

BELGIUM/MAURITIUS DOUBLE TAXATION CONVENTION

SIGNED 04 JULY 1995

Effective in Belgium:

- 1. the individual income tax;**
- 2. the corporate income tax;**
- 3. the income tax on legal entities;**
- 4. the income tax on non-residents;**
- 5. the special levy assimilated to the individual income tax;**
- 6. the supplementary crisis contribution,**

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

Effective in Mauritius:

the income tax

Synthesised text of the MLI and the Convention between the Republic of Mauritius and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income

This document was prepared in consultation with the competent authority of Belgium and represents our shared understanding of the modifications made to the Convention by the MLI.

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Republic of Mauritius and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income signed on 04 July 1995 (the “Convention”), as modified by the *Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting* signed by Mauritius on 05 July 2017 and by Belgium on 7 June 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of Mauritius submitted to the Depositary upon ratification on 18 October 2019 and the MLI position of Belgium submitted to the Depositary upon ratification on 26 June 2019. 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.

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 changes from “Covered Tax Agreement” to “Convention” and changes from “Contracting Jurisdictions” to “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>

The Convention:

In Belgium:

<https://www.senate.be/www/webdriver?MItabObj=pdf&MIcolObj=pdf&MInamObj=pdfid&MItypeObj=application/pdf&MIvalObj=16777332>

In Mauritius:

https://www.mra.mu/download/Mtius_Belgium.pdf

The MLI position of Belgium submitted to the Depository upon ratification on 26 June 2019 and the MLI position of Mauritius submitted to the Depository upon ratification on 18 October 2019 can be found [on the MLI Depository \(OECD\) webpage](#).

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

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of the provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by Mauritius and Belgium in their MLI positions.

Dates of the deposit of instruments of ratification: 18 October 2019 for Mauritius and 26 June 2019 for Belgium.

Entry into force of the MLI: 1 February 2020 for Mauritius and 1 October 2019 for Belgium.

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

(a) with respect to the application of the Convention by Belgium, in accordance with paragraph 1 of Article 35 of the MLI:

- 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 2021;
- with respect to all other taxes levied by Belgium, for taxes levied with respect to taxable periods beginning on or after 1 August 2020;

and

b) with respect to the application of the Convention by Mauritius, in accordance with paragraphs 1 and 2 of Article 35 of the MLI:

- 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 July 2020;
- with respect to all other taxes levied by Mauritius, for taxes levied with respect to taxable periods beginning on or after 1 August 2020.

CONVENTION BETWEEN THE REPUBLIC OF MAURITIUS AND THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

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

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

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

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

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

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

have agreed as follows :

CHAPTER I. - SCOPE OF THE CONVENTION

Article 1

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 or territorial 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:

(a) in the case of Mauritius :

the income tax,
(hereinafter referred to as "Mauritius tax");

(b) in the case of Belgium :

- 1° the individual income tax;
- 2° the corporate income tax;
- 3° the income tax on legal entities;
- 4° the income tax on non-residents;
- 5° the special levy assimilated to the individual income tax;

6° 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 change which has 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 "Mauritius" means the Republic of Mauritius; when used in a geographical sense, it means all the territories, including all the islands which, in accordance with the laws of Mauritius, constitute the State of Mauritius and includes the territorial sea of Mauritius and any area outside the territorial sea of Mauritius which, in accordance with international law, has been or may hereafter be designated under the laws of Mauritius as an area, including the territorial shelf, within which the rights of Mauritius with respect to the sea, the seabed and subsoil and their natural resources may be exercised;
- (b) the term "Belgium" means the Kingdom of Belgium; when used in a geographical sense, it means the national territory, the territorial sea and any other area in the sea within which Belgium, in accordance with international law, exercises sovereign rights or its jurisdiction;
- (c) the terms "a Contracting State" and "the other Contracting State" mean Mauritius or Belgium as the context requires;
- (d) the term "person" includes any individual, any 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 and in particular a company or a trust within the meaning of the Mauritian law;
- (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 which has its place of effective management in 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 :
 - 1° in the case of Mauritius, the Minister of Finance or his authorised representative, and
 - 2° in the case of Belgium, the Minister of Finance or his authorised representative;
- (i) the term "national" of a Contracting State means :

- 1° any individual possessing the nationality of that Contracting State;
- 2° any legal person, partnership and association deriving their status as such from the laws in force in that Contracting State.

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

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 or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.
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 State of which he is a national;
 - (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this 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,
 - (f) a warehouse, in relation to a person providing storage facilities for other persons,

- (g)* a mine, an oil or gas well, a quarry or any other place of extraction of natural resources,
- (h)* a farm or a plantation.

3. A building site or construction or installation project or supervisory activities in connection therewith constitute a permanent establishment only if they last more than six months.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
 - (a)* the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
 - (b)* the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - (c)* the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - (d)* the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
 - (e)* the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - (f)* the maintenance of a fixed place of business solely for any combination of activities mentioned in 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.
5. Notwithstanding the provisions of paragraph 1 and 2 where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned State in respect of any activities which that person undertakes for the enterprise, if such a person:
 - (a)* has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph;
 - (b)* has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.
6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, the agent will not be considered an agent of an independent status within the meaning of this paragraph.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III. - TAXATION OF INCOME

Article 6

INCOME FROM IMMOVABLE PROPERTY

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

Article 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.
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 from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. For the purpose of this Article, profits from the operation in international traffic of ships or aircraft shall include in particular:
 - (a) occasional profits derived from the rental on a bareboat basis of ships or aircraft used in international traffic;
 - (b) profits derived from the use or rental of containers, if such profits are supplementary or incidental with respect to profits to which the provisions of paragraph 1 apply.
3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9

ASSOCIATED ENTERPRISES

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.

The following paragraph 1 of Article 17 of the MLI applies and supersedes the provisions 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 (other than a partnership in the case of Mauritius) which holds directly or indirectly at least 10 per cent of the capital of the company paying the dividends;
 - (b) 10 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 –even paid in the form of interest– which is treated as income from shares by the internal tax legislation of the State of which the paying company 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, interest shall be exempted from tax in the Contracting State in which it arises if it is:
 - (a) interest on commercial debt-claims -including debt-claims represented by commercial paper-resulting from deferred payments for goods, merchandise or services supplied by an enterprise;
 - (b) interest paid in respect of a loan or a credit extended, guaranteed or insured by public entities the objective of which is to promote the export;
 - (c) interest on loans - not represented by bearer instruments - granted by a banking enterprise;
 - (d) interest on deposits - not represented by bearer instruments - with a banking enterprise;
 - (e) interest paid to the other Contracting State, or to one of its political subdivisions or local or territorial authorities.
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 purpose of this Article penalty charges for late payment nor interest regarded as dividends under paragraph 3 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 that State itself, a political subdivision, a local or territorial authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
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 in the Contracting State in which the interest arises according to the laws of that State.

Article 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the royalties.
2. The term “royalties” as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and other works recorded for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, as well as for information concerning industrial, commercial or scientific experience.
3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting 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.
4. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local or territorial authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or 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.
5. 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 in the Contracting State in which the royalties arise, according to the laws of that State.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting 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 the other State but only so much of it as is 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, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the taxable period 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 may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

COMPANY MANAGERS

1. 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 a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

The preceding provision shall also apply to payments derived in respect of the discharge of functions which, under the laws of the Contracting State of which the company is a resident, are regarded as functions of a similar nature as those exercised by a person referred to in the said provision.

2. Remuneration derived by a person referred to in paragraph 1 from the company in respect of the discharge of day-to-day functions of a managerial or technical nature and remuneration received 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.

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 of this Article shall not apply if the activities exercised by the artistes or sportsmen in a Contracting State are wholly or substantially supported from public funds of the other Contracting State, a political subdivision or a local or territorial authority thereof.

Article 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration and annuities paid to a resident of a Contracting State shall be taxable only in that State.
2. The term "pensions", as used in paragraph 1, means periodic payments made in consideration of past employment or by way of compensation for injuries received in connection with such past employment.
3. However, pensions and other allowances, periodic or non periodic, paid under the social security legislation of a Contracting State or under a public scheme organised by a Contracting State in order to supplement the benefits of that legislation, may be taxed in that State.
4. The term "annuities" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19

GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local or territorial 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 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 :

1° is a national of that State, or

2° 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 or territorial 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 remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local or territorial authority thereof.

Article 20

TEACHERS AND RESEARCHERS

1. Remuneration which a teacher or researcher who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who, by invitation, is present in the first State solely for the purpose of teaching or carrying on research at a university or other officially recognized institution, receives in consideration for such activities shall not be taxed in the first-mentioned State for a period not exceeding two years from the date of arrival of these persons in that State.
2. The provisions of paragraph 1 shall not apply to remuneration received in consideration for research carried on not in the public interest but primarily for the private benefit of a specific person or persons.

Article 21

STUDENTS AND BUSINESS APPRENTICES

A student or business apprentice who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is temporarily present in the first-mentioned State solely for the purpose of his education or training shall be exempt in that State :

(a) on payments which he receives from sources outside that State for the purposes of his maintenance, education or training;

(b) on remuneration, not exceeding in any calendar year 150.000 Belgian francs or the equivalent of that amount in the currency of Mauritius, which he derives in respect of an employment exercised in that

State in connection with his education or training and during the normal duration of this education or training, which duration may not exceed :

1° in the case of a student, seven consecutive years;

2° in the case of a business apprentice, three consecutive years.

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 if these items are not taxed in the first-mentioned State.

CHAPTER IV. - METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 23

1. In the case of Mauritius, double taxation shall be avoided as follows:
 - (a) Subject to subparagraphs (b) and (c) hereinafter and to the provisions of the Mauritius legislation regarding the allowance as a credit against Mauritius tax of tax paid abroad (in accordance with the general principle of this Convention), where a resident of Mauritius derives profits, income or gains from Belgium which, under the laws of Belgium and in accordance with the Convention, are taxable in Belgium, whether directly or by withholding tax, Mauritius shall allow a credit against the Mauritius tax computed by reference to the same profits, income or gains by reference to which the Belgian tax is computed.
 - (b) In the case of dividends, the credit provided for in subparagraph (a) shall only take into account such tax in respect thereof as is additional to the tax payable in Belgium by the distributing company on the profits out of which the dividends have been paid.
 - (c) Where a company which is a resident of Mauritius derives dividends from a company which is a resident of Belgium and in which it holds directly or indirectly at least 10 per cent of the capital, the credit allowed against the Mauritius tax shall take into account, in addition to the Belgian tax for which a credit is allowed under the provisions of subparagraphs (a) and (b), the Belgian tax payable by the distributing company in respect of the profits out of which the dividends have been paid.
 - (d) For the purposes of this paragraph the profits, income and gains derived by a resident of Mauritius and which are taxable in Belgium according to the Convention shall be deemed to arise 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 Mauritius in accordance with the provisions of the Convention, other than those of paragraph 2 of Article 10, of paragraphs 2 and 7 of Article 11 and of paragraph 5 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.

However, this provision shall not apply to profits which a resident of Belgium derives from a permanent establishment situated in Mauritius and which have been taxed in Mauritius, but at a lower rate than 25 per cent. In such case, those profits may be taxed in Belgium in accordance with the provisions of the Belgian internal legislation regarding business income that has been derived and taxed abroad.

- (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 subparagraph (c) hereinafter, interest taxable in accordance with paragraphs 2 or 7 of Article 11, or royalties taxable in accordance with paragraph 5 of Article 12, the Mauritius tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.
- (c) Where a company which is a resident of Belgium owns shares in a company which is a resident of Mauritius, the dividends paid to it by the last-mentioned company and which are taxable in Mauritius in accordance with paragraph 2 of article 10 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 Mauritius, 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 Mauritius 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 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 Article 9, paragraph 7 of Article 11, or paragraph 5 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. Nothing contained in this Article shall be construed as preventing Belgium:
 - (a) from taxing the profits of a permanent establishment in Belgium of a company which is a resident of Mauritius at the rate of tax provided by the Belgian law, provided that this rate does not exceed the maximum rate applicable to the profits of companies which are residents of Belgium;
 - (b) from imposing the movable property prepayment on dividends derived from a holding which is effectively connected with a permanent establishment maintained in Belgium by a company which is a resident of Mauritius.
7. 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.

The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 25 of this Convention:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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

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.

The following second sentence of paragraph 2 of Article 16 of the MLI applies to this Convention:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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:

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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.
5. The competent authorities of the Contracting States shall communicate directly with each other for the application of the Convention.

*The following Part VI of the MLI applies to this Convention:*¹

PART VI OF THE MLI – ARBITRATION

Article 19 (Mandatory Binding Arbitration) of the MLI

1. Where:

- a) under [paragraph 1 of Article 25 of this Convention], a person has presented a case to the competent authority of a [Contracting State] on the basis that the actions of one or both of the [Contracting States] have resulted for that person in taxation not in accordance with the provisions of [the Convention]; and
- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to [paragraph 2 of Article 25 of the Convention], within a period of two years beginning on the start date referred to in paragraph 8 or 9 [of Article 19 of the MLI], as the case may be (unless, prior to the expiration of that period the competent authorities of the [Contracting States] have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in

¹ In accordance with paragraph 1 of Article 36 of the MLI, the provisions of Part VI (Arbitration) of the MLI shall have effect with respect to this Convention:

- a) with respect to cases presented to the competent authority of a Contracting State on or after 1 February 2020; and
- b) with respect to cases presented to the competent authority of a Contracting State prior to 1 February 2020, on the date when both Contracting States have notified the Depositary that they have reached mutual agreement pursuant to paragraph 10 of Article 19 of the MLI, along with information regarding the date or dates on which such cases shall be considered to have been presented to the competent authority of a Contracting State according to the terms of that mutual agreement.

the manner described in *[Part VI of the MLI]*, according to any rules or procedures agreed upon by the competent authorities of the *[Contracting States]* pursuant to the provisions *[of paragraph 10 of Article 19 of the MLI]*.

2. Where a competent authority has suspended the mutual agreement procedure referred to in paragraph 1 *[of Article 19 of the MLI]* because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in subparagraph b) of paragraph 1 *[of Article 19 of the MLI]* will stop running until either a final decision has been rendered by the court or administrative tribunal or the case has been suspended or withdrawn. In addition, where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in subparagraph b) of paragraph 1 *[of Article 19 of the MLI]* will stop running until the suspension has been lifted.
3. Where both competent authorities agree that a person directly affected by the case has failed to provide in a timely manner any additional material information requested by either competent authority after the start of the period provided in subparagraph b) of paragraph 1 *[of Article 19 of the MLI]*, the period provided in subparagraph b) of paragraph 1 *[of Article 19 of the MLI]* shall be extended for an amount of time equal to the period beginning on the date by which the information was requested and ending on the date on which that information was provided.
4.
 - a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1 *[of Article 19 of the MLI]*. The arbitration decision shall be final.
 - b) The arbitration decision shall be binding on both *[Contracting States]* except in the following cases:
 - i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.
 - ii) if a final decision of the courts of one of the *[Contracting States]* holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 *[of Article 19 of the MLI]* shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings) *[of the MLI]*). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.
 - iii) if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.
5. The competent authority that received the initial request for a mutual agreement procedure as described in subparagraph a) of paragraph 1 *[of Article 19 of the MLI]* shall, within two calendar months of receiving the request:
 - a) send a notification to the person who presented the case that it has received the request; and
 - b) send a notification of that request, along with a copy of the request, to the competent authority of the other *[Contracting State]*.
6. Within three calendar months after a competent authority receives the request for a mutual agreement procedure (or a copy thereof from the competent authority of the other *[Contracting State]*) it shall either:

- a) notify the person who has presented the case and the other competent authority that it has received the information necessary to undertake substantive consideration of the case; or
- b) request additional information from that person for that purpose.

7. Where pursuant to subparagraph b) of paragraph 6 [of Article 19 of the MLI], one or both of the competent authorities have requested from the person who presented the case additional information necessary to undertake substantive consideration of the case, the competent authority that requested the additional information shall, within three calendar months of receiving the additional information from that person, notify that person and the other competent authority either:

- a) that it has received the requested information; or
- b) that some of the requested information is still missing.

8. Where neither competent authority has requested additional information pursuant to subparagraph b) of paragraph 6 [of Article 19 of the MLI], the start date referred to in paragraph 1 [of Article 19 of the MLI] shall be the earlier of:

- a) the date on which both competent authorities have notified the person who presented the case pursuant to subparagraph a) of paragraph 6 [of Article 19 of the MLI]; and
- b) the date that is three calendar months after the notification to the competent authority of the other [Contracting State] pursuant to subparagraph b) of paragraph 5 [of Article 19 of the MLI].

9. Where additional information has been requested pursuant to subparagraph b) of paragraph 6 [of Article 19 of the MLI], the start date referred to in paragraph 1 [of Article 19 of the MLI] shall be the earlier of:

- a) the latest date on which the competent authorities that requested additional information have notified the person who presented the case and the other competent authority pursuant to subparagraph a) of paragraph 7 [of Article 19 of the MLI]; and
- b) the date that is three calendar months after both competent authorities have received all information requested by either competent authority from the person who presented the case.

If, however, one or both of the competent authorities send the notification referred to in subparagraph b) of paragraph 7 [of Article 19 of the MLI], such notification shall be treated as a request for additional information under subparagraph b) of paragraph 6 [of Article 19 of the MLI].

10. The competent authorities of the [Contracting States] shall by mutual agreement pursuant to [Article 25 of the MLI] settle the mode of application of the provisions contained in [Part VI of the MLI], including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

12. Notwithstanding the other provisions of [Article 19 of the MLI],

- a) any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for by [the MLI] shall not be submitted to arbitration, if a decision on this issue has already been rendered by a court or administrative tribunal of either [Contracting State];
- b) if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting State], a decision concerning the issue is

rendered by a court or administrative tribunal of one of the [Contracting States], the arbitration process shall terminate.

Article 20 (Appointment of Arbitrators) of the MLI

1. Except to the extent that the competent authorities of the [Contracting States] mutually agree on different rules, paragraphs 2 through 4 [of Article 20 of the MLI] shall apply for the purposes of [Part VI of the MLI].
2. The following rules shall govern the appointment of the members of an arbitration panel:
 - a) The arbitration panel shall consist of three individual members with expertise or experience in international tax matters.
 - b) Each competent authority shall appoint one panel member within 60 days of the date of the request for arbitration under paragraph 1 of Article 19 [of the MLI]. The two panel members so appointed shall, within 60 days of the latter of their appointments, appoint a third member who shall serve as Chair of the arbitration panel. The Chair shall not be a national or resident of either [Contracting State].
 - c) Each member appointed to the arbitration panel must be impartial and independent of the competent authorities, tax administrations, and ministries of finance of the [Contracting States] and of all persons directly affected by the case (as well as their advisors) at the time of accepting an appointment, maintain his or her impartiality and independence throughout the proceedings, and avoid any conduct for a reasonable period of time thereafter which may damage the appearance of impartiality and independence of the arbitrators with respect to the proceedings.
3. In the event that the competent authority of a [Contracting State] fails to appoint a member of the arbitration panel in the manner and within the time periods specified in paragraph 2 [of Article 20 of the MLI] or agreed to by the competent authorities of the [Contracting States], a member shall be appointed on behalf of that competent authority by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either [Contracting State].
4. If the two initial members of the arbitration panel fail to appoint the Chair in the manner and within the time periods specified in paragraph 2 [of Article 20 of the MLI] or agreed to by the competent authorities of the [Contracting States], the Chair shall be appointed by the highest ranking official of the Centre for Tax Policy and Administration of the Organisation for Economic Co-operation and Development that is not a national of either [Contracting State].

Article 21 (Confidentiality of Arbitration Proceedings) of the MLI

1. Solely for the purposes of the application of the provisions of [Part VI of the MLI] and of the provisions of [the Convention] and of the domestic laws of the [Contracting States] related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective arbitrators and information that the competent authorities receive from the arbitration panel shall be considered information that is exchanged under the provisions of [the Convention] related to the exchange of information and administrative assistance.
2. The competent authorities of the [Contracting States] shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in the provisions of [the Convention] related to exchange of information and administrative assistance and under the applicable laws of the [Contracting States].

Article 22 (Resolution of a Case Prior to the Conclusion of the Arbitration) of the MLI

For the purposes of [Part VI of the MLI] and the provisions of [the Convention] that provide for resolution of cases through mutual agreement, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting States]:

- a) the competent authorities of the [Contracting States] reach a mutual agreement to resolve the case; or
- b) the person who presented the case withdraws the request for arbitration or the request for a mutual agreement procedure

Article 23 (Type of Arbitration Process) of the MLI

Final offer arbitration

1. Except to the extent that the competent authorities of the [Contracting States] mutually agree on different rules, the following rules shall apply with respect to an arbitration proceeding pursuant to [Part VI of the MLI]:

- a) After a case is submitted to arbitration, the competent authority of each [Contracting State] shall submit to the arbitration panel, by a date set by agreement, a proposed resolution which addresses all unresolved issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities of the [Contracting States]). The proposed resolution shall be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax charged pursuant to [the Convention], for each adjustment or similar issue in the case. In a case in which the competent authorities of the [Contracting States] have been unable to reach agreement on an issue regarding the conditions for application of a provision of [the Convention] (hereinafter referred to as a “threshold question”), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.
- b) The competent authority of each [Contracting State] may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or supporting position paper shall provide a copy to the other competent authority by the date on which the proposed resolution and supporting position paper were due. Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.
- c) The arbitration panel shall select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and shall not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the panel members. The arbitration panel shall deliver its decision in writing to the competent authorities of the [Contracting States]. The arbitration decision shall have no precedential value.

5. Prior to the beginning of arbitration proceedings, the competent authorities of the [Contracting States] shall ensure that each person that presented the case and their advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under [the Convention], as well as the arbitration proceeding under [Part VI of the MLI], with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the [Contracting States], a person that presented the case or one of that person’s advisors materially breaches that

agreement.

Article 25 (Costs of Arbitration Proceedings) of the MLI

In an arbitration proceeding under [Part VI of the MLI], the fees and expenses of the members of the arbitration panel, as well as any costs incurred in connection with the arbitration proceedings by the [Contracting States], shall be borne by the [Contracting States] in a manner to be settled by mutual agreement between the competent authorities of the [Contracting States]. In the absence of such agreement, each [Contracting State] shall bear its own expenses and those of its appointed panel member. The cost of the chair of the arbitration panel and other expenses associated with the conduct of the arbitration proceedings shall be borne by the [Contracting States] in equal shares.

Paragraphs 2 and 3 of Article 26 (Compatibility) of the MLI

2. Any unresolved issue arising from a mutual agreement procedure case otherwise within the scope of the arbitration process provided for in [Part VI of the MLI] shall not be submitted to arbitration if the issue falls within the scope of a case with respect to which an arbitration panel or similar body has previously been set up in accordance with a bilateral or multilateral convention that provides for mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case.

3. [Nothing] in [Part VI of the MLI] shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the [Contracting States] are or will become parties.

Subparagraph a) of paragraph 2 of Article 28 (Reservations) of the MLI

Pursuant to Subparagraph a) of paragraph 2 of Article 28 of the MLI, the Republic of Mauritius formulates the following reservation with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI of the MLI.

1. Mauritius reserves the right to exclude from the scope of Part VI cases involving the application of Mauritius's domestic anti-avoidance rules contained in Section 90 of the Income Tax Act or case law interpreting same. Any subsequent provisions replacing, amending or updating these anti-avoidance rules would also be comprehended. Mauritius shall notify the Depository of any such subsequent provisions.

2. Mauritius reserves the right to exclude from the scope of Part VI any case involving recourse to Part XII (Offences) of the Income Tax Act. Any subsequent provisions replacing, amending or updating provisions in Part XII (Offences) of the Income Tax Act would also be comprehended. Mauritius shall notify the Depository of any such subsequent provisions.

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, particularly for the prevention of fiscal fraud. 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

MEMBERS OF DIPLOMATIC MISSIONS OR CONSULAR POSTS

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

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

ARTICLE 7 OF THE MLI –PREVENTION OF TREATY ABUSE (Principal purposes test provision)

Notwithstanding any provisions of [*the Convention*], a benefit under [*the Convention*] shall not be granted in respect of an item of income 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:

4. 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 28

ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Brussels as soon as possible.
2. The Convention shall enter into force on the date of the exchange of the instruments of ratification and its provisions shall have effect:
 - (a) in Mauritius: with respect to taxes on income of the fiscal years beginning after July 1 next following the date of the entry into force of the Convention.
 - (b) in Belgium:
 - 1° with respect to taxes due at source on income credited or payable on or after January 1 of the year next following the year in which the Convention entered into force;
 - 2° with respect to other taxes charged on income of taxable periods ending on or after December 31 of the year next following the year in which the Convention entered into force.

Article 29

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 to the other Contracting State written notice of termination at least six months before the end of any calendar year after the fifth year following the year in which the Convention entered into force; in such event, the Convention shall apply for the last time:

- (a) in Mauritius: with respect to taxes on income of the fiscal year beginning after July 1 next following the fiscal year in which the notice of termination is given;
- (b) in Belgium:
 - 1° with respect to taxes due at source on income credited or payable at latest on December 31 of the year in which the notice of termination is given;
 - 2° with respect to other taxes charged on income of taxable periods ending before December 31 of the year next following the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Brussels, this 4th day of July 1995, in the English, French and Dutch languages, the three texts being equally authoritative.

RAMAKRISHNA SITHANEN
*For the Government of the Republic of
Mauritius*

ERIK DERYCKE
*For the Government of the Kingdom of
Belgium*