



UK /MAURITIUS DOUBLE TAXATION CONVENTION

SIGNED 11 FEBRUARY 1981

Effective in UK:

- 1. the income tax;**
- 2. the corporation tax; and**
- 3. the capital gains tax**

Effective in Mauritius:

- 1. the income tax; and**
- 2. the capital gains tax (morcellement)**

Synthesised text of the MLI and the Convention between the Government of Mauritius and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital Gains

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

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Government of Mauritius and the Government of the United Kingdom of Great Britain and Northern Ireland with respect to Taxes on Income and on Capital Gains signed on 11 February 1981 and the Protocols signed on 23 October 1986, 27 March 2003, 10 January 2011 and 28 February 2018 (together the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed Government of Mauritius on 05 July 2017 and by the Government of the United Kingdom of Great Britain and Northern Ireland signed on 07 June 2017 (the “MLI”).

The document was prepared on the basis of the MLI position of Mauritius submitted to the Depository upon ratification on 18 October 2019 and of the MLI position of the United Kingdom submitted to the Depository upon ratification on 29 June 2018. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Convention.

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

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

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

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

References

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

http://www.mra.mu/download/Mtius_U_Kingdom.pdf;

<http://www.mra.mu/download/IncomeTaxAct-Uk.pdf>; and

<http://www.mra.mu/download/GNno43of2018DTCunitedKingdomAmendmentRegulations2018.pdf>

In the United Kingdom:

http://www.legislation.gov.uk/uksi/1981/1121/pdfs/uksi_19811121_en.pdf

http://www.legislation.gov.uk/uksi/1987/467/pdfs/uksi_19870467_en.pdf

http://www.legislation.gov.uk/uksi/2003/2620/pdfs/uksi_20032620_en.pdf

http://www.legislation.gov.uk/uksi/2011/2442/pdfs/uksi_20112442_en.pdf

http://www.legislation.gov.uk/uksi/2018/840/pdfs/uksi_20180840_en.pdf

The MLI position of Mauritius submitted to the Depository upon ratification on 18 October 2019 and of the MLI position of the United Kingdom submitted to the Depository upon ratification on 29 June 2018 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 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 the United in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 18 October 2019 for

Mauritius and 29 June 2018 for the United Kingdom.

Entry into force of the MLI: 01 February 2020 for Mauritius and 01 October 2018 the United Kingdom.

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 the United Kingdom, 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 the United Kingdom, from 01 April 2021 for corporation tax and from 06 April 2021 for income tax and capital gains;

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 01 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 GOVERNMENT OF MAURITIUS AND THE GOVERNMENT
OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND CAPITAL GAINS**

The Government of Mauritius and the Government of the United Kingdom of Great Britain and Northern Ireland;

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

The following paragraph 1 and paragraph 3 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

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:

ARTICLE 1

PERSONAL SCOPE

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

ARTICLE 2

TAXES COVERED

(1) The existing taxes to which this Convention shall apply are:

(a) in the United Kingdom of Great Britain and Northern Ireland:

(i) the income tax;

(ii) the corporation tax; and

(iii) the capital gains tax;

(hereinafter referred to as "United Kingdom tax");

(b) in Mauritius;

(i) the income tax;

(ii) the capital gains tax (morcellement);

(hereinafter referred to as "Mauritius tax").

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes.

(3) The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

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

(a) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and subsoil and their natural resources may be exercised;

(b) the term "Mauritius" means all the territories, including all the islands, which, in accordance with the laws of Mauritius, constitute the State of Mauritius and includes:

(i) the territorial sea of Mauritius; and

(ii) 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 concerning the Continental Shelf, as an area within which the rights of Mauritius with respect to the sea bed and subsoil and their natural resources may be exercised;

(c) the term "national" means:

(i) in relation to the United Kingdom, any citizen of the United Kingdom and Colonies, or any British subject not possessing that citizenship or the citizenship of any other Commonwealth country or territory, provided that in either case he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;

(ii) in relation to Mauritius, any individual who is a citizen of Mauritius and any legal person, partnership, association or other entity deriving its status as such from the law in force in Mauritius;

(d) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Mauritius as the context requires;

(e) the term "person" comprises an individual, a company and any other body of persons, corporate or not corporate;

(f) the term "company" means any body corporate or any entity which is treated as a company or body corporate for tax purposes;

(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an industrial, mining, commercial, plantation or agricultural enterprise or similar undertaking carried on by a resident of a Contracting State and an industrial, mining, commercial, plantation or agricultural enterprise or similar undertaking carried on by a resident of the other Contracting State;

(h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise 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;

(i) the term "competent authority" means, in the case of the United Kingdom the Commissioners of Inland Revenue or their authorised representative, and in the case of Mauritius the Commissioner of Income Tax or his authorised representative;

(j) the term "tax" means United Kingdom tax or Mauritius tax as the context requires.

(2) In the application of the provisions of this Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

ARTICLE 4

RESIDENCE

(1) For the purposes of this Convention, the term "resident of a Contracting State" means, subject to the provisions of paragraphs (2) and (3) of this Article, any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. The terms "resident of the United Kingdom" and "resident of Mauritius" shall be construed accordingly.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

(a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

(b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;

(d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall determine the question by mutual agreement.

(3) Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting 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 in which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall include 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 others;

(g) a mine, oil or gas well, quarry or other place of extraction of natural resources;

(h) an installation or structure used for the exploration of natural resources;

(i) a farm or plantation.

(3) A building site or construction or assembly project, or supervisory activities in connection therewith, constitutes a permanent establishment only if the site, project or activity lasts 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 collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(5) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, a person acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of an independent status to whom the provisions of paragraph (6) of this Article apply) shall be deemed to be a permanent establishment in the first-mentioned Contracting State if:

(a) he has, and habitually exercises in that first-mentioned State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

(b) he has no such authority, but habitually maintains in that first-mentioned State a stock of goods or merchandise belonging to the enterprise 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, a general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. An agent shall not be regarded as of an independent status if he acts exclusively or almost exclusively for the 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.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

- (1) Income from immovable property may be taxed in the Contracting State in which such property is situated.
- (2) (a) The term "immovable property" shall, subject to the provisions of subparagraph (b) below, be defined in accordance with the law of the Contracting State in which the property in question is situated.

(b) The term "immovable property" 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) of this Article 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) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.
- (5) Notwithstanding the preceding provisions of this Article profits derived by an agricultural, forestry or plantation enterprise shall be dealt with in accordance with the provisions of Article 7.

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) of this Article, 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 at arm's length with the enterprise of which it is a permanent establishment.
- (3) In determining the profits of a permanent establishment there shall be allowed as deductions all expenses of the enterprise which are incurred for the purposes of the permanent

establishment, including executive and general administrative expenses so incurred, whether in the Contracting 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 determining the profits of a permanent establishment, of 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) In so far 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) of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

(7) Where profits include items 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) 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.

(3) The provisions of paragraph (1) of this Article 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 replaces paragraph 5 of Article 24 of this Convention:

ARTICLE 17 OF THE MLI – CORRESPONDING ADJUSTMENTS

1. 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, dividends paid by a company which is a resident of a Contracting State may also be taxed in that State and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State;

- (a) except as provided in sub-paragraph (b), such dividends shall be exempt from tax in the Contracting State of which the company paying the dividends is a resident;
- (b) where dividends are paid out of income (including gains) derived directly or indirectly from immovable property within the meaning of Article 6 of this Convention by an investment vehicle which distributes most of this income annually and whose income from such immovable property is exempted from tax, the tax charged by the Contracting State of which the company paying the dividends is a resident shall not exceed 15 per cent of the gross amount of the dividends other than where the beneficial owner of the dividends is a pension scheme established in the other Contracting State, in which case the exemption provided in sub-paragraph (a) shall apply.

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

(3) The term “dividends” as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as any other item which is treated as income from shares by the taxation laws of the State of which the company making the distribution is a resident.

(4) The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 of this Convention shall apply.

(5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

- (6) The term “pension scheme” means any scheme or other arrangement which:
 - (a) is generally exempt from income taxation; and
 - (b) operates to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements.”

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, subject to the provisions of paragraph (3) of this Article, such interest may also be taxed in the Contracting State in which it arises and according to the law of that State.

(3) Interest arising in a Contracting State shall be exempt from tax in that State provided it is derived and beneficially owned by:

(a) the Government or a local authority of the other Contracting State;

(b) such agency or instrumentality of the Government of the other Contracting State as may be agreed in writing between the competent authorities of both Contracting States; or

(c) a bank carrying on a bona fide banking business which is a resident of the other Contracting State.

(4) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. The term "interest" shall not include any item which is treated as a distribution under the provisions of Article 10 of this Convention.

(5) The provisions of paragraphs (1), (2) and (3) of this Article shall not apply if the recipient 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 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 that 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 recipient or between both of them and some other person, the amount of the interest paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the recipient 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 law of each Contracting State, due regard being had to the other provisions of this Convention.

(8) [REPLACED by paragraph 1 and paragraph 4 of Article 7 of the MLI] [The provisions of this Article shall not apply if the debt-claim in respect of which the interest is paid was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.]¹

ARTICLE 12

ROYALTIES

(1) Royalties arising in a Contracting State and derived by 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 law of that Contracting State; but where such royalties are derived by a resident of the other Contracting State who is subject to tax there in respect thereof the tax so charged in the Contracting State in which the royalties arise shall not exceed 15 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, tapes and works recorded for radio and 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) of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay royalties was incurred and such royalties are borne by that 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.

¹ Refer to page 33 of this synthesised text, immediately following Article 29.

(6) Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the recipient 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) Capital gains from the alienation of immovable property, as defined in paragraph (2) of Article 6, may be taxed in the Contracting State in which such property is situated.

(2) Capital 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 together with the whole enterprise) or of such a fixed base, may be taxed in that other State.

(3) Notwithstanding the provisions of paragraph (2) of this Article, capital gains from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) Capital gains from the alienation of any property other than that mentioned in paragraphs (1), (2) and (3) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

(5) The provisions of this Article shall not affect the right of a Contracting State to levy according to its law a tax chargeable in respect of gains from the alienation of any property on a person who is a resident of that State at any time during the fiscal year in which the property is alienated, or has been so resident at any time during the six fiscal years immediately preceding that year.

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of similar 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.

(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) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 16

DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 17

ARTISTS AND ATHLETES

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes and musicians, and by athletes, from

their personal activities as such may be taxed in the Contracting State in which those activities are exercised.

(2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14, and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

ARTICLE 18

PENSIONS

(1) Subject to the provisions of paragraphs (1) and (2) of Article 19, pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in that Contracting State.

(2) The term "annuity" 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 FUNCTIONS

(1) Remuneration and pensions paid out of public funds of the United Kingdom or Northern Ireland or of the funds of any local authority in the United Kingdom to an individual in respect of services rendered to the Government of the United Kingdom or Northern Ireland or a local authority in the United Kingdom, shall be taxable only in the United Kingdom unless the individual is a Mauritius national without also being a United Kingdom national.

(2) Remuneration and pensions paid by, or out of funds created by, Mauritius or a local authority or a public body thereof to an individual in respect of services rendered to the Government of Mauritius or a local authority or a public body thereof, shall be taxable only in Mauritius unless the individual is a United Kingdom national without also being a Mauritius national.

(3) The provisions of Articles 15 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with business carried on by a Contracting State or a local authority or a public body thereof.

ARTICLE 20

STUDENTS

(1) An individual who is or was a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as a student at a university, college, school, or other similar recognised educational

institution in that other Contracting State or as a business or technical apprentice therein, shall be exempt from tax in that other Contracting State on:

(a) all remittances for the purposes of his maintenance, education or training made to him from sources outside that other Contracting State; and

(b) any income derived from the other Contracting State in respect of services rendered in that other Contracting State (other than services rendered by a business or technical apprentice to the person or partnership to whom he is apprenticed) with a view to supplementing the resources available to him for such purposes, not exceeding the sum of 1,000 pounds sterling or the equivalent in Mauritius rupees at the parity rate of exchange during any year of assessment. Provided that the benefits of this subparagraph shall extend only for such period of time as may be reasonably or customarily required to complete the education or training undertaken but in no event shall an individual have the benefits of this subparagraph for more than five consecutive years of assessment.

(2) An individual who is or was a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from the Government of either of the Contracting States or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either of the Contracting States shall be exempt in that other Contracting State for a period not exceeding two years from the date of his first arrival in that other State in connection with that visit on:

(a) the amount of such grant, allowance or award; and

(b) any income derived from that other Contracting State in respect of services in that other Contracting State if the services are performed in connection with his study, research, training, or are incidental thereto.

(3) An individual who is or was a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as an employee of, or under contract with, the Government or an enterprise of the first-mentioned Contracting State for the purpose of acquiring technical, professional or business experience shall be exempt in that other Contracting State for a period not exceeding twelve months from the date of his first arrival in that other State in connection with that visit on:

(a) all remittances for the purposes of his maintenance, education or training made to him from sources outside that other Contracting State; and

(b) any remuneration not exceeding the sum of 1,000 pounds sterling or the equivalent in Mauritius rupees at the parity rate of exchange for personal services rendered in that other Contracting State, provided such services are in connection with his studies or training or are incidental thereto.

ARTICLE 21

TEACHERS

(1) An individual who is a resident of a Contracting State at the time he becomes temporarily present in the other Contracting State, at the invitation of that other State or of a university, college, school or other recognised educational institution in the other State, for the primary purpose of teaching or engaging in research, or both, at a university, college, school or other recognised educational institution shall be exempt from tax by that other State on his income from personal services for teaching or research at such university, college, school or educational institution, for a period not exceeding two years from the date of his arrival in that other State.

(2) This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 22

INCOME NOT EXPRESSLY MENTIONED

(1) Subject to the provisions of paragraph (2) and (3) of this Article items of income of a resident of a Contracting State, wherever arising, being income of a class or from sources not expressly mentioned in the foregoing Articles of this Convention in respect of which he is subject to tax in that State, shall be taxable only in that State.

(2) The provisions of paragraph (1) of this Article shall not apply if the person deriving the 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 14, as the case may be, shall apply.

(3) The provisions of paragraph (1) of this Article shall not apply to income paid out of trusts.

ARTICLE 23

LIMITATION OF RELIEF

Where under any provision of this Convention income is relieved from tax in one of the Contracting States and, under the law in force in the other Contracting State, a person, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in the other Contracting State.

ARTICLE 24

ELIMINATION OF DOUBLE TAXATION

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):

(a) Mauritius tax payable under the laws of Mauritius and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Mauritius shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Mauritius tax is computed. Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

(b) In the case of a dividend paid by a company which is a resident of Mauritius to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Mauritius tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Mauritius tax payable by the company in respect of the profits out of which such dividend is paid.

(2) For the purposes of paragraph (1) of this Article the term "Mauritius tax payable" shall be deemed to include any amount which would have been payable as Mauritius tax for any year but for an exemption or reduction of tax granted for that year or any part thereof under any of the following provisions of Mauritius law:

(a) sections 33 and 34 of the Mauritius Income Tax Act 1974, so far as they were in force on, and have not been modified since, the date of the signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or

(b) any other provision which may subsequently be made granting an exemption or reduction which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Provided:

(c) that relief from United Kingdom tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from, or reduction of, Mauritius tax was first granted in respect of that source;

(d) that where an exemption or reduction of tax is granted to an enterprise under section 33 or 34 of the Mauritius Income Tax Act 1974 or any substantially similar provision within subparagraph (b) of this paragraph the tax which would have been payable but for that

exemption or reduction shall be taken into account for the purposes of this paragraph only where the exemption or reduction is certified by the competent authority of Mauritius as having been given with a view to promoting industrial, commercial, scientific or educational development in Mauritius.

(3) Subject to the provisions of the law of Mauritius regarding the allowance as a credit against Mauritius tax of tax payable in a territory outside Mauritius (which shall not affect the general principle hereof):

(a) United Kingdom tax payable under the laws of the United Kingdom and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within the United Kingdom shall be allowed as a credit against any Mauritius tax computed by reference to the same profits, income or chargeable gains by reference to which the United Kingdom tax is computed. Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

(b) Where a company which is a resident of the United Kingdom pays a dividend to a company which is a resident of Mauritius and which controls directly or indirectly at least 10 per cent of the voting power in the first-mentioned company, the credit shall take into account (in addition to any United Kingdom tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the United Kingdom tax payable by that first-mentioned company in respect of the profits out of which such dividend is paid.

(4) For the purposes of paragraphs (1) and (3) of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

[REPLACED by paragraph 1 of Article 17 of the MLI]² [(5) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other Contracting State and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount included in the profits of both enterprises shall be treated for the purposes of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under the provisions of paragraph (1) or paragraph (3) of this Article.]

² Refer to box immediately following Article 9 of the Convention.

ARTICLE 25

PERSONAL ALLOWANCES

(1) Subject to the provisions of paragraph (3) of this Article, individuals who are residents of Mauritius shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

(2) Subject to the provisions of paragraph (3) of this Article, individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Mauritius tax as Mauritius citizens not resident in Mauritius.

(3) Nothing in this Convention shall entitle an individual who is a resident of a Contracting State and whose income from the other Contracting State consists solely of dividends, interest or royalties (or solely of any combination thereof) to the personal allowances, reliefs and reductions of the kind referred to in this Article for the purposes of taxation in that other Contracting State.

ARTICLE 26

NON-DISCRIMINATION

(1) The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

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

(3) 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 Contracting 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 that first-mentioned State are or may be subjected.

(4) Nothing contained in this Article shall be considered as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident, nor as obliging Mauritius to grant to a company which is not a resident of Mauritius any deduction in the computation of its chargeable income in respect of dividends paid by the company.

(5) In this Article the term "taxation" means taxes of every kind and description.

ARTICLE 27

MUTUAL AGREEMENT PROCEDURE

[The first sentence of paragraph 1 of Article 27 of this Convention is replaced by the first sentence of paragraph 1 of Article 16 of the MLI] [(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.]

The following first sentence of paragraph 1 of Article 16 of the MLI replaces the first sentence of paragraph 1 of Article 27 of this Convention:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

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

The following second sentence of paragraph 1 of Article 16 of the MLI applies and supersedes the provisions of this Convention:

ARTICLE 16 OF THE MLI – MUTUAL AGREEMENT PROCEDURE

The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of [the Convention].

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate 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 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, with the object of facilitating any appropriate adjustment of liability.

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 may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

The following Part VI of the MLI applies to this Convention.³

PART VI OF THE MLI – ARBITRATION

Article 19 (Mandatory Binding Arbitration) of the MLI

1. Where:

- a) under [paragraph 1 of Article 27 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 27 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

³ 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 Depository 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.

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 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 27 of the Convention] 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.

Paragraph 2 of Article 24 (Agreement on a Different Resolution) of the MLI

2. Notwithstanding paragraph 4 of Article 19 [of the MLI], an arbitration decision pursuant to [Part VI of the MLI] shall not be binding on the [Contracting States] and shall not be implemented if the competent authorities of the [Contracting States] agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

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, 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 28

EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention, in particular, to prevent fraud and to facilitate the administration of statutory provisions against tax avoidance. The exchange of information is not restricted by Articles 1 and 2.

(2) Any information received under paragraph (1) of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to, the taxes referred to in paragraph (1) of this Article, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

(3) In no case shall the provisions of paragraphs (1) and (2) of this Article 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.

(4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph (3) of this Article but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of paragraph (3) of this Article be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 29

DIPLOMATS

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

(2) Notwithstanding the provisions of paragraph (1) of Article 4, an individual who is a member of the diplomatic, consular or permanent mission of a Contracting State or any third State which is situated in the other Contracting State and who is subject to tax in that other State only if he derives income from sources therein, shall not be deemed to be a resident of that other State.

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

ARTICLE 7 OF THE MLI –PREVENTION OF TREATY ABUSE

(Principal purposes test provision)

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

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 or capital, 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.

ARTICLE 30

ENTRY INTO FORCE

(1) Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. The Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:

(a) in the United Kingdom:

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April 1981;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 April 1981;

(b) in Mauritius;

(i) in respect of income tax for any year of assessment beginning on or after 1 July 1981;

(ii) in respect of capital gains tax (morcellement) for any financial year beginning on or after 1 July 1981.

(2) Subject to the provisions of paragraph (3) of this Article, the Arrangement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which was made in 1947 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Mauritius shall terminate and cease to have effect in

respect of taxes to which this Convention in accordance with paragraph (1) of this Article applies.

(3) Where any provision of the Arrangement referred to in paragraph (2) of this Article would have afforded any greater relief from tax than is afforded by this Convention any such provision as aforesaid shall continue to have effect for any year of assessment or financial year beginning before the entry into force of this Convention.

ARTICLE 31

TERMINATION

(1) This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year after the year 1986. In such event, the Convention shall cease to have effect:

(a) in the United Kingdom;

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given;

(b) in Mauritius:

(i) in respect of income tax for any year of assessment beginning on or after 1 July in the calendar year next following that in which the notice is given;

(ii) in respect of capital gains tax (morcellement) for any financial year beginning on or after 1 July in the calendar year next following that in which the notice is given.

(2) The termination of this Convention shall not have the effect of reviving the Arrangement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect of Taxes on Income which was made in 1947 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Mauritius.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at London this eleventh day of February 1981.