The provisions of paragraphs 1, 2 and 3 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.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including software and cinematograph films, any patent, trade mark, drawing, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment or for information concerning industrial commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties

are borne by the permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

ARTICLE 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.
4. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State.

However, this paragraph shall not apply to gains derived from the alienation of shares or other comparable interests of companies that are listed on an approved stock exchange of one of the Contracting States, to gains derived from the alienation of shares or other comparable interests in the course of a corporate reorganization or where the immovable property from which the shares or comparable interests derive their value is immovable property (such as a mine or a hotel) in which a business is carried on.

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

ARTICLE 14

SERVICES

1. Income derived by a resident of a Contracting State for services rendered in the other Contracting State, may be taxed in the first-mentioned State. However, such income

may also be taxed in the Contracting State where the services are rendered, as long as such services qualify as professional services, consultancy services, industrial commercial advice, technical or management services or similar services. However, the tax so charged shall not exceed 5 per cent of the gross amount of the payment when the beneficial owner of such payments is a resident of the other Contracting State.

However, if the services are not rendered in any of the Contracting States, income from such services may be taxed in the Contracting State from where the income from such services arises. The income from such services shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the income from such services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the income from such services was incurred, and such income is borne by the permanent establishment, then such income shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

2. The term "professional services" as used in this Article includes independent, scientific, literary, artistic, and educational activities, as well as medical, legal, engineering, architectural, dental and accounting activities.
3. The provisions of paragraph 1 shall not apply if the service provider, being a resident of a Contracting State, carries on a business in the other Contracting State in which the services income arise through a permanent establishment situated therein and the activity in respect of which the fees are paid is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 shall apply.
4. Where, by reason of a special relationship between the service provider and the beneficiary of the services or between both of them and some other person, the amount of the services income exceeds the amount which would have been agreed upon by the service provider and the beneficiary of the services 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 service income shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 15

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 16, 18 and 19, 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 or aircraft operated in international traffic, may be taxed in the Contracting State of which the enterprise that operates the ship or aircraft is a resident.

ARTICLE 16

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 17

ARTISTES AND SPORTSPERSONS

1. Notwithstanding the provisions of Articles 7 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsperson, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsperson in his capacity as such accrues not to the entertainer or sportsperson himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsperson are exercised.

ARTICLE 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, 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.
3. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration (including lump-sum payments) arising in a Contracting State and paid to

a resident of the other Contracting State shall be taxable only in the first-mentioned State, 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 subject to tax in the first-mentioned State under the ordinary rules of its tax laws.

ARTICLE 19

GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State 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 local authority thereof to an individual in respect of services rendered to that State 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 15, 16, 17 and 18 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 local authority thereof.

ARTICLE 20

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 be taxed in that State, provided that such payments arise from sources outside that State.

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.

3. Where, by reason of a special relationship between the persons who have carried on activities from which income referred to in paragraph 1 are derived, the payment for such activities exceeds the amount which would have been agreed upon by independent persons, the provisions of paragraph 1 shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of the Convention.

CHAPTER IV - TAXATION ON CAPITAL

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 movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
4. All other elements of capital or a resident of a Contracting State shall be taxable only in that State.

CHAPTER V - METHODS FOR ELIMINATION OF DOUBLE TAXATION

ARTICLE 23

ELIMINATION OF DOUBLE TAXATION

1. In Panama double taxation will be eliminated as follows:
 - a) Where a resident of Panama derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Luxembourg, Panama will exempt such income or capital from taxes.
 - b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Panama is exempt from tax in Panama, Panama may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

2. 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 Panama, 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, 11, 12, 14 and 17 may be taxed in Panama, 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 Panama. 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 Panama.
 - c) The provisions of sub-paragraph a) shall not apply to income derived or capital owned by a resident of Luxembourg where Panama applies the provisions of this Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Articles 10, 11 and 12, or of paragraph 1 of Article 14 to such income.

CHAPTER VI - SPECIAL PROVISIONS

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 not 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 favorably 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 7 of Article 11, paragraph 6 of Article 12, paragraph 4 of Article 14, or paragraph 3 of Article 21 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, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

ARTICLE 25

MUTUAL AGREEMENT PROCEDURE

1. **[The first sentence of paragraph 1 of Article 25 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 States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State 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 25 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 States*] result or will result for that person in taxation not in accordance with the provisions of [*this Convention*], that person may, irrespective of the remedies provided by the domestic law of those [*Contracting States*], present the case to the competent authority of either [*Contracting State*].

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

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*].

CHAPTER VII - FINAL PROVISIONS

ARTICLE 28

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.
2. The Convention shall enter into force after a period of three months after the date of the later of the notifications referred to in paragraph 1 and its provisions (including the provisions of Articles 24 and 26) shall have effect:
 - a) in respect of taxes due at source, for the amounts credited or paid on or after the first day of January of the first calendar year following that in which this Convention enters into force; and
 - b) in respect of other taxes, for the taxable periods beginning on or after the first day of January of the first calendar year next following that in which this Convention enters into force.

ARTICLE 29

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 due at source, for the amounts credited or paid on or after the first day of January of the first calendar year following that in which the notice is given; and
 - b) in respect of other taxes, for the taxable periods beginning on or after the first day of January of the first calendar year following that in which the notice is given.

Protocol

At the moment of signing the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income and on Capital, this day concluded between the Grand Duchy of Luxembourg and the Republic of Panama, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

1. In relation to Article 10:
It is understood that in the case of Luxembourg the term "dividends" shall include 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 outlaw, 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.
2. In relation to Article 11:
It is understood that the term "interest" shall not include income referred to in Article 10.
3. In relation with Article 12:
In the case of royalties derived by a resident of a Contracting State from the other Contracting State, such resident may elect to be taxed on a net basis as a resident of the other Contracting State. This election may be exercised after the application of the withholding tax described in Article 12, paragraph 2, on the gross amount. The competent authorities shall establish the administrative measures necessary to carry out this provision.
4. In relation with Article 26:
 - a) It is understood that the competent authority of the requested State shall provide upon request by the competent authority of the requesting State information for the purposes referred to in Article 26.
 - b) It is understood that information will only be requested once the requesting Contracting State has exhausted all regular sources of information available under the internal taxation procedure.
 - c) It is understood that the administrative assistance provided for in Article 26 does not include measures (i) aimed only at the simple collection of pieces of evidence, or (ii) when it is improbable that the requested information will be relevant for controlling or administering tax matters of a given taxpayer in a Contracting State ("Fishing Expeditions").
 - d) It is understood that the competent authorities of the requesting State shall provide the following information to the competent authorities of the requested State when making a request for information under Article 26 of the Convention:
 - I. the name and address of the person(s) under examination or investigation and, if available, other particulars facilitating that person's identification, such as date of birth, marital status, tax identification number;
 - II. the period of time for which the information is requested;

- III. a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;
 - IV. the tax purpose for which the information is sought;
 - V. grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
 - VI. the name and address of any person believed to be in possession of the requested information;
 - VII. a statement that the requesting State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.
- e) It is further understood that Article 26 of the Convention shall not commit the Contracting States to exchange information on an automatic or a spontaneous basis.
- f) It is understood that in case of an exchange of information, the administrative procedural rules regarding taxpayers' rights provided for in the requested Contracting State remain applicable before the information is transmitted to the requesting Contracting State. These procedures include notifying the person in regards with the request of information from the other Contracting State, and granting the possibility for that person to file and present a stance with the tax administration before it issues a response to the requesting State. It is further understood that this provision aims at guaranteeing the taxpayer a fair procedure and not at preventing or unduly delaying the exchange of information process.