SYNTHESISED TEXT OF THE MLI AND THE CONVENTION THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA AND THE GOVERNMENT OF THE FRENCH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Government of the Republic of Lithuania and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital signed on 7 July 1997 (the "Convention"), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Republic of Lithuania and by the French Republic on 7 June 2017 (the "MLI").

The document was prepared on the basis of the MLI position the Republic of Lithuania submitted to the Depositary upon ratification on 11 September 2018 and of the MLI position the French Republic submitted to the Depositary upon ratification on 26 September 2018. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

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

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

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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

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

References

The authentic legal texts of the MLI and the Convention can be found:

- in the Republic of Lithuania on the webpages:
- https://www.e-tar.lt/portal/lt/legalAct/TAR.5C13ED553E0F; (the Convention),
- https://www.e-tar.lt/portal/lt/legalAct/56a279f0cbc311e8bf37fd1541d65f38 (the MLI)

in the French Republic on the webpage :

- https://www.impots.gouv.fr/portail/les-conventions-internationales

The MLI position of the Republic of Lithuania submitted to the Depositary upon ratification on 11 September 2018 and the MLI position of the French Republic submitted to the Depositary upon ratification on 26 September 2018 can be found on the MLI Depositary (OECD) webpage.

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

The provisions of the MLI applicable to the Convention do not take effect on the same dates as the original provisions of the Convention. Each of 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 the Republic of Lithuania and the French Republic Dates of the deposit of instruments of ratification, acceptance or approval: 11 September 2018 for the Republic of Lithuania and 26 September 2018 for the French Republic.

Entry into force of the MLI: 1 January 2019 for the Republic of Lithuania and 1 January 2019 for the French Republic.

The provisions of the MLI have effect with respect to the Convention:

- with respect to 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 2019;
- with respect to all other taxes levied by the Republic of Lithuania, for taxes levied with respect to taxable periods beginning on or after 1 July 2019; and
- with respect to all other taxes levied by the French Republic, for taxes levied with respect to taxable periods beginning on or after 1 July 2019.

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA AND THE GOVERNMENT OF THE FRENCH REPUBLIC 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 Republic of Lithuania and the Government of the French Republic,

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

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

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

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

have agreed as follows:

Article 1
Personal Scope

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, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

a) in the case of Lithuania:
(i) the tax on profits of legal persons ("juridiniu asmenu pelno mokestis");
(ii) the tax on income of natural persons ("fiziniu asmenu pajamu mokestis");
(iii) the tax on enterprises using state-owned capital ("palukanos uz valstybinio kapitalo naudojima");
(iv) the tax on immovable property ("nekilnojamojo turto mokestis");
(hereinafter referred to as "Lithuanian tax");

b) in the case of France:
(i) the income tax ("l`impôt sur le revenu");
(ii) the corporation tax ("l`impôt sur les sociétés");
(iii) the tax on salaries ("la taxe sur les salaires");
(iv) the wealth tax ("l`impôt de solidarité sur la fortune");
(hereinafter referred to as "French tax").

4. The Convention shall apply also to any identical or substantially similar taxes which 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 substantial changes which have been made in their respective taxation laws.

Article 3
General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:

a) the terms "Contracting State" and "other Contracting State" mean Lithuania or France, as the context requires;
b) the term "Lithuania" means the Republic of Lithuania and, when used in the geographical sense, means the territory of the Republic of Lithuania and any other area adjacent to the territorial waters of the Republic of Lithuania within which under the laws of the Republic of Lithuania and in accordance with international law, the rights of Lithuania may be exercised with respect to the sea bed and its sub-soil and their natural resources;
c) the term "France" means the European and overseas departments of the French Republic including the territorial sea adjacent thereof, and any area outside the territorial sea within which, in accordance

with international law, the French Republic has sovereign rights for the purpose of exploring and exploiting the natural resources of the seabed and its subsoil;
d) the term "person" includes an individual, an enterprise, a company and any other body of persons;
e) the term "company" means any body corporate or any entity which is treated for tax purposes, as a body corporate;
f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
h) the term "competent authority" means:
(i) in the case of Lithuania, the Minister of Finance or his authorised representative;
(ii) in the case of France, the Minister in charge of the budget or his authorised representative.

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 which it has at that time under the law of that State concerning the taxes to which the Convention applies. The meaning of a term under the taxation law of that State shall have priority over the meaning provided for such term in other branches of law of that State.

Article 4
Resident

1. a) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature. But this term shall 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.

b) The term "resident of a Contracting State" shall include:
(i) that State, its local authorities and the statutory bodies of that State or its local authorities; and
(ii) where that State is France, any partnership or group of persons subject under French domestic law, to a tax regime being substantially similar to that of partnerships, the place of effective management of which is situated in France and is not liable to corporation tax 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 has not 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 Contracting 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, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement, having regard to the person's place of effective management, the place where it is incorporated or constituted, and any other relevant factors. In the absence of such agreement, such person shall not be considered to be a resident of either Contracting State for purposes of enjoying benefits under the Convention.

Article 5
Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:
a) a place of management;
b) a branch;
c) an office;
d) a factory;
e) a workshop, and
f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. a) A building site or construction, assembly or installation project constitutes a permanent establishment only if it lasts more than twelve months.

b) However, a building site or construction, assembly or installation project beginning during the period of ten years following immediately the date on which the Convention becomes effective constitutes a permanent establishment only if it lasts more than six months. After that period of ten years, only the provisions of sub-paragraph a) shall apply.

4. **[REPLACED by paragraph 3 of Article 13 of the MLI]** [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.]

The following paragraph 3 of Article 13 of the MLI replaces paragraph 4 of Article 5 of this Convention:

ARTICLE 13 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS (Option B)

Notwithstanding *Article 5 of this Convention*, the term "permanent establishment" shall be deemed not to include:

a) the activities specifically listed in paragraph *4 of Article 5* of *this Convention* as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character, except to the extent that the provision provides explicitly that a specific activity shall be deemed not to constitute a permanent establishment provided that the activity is of a preparatory or auxiliary character;

b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a), provided that this activity is of a preparatory or auxiliary character;

c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

The following paragraph 4 of Article 13 of the MLI applies to paragraph 4 of Article 5 of this Convention as modified by paragraph 3 of Article 13 of the MLI:

ARTICLE 13 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH THE SPECIFIC ACTIVITY EXEMPTIONS

Paragraph 4 of Article 5 of this Convention as modified by paragraph 3 of Article 13 of the MLI shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and:

a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of *Article 5 of this Convention;* or

b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

5. **[REPLACED by paragraph 1 of Article 12 of the MLI]** [Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.]

The following paragraph 1 of Article 12 of the MLI replaces paragraph 5 of Article 5 of this Convention:

ARTICLE 12 OF THE MLI – ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE ARRANGEMENTS AND SIMILAR STRATEGIES

Notwithstanding *Article 5 of this Convention*, but subject to *paragraph 2 of Article 12 of the MLI*, where a person is acting in a *Contracting State* on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are:

a) in the name of the enterprise; or

b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or

c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that *Contracting State* in respect of any activities which that person undertakes for the enterprise unless these activities, if they were exercised by the enterprise through a fixed place of business of that enterprise situated in that *Contracting State*, would not cause that fixed place of business to be deemed to constitute a permanent establishment under the definition of permanent establishment included in the provisions of *Article 5 of this Convention*.

6. **[REPLACED by paragraph 2 of Article 12 of the MLI] [**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, where the activities of such agent are devoted wholly or almost wholly on behalf of that enterprise and where the transactions between the agent and the enterprise differ from those which would be made between independent persons, such agent shall not be considered an agent of an independent status within the meaning of this paragraph; but in such case the provisions of paragraph 5 shall apply.]

The following paragraph 2 of Article 12 of the MLI replaces paragraph 6 of Article 5 of this Convention:

ARTICLE 12 OF THE MLI - ARTIFICIAL AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS THROUGH COMMISSIONNAIRE ARRANGEMENTS AND SIMILAR STRATEGIES

Paragraph 1 of Article 12 of the MLI shall not apply where the person acting in a *Contracting State* on behalf of an enterprise of the other *Contracting State* carries on business in the first-mentioned *Contracting State* as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

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.

The following paragraph 1 of Article 15 of the MLI applies to provisions of this Convention:

ARTICLE 15 OF THE MLI – DEFINITION OF A PERSON CLOSELY RELATED TO AN ENTERPRISE

For the purposes of the provisions of *Article 5 of this Convention*, a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are

under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

Article 6
Income From Immovable Property

1. Income from immovable property (including income from agriculture or forestry) may be taxed in the Contracting State in which immovable property is situated.

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 provisions of this Convention relating to immovable property shall apply also to property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

5. Where shares or other rights in a company, a trust or any similar institution, entitles to the enjoyment of immovable property situated in a Contracting State and held by that company, trust or similar institution, income derived from the direct use, letting, or use in any other form of that right of enjoyment may be taxed in that State notwithstanding the provisions of Articles 7 and 14.

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 Contracting 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 of this Article, 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. Such profits shall include profits derived by that enterprise from the rental on a bareboat basis of ships and aircraft or from the use, maintenance or rental of containers, provided that such activities are incidental to the operation of ships or aircraft in international traffic by that enterprise.

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

Article 9
Associated Enterprises

1. Where

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

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

2. **[REPLACED by the paragraph 1 of Article 17 of the MLI] [**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 if that other State considers the adjustment justified. 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.]

The following paragraph 1 of Article 17 of the MLI replaces paragraph 2 of Article 9 of the Convention:

ARTICLE 17 – CORRESPONDING ADJUSTMENTS

Where a *Contracting State* includes in the profits of an enterprise of that *Contracting State* — and taxes accordingly — profits on which an enterprise of the other *Contracting State* has been charged to tax in that other *Contracting State* and the profits so included are profits which would have accrued to the enterprise of the first-mentioned *Contracting State* if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other *Contracting State* shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of *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 recipient is the beneficial owner of the dividends 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:

(i) holds directly at least 10 per cent of the capital of the company paying the dividends where that company is a resident of Lithuania;

(ii) holds directly or indirectly at least 10 per cent of the capital of the company paying the dividends where that company is a resident of France;

b) 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. a) A resident of Lithuania who receives from a company which is a resident of France and beneficially owns dividends which, if received by a resident of France, would entitle such resident to a tax credit ("avoir fiscal"), shall be entitled from the French Treasury to a payment equal to such tax credit ("avoir fiscal"), subject to the deduction of tax as provided for under subparagraph b) of paragraph 2.

b) The provisions of subparagraph a) shall apply only to a resident of Lithuania who is:

(i) an individual; or

(ii) a company which does not hold directly or indirectly at least 10 per cent of the capital of the company paying the dividends.

c) The provisions of subparagraph a) shall apply only if the beneficial owner of the dividends:

(i) is subject to Lithuanian tax at regular rate in respect of such dividends and of the payment from the French Treasury, and

(ii) shows, where required to do so by the French tax administration, that he is the owner of the shareholding in respect of which the dividends are paid and that such shareholding has not as its principal purpose or as one of its principal purposes to allow another person, resident or not of a Contracting State, to take advantage of the provisions of subparagraph a).

d) The gross amount of the payments from the French Treasury provided for under subparagraph a) shall be deemed to be a dividend for the purposes of this Convention.

4. Unless he is entitled to the payment from the French Treasury referred to in paragraph 3, a resident of Lithuania who receives dividends paid by a company which is a resident of France may obtain the refund of the prepayment (précompte) to the extent that it was effectively paid by the company in respect of such dividends. The gross amount of the prepayment (précompte) refunded shall be deemed to be a dividend for the purposes of this Convention. It shall be taxable in France according to the provisions of paragraph 2.

5. The term "dividend" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders` shares or other rights, not being debt-claims, participating in profits, as well as income treated as a distribution by the taxation laws of the Contracting State of which the company making the distribution is a resident. It is understood that the term "dividend" does not include income mentioned in Article 16.

6. The provisions of paragraphs 1, 2, 3 and 4 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.

7. 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 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. Notwithstanding the provisions of paragraph 2, any such interest as is mentioned in paragraph 1 shall be taxable only in the Contracting State of which the recipient is a resident, if such recipient is the beneficial owner of the interest, and:

a) such recipient is a Contracting State, its central bank, or a local authority of that State; or

b) such interest is paid in respect of any debt-claim or loan guaranteed or insured by a Contracting State, its central bank or its local authorities or, in the case of France by the "Compagnie Française d'Assurance du Commerce Extérieur" (COFACE), or by any organisation established in either Contracting State after the date of signature of this Convention and which is acting within the framework of public financing or guarantee of external trade and agreed by mutual agreement of the competent authorities; or

c) the recipient is an enterprise of that State and the interest is paid with respect of indebtedness arising on the sale on credit, by that enterprise, of any merchandise or industrial, commercial or scientific equipment to another enterprise, except where the sale or indebtedness is between related persons.

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 debtors 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. The term "interest" shall not include any item of income which is considered as a dividend under the provisions of Article 10.

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, 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.

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 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.

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 recipient is the beneficial owner of the royalties the tax so charged shall not exceed:

a) 5 per cent of the gross amount of royalties paid for the use of industrial, commercial or scientific equipment;

b) 10 per cent of the gross amount of the royalties in all other cases.

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 and films or tapes for television or radio 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 (know-how).

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 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 a fixed base with which the right or property in connection with which the obligation 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 Convention.

Article 13
Capital Gains

1. a) Gains derived from the alienation of immovable property referred to in Article 6 may be taxed in the Contracting State, where such immovable property is situated.
   b) Gains from the alienation of shares or other rights in a company, a trust or any similar institution, the assets of which consist principally, directly or through the interposition of one or more other companies, trusts or similar institutions, of immovable property referred to in Article 6 and situated in a Contracting State or of rights connected with such immovable property may be taxed in that State, if in accordance with the laws of that State they are subject to the same tax treatment as gains arising from the alienation of immovable property.

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 derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated by such enterprise in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

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

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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in that other State, but only so much of the income as is attributable to that fixed base. For this purpose, where an individual who is a resident of a Contracting State stays in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any period of twelve consecutive months commencing or ending in the fiscal year concerned, he shall be deemed to have a fixed base regularly available to him in that other State and the income that is derived from his activities referred to above that are performed in that other State shall be attributable to that fixed base.

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

Article 15
Dependent Personal Services

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 period of twelve consecutive months commencing or ending 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 may be taxed 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 or supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17
Artistes and Athletes

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 artiste, or a musician, or as an athlete, 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 an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, whether or not a resident of a Contracting State, 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 athlete are exercised.

3. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State as an entertainer or an athlete from his personal activities as such exercised in the other Contracting State shall be taxable only in the first-mentioned State if those activities in the other State are supported mainly by public funds of the first-mentioned State, or its local authorities, or of their statutory bodies.

4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities exercised by a resident of a Contracting State, who is an artiste or an athlete, in his capacity as such in the other Contracting State accrues not to the entertainer or athlete himself but to another person, whether or not a resident of a Contracting State, that income, notwithstanding the provisions of Articles 7, 14 and 15, shall be taxable only in the first-mentioned State, if that other person is supported mainly by public funds of that State, or its local authorities, or of their statutory bodies.

Article 18
Pensions

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State shall be taxable only 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 local authority thereof, or by one of their statutory bodies to an individual in respect of services rendered to that State, authority or body 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, and a national of, that State without being also a national of the first-mentioned State.

2.
a) Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof, or by one of their statutory bodies to an individual in respect of services rendered to that State, authority or body 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 State without being also a national of the first-mentioned State.

3. The provisions of Articles 15 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 local authority thereof, or by one of their statutory bodies.

Article 20
Students

1. Payments which a student or an apprentice or trainee 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 taxable in that State, provided that such payments arise from sources outside that State.

2. Notwithstanding the provisions of Articles 14 and 15, remuneration which a student, or an apprentice or trainee 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 personal services rendered in that first-mentioned State shall not be taxable in that State, provided that such services are related, and incidental, to his education or training or the remuneration for those services is necessary to supplement the resources at his disposal for his maintenance.

Article 21
Other Income

1. a) 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.
b) However, such items of income, arising in the other Contracting State, may also be taxed in that other State during the period of ten years following immediately the date on which the Convention becomes effective. After that period of ten years, only the provisions of sub-paragraph a) shall apply.

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, 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 22
Capital

1.

a) 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.

b) Capital represented by shares or other rights in a company, a trust or any similar institution, the assets of which consist principally, directly or through the interposition of one or more other companies, trusts or similar institutions, of immovable property reffered to in Article 6 and situated in a Contracting State or of rights connected with such immovable property may be taxed in that 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 of an enterprise of a Contracting State represented by ships and aircraft operated by such enterprise in international traffic and by movable property pertaining to the operation of such ships and aircraft shall be taxable only in that State.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23
Elimination of Double Taxation

1. In the case of Lithuania double taxation shall be avoided in the following manner:

a) Where a resident of Lithuania derives income or owns capital which in accordance with this Convention may be taxed in France, unless a more favourable treatment is provided in its domestic law, Lithuania shall allow:

(i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid thereon in France;

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid thereon in France.

Such deduction in either case shall not, however, exceed that part of the income or capital tax in Lithuania, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in France.

b) For the purpose of subparagraph a), where a company that is a resident of Lithuania receives a dividend from a company that is a resident of France in which it owns at least 10 per cent of its shares having full voting rights, the tax paid in France shall include not only the tax paid on the dividend but also the tax paid on the underlying profits of the company out of which the dividend was paid.

2. In the case of France double taxation shall be avoided in the following manner:

a) Notwithstanding any other provision of this Convention, income which may be taxed or shall be taxable only in Lithuania in accordance with the provisions of the Convention, shall be taken into account for the computation of the French tax where such income is not exempted from the corporation tax according to French domestic law. In that case, the Lithuanian tax shall not be deductible from such income, but the resident of France shall, subject to the conditions and limits provided for in subparagraph (i) and (ii), be entitled to a tax credit against French tax. Such tax credit shall be equal:

(i) in the case of income other than that mentioned in sub-paragraph (ii), to the amount of French tax attributable to such income provided that the beneficiary is subject to tax in respect of such income in Lithuania;

(ii) in the case of income subject to the corporation tax referred to in Article 7 and paragraph 2 of Article 13 and income referred to in paragraph 5 of Article 6, Articles 10, 11, 12, paragraph 1 of Article 13, paragraph 3 of Article 15, Article 16, paragraphs 1 and 2 of Article 17 and Article 21,

to the amount of tax paid in Lithuania in accordance with the provisions of those Articles; however, such tax credit shall not exceed the amount of French tax attributable to such income.

b) A resident of France who owns capital which may be taxed in Lithuania according to paragraphs 1 or 2 of Article 22 shall also be taxable in France in respect of such capital. The French tax shall be computed by allowing a tax credit equal to the amount of the tax paid in Lithuania on such capital. However, such tax credit shall not exceed the amount of the French tax attributable to such capital.

c)

(i) It is understood that the term "amount of French tax attributable to such income" as used in subparagraph a) means:

- where the tax on such income is computed by applying a proportional rate, the amount of the net income concerned multiplied by the rate which actually applies to that income;
- where the tax on such income is computed by applying a progressive scale, the amount of the net income concerned multiplied by the rate resulting from the ratio of the tax actually payable on the total net income taxable in accordance with French law to the amount of that total net income.

This interpretation shall apply by analogy to the term "amount of French tax attributable to such capital" as used in subparagraph b).

(ii) It is understood that the term "amount of tax paid in Lithuania" as used in subparagraphs a) and b) means the amount of Lithuanian tax effectively and definitively borne in respect of the items of income or capital in question, in accordance with the provisions of the Convention, by a resident of France who is taxed on those items of income or capital according to the French law.

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 term "national" means:

a) any individual possessing the nationality of a Contracting State;

b) any legal person, partnership, association or other entity deriving its status as such from the laws in force in a Contracting State.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. 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.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 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 be deductible, for the purpose of determining the taxable profits of that enterprise, 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.

5. 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.

6.

a) Contributions borne by an individual who renders dependent personal services in a Contracting State to a pension scheme established and recognised for tax purposes in the other Contracting State shall be deducted, in the first-mentioned State, in determining the individual's taxable income, and treated in that State, in the same way and subject to the same conditions and limitations, as contributions made to a pension scheme that is recognised for tax purposes in that first-mentioned State, provided that:
(i) the individual was not a resident of that State, and was contributing to the pension scheme (or to another pension scheme for which the pension scheme has been substituted) immediately before he began to exercise employment in that State, and
(ii) the pension scheme is accepted by the competent authority of that State as generally corresponding to a pension scheme recognised as such for tax purposes by that State.

b) For the purposes of subparagraph a):
(i) the term "pension scheme" means an arrangement in which the individual participates in order to secure retirement benefits payable in respect of the dependent personal services referred to in subparagraph a); and
(ii) a pension scheme is recognised for tax purposes in a Contracting State if the contributions to the scheme would qualify for tax relief in that State.

7. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

8. If any treaty, agreement or convention to which the Contracting States are parties, other than this Convention, includes a non-discrimination clause or a most-favoured nation clause, it is understood that such clauses shall not apply between Contracting States in relation to taxes covered by this Convention and to inheritance and gift taxes.

Article 25
Mutual Agreement Procedure

1. **[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[1]:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEEDURE

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*.

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

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 or their representatives may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs of this Article. 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 the competent authorities of the Contracting States or of their representatives.

5. With respect to paragraph 3 of Article XXII of the General Agreement on Trade in Services, the Contracting States agree that, notwithstanding that paragraph, any disputes between them as to whether a measure relating to a tax to which any provision of this Convention applies falls within the scope of this Convention may be brought before the Council for Trade in Services, as provided by that paragraph, only with the consent of both Contracting States.

Article 26
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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. 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 Convention. 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 (ordre public).

Article 27
Assistance in Recovery

1. At the request of the competent authority of a Contracting State (hereinafter referred to as "the applicant State"), the other Contracting State (hereinafter referred to as "the requested State") shall, subject to the provisions of paragraphs 6, take the necessary steps to recover tax claims of the first-mentioned State as if they were its own tax claims. It is understood that the term "tax claims" means any

amount of tax, as well as interest thereon, related tax fines or penalties and cost incidental to recovery, which are owed and not yet paid.

2. The provisions of paragraph 1 shall apply only to tax claims which form the subject of an instrument permitting their enforcement in the applicant State and, unless otherwise agreed between the competent authorities, which are not contested.

3. At the request of the competent authority of the applicant State the requested State shall, with a view to the recovery of an amount of tax, take such measures of conservancy as are available to the requested State under the laws of that State even if the claim is contested.

4. The request for administrative assistance shall be accompanied by:
   a) a declaration which specifies the nature of the tax claim and, in the case of recovery, that the conditions provided in paragraph 2 are satisfied;
   b) an official copy of the instrument permitting enforcement in the applicant State, and;
   c) any other document required for recovery or measures of conservancy.

5. The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument permitting enforcement in the latter State.

6. Questions concerning any period beyond which a tax claim cannot be enforced shall be governed by the laws of the applicant State. If the period beyond which a tax claim can not be enforced is longer in the applicant State than in the requested State, the latter shall endeavour to recover the tax claim of the applicant State according to the period determined by the laws of that State. The request for assistance shall give particulars concerning that period.

7. Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the domestic laws of that State, would have the effect of suspending or interrupting the period mentioned in paragraph 6, shall also have this effect under the laws of the applicant State. The requested State shall inform the applicant State about such acts.

8. The requested State may allow deferral of payment or payment by instalments, if its laws or administrative practice permit it to do so in similar circumstances, but shall first inform the applicant State.

Article 28
Diplomatic Agents and Consular Officers

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

2. Notwithstanding the provisions of Article 4, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of the Convention to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his income and capital as are residents of that State.

3. The Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in a Contracting State and not liable in one of the Contracting States to the same obligations in relation to tax on their income and capital as are residents of that State.

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

Article 29
Entry Into Force

1. Each of the Contracting States shall notify to the other the completion of the procedures required as far as it is concerned for the bringing into force of this Convention. The Convention shall enter into force on the first day of the second month following the day when the later of these notifications has been received.

2. The provisions of the Convention shall have effect:
   a) in respect of taxes on income withheld at source, for income derived on or after 1st January 1997;
   b) in respect of other taxes on income, for taxes chargeable for any tax year or period beginning on or after 1st January 1997;
   c) in respect of the taxes not referred to in subparagraphs a) or b), for taxation the taxable event of which will occur on or after 1st January 1997.

Article 30
Termination

1. This Convention shall remain in force indefinitely. However, either Contracting State may, by giving notice of termination through diplomatic channels at least six months before, terminate it for the end of any calendar year.

2. In such event the Convention shall cease to have effect:
   a) in respect of taxes on income withheld at source, for income derived on or after 1st January in the calendar year next following the year in which the notice of termination is given;
   b) in respect of other taxes on income, for taxes chargeable for any tax year or period beginning on or after 1st January in the calendar year next following the year in which the notice of termination is given;
   c) in respect of the taxes not referred to in subparagraphs a) or b), for taxation the taxable event of which will occur on or after 1st January in the calendar year next following the year in which the notice of termination is given.

In witness whereof, the undersigned, duly authorised thereto, have signed this Convention.
Done at Paris, this 7th day of July, 1997, in duplicate, in the Lithuanian and French languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA:

FOR THE GOVERNMENT OF THE FRENCH REPUBLIC:

PROTOCOL

At the time of proceeding to the signature of the Convention between the Government of the Republic of Lithuania and the Government of the French Republic 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 on the following provisions which shall form an integral part of the Convention.

1. In respect of subparagraph b) of paragraph 3 of Article 2, the tax on salaries is governed, as the case may be, by the provisions of the Convention applicable to business profits or to income from independent personal services.

2. It is understood that the provisions of the Convention relating to immovable property shall apply also to options, sales commitments and similar rights in connection with immovable property.

3. In respect of paragraph 3 of Article 6, it is understood that all income and gains from the alienation of immovable property referred to in Article 6 and situated in a Contracting State may be taxed in that State in accordance with the provisions of Article 13.

4. In respect of Article 7:

a) where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received by the enterprise, but only on the basis of the income which is attributable to the actual activity of the permanent establishment for such sales or busines;
b) in the case of contracts, in particular for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, where the enterprise has a permanent establishment the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but only on the basis of that part of the contract which is effectively carried out by the permanent establishment. The profits related to the part of the contract which is carried out by the enterprise of the Contracting State in that State shall be taxable only in that State.

5. In respect of paragraph 3 of Article 7, expenses to be allowed as deductions by Lithuania include only expenses that would be deductible under the domestic laws of that State, if the permanent establishment were a separate enterprise being an enterprise of Lithuania. The provisions of this paragraph shall apply only during the period of ten years following immediately the date on which the Convention becomes effective.

6. The provisions of Articles 10 and 11 shall apply, under the conditions and limits provided for in those Articles, to dividends and interest paid to a resident of a Contracting State by an investment company or fund created and established in the other Contracting State where such company or fund is exempted from taxes mentioned in sub-paragraph a (i) or a (ii) or in sub-paragraph b (i) or b (ii) of paragraph 3 of Article 2.

7. In respect of paragraph 3 of Article 11, it is understood that a person is related to another person where the first-mentioned person has, directly or indirectly, an interest of more than 50 per cent in the other person or where one or more persons have, directly or indirectly, an interest of more than 50 per cent in the two persons.

8. In respect of paragraphs 2 and 3 of Article 11, if in any Convention for the avoidance of double taxation - or any amendment to such Convention - signed on or after the date of signature of this Convention between Lithuania and a third State which is a member of the Organisation for Economic Co-operation and Development at the date of signature of this Convention, Lithuania agrees to exempt

interest paid on any loan of whatever kind granted by a bank, or to a lower rate of tax on such interest than the rate provided for in paragraph 2 of Article 11, such exemption or lower rate shall automatically apply under this Convention as if it were specified in Article 11 with effect from the date of entry into force of that Convention or amendment, as the case may be, concluded with the third State, or of this Convention, whichever is the later.

9. In respect of Article 12, if in any Convention for the avoidance of double taxation - or in any amendment to such Convention - signed on or after the date of signature of this Convention between Lithuania and a third State which is a member of the Organisation for Economic Co-operation and Development at the date of signature of this Convention, Lithuania agrees to a definition of royalties which excludes any rights or other property referred to in paragraph 3 of Article 12 or to exempt royalties arising in Lithuania from Lithuanian tax on royalties or to lower rates of tax than those provided for in paragraph 2, such narrower definition, exemption, or lower rate shall automatically apply under this Convention as if it were specified respectively in paragraph 3 or paragraph 2 of Article 12 with effect from date of entry into force of that Convention or amendment, as the case may be, concluded with the third State, or of this Convention, whichever is the later.

10. The provisions of Article 16 shall apply to income referred to in Article 62 of the French tax code (code général des impôts) which is derived by an individual who is a resident of Lithuania as a partner (associé) or manager (gérant) in a company which is a resident of France and is liable to corporation tax therein.

11. In respect of paragraph 1 of Article 24, it is understood that an individual, legal person, partnership, association or other entity which is a resident of a Contracting State shall not be deemed to be in the same circumstances as an individual, legal person, partnership, association or other entity which is not a resident of that State, even if, in the case of legal persons, partnerships, associations or other entities, such entities are, in applying paragraph 2 of the said Article, deemed to be nationals of the Contracting State of which they are residents.

12. The provisions of the Convention shall in no case restrict France from applying the provisions of Article 212 of its tax code (code général des impôts) relating to thin capitalization or any substantially similar provisions which may amend or replace the provisions of that Article.

13. a) The competent authorities of the Contracting States may settle jointly or separately the mode of application of the Convention.

b) In particular, in order to obtain, in a Contracting State, the benefits provided for in Articles 10, 11 and 12, by the Convention, the residents of the other Contracting State shall, unless otherwise settled by the competent authorities, present a form of certification of residence providing in particular the nature and the amount or value of the income or capital concerned, and including the certification of the tax administration of that other State.

Done at Paris, this 7th day of July, 1997, in duplicate, in the Lithuanian and French languages, both texts being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA:

FOR THE GOVERNMENT OF THE FRENCH REPUBLIC: