

# SYNTHESISED TEXT OF THE MLI AND THE CONVENTION BETWEEN THE REPUBLIC OF AUSTRIA AND THE HELLENIC REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

## General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Convention between the Republic of Austria and the Hellenic Republic for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital, signed on 18 July 2007 (the “Convention”), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by the Republic of Austria and by the Hellenic Republic on 7 June 2017 (the “MLI”).

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

The document was prepared on the basis of the MLI position of the Republic of Austria submitted to the Depository upon ratification on 22 September 2017 and of the Hellenic Republic submitted to the Depository upon ratification on 30 March 2021. 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 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made to parts of provisions of the MLI that describe existing provisions of the Convention: descriptive language has been replaced by legal references of the existing provisions to ease the readability.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 on the webpage of the Federal Ministry of Finance (<https://www.bmf.gv.at/>).

The MLI position of the Republic of Austria submitted to the Depository upon ratification on 22 September 2017 and the MLI position of the Hellenic Republic submitted to the Depository upon ratification on 30 March 2021 can be found on the MLI Depository (OECD) webpage (<http://www.oecd.org/tax/treaties/beps-ml-signatories-and-parties.pdf>).

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

### Entry into Effect of the MLI Provisions

The provisions of the MLI applicable to this Convention do not take effect on the same dates as the original provisions of the Convention. Each of 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 the Republic of Austria and the Hellenic Republic in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 22 September 2017 for the Republic of Austria and 30 March 2021 for the Hellenic Republic.

Entry into force of the MLI: 1 July 2018 for the Republic of Austria and 1 July 2021 for the Hellenic Republic.

This document provides specific information on the dates on or after which each of the provisions of the MLI has effect with respect to the Convention throughout this document.

# CONVENTION

*between the Republic of Austria and the Hellenic Republic*

*for the avoidance of double taxation with respect to taxes on income and on capital*

***The Republic of Austria and the Hellenic Republic***

**[REPLACED by paragraph 1 of Article 6 of the MLI]** *[Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital:]*

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

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

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

*Have agreed as follows:*

## **Article 1**

### **PERSONAL SCOPE**

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<sup>1</sup> In accordance with paragraphs 1 and 3 of Article 35 of the MLI, paragraph 1 of Article 6 of the MLI has effect with respect to this Convention:

- a) 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 2022; and
- b) with respect to all other taxes for taxes levied with respect to taxable periods beginning on or after 1 January 2022.

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

## **Article 2**

### **TAXES COVERED**

- 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.*
- 2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, 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 the Hellenic Republic:*
    - i) the income and capital tax on natural persons;*
    - ii) the income and capital tax on legal persons;*
  - b) In the case of Austria:*
    - i) the income tax;*
    - ii) the corporation tax;*
    - iii) the land tax;*
    - iv) the tax on agricultural and forestry enterprises;*
    - v) the tax on the value of vacant plots.*
- 4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.*

## **Article 3**

### **GENERAL DEFINITIONS**

1. *For the purposes of this Convention, unless the context otherwise requires:*
  - a) *the terms a "Contracting State" and "the other Contracting State" mean the Hellenic Republic or Austria as the context requires;*
  - b) *the term "Hellenic Republic" comprises the territory of the Hellenic Republic, including its territorial sea, as well as the part of the sea-bed and its sub-soil under the Mediterranean Sea, over which the Hellenic Republic, in accordance with international law, has sovereign rights for the purpose of exploration, extraction or exploitation of the natural resources of such areas;*
  - c) *the term "Austria" means the Republic of Austria;*
  - d) *the term "person" includes an individual, a company and any other body of persons;*
  - e) *the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;*
  - f) *The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;*
  - g) *the term "national" means*
    - i) *any individual possessing the nationality of a Contracting State;*
    - ii) *any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;*
  - h) *the term "international traffic" means any transport by a ship or aircraft, except when the ship or aircraft is operated solely between places in a Contracting State;*
  - i) *the term "competent authority" means*
    - i) *in the Hellenic Republic: the Minister of Finance or his authorised representative,*
    - ii) *in Austria: the Federal Minister of Finance or his authorised representative.*

2. *As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has 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 or capital situated therein.*
2. *Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:*
  - a) *he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);*
  - b) *if the State in which he has his centre of vital interests cannot be determined, or if he 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 endeavour to 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 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 through which the business of an enterprise is wholly or partly carried on.*
- 2.** *The term "permanent establishment" includes especially:*

  - a) a place of management;*
  - b) a branch;*
  - c) an office;*
  - d) a factory;*
  - e) a workshop, and*
  - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.*
- 3.** *A building site or construction or installation project or activities consisting of planning, supervising, or any other activity in connection therewith constitute a permanent establishment only if the site, the project, the activities or the work (together with other such sites, projects, activities or work, if any) last more than nine months.*
- 4.** *An enterprise shall be deemed to have a permanent establishment in a Contracting State if substantial equipment is being used in that State for more than 6 months by an enterprise in exploration of natural resources.*
- 5.** *The term permanent establishment also includes the furnishing of technical assistance and consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, where the activities of that nature continue for a period or periods amounting to or exceeding in the aggregate 180 days in any twelve month period.*

- 6.** *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 the combination is of a preparatory or auxiliary character.*
- 7.** *Notwithstanding the provisions of paragraphs 1 and 2 where a person - other than an agent of an independent status to whom paragraph 9 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 6 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.*
- 8.** *Notwithstanding the preceding provisions of this Article and the provisions of Article 14, a person who is a resident of a Contracting State and carries on activities in connection with preliminary surveys, exploration, extraction or exploitation of natural resources situated in the other Contracting State shall be*



*deemed to be carrying on in respect of those activities a business in that other Contracting State through a permanent establishment or a fixed base situated therein, unless such activities are carried on for a period or periods not exceeding 30 days in the aggregate in any twelve-month period. However, for the purposes of this paragraph:*

- a) where an enterprise carrying on activities in the other State is related to another enterprise and that other enterprise continues as part of the same project the same activities that are or were being carried on by the first-mentioned enterprise, and the activities carried on by both enterprises exceed - when added together - a period of 30 days, then each enterprise shall be deemed to be carrying on its activities for a period exceeding 30 days in a twelve-month period.*
- b) Two enterprises shall be deemed to be related if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or persons.*

**9.** *An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status provided that such persons are acting in the ordinary course of their business.*

**10.** *The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.*

## **Article 6**

### **INCOME FROM IMMOVABLE PROPERTY**

**1.** *Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.*

2. *The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, 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 used for the performance of independent personal services.*

## **Article 7**

### **BUSINESS PROFITS**

1. *The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.*
2. *Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.*

3. *In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.*
4. *Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.*
5. *No profits shall be attributed to a permanent establishment by reason of the mere purchase by the 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.*
8. *The provisions of paragraphs 1 to 7 shall also apply to income derived by a sleeping partner in a sleeping partnership.*

## **Article 8**

### **SHIPPING AND AIR TRANSPORT**

1. *Profits derived from the operation of ships engaged in international traffic shall be taxable only in the Contracting State in which the ships are registered or by which they are documented.*
2. *Profits derived from the operation of aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.*
3. *The provisions of paragraph 1 and 2 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**

1. *Where*
  - a) *an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or*
  - b) *the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,*

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

2. *Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first - mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.*

## **Article 10**

### **DIVIDENDS**

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

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

3. *The term "dividends", as used in this Article, means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as*

*income from shares by the laws of the State of which the company making the distribution is a resident.*

- 4.** *The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.*
- 5.** *Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.*

## **Article 11**

### **INTEREST**

- 1.** *Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.*
- 2.** *However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 8 per cent of the gross amount of the interest. The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of this limitation.*

3. *The term "interest", as used in this Article, means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures as well as any income that is treated as interest under the taxation law of the Contracting State in which such income arises.*
4. *The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.*
5. *Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.*
6. *Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.*

## **Article 12**

### **ROYALTIES**

1. *Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.*
2. *However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 7 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of applications of this limitation.*
3. *The term "royalties", as used in this Article, means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for television or radio broadcasting , any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial, or scientific experience.*
4. *The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.*
5. *Royalties shall be deemed to arise in a Contracting State where 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 fixed base in connection with which the obligation to pay the 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.*

- 6.** *Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.*

### **Article 13**

#### **CAPITAL GAINS**

- 1.** *Gains derived by a resident of a Contracting State from the alienation of immovable property 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 profits from the operation of such ships or aircraft are taxable according to the provisions of Article 8.*

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 and 20 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 of twelve months period commencing or ending in the fiscal year concerned, and*

- b) *the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and*
  - c) *the remuneration is not borne by a permanent establishment or 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 profits from the operation of the ship or aircraft are taxable according to the provisions of Article 8.*
- 4.** *Notwithstanding the preceding provisions, salaries, wages and other remuneration derived by a resident of a Contracting State in respect of an employment connected with activities mentioned in paragraphs 4 and 8 of Article 5 carried on through a permanent establishment or a fixed base in the other Contracting State, may be taxed in that other State.*

## **Article 16**

### **DIRECTOR'S FEES**

*Director's 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**

### **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.*

### **Article 18**

#### **PENSIONS**

*Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.*

### **Article 19**

#### **GOVERNMENT SERVICES**

1.
  - a) *Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.*
  - b) *However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:*
    - i) *is a national of that State; or*
    - ii) *did not become a resident of that State solely for the purpose of rendering the services.*
2.
  - a) *Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.*

*b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.*

- 3. The provisions of Articles 15, 16 and 18 shall apply to 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 authority thereof.*

## **Article 20**

### **STUDENTS**

- 1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.*
- 2. Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State for the purpose of practical training for a period or periods not exceeding in the aggregate 183 days in the year concerned shall not be taxed in that other State.*

## **Article 21**

### **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.*

## **Article 22**

### **CAPITAL**

- 1.** *Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.*
- 2.** *Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.*
- 3.** *Capital represented by ships or aircraft operated in international traffic and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the profits from the operation of such ships or aircraft are taxable according to the provisions of Article 8.*
- 4.** *All other elements of capital of a resident of a Contracting State shall be taxable only in that State.*

## Article 23

### METHODS FOR ELIMINATION OF DOUBLE TAXATION

*Double taxation shall be eliminated as follows:*

**1.** *In the case of the Hellenic Republic:*

*Where a resident of the Hellenic Republic derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Austria, the Hellenic Republic shall allow:*

- a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Austria,*
- b) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in Austria.*

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

**2.** *In the case of Austria:*

*a) Where a resident of Austria derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in the Hellenic Republic, Austria shall, subject to the provisions of subparagraphs b and c of this Article exempt such income or capital from the Austrian tax.*

*b) Where a resident of Austria derives income which, in accordance with the provisions of paragraph 2 of Articles 10, 11 and 12 may be taxed in the Hellenic Republic, Austria shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in the Hellenic Republic. Such deduction shall not, however, exceed that part of the Austrian tax, as computed before the deduction is given which is attributable to such income derived from the Hellenic Republic.*

- c) *Where in accordance with the provisions of the Convention income derived or capital owned by a resident of Austria is exempt from tax in Austria, Austria may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.*

## **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 paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other*



*disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.*

*Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.*

- 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 requirements connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.*
- 6.** *The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.*

## **Article 25**

### **MUTUAL AGREEMENT PROCEDURE**

- 1.** *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 provision 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.*
- 2.** *The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other*

*Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.*

- 3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.*
- 4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.*

*The following Part VI of the MLI applies to this Convention:<sup>2</sup>*

**PART VI OF THE MLI (ARBITRATION)**

*Paragraphs 1 to 10 and 12 of 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 this 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 three-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 the manner described in this Part, according to any

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<sup>2</sup> In accordance with paragraph 1 of Article 36 of the MLI, the provisions of Part VI (Arbitration) of the MLI have effect with respect to this Convention with respect to cases presented to the competent authority of a Contracting State on or after 1 July 2021.

In accordance with paragraph 2 of Article 36 of the MLI, Part VI (Arbitration) of the MLI will apply to a case presented to the competent authority of a Contracting State prior to 1 July 2021 only to the extent that the competent authorities of both Contracting States agree that it will apply to that specific case.

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 this Convention settle the mode of application of the provisions contained in this Part, 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 this Article 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 States, 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 this Part.

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 this Part and of the provisions of this 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 this 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 this 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 this Part and the provisions of this 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.

*Paragraphs 2 and 5 of Article 23 (Type of Arbitration Process) of the MLI (Alternative 2 – Independent opinion)*

2. 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:

a) After a case is submitted to arbitration, the competent authority of each Contracting State shall provide any information that may be necessary for the arbitration decision to all panel members without undue delay. Unless the competent

authorities of the Contracting States agree otherwise, any information that was not available to both competent authorities before the request for arbitration was received by both of them shall not be taken into account for purposes of the decision.

b) The arbitration panel shall decide the issues submitted to arbitration in accordance with the applicable provisions of this Convention and, subject to these provisions, of those of the domestic laws of the Contracting States. The panel members shall also consider any other sources which the competent authorities of the Contracting States may by mutual agreement expressly identify.

c) The arbitration decision shall be delivered to the competent authorities of the Contracting States in writing and shall indicate the sources of law relied upon and the reasoning which led to its result. The arbitration decision shall be adopted by a simple majority of the panel members. 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 this Convention, as well as the arbitration proceeding under this Part, 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 this Part 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 this Part, 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 this Part 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 this Part 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 Austria formulates the following reservation with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI:

The Republic of Austria reserves the right to exclude from the scope of Part VI cases involving the application of its domestic general anti-avoidance rules contained in the Federal Fiscal Code (“Bundesabgabenordnung”), in particular its sections 21 and 22. Any subsequent provisions replacing, amending or updating these anti-avoidance rules would also be comprehended. The Republic of Austria shall notify the Depositary of any such subsequent provisions.

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

1. The Hellenic Republic reserves the right to exclude from the scope of Part VI cases in respect to which application has been filed under the Convention on the Elimination of Double Taxation in connection with the Adjustment of Profits of Associated Enterprises (90/436/EEC) –as amended- or any subsequent regulation.
2. The Hellenic Republic reserves the right to exclude from the scope of Part VI cases involving the application of domestic anti-abuse rules.
3. The Hellenic Republic reserves the right to exclude from the scope of Part VI cases concerning items of income or capital that are not taxed by a Contracting Jurisdiction because they are not included in the taxable base in that Contracting Jurisdiction or because they are subject to an exemption or zero tax rate provided under the domestic tax law of that Contracting Jurisdiction.
4. The Hellenic Republic reserves the right to exclude from the scope of Part VI cases involving conduct for which the taxpayer or a person acting on behalf of the taxpayer has been found guilty by a court for tax fraud or other criminal offense.

## **Article 26**

### **EXCHANGE OF INFORMATION**

1. *The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information*



*received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.*

2. *In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States 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 AND CONSULAR POSTS**

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

#### **Article 28**

#### **ENTRY INTO FORCE**

1. *This Convention shall be ratified and the instruments of ratification shall be exchanged at Vienna as soon as possible.*

*The Convention shall enter into force on the first day of the second month following that in which the exchange of instruments of ratification has taken place and its provisions shall have effect on income derived or on capital owned on or after the first day of January of the calendar year following that in which the Convention has entered into force.*

- 2. The Convention between the Republic of Austria and the Kingdom of Greece for the Avoidance of Double Taxation with respect to taxes on Income and on Capital signed at Vienna on 22<sup>nd</sup> September 1970 shall cease to have effect with respect to taxes to which this Convention applies in accordance with the provisions of paragraph 1 of this Article. The Convention signed on 22<sup>nd</sup> September, 1970 shall be terminated on the last date on which it has effect in accordance with the foregoing provisions of this paragraph.*

## **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 notice of termination on or before the thirtieth day of June in a calendar year after the third year from the date of entry into force of the Convention. In such event, the Convention shall cease to have effect in respect of the taxes for any fiscal year beginning after December 31 in the calendar year in which the notice of termination has been given.*

*IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States, duly authorised thereto, have signed this Convention.*

*Done in duplicate in Athens on eighteenth July of 2007, in the English language.*

*For the Republic of Austria:*

*For the Hellenic Republic:*

*Herbert Kröll m.p.*

*Adonis Bezas m.p.*

**[REPLACED by paragraph 1 of Article 7 of the MLI]**

**[PROTOCOL**

*The Republic of Austria and the Hellenic Republic have agreed, at the signing of the Convention between the two States for the avoidance of double taxation with respect to taxes on income and on capital, upon the following provisions which shall form an integral part of the said Convention.*

**Ad Article 11**

*The provisions of Article 11 shall not apply if the debt-claim in respect of which the interest is paid has been created or assigned mainly for the purpose of taking advantage of this Article and not for valid commercial reasons. In such case the amount of payments shall be taxed according to the laws of each Contracting State.*

**Ad Article 12**

*The provisions of Article 12 shall not apply if the right or the property giving rise to the royalties has been created or assigned mainly for the purpose of taking advantage of this Article and not for valid commercial reasons. In such case the amount of payments shall be taxed according to the laws of each Contracting State.]*

*The following paragraph 1 of Article 7 of the MLI replaces this Protocol.<sup>3</sup>*

**ARTICLE 7 OF THE MLI – PREVENTION OF TREATY ABUSE**

*(Principal purposes test provision)*

Notwithstanding any provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that

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<sup>3</sup> In accordance with paragraphs 1 and 3 of Article 35 of the MLI, paragraph 1 of Article 7 of the MLI has effect with respect to this Convention:

- a) 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 2022; and
- b) with respect to all other taxes for taxes levied with respect to taxable periods beginning on or after 1 January 2022.

resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

*IN WITNESS WHEREOF the Plenipotentiaries of the two Contracting States, duly authorised thereto, have signed this Protocol.*

*Done in duplicate in Athens on eighteenth July of 2007, in the English language.*

*For the Republic of Austria:*

*For the Hellenic Republic:*

*Herbert Kröll m.p.*

*Adonis Bezas m.p.*