

**SYNTHESISED TEXT OF THE MULTILATERAL CONVENTION TO IMPLEMENT TAX TREATY
RELATED MEASURES TO PREVENT BASE EROSION AND PROFIT SHIFTING AND THE
AGREEMENT BETWEEN THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG AND
THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM 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 Agreement between the Government of the Grand Duchy of Luxembourg and the Government of the Socialist Republic of Vietnam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed on 4 March 1996 (the “Agreement”), 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 Vietnam on 9 February 2022 (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 Vietnam submitted to the Depository upon ratification on 23 May 2023. 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 Agreement.

The authentic legal texts of the Agreement 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 Agreement are included in boxes throughout the text of this document in the context of the relevant provisions of the Agreement. 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 Agreement (such as “Covered Tax Agreement” and “Agreement”, “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 Agreement: 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 Agreement or to the Agreement must be understood as referring to the Agreement as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

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

impotsdirects.public.lu

The text of the MLI and the MLI position of Luxembourg submitted to the Depository upon ratification on 9 April 2019 and of the MLI position of Vietnam submitted to the Depository upon ratification on 23 May 2023 can be found on the [MLI Depository \(OECD\) 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 Agreement do not take effect on the same dates as the original provisions of the Agreement. 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 Vietnam in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 9 April 2019 for Luxembourg and 23 May 2023 for Vietnam.

Entry into force of the MLI: 1 August 2019 for Luxembourg and 1 September 2023 for Vietnam.

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

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 2024;
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 March 2024.

In Vietnam:

- 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 2024;
- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 January 2025.

AGREEMENT

BETWEEN THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG AND THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM 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 Socialist Republic of Vietnam

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

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 Agreement :

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 Agreement]* 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 Agreement]* for the indirect benefit of residents of third jurisdictions),

have agreed as follows:

Article 1

Personal scope

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

Article 2

Taxes covered

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are:
 - a) in Luxembourg:
 - (i) the income tax on individuals;
 - (ii) the corporation tax;
 - (iii) the tax on fees of directors of companies;
 - (iv) the capital tax; and
 - (v) the communal trade tax
(hereinafter referred to as "Luxembourg tax");
 - b) in Vietnam:
 - (i) the personal income tax;
 - (ii) the profit tax; and
 - (iii) the profit remittance tax
(hereinafter referred to as "Vietnamese tax").
4. The Agreement shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of substantial changes which have been made in their respective taxation laws.

Article 3

General definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
 - a) the term "Luxembourg" means the Grand Duchy of Luxembourg; when used in a geographical sense, it means the territory of the Grand Duchy of Luxembourg;
 - b) the term "Vietnam" means the socialist Republic of Vietnam; when used in a geographical sense, it means all its national territory, including its territorial sea and any area beyond and adjacent to its territorial sea, within which Vietnam by Vietnamese legislation and in accordance with international law, has sovereign rights of exploration for and exploitation of natural resources of the seabed and its subsoil and superjacent waters;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Luxembourg or Vietnam 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 which is treated as a body corporate for tax purposes;
 - f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

- g) the term "nationals" means:
 - (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a 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; and
 - i) the term "competent authority" means:
 - (i) in the case of Luxembourg, the Minister of Finance or his authorized representative; and
 - (ii) in the case of Vietnam, the Minister of Finance or his authorized representative.
2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.

Article 4

Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of registration or any other criterion of a similar nature. But this term 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 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 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 does not have a permanent home available to him in either State, he shall be deemed to be a resident 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 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 of the State in which its place of effective management is situated.

Article 5

Permanent establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of the 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;
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
 - g) a warehouse.
3. The term "permanent establishment" likewise encompasses:
 - a) a building site, construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;
 - b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any 12 month period.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - a) the use of facilities solely for the purpose of storage or display 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 or display;
 - 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.

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 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 Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:
 - a) has and habitually exercises in that 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 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; or
 - b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income from immovable property

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

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

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 business 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. Nothing in this Article shall affect the application of any law of a Contracting State relating to the determination of the tax liability of a person in cases where the information available to the competent authority of that State is inadequate to determine the profits to be attributed to a permanent establishment, provided that law shall be applied, so far as the information available to the competent authority permits, consistently with the principles of this Article.
5. 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 such 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.
6. 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.

7. 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.
8. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

Shipping and air transport

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting 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.

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 the 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, if it agrees to such adjustment, shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting 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, but 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 which holds directly or indirectly at least 50 per cent of the capital of the company paying the dividends or has invested more than 10 million US dollars, or the equivalent in Luxembourg or Vietnamese currency, in the capital of the company paying the dividends;
 - b) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly or indirectly at least 25 per cent but less than 50 per cent of the capital of the company paying the dividends and has invested not more than 10 million US dollars, or the equivalent in Luxembourg or Vietnamese currency, in the capital of the company paying the dividends;
 - c) 15 per cent of the gross amount of the dividends in all other cases.The provisions of 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, 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, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, 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 Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

1. Interest arising in a Contracting State and 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 recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
4. The provisions of paragraphs 1 and 2 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, or performs in that other State independent personal services from a fixed base situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base 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 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 Agreement.

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 Contracting 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 recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of such 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 cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.
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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, or a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base 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 Agreement.

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 or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated by an enterprise of a Contracting State 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 in a company, the assets of which consist wholly or principally of immovable property situated in the other Contracting State, may be taxed in that other State.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4 and 6 shall be taxable only in the Contracting State of which the alienator is a resident.
6. The provisions of paragraph 5 shall not affect the right of each of the Contracting States to levy according to its own law a tax on gains from the alienation of shares or rights in a company, the capital of which is wholly or partly divided into shares and which under the laws of that State is a resident of that State, derived by an individual who is a resident of the other Contracting State.

Article 14

Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:
 - a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
 - b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that State.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15

Dependent personal services

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
 - b) the remuneration is paid by or on behalf of, an employer who is not a resident of the other State, and
 - c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

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

Entertainers and sportsmen

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artist, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived by entertainers or sportsmen who are residents of a Contracting State from activities in the other Contracting State under a plan of cultural exchange between the Governments of both Contracting States shall be exempt from tax in that other Contracting State.

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 may be taxed in that State.

Article 19

Government service

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.
3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

Students and apprentices

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.
2. Notwithstanding the provisions of Articles 14 and 15, remuneration for services rendered by a student or a business apprentice in a Contracting State shall not be taxed in that State, provided that such services are in connection with his studies or training.

Article 21

Teachers, professors and researchers

1. An individual who is, or immediately before visiting a Contracting State was, a resident of a Contracting State and is present in the first-mentioned Contracting State for the primary purpose of teaching, giving lectures or conducting research at a university, college, school or educational institution or scientific research institution accredited by the Government of the first-mentioned Contracting State shall be exempt from tax in the first-mentioned Contracting State, for a period of two years from the date of his first arrival in the first-mentioned Contracting State, in respect of remuneration for such teaching, lectures or research.
2. This Article shall only apply to income from research if such research is undertaken by an individual for the public interest and not primarily for the benefit of some other private person or persons.

Article 22

Other income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to the 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, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23

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 or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital represented by ships and aircraft operated by an enterprise of a Contracting State in international traffic and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that Contracting State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24

Methods for elimination of double taxation

1. In Luxembourg double taxation shall be eliminated as follows:
 - a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Vietnam, Luxembourg shall, subject to the provisions of sub-paragraphs (b) to (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 10, 11, 12 and 13, paragraphs 4 and 6 may be taxed in Vietnam, Luxembourg shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Vietnam. 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 Vietnam.
 - c) Where a company which is a resident of Luxembourg derives dividends from Vietnamese sources, Luxembourg shall exempt such dividends from tax, provided that the company which is a resident of Luxembourg holds since the beginning of its accounting year directly at least 10 per cent of the capital of the company paying the dividends. The above-mentioned shares in the Vietnamese company are, under the same conditions, exempt from the Luxembourg capital tax.

d) Where by reason of the relief given under the provisions of Vietnamese laws for the purpose of encouraging the investment in Vietnam, the Vietnamese tax, actually levied on dividends (other than those referred to in subparagraph (c)), interest or royalties arising in Vietnam, is lower than the respective rate referred to in Articles 10, 11 and 12, then the amount of the tax paid in Vietnam on such dividends, interest and royalties shall be deemed to have been paid at the respective rates referred to in Articles 10, 11 and 12.

The provisions of this sub-paragraph shall apply for a period of 10 years beginning on 1 January 1996. This period may be extended by mutual agreement between the competent authorities.

2. In Vietnam double taxation shall be eliminated as follows:
 - a) Where a resident of Vietnam derives income, profits or gains which under the laws of Luxembourg and in accordance with this Agreement may be taxed in Luxembourg, Vietnam shall allow as a credit against its tax on the income, profits or gains an amount equal to the amount paid in Luxembourg. The amount of credit, however, shall not exceed the amount of Vietnamese tax on that income, profits or gains computed in accordance with the taxation laws and regulations of Vietnam.
 - b) Where a company which is a resident of Luxembourg pays dividends to a company which is a resident of Vietnam and which holds directly at least 10 per cent of the capital of the company paying the dividends, the credit shall take into account (in addition to any Luxembourg tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph), the Luxembourg tax payable by the first-mentioned company in respect of the profits out of which such dividends are paid.

Article 25

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

3. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State. It is understood that the provisions of this paragraph shall not be interpreted so as to prevent the application by a Contracting State of its thin capitalization provisions provided for in its domestic law.
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 paragraphs 2 and 4 of this Article shall not apply to the Vietnamese profit remittance tax and the Vietnamese taxation in respect of agricultural production activities.
6. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.
7. Notwithstanding the provisions of this Article, for so long as Vietnam continues to grant to investors licenses under the Law on foreign Investment in Vietnam, which specify the taxation to which the investor shall be subjected, the imposition of such taxation shall not be regarded as breaching the terms of paragraphs 2 and 4 of this Article.
8. The provisions of this Article shall apply only to the taxes which are the subject of this Agreement.

Article 26

Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, 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 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. 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 Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 27

Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement, in particular for the prevention of fraud or evasion of such taxes. Any information received 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. 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.
2. In no case shall the provisions of paragraph 1 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.

Article 28

Members of diplomatic missions and consular posts

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

The following paragraph 1 of Article 7 of the MLI applies and supersedes the provisions of this Agreement :

ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE

(Principal purposes test provision)

Notwithstanding any provisions of [*the Agreement*], a benefit under [*the Agreement*] 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 Agreement*].

Article 29

Entry into force

1. Each of the Contracting States shall notify to the other in writing through the diplomatic channel the completion of the procedures required by its legislation for the entry into force of this Agreement. This Agreement shall enter into force on the date of the latter of these notifications.
2. This Agreement shall have effect:
 - a) in respect of taxes withheld at source, to income derived on or after 1 January 1996;
 - b) in respect of other taxes on income and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1 January 1996.

Article 30

Termination

This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving to the other Contracting State, written notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Agreement enters into force. In such event, the Agreement shall cease to have effect:

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

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

Done in duplicate at Hanoi this 4th day of March of the year one thousand nine hundred and ninety-six in the French, Vietnamese and English languages, all texts being equally authentic.

Protocol

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

- I. Ad Article 5, paragraphs 4 and 5
In respect of sub-paragraphs (a) and (b) of paragraph 4 of Article 5, it is understood that the maintenance of a stock of goods or merchandise solely for the purpose of future delivery or facilities used solely for the purpose of future delivery of goods or merchandise of an enterprise of a Contracting State in the other Contracting State shall not constitute a permanent establishment in the other Contracting State as long as the conditions of subparagraph (b) of paragraph 5 of the same Article are not fulfilled.
- II. Ad Article 7, paragraph 1
Profits derived from the sale of goods or merchandise of the same or similar kind as those sold, or from other business activities of the same or similar kind as those effected, through a permanent establishment, may be considered attributable to that permanent establishment if it is proved that this transaction has been resorted to in order to avoid taxation in the State where the permanent establishment is situated.
- III. Ad Article 11, paragraph 2
Notwithstanding the provisions of paragraph 2 of Article 11, as long as, under the provision of the taxation laws of a Contracting State and to the future amendments thereto, that Contracting State does not levy a tax at source on interest paid to a resident of the other Contracting State, the percentage provided for in this paragraph shall be reduced to 7 per cent of the gross amount of the interest paid to a resident of the first-mentioned Contracting State.
- IV. Ad Article 25, paragraph 5
The Vietnamese profit remittance tax on the profits attributable to a permanent establishment in Vietnam of a company which is a resident of Luxembourg which are remitted from the permanent establishment to the head office shall not exceed 10 per cent of such profits. However, the Vietnamese profit remittance tax shall not exceed 7 per cent of the profits remitted from a permanent establishment to its head office as long as the profits remitted are exempt from tax in Luxembourg.
- V. Ad Article 10, paragraph 2, Article 11, paragraph 2, Article 12, paragraph 2 and point IV of the Protocol
If, after 1 January 1996, Vietnam concludes an Agreement for the avoidance of double taxation with any other member State of the Organisation for Economic Co-operation and Development, Vietnam limits its taxation at source on such items of income at lower rates than those referred to in the above-mentioned provisions, including exemption from taxation, then the lower rates, or the exemption, shall automatically apply to residents of Luxembourg, with effect from the date of the entry into force of such Agreement.

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

Done in duplicate at Hanoi this 4th day of March of the year [one] thousand nine hundred and ninety-six in the French, Vietnamese and English languages, all texts being equally authentic.