

**SYNTHESISED TEXT OF THE MLI AND THE  
CONVENTION BETWEEN THE GOVERNMENT OF THE  
REPUBLIC OF LITHUANIA AND THE GOVERNMENT OF  
THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF  
DOUBLE TAXATION AND THE PREVENTION OF FISCAL  
EVASION WITH RESPECT TO TAXES ON INCOME,  
SIGNED AT BRUSSELS ON 26 NOVEMBER 1998**

**General disclaimer on the Synthesised text document**

This document presents the synthesised text for the application of the Convention between Lithuania and Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed on 26 November 1998 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Lithuania and Belgium on 7 June 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of Belgium submitted to the Depository upon ratification on 26 June 2019 and of the MLI position of Lithuania submitted to the Depository upon ratification on 11 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 this Convention.

This document was prepared jointly by the competent authorities of the Republic of Lithuania and the Kingdom of Belgium and represents their shared understanding of the modifications made to the Convention by the MLI.

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 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 at the following links:

The MLI:

<http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-BEPS.pdf>

In Lithuania:

<https://www.e-tar.lt/portal/lt/legalAct/TAR.EF38FC5FF819> (the Convention);

<https://www.e-tar.lt/portal/lt/legalAct/56a279f0cbc311e8bf37fd1541d65f38> (the MLI).

In Belgium:

<http://www.ejustice.just.fgov.be/eli/loi/2003/02/18/2003015054/moniteur>

The MLI position of Lithuania submitted to the Depository upon ratification on 11 September 2018 and of the MLI position of Belgium submitted to the Depository upon ratification on 26 June 2019 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 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 Belgium and Lithuania in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 11 September 2018 for Lithuania and 26 June 2019 for Belgium.

Entry into force of the MLI: 1 January 2019 for Lithuania and 1 October 2019 for Belgium.

Unless it is stated otherwise elsewhere in this document, 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 2020;

- with respect to all other taxes, for taxes levied with respect to taxable periods beginning on or after 1 April 2020.

**CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF LITHUANIA AND THE GOVERNMENT OF THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT BRUSSELS ON 26 NOVEMBER 1998.**

The Government of the Republic of Lithuania and the Government of the Kingdom of Belgium,

**[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,]

*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:

## **CHAPTER I – SCOPE OF THE CONVENTION**

### ***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 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 all taxes imposed on total income or on elements of income, 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);
- (hereinafter referred to as “Lithuanian tax”);

b) in the case of Belgium:

- (i) the individual income tax;
- (ii) the corporate income tax;
- (iii) the income tax on legal entities;
- (iv) the income tax on non-residents;
- (v) the supplementary crisis contribution;

including the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax;

(hereinafter referred to as “Belgian 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 any significant changes which have been made in their respective taxation laws.

## CHAPTER II – DEFINITIONS

### ARTICLE 3 – GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:
  - a) 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 sea 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;
  - b) the term "Belgium" means the Kingdom of Belgium; used in a geographical sense, it means the territory of the Kingdom of Belgium, including the territorial sea and any other area in the sea and in the air within which the Kingdom of Belgium, in accordance with international law, exercises sovereign rights or its jurisdiction;
  - c) the terms "a Contracting State" and "the other Contracting State" mean Lithuania or Belgium, 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 "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 Belgium, the Minister of Finance or his authorised representative;
  - i) the term "national" means:
    - (i) any individual possessing the nationality of a Contracting State;
    - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
    - (iii) in the case of Lithuania, a private (personal) enterprise.
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 for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### ***ARTICLE 4 – RESIDENT***

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature. The term also includes that State itself, its political subdivisions and local authorities. 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.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
  - a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
  - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
  - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
  - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement. In the absence of such agreement, such person shall not be considered to be a resident of either Contracting State for the 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 building site, a construction, assembly or installation project or a supervisory or consultancy activity connected therewith constitutes a permanent establishment only if such site, project or activity lasts for a period of more than nine months.
4. **[MODIFIED by paragraph 3 and paragraph 4 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 sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.]

*The following paragraph 3 of Article 13 of the MLI applies to 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:*

[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 an agent are devoted wholly or almost wholly on behalf of that enterprise and where the conditions 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. 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.

**CHAPTER III – TAXATION OF INCOME**

***ARTICLE 6 – INCOME FROM IMMOVABLE PROPERTY***

1. Income derived by a resident of a Contracting State from immovable property (including income

from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The provisions of this Convention relating to immovable property shall apply also to income from 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, rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources, and any option or similar right to acquire immovable property. Ships, boats and aircraft shall not be regarded as immovable property.

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

4. Where the ownership of shares or other corporate rights in a company entitles the owner of such shares or corporate rights to the enjoyment of immovable property held by the company, the income from the direct use, letting, or use in any other form of such right to enjoyment may be taxed in the Contracting State in which the immovable property is situated.

5. The provisions of paragraphs 1, 3 and 4 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.

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, but this does not include any expenses which under the law of that State would not be allowed to be deducted by an enterprise of that State.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

#### ***ARTICLE 8 – SHIPPING AND AIR TRANSPORT***

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

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

#### ***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 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. 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 this Convention:*

## ARTICLE 17 OF THE MLI – 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 [*the Convention*] and the competent authorities of the [*Contracting States*] shall if necessary consult each other.

## ARTICLE 10 – DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
  - a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;
  - b) 15 per cent of the gross amount of the dividends in all other cases.

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

3. The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the 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 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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.
3. Notwithstanding the provisions of paragraph 2:
  - a) interest arising in a Contracting State, derived and beneficially owned by the Government of the other Contracting State, including political subdivisions and local authorities thereof, the Central Bank or any financial institution wholly owned by that Government, or interest paid in respect of a loan guaranteed or insured by that Government, subdivision or authority or a public institution acting within the framework of the promotion of the export and which is agreed upon by the mutual agreement of the competent authorities of both Contracting States, shall be exempt from tax in the first-mentioned State;
  - b) interest arising in a Contracting State shall be exempt from tax in that State if the beneficial owner of the interest is an enterprise of the other Contracting State, and the interest is paid with respect to an indebtedness arising as a consequence of the sale on credit by an enterprise of that other State of any merchandise, or industrial, commercial or scientific equipment to an enterprise of the first-mentioned State, 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 debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, the term "interest" shall not include for the purposes of this Article penalty charges for late payment or interest treated as dividends for the purposes 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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

- a) 5 per cent of the gross amount of the 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 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 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 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 Convention.

### ***ARTICLE 13 – CAPITAL GAINS***

1. Gains derived by a resident of a Contracting State from the alienation of immovable property to which the provisions of Article 6 apply and situated in the other Contracting State may be taxed in that other State.
2. Gains derived by a resident of a Contracting State from the alienation of shares in a company the assets of which consist wholly or principally of immovable property to which the provisions of Article 6 apply and situated in the other Contracting State may be taxed in that other State.
3. 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.
4. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic by that enterprise or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

### ***ARTICLE 14 – INDEPENDENT PERSONAL SERVICES***

1. Income derived by an individual who is 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 the other Contracting State but only so much of it 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 for such fiscal year or years 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***

1. Directors' fees and other similar remuneration derived by a resident of a Contracting State in his capacity as a member of the board of directors or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.
2. However, remuneration received by the persons concerned in any other capacity may be taxed, as the case may be, in accordance with the provisions of Article 14 or Article 15.

## ***ARTICLE 17 – ARTISTES 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 artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State

in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an entertainer or a sportsman if the visit to that State is wholly or mainly supported by public funds of one or both of the Contracting States or political subdivisions or local authorities thereof. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

### ***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. However, pensions and other allowances, periodic or non periodic, paid under the social security legislation of a Contracting State may be taxed in that State. This provision also applies to pensions and allowances paid under a public scheme organised by a Contracting State for social welfare purposes.

### ***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 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*

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

## *ARTICLE – 21 OFFSHORE ACTIVITIES*

1. The provisions of this Article shall apply notwithstanding the provisions of Articles 4 to 20 of this Convention.
2. For the purposes of this Article, the term "offshore activities" means any activity carried on offshore in a Contracting State in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated therein.
3. A person who is a resident of a Contracting State and carries on offshore activities in the other Contracting State shall, subject to paragraph 4, be deemed to be carrying on business in that other State through a permanent establishment or a fixed base situated therein.
4. The provisions of paragraph 3 shall not apply where the offshore activities are carried on for a period or periods not exceeding in the aggregate 30 days within any period of twelve consecutive months commencing or ending in the fiscal year concerned. For the purpose of computing the above-mentioned limit of 30 days:
  - a) where a person which is a resident of a Contracting State carrying on offshore activities in the other Contracting State is associated with another person carrying on substantially similar offshore activities there, the duration of activities of both persons shall be taken into account together, except to the extent that those activities are carried on at the same time;
  - b) a person shall be regarded as associated with another person if one participates directly or indirectly in the management, control or capital of the other or if a third person or third persons participate directly or indirectly in the management, control or capital of both the first-mentioned person and the second-mentioned person.
5. Profits derived by a resident of a Contracting State from the transportation of supplies or personnel to a location, or between locations, where offshore activities are being carried on in the other Contracting State, or from the operation of tugboats and other vessels auxiliary to such activities, shall be taxable only in the first-mentioned State.
6. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment connected with offshore activities in the other Contracting State may, to the extent that the duties are performed offshore in that other State, be taxed in that other State. However, such remuneration shall be taxable only in the first-mentioned State if the employment is carried on for an employer who is not a resident of the other State and for a period or periods not exceeding in the aggregate 30 days within any period of twelve consecutive months commencing or ending in the fiscal year concerned.
7. Gains derived by a resident of a Contracting State from the alienation of:

- a) exploration or exploitation rights; or
  - b) property situated in the other Contracting State which is used in connection with the offshore activities carried on in that other State; or
  - c) shares deriving their value or the greater part of their value directly or indirectly from such rights or such property or from such rights and such property taken together;
- may be taxed in that other State.

In this paragraph the term "exploration or exploitation rights" means rights to assets to be produced by offshore activities carried on in the other Contracting State, or to interests in or to the benefit of such assets.

### *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 Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, 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.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may also be taxed in that other State.

## Chapter V – METHODS FOR ELIMINATION OF DOUBLE TAXATION

### *ARTICLE 23 – ELIMINATION OF DOUBLE TAXATION*

1. In the case of Lithuania, double taxation shall be avoided as follows: where a resident of Lithuania derives income which, in accordance with this Convention, may be taxed in Belgium, unless a more favourable treatment is provided in its domestic law, Lithuania shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid thereon in Belgium. Such deduction shall not, however, exceed that part of the income tax in Lithuania, as computed before the deduction is given, which is attributable to the income which may be taxed in Belgium.
2. In the case of Belgium, double taxation shall be avoided as follows:
  - a) Where a resident of Belgium derives income which is taxed in Lithuania in accordance with the provisions of this Convention, other than those of paragraph 2 of Article 10, of paragraphs 2 and 7 of Article 11 and of paragraphs 2 and 6 of Article 12, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.
  - b) Subject to the provisions of Belgian law regarding the deduction from Belgian tax of taxes paid abroad, where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are dividends taxable in accordance with paragraph 2 of Article 10, and not exempt from Belgian tax according to sub-paragraph c) hereinafter, interest taxable in accordance with paragraph 2 or 7 of Article 11, or royalties taxable in accordance with paragraph 2 or 6 of Article 12, the Lithuanian tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.
  - c) Dividends within the meaning of paragraph 3 of Article 10, derived by a company which is a resident of Belgium from a company which is a resident of Lithuania, shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.
  - d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Lithuania, have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in sub-paragraph a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Lithuania by reason of compensation for the said losses.

## Chapter V – SPECIAL PROVISIONS

### *ARTICLE 24 – NON-DISCRIMINATION*

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.
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, 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.
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. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

### *ARTICLE 25 – MUTUAL AGREEMENT PROCEDURE*

1. **[The first sentence of paragraph 1 of Article 25 of this Convention is REPLACED by the first sentence of paragraph 1 of Article 16 of the MLI]** [Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national.] The 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.
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*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:*<sup>1</sup>

#### ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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

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.

*The following second sentence of paragraph 3 of Article 16 of the MLI applies to this Convention:*<sup>2</sup>

#### ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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 shall agree on administrative measures necessary to carry out the provisions of the Convention and particularly on the proofs to be furnished by residents of either Contracting State in order to benefit in the other State from the exemptions or reductions in tax provided for in the Convention.

5. 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.

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<sup>1</sup> 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 State on or after 1 October 2019, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

<sup>2</sup> 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 State on or after 1 October 2019, except for cases that were not eligible to be presented as of that date under the Convention prior to its modification by the MLI, without regard to the taxable period to which the case relates.

## ***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) concerned with 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 – AID IN RECOVERY***

1. The Contracting States undertake to lend assistance to each other in the collection of the taxes owed by a taxpayer to the extent that the amount thereof has been finally determined according to the laws of the Contracting State making the request for assistance.

2. In the case of a request by a Contracting State for the collection of taxes by the other Contracting State, such taxes shall be collected by that other State in accordance with the laws applicable to the collection of its own taxes and as if the taxes to be so collected were its own taxes; such tax claims, however, shall not have any priority in the other Contracting State.

3. Any request for collection by a Contracting State shall be accompanied by such certificate as is required by the laws of that State to establish that the taxes owed by the taxpayer have been finally determined.

4. Where the tax claim of a Contracting State has not been finally determined by reason of it being subject to appeal or other proceedings, that State may, in order to protect its revenues, request the other Contracting State to take such interim measures for conservancy on its behalf as are available to the other State under the laws of that other State. If such request is accepted by the other State, such interim measures shall be taken by that other State as if the taxes owed to the first-mentioned State were the own taxes of that other State.

5. A request under paragraphs 3 or 4 shall only be made by a Contracting State to the extent that sufficient property of the taxpayer owing the taxes is not available in that State for recovery of the taxes owed.
6. The Contracting State in which tax is recovered in accordance with the provisions of this Article shall forthwith remit to the Contracting State on behalf of which the tax was collected the amount so recovered minus, where appropriate, the amount of extraordinary costs referred to in sub-paragraph 7 b).
7. It is understood that unless otherwise agreed by the competent authorities of both Contracting States,
  - a) ordinary costs incurred by a Contracting State in providing assistance shall be borne by that State;
  - b) extraordinary costs incurred by a Contracting State in providing assistance shall be borne by the other State and shall be payable regardless of the amount collected on its behalf by that other State.As soon as a Contracting State anticipates that extraordinary costs may be incurred, it shall so advise the other Contracting State and indicate the estimated amount of such costs.
8. In this Article, the term "taxes" means the taxes to which the Convention applies and includes any interest and penalties relating thereto.
9. The provisions of paragraph 1 of Article 26 concerning secrecy and use of the information exchanged shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.

## ***ARTICLE 28 – MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS***

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

## ***ARTICLE 29 – LIMITATION OF BENEFITS***

**[MODIFIED by paragraph 1 of Article 7 of the MLI]** [A person that is a resident of a Contracting State and derives income from the other Contracting State shall not be entitled to relief from taxation otherwise provided for in this Convention if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of such item of income to take advantage of the provisions of this Convention.

In making a determination under this Article, the appropriate competent authority or authorities shall be entitled to consider, among other factors, the amount and nature of the income, circumstances in which the income was derived, the real intention of the parties to the transaction, and the identity and residence of the persons who in law or in fact, directly or indirectly, control or beneficially own (i) the income or (ii) the persons who are resident(s) of the Contracting State(s) and who are concerned with the payment or receipt of such income.]

*The following paragraph 1 of Article 7 of the MLI replaces Article 29 of this Convention:*

ARTICLE 7 OF THE MLI –PREVENTION OF TREATY ABUSE

*(Principal purposes test provision)*

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

*The following paragraph 4 of Article 7 of the MLI applies to paragraph 1 of Article 7 of the MLI:*

Where a benefit under [*the Convention*] is denied to a person under [*paragraph 1 of Article 7 of the MLI*], the competent authority of the [*Contracting State*] that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement referred to in [*paragraph 1 of Article 7 of the MLI*]. The competent authority of the [*Contracting State*] to which a request has been made under this paragraph by a resident of the other [*Contracting State*] shall consult with the competent authority of that other [*Contracting State*] before rejecting the request.

## CHAPTER VI – FINAL PROVISIONS

### *ARTICLE 30 – ENTRY INTO FORCE*

1. The Governments of the Contracting States shall notify each other when the constitutional requirements for the entry into force of this Convention have been complied with.
2. The Convention shall enter into force on the date of the later of the notifications referred to in paragraph 1 and its provisions shall have effect in both Contracting States:
  - a) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the Convention enters into force;
  - b) in respect of other taxes charged on income of any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force.

### *ARTICLE 31 – TERMINATION*

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year. In such event, the Convention shall cease to have effect in both Contracting States:

- a) in respect of taxes withheld at source, on income derived on or after the first day of January in the calendar year next following the year in which the notice has been given;
- b) in respect of other taxes charged on income of any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice has been given.

In witness whereof, the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at Brussels this 26th day of November 1998, in the Lithuanian, Dutch, French and English languages, all four texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

For the Government of the  
Republic of Lithuania

For the Government of the  
Kingdom of Belgium

## *PROTOCOL*

At the moment of signing the Convention between the Government of the Republic of Lithuania and the Government of the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

1. Ad Article 4, paragraph 3

It is understood that the second sentence of paragraph 3 shall not be interpreted as prohibiting a Contracting State to eliminate double taxation in accordance with Article 23 in respect of persons mentioned in paragraph 3 of Article 4.

2. Ad Article 6, paragraph 2

It is understood that the term “variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources” also includes payments relating to the production from such resources.

3. Ad Article 6, paragraph 3, and Article 13, paragraph 1

It is understood that all income and gains from the alienation of immovable property may be taxed in the Contracting State in which the immovable property is situated.

4. Ad Article 7, paragraphs 1 and 2

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 remuneration which is attributable to the actual activity of the permanent establishment for such sales or business.

However, 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 nature as those effected, through that permanent establishment may be considered attributable to that permanent establishment if it is proved that the sale or activities were structured in a manner intended to avoid taxation in the State where the permanent establishment is situated.

5. Ad Article 10, paragraph 3

The term “dividends” also includes income - even paid in the form of interest - which is treated as income from shares by the laws of the State of which the paying company is a resident.

6. Ad Article 12

If in any Convention for the avoidance of double taxation concluded by Lithuania with a third State being a member of the Organisation for Economic Co-operation and Development (OECD) at the date of signature of this Convention, Lithuania after that date would agree to exclude any kind of rights or property from the definition contained in paragraph 3 or exempt royalties arising in Lithuania from Lithuanian tax on royalties or to limit the rates of tax provided

in paragraph 2, such definition or exemption or lower rate shall automatically apply as if it had been specified in paragraph 3 or paragraph 2 respectively.

7. Ad Article 12, paragraph 3

It is understood that the term “information concerning industrial, commercial or scientific experience” is to be interpreted according to the Commentary on paragraph 2 of Article 12 of the OECD Model Tax Convention on Income and on Capital.

8. Ad Article 13, paragraph 2

For the purposes of paragraph 2, it is understood that gains from the alienation of shares shall be taxable in a Contracting State only to the extent of the value of such shares derived directly or indirectly from immovable property situated in that State.

9. Ad Article 15, paragraph 2

It is understood that remuneration derived by a resident of a Contracting State in respect of his personal activity as a partner of a company, other than a company with share capital, which is a resident of the other Contracting State, may be taxed in accordance with the provisions of Article 15, as if such remuneration were remuneration derived by an employee in respect of an employment and as if references to “the employer” were references to the company.

10. Ad Article 21, paragraph 7

It is understood that gains derived by a resident of a Contracting State from the alienation of shares referred to in paragraph 7 c) may be taxed in the other Contracting State to the extent of the value of such shares derived directly or indirectly from the rights or property as mentioned in paragraph 7 c).

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

Done in duplicate at Brussels this 26th day of November 1998, in the Lithuanian, Dutch, French and English languages, all four texts being equally authentic. In the case of divergence of interpretation the English text shall prevail.

For the Government of the  
Republic of Lithuania

For the Government of the  
Kingdom of Belgium