

REPUBLIC OF KENYA




MINISTRY OF FOREIGN AFFAIRS

**MEMORANDUM TO THE SPEAKER OF THE NATIONAL ASSEMBLY  
ON THE RATIFICATION OF THE MULTILATERAL CONVENTION ON  
MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS**

(Submitted by the Cabinet Secretary for Foreign Affairs)

November 2019

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*Michael* 1

## **1. Objective of the Memorandum**

The objective of the Memorandum is to seek the approval of the National Assembly for Kenya to ratify the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC), which was approved by the Cabinet during its Fifth Cabinet Meeting held on 8<sup>th</sup> June, 2016 and later approved for Ratification by the Cabinet during its 4<sup>th</sup> Cabinet meeting held on 1<sup>st</sup> August, 2019.

## **2. Background of the Convention**

The Convention was developed by the Organisation for Economic Co-operation and Development (OECD) and the Council of Europe in 1988. Following the global financial crisis, the G20 London Summit in April 2009 directed that the Convention be opened for signature to developing countries to enable them benefit from the new era of transparency. This was effected on 1<sup>st</sup> June 2011.

The Convention is intended to promote international co-operation of exchange of information between state parties on tax matters for the better operation of national tax laws, while respecting the fundamental rights of taxpayers.

## **3. Overview of the Convention**

The Convention covers all possible types of administrative co-operation between the parties in the assessment and collection of taxes (excluding customs) including assisting each other regarding the exchange of information, unpaid tax recovery and service of documents.

The convention also covers all forms of mutual assistance: exchange on request, spontaneous exchange, tax examinations abroad, simultaneous tax examinations and assistance in tax collection, while protecting taxpayers' rights.

## **4. Benefits of the Convention**

The primary benefit of this Convention is the facilitation of tax administration through sharing of information by tax authorities of all the signatories to the Convention thereby checking tax evasion and tax avoidance.

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The Convention provides a means of significantly increasing Kenya's ability to detect and prevent tax avoidance and evasion without the cost and resources that would be required for concluding several bilateral agreements with each of the countries.

Once the Convention is ratified, Kenya will be able to exchange information with other signatories that have already ratified the Convention.

#### **5. Constitutional Implications**

The ratification of MAC will not necessitate any amendment to the Constitution. The Convention is consistent with the Constitution and promotes the constitutional values and objectives.

#### **6. National Interest**

The ratification of the MAC shall not affect the national interest of Kenya as the Convention is only concerned with exchange of information for tax purposes with the other parties to the Convention to enhance tax compliance.

#### **7. Obligations imposed on Kenya**

Upon ratification of the MAC, Kenya will be required to respond to the requests for tax information on nationals of the parties to the Convention whilst maintaining the fundamental rights of the tax payers.

#### **8. Requirements for implementation**

The MAC requires Member Countries to use their existing administrative powers as provided for in their domestic laws to implement the requirements of the Convention for exchange of information on tax matters.

#### **9. Policy and Legislation consideration**

Signatories to the MAC are expected to adhere to the Convention obligations in accordance with their domestic laws.

#### **10. Financial Implications**

There are no significant financial implications upon ratification of the Convention apart from the payment of an annual fee of 1,200 euros paid by the Parties to the Convention.

## **11. Ministerial Responsibility**

Ministerial responsibility on implementation of the Treaty is vested in the Cabinet Secretary the National Treasury and Planning.

## **12. Implications on matters relating to Counties**

The Convention relates only to national taxes and does not therefore have any fiscal implication to Counties.

## **13. Process leading to the adoption of the Convention**

Kenya has been a Member of the OECD Global Forum on Transparency and Exchange of Information for Tax Matters since 2010. Members of the Global Forum are required to exchange information for tax purposes with other members using bilateral agreements for exchange of information and the MAC. Kenya, having a limited Double Taxation Agreements network and no Tax Information Exchange Agreements, decided to sign the MAC in order to have access to tax information from over 120 jurisdictions who are signatories of the Convention.

## **14. Date of Signature**

The Convention was signed on 8<sup>th</sup> February, 2016.

## **15. Number of States that are Party to the Treaty**

As at 31<sup>st</sup> May, 2019, 127 jurisdictions had signed the Convention.

## **16. Convention Reservations**

The Convention permits reservations upon signing, ratification or thereafter in order to protect or advance national interests of State Parties.

## **17. Reservations on the Convention**

Kenya does not have any reservations on the MAC but may consider the same in case of any developments relating to implementation of the Convention.

## **18. Expenditure of Public Funds**

There is no significant expenditure of public funds that will be incurred in implementing the Convention apart from normal administrative costs that will be incurred in the provision of tax information to the other Parties to the Convention.

*Michael*

**19. Request to the National Assembly**

The National Assembly is invited to:-

- a) Note the contents of this Memorandum.
- b) Approve the ratification of the Convention.

**SIGNED**

**DATE**

*M. K. Juma*  
.....

15<sup>th</sup> November 2019  
.....

**AMB. MONICA K. JUMA, DPhil, CBS  
CABINET SECRETARY FOR  
FOREIGN AFFAIRS**

## ANNEXES

1. Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC).
2. Convention signed on behalf of the Government of the Republic of Kenya by the Head of Kenya's Mission to France, Ambassador Salma Ahmed as jointly authorized by the Cabinet Secretary for the National Treasury and the Cabinet Secretary for Foreign Affairs.
3. Cabinet Approval of the Ratification of the Convention.

# Convention on Mutual Administrative Assistance in Tax Matters

Text amended by the provisions of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, which entered into force on 1<sup>st</sup> June 2011.

## Preamble

The member States of the Council of Europe and the member countries of the Organisation for Economic Co-operation and Development (OECD), signatories of this Convention,

Considering that the development of international movement of persons, capital, goods and services – although highly beneficial in itself – has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities;

Welcoming the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally;

Considering that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

Recognising that international co-operation can play an important part in facilitating the proper determination of tax liabilities and in helping the taxpayer to secure his rights;

Considering that fundamental principles entitling every person to have his rights and obligations determined in accordance with a proper legal procedure should be recognised as applying to tax matters in all States and that States should endeavour to protect the legitimate interests of taxpayers, including appropriate protection against discrimination and double taxation;

Convinced therefore that States should carry out measures or supply information, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;

Considering that a new co-operative environment has emerged and that it is desirable that a multilateral instrument is made available to allow the widest number of States to obtain the benefits of the new co-operative environment and at the same time implement the highest international standards of co-operation in the tax field;

Desiring to conclude a convention on mutual administrative assistance in tax matters,

Have agreed as follows:

## Chapter I – Scope of the Convention

### Article 1 – Object of the Convention and persons covered

- 1 The Parties shall, subject to the provisions of Chapter IV, provide administrative assistance to each other in tax matters. Such assistance may involve, where appropriate, measures taken by judicial bodies.
- 2 Such administrative assistance shall comprise:
  - a exchange of information, including simultaneous tax examinations and participation in tax examinations abroad;
  - b assistance in recovery, including measures of conservancy; and
  - c service of documents.
- 3 A Party shall provide administrative assistance whether the person affected is a resident or national of a Party or of any other State.

### Article 2 – Taxes covered

- 1 This Convention shall apply:
  - a to the following taxes:
    - i taxes on income or profits,
    - ii taxes on capital gains which are imposed separately from the tax on income or profits,
    - iii taxes on net wealth,imposed on behalf of a Party; and
  - b to the following taxes:
    - i taxes on income, profits, capital gains or net wealth which are imposed on behalf of political subdivisions or local authorities of a Party,
    - ii compulsory social security contributions payable to general government or to social security institutions established under public law, and
    - iii taxes in other categories, except customs duties, imposed on behalf of a Party, namely:
      - A. estate, inheritance or gift taxes,

- B. taxes on immovable property,
  - C. general consumption taxes, such as value added or sales taxes,
  - D. specific taxes on goods and services such as excise taxes,
  - E. taxes on the use or ownership of motor vehicles,
  - F. taxes on the use or ownership of movable property other than motor vehicles,
  - G. any other taxes;
- iv taxes in categories referred to in sub-paragraph iii. above which are imposed on behalf of political subdivisions or local authorities of a Party.
- 2 The existing taxes to which the Convention shall apply are listed in Annex A in the categories referred to in paragraph 1.
- 3 The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the "Depositaries") of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.
- 4 The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to or in place of the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.

## **Chapter II – General definitions**

### **Article 3 – Definitions**

- 1 For the purposes of this Convention, unless the context otherwise requires:
- a the terms "applicant State" and "requested State" mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;
  - b the term "tax" means any tax or social security contribution to which the Convention applies pursuant to Article 2;
  - c the term "tax claim" means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;

- d the term "competent authority" means the persons and authorities listed in Annex B;
- e the term "nationals" in relation to a Party means:
  - i all individuals possessing the nationality of that Party, and
  - ii all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

For each Party that has made a declaration for that purpose, the terms used above will be understood as defined in Annex C.

- 2 As regards the application of the Convention by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes covered by the Convention.
- 3 The Parties shall notify one of the Depositaries of any change to be made to Annexes B and C. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary in question.

### **Chapter III – Forms of assistance**

#### **Section I – Exchange of information**

##### **Article 4 – General provision**

- 1 The Parties shall exchange any information, in particular as provided in this section, that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by this Convention.
- 2 Deleted.
- 3 Any Party may, by a declaration addressed to one of the Depositaries, indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him, in conformity with Articles 5 and 7.

##### **Article 5 – Exchange of information on request**

- 1 At the request of the applicant State, the requested State shall provide the applicant State with any information referred to in Article 4 which concerns particular persons or transactions.
- 2 If the information available in the tax files of the requested State is not sufficient to enable it to comply with the request for information, that State shall take all relevant measures to provide the applicant State with the information requested.

#### **Article 6 – Automatic exchange of information**

With respect to categories of cases and in accordance with procedures which they shall determine by mutual agreement, two or more Parties shall automatically exchange the information referred to in Article 4.

#### **Article 7 – Spontaneous exchange of information**

- 1 A Party shall, without prior request, forward to another Party information of which it has knowledge in the following circumstances:
  - a the first-mentioned Party has grounds for supposing that there may be a loss of tax in the other Party;
  - b a person liable to tax obtains a reduction in or an exemption from tax in the first-mentioned Party which would give rise to an increase in tax or to liability to tax in the other Party;
  - c business dealings between a person liable to tax in a Party and a person liable to tax in another Party are conducted through one or more countries in such a way that a saving in tax may result in one or the other Party or in both;
  - d a Party has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises;
  - e information forwarded to the first-mentioned Party by the other Party has enabled information to be obtained which may be relevant in assessing liability to tax in the latter Party.
- 2 Each Party shall take such measures and implement such procedures as are necessary to ensure that information described in paragraph 1 will be made available for transmission to another Party.

#### **Article 8 – Simultaneous tax examinations**

- 1 At the request of one of them, two or more Parties shall consult together for the purposes of determining cases and procedures for simultaneous tax examinations. Each Party involved shall decide whether or not it wishes to participate in a particular simultaneous tax examination.
- 2 For the purposes of this Convention, a simultaneous tax examination means an arrangement between two or more Parties to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

#### **Article 9 – Tax examinations abroad**

- 1 At the request of the competent authority of the applicant State, the competent authority of the requested State may allow representatives of the competent authority of the applicant State to be present at the appropriate part of a tax examination in the requested State.
- 2 If the request is acceded to, the competent authority of the requested State shall, as soon as possible, notify the competent authority of the applicant State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the requested State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested State.
- 3 A Party may inform one of the Depositories of its intention not to accept, as a general rule, such requests as are referred to in paragraph 1. Such a declaration may be made or withdrawn at any time.

#### **Article 10 – Conflicting information**

If a Party receives from another Party information about a person's tax affairs which appears to it to conflict with information in its possession, it shall so advise the Party which has provided the information.

### **Section II - Assistance in recovery**

#### **Article 11 – Recovery of tax claims**

- 1 At the request of the applicant State, the requested State shall, subject to the provisions of Articles 14 and 15, take the necessary steps to recover tax claims of the first-mentioned State as if they were its own tax claims.
- 2 The provision of paragraph 1 shall apply only to tax claims which form the subject of an instrument permitting their enforcement in the applicant State and, unless otherwise agreed between the Parties concerned, which are not contested.

However, where the claim is against a person who is not a resident of the applicant State, paragraph 1 shall only apply, unless otherwise agreed between the Parties concerned, where the claim may no longer be contested.

- 3 The obligation to provide assistance in the recovery of tax claims concerning a deceased person or his estate, is limited to the value of the estate or of the property acquired by each beneficiary of the estate, according to whether the claim is to be recovered from the estate or from the beneficiaries thereof.

#### **Article 12 – Measures of conservancy**

At the request of the applicant State, the requested State shall, with a view to the recovery of an amount of tax, take measures of conservancy even if the claim is contested or is not yet the subject of an instrument permitting enforcement.

### **Article 13 – Documents accompanying the request**

- 1 The request for administrative assistance under this section shall be accompanied by:
  - a a declaration that the tax claim concerns a tax covered by the Convention and, in the case of recovery that, subject to paragraph 2 of Article 11, the tax claim is not or may not be contested,
  - b an official copy of the instrument permitting enforcement in the applicant State, and
  - c any other document required for recovery or measures of conservancy.
- 2 The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument permitting enforcement in the latter State.

### **Article 14 – Time limits**

- 1 Questions concerning any period beyond which a tax claim cannot be enforced shall be governed by the law of the applicant State. The request for assistance shall give particulars concerning that period.
- 2 Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the laws of that State, would have the effect of suspending or interrupting the period mentioned in paragraph 1, shall also have this effect under the laws of the applicant State. The requested State shall inform the applicant State about such acts.
- 3 In any case, the requested State is not obliged to comply with a request for assistance which is submitted after a period of 15 years from the date of the original instrument permitting enforcement.

### **Article 15 – Priority**

The tax claim in the recovery of which assistance is provided shall not have in the requested State any priority specially accorded to the tax claims of that State even if the recovery procedure used is the one applicable to its own tax claims.

### **Article 16 – Deferral of payment**

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

### **Section III – Service of documents**

#### **Article 17 – Service of documents**

- 1 At the request of the applicant State, the requested State shall serve upon the addressee documents, including those relating to judicial decisions, which emanate from the applicant State and which relate to a tax covered by this Convention.
- 2 The requested State shall effect service of documents:
  - a by a method prescribed by its domestic laws for the service of documents of a substantially similar nature;
  - b to the extent possible, by a particular method requested by the applicant State or the closest to such method available under its own laws.
- 3 A Party may effect service of documents directly through the post on a person within the territory of another Party.
- 4 Nothing in the Convention shall be construed as invalidating any service of documents by a Party in accordance with its laws.
- 5 When a document is served in accordance with this article, it need not be accompanied by a translation. However, where it is satisfied that the addressee cannot understand the language of the document, the requested State shall arrange to have it translated into or a summary drafted in its or one of its official languages. Alternatively, it may ask the applicant State to have the document either translated into or accompanied by a summary in one of the official languages of the requested State, the Council of Europe or the OECD.

### **Chapter IV – Provisions relating to all forms of assistance**

#### **Article 18 – Information to be provided by the applicant State**

- 1 A request for assistance shall indicate where appropriate:
  - a the authority or agency which initiated the request made by the competent authority;
  - b the name, address, or any other particulars assisting in the identification of the person in respect of whom the request is made;
  - c in the case of a request for information, the form in which the applicant State wishes the information to be supplied in order to meet its needs;
  - d in the case of a request for assistance in recovery or measures of conservancy, the nature of the tax claim, the components of the tax claim and the assets from which the tax claim may be recovered;

- e in the case of a request for service of documents, the nature and the subject of the document to be served;
  - f whether it is in conformity with the law and administrative practice of the applicant State and whether it is justified in the light of the requirements of Article 21.2.g.
- 2 As soon as any other information relevant to the request for assistance comes to its knowledge, the applicant State shall forward it to the requested State.

#### **Article 19 – Deleted**

#### **Article 20 – Response to the request for assistance**

- 1 If the request for assistance is complied with, the requested State shall inform the applicant State of the action taken and of the result of the assistance as soon as possible.
- 2 If the request is declined, the requested State shall inform the applicant State of that decision and the reason for it as soon as possible.
- 3 If, with respect to a request for information, the applicant State has specified the form in which it wishes the information to be supplied and the requested State is in a position to do so, the requested State shall supply it in the form requested.

#### **Article 21 – Protection of persons and limits to the obligation to provide assistance**

- 1 Nothing in this Convention shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested State.
- 2 Except in the case of Article 14, the provisions of this Convention shall not be construed so as to impose on the requested State the obligation:
- a to carry out measures at variance with its own laws or administrative practice or the laws or administrative practice of the applicant State;
  - b to carry out measures which would be contrary to public policy (*ordre public*);
  - c to supply information which is not obtainable under its own laws or its administrative practice or under the laws of the applicant State or its administrative practice;
  - d 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*);
  - e to provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation, or of any other convention which the requested State has concluded with the applicant State;

- f to provide administrative assistance for the purpose of administering or enforcing a provision of the tax law of the applicant State, or any requirement connected therewith, which discriminates against a national of the requested State as compared with a national of the applicant State in the same circumstances;
  - g to provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or administrative practice, except where recourse to such measures would give rise to disproportionate difficulty;
  - h to provide assistance in recovery in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the applicant State.
- 3 If information is requested by the applicant State in accordance with this Convention, the requested State shall use its information gathering measures to obtain the requested information, even though the requested State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations contained in this Convention, but in no case shall such limitations, including in particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because it has no domestic interest in such information.
- 4 In no case shall the provisions of this Convention, including in particular those of paragraphs 1 and 2, be construed to permit a requested 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 22 – Secrecy**

- 1 Any information obtained by a Party under this Convention shall be treated as secret and protected in the same manner as information obtained under the domestic law of that Party and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Party as required under its domestic law.
- 2 Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) concerned with the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party, or the oversight of the above. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes.

- 3 If a Party has made a reservation provided for in sub-paragraph a. of paragraph 1 of Article 30, any other Party obtaining information from that Party shall not use it for the purpose of a tax in a category subject to the reservation. Similarly, the Party making such a reservation shall not use information obtained under this Convention for the purpose of a tax in a category subject to the reservation.
- 4 Notwithstanding the provisions of paragraphs 1, 2 and 3, information received by a Party may be used for other purposes when such information may be used for such other purposes under the laws of the supplying Party and the competent authority of that Party authorises such use. Information provided by a Party to another Party may be transmitted by the latter to a third Party, subject to prior authorisation by the competent authority of the first-mentioned Party.

#### **Article 23 – Proceedings**

- 1 Proceedings relating to measures taken under this Convention by the requested State shall be brought only before the appropriate body of that State.
- 2 Proceedings relating to measures taken under this Convention by the applicant State, in particular those which, in the field of recovery, concern the existence or the amount of the tax claim or the instrument permitting its enforcement, shall be brought only before the appropriate body of that State. If such proceedings are brought, the applicant State shall inform the requested State which shall suspend the procedure pending the decision of the body in question. However, the requested State shall, if asked by the applicant State, take measures of conservancy to safeguard recovery. The requested State can also be informed of such proceedings by any interested person. Upon receipt of such information the requested State shall consult on the matter, if necessary, with the applicant State.
- 3 As soon as a final decision in the proceedings has been given, the requested State or the applicant State, as the case may be, shall notify the other State of the decision and the implications which it has for the request for assistance.

### **Chapter V – Special provisions**

#### **Article 24 – Implementation of the Convention**

- 1 The Parties shall communicate with each other for the implementation of this Convention through their respective competent authorities. The competent authorities may communicate directly for this purpose and may authorise subordinate authorities to act on their behalf. The competent authorities of two or more Parties may mutually agree on the mode of application of the Convention among themselves.
- 2 Where the requested State considers that the application of this Convention in a particular case would have serious and undesirable consequences, the competent authorities of the requested and of the applicant State shall consult each other and endeavour to resolve the situation by mutual agreement.

- 3 A co-ordinating body composed of representatives of the competent authorities of the Parties shall monitor the implementation and development of this Convention, under the aegis of the OECD. To that end, the co-ordinating body shall recommend any action likely to further the general aims of the Convention. In particular it shall act as a forum for the study of new methods and procedures to increase international co-operation in tax matters and, where appropriate, it may recommend revisions or amendments to the Convention. States which have signed but not yet ratified, accepted or approved the Convention are entitled to be represented at the meetings of the co-ordinating body as observers.
- 4 A Party may ask the co-ordinating body to furnish opinions on the interpretation of the provisions of the Convention.
- 5 Where difficulties or doubts arise between two or more Parties regarding the implementation or interpretation of the Convention, the competent authorities of those Parties shall endeavour to resolve the matter by mutual agreement. The agreement shall be communicated to the co-ordinating body.
- 6 The Secretary General of OECD shall inform the Parties, and the Signatory States which have not yet ratified, accepted or approved the Convention, of opinions furnished by the co-ordinating body according to the provisions of paragraph 4 above and of mutual agreements reached under paragraph 5 above.

#### **Article 25 – Language**

Requests for assistance and answers thereto shall be drawn up in one of the official languages of the OECD and of the Council of Europe or in any other language agreed bilaterally between the Contracting States concerned.

#### **Article 26 – Costs**

Unless otherwise agreed bilaterally by the Parties concerned:

- a ordinary costs incurred in providing assistance shall be borne by the requested State;
- b extraordinary costs incurred in providing assistance shall be borne by the applicant State.

### **Chapter VI – Final provisions**

#### **Article 27 – Other international agreements or arrangements**

- 1 The possibilities of assistance provided by this Convention do not limit, nor are they limited by, those contained in existing or future international agreements or other arrangements between the Parties concerned or other instruments which relate to co-operation in tax matters.

- 2 Notwithstanding paragraph 1, those Parties which are member States of the European Union can apply, in their mutual relations, the possibilities of assistance provided for by the Convention in so far as they allow a wider co-operation than the possibilities offered by the applicable European Union rules.

#### **Article 28 – Signature and entry into force of the Convention**

- 1 This Convention shall be open for signature by the member States of the Council of Europe and the member countries of OECD. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with one of the Depositaries.
- 2 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.
- 3 In respect of any member State of the Council of Europe or any member country of OECD which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.
- 4 Any member State of the Council of Europe or any member country of OECD which becomes a Party to the Convention after the entry into force of the Protocol amending this Convention, opened for signature on 27<sup>th</sup> May 2010 (the “2010 Protocol”), shall be a Party to the Convention as amended by that Protocol, unless they express a different intention in a written communication to one of the Depositaries.
- 5 After the entry into force of the 2010 Protocol, any State which is not a member of the Council of Europe or of the OECD may request to be invited to sign and ratify this Convention as amended by the 2010 Protocol. Any request to this effect shall be addressed to one of the Depositaries, who shall transmit it to the Parties. The Depositary shall also inform the Committee of Ministers of the Council of Europe and the OECD Council. The decision to invite States which so request to become Party to this Convention shall be taken by consensus by the Parties to the Convention through the co-ordinating body. In respect of any State ratifying the Convention as amended by the 2010 Protocol in accordance with this paragraph, this Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of deposit of the instrument of ratification with one of the Depositaries.
- 6 The provisions of this Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to taxable periods beginning on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party. Any two or more Parties may mutually agree that the Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to earlier taxable periods or charges to tax.

7 Notwithstanding paragraph 6, for tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party, the provisions of this Convention, as amended by the 2010 Protocol, shall have effect from the date of entry into force in respect of a Party in relation to earlier taxable periods or charges to tax.

#### **Article 29 – Territorial application of the Convention**

1 Each State may, at the time of signature, or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.

2 Any State may, at any later date, by a declaration addressed to one of the Depositaries, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Depositary.

3 Any declaration made under either of the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to one of the Depositaries. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

#### **Article 30 – Reservations**

1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date, declare that it reserves the right:

- a not to provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in sub-paragraph b. of paragraph 1 of Article 2, provided that it has not included any domestic tax in that category under Annex A of the Convention;
- b not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;
- c not to provide assistance in respect of any tax claim, which is in existence at the date of entry into force of the Convention in respect of that State or, where a reservation has previously been made under sub-paragraph a. or b. above, at the date of withdrawal of such a reservation in relation to taxes in the category in question;
- d not to provide assistance in the service of documents for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;

- e not to permit the service of documents through the post as provided for in paragraph 3 of Article 17;
  - f to apply paragraph 7 of Article 28 exclusively for administrative assistance related to taxable periods beginning on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party.
- 2 No other reservation may be made.
  - 3 After the entry into force of the Convention in respect of a Party, that Party may make one or more of the reservations listed in paragraph 1 which it did not make at the time of ratification, acceptance or approval. Such reservations shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the reservation by one of the Depositaries.
  - 4 Any Party which has made a reservation under paragraphs 1 and 3 may wholly or partly withdraw it by means of a notification addressed to one of the Depositaries. The withdrawal shall take effect on the date of receipt of such notification by the Depositary in question.
  - 5 A Party which has made a reservation in respect of a provision of this Convention may not require the application of that provision by any other Party; it may, however, if its reservation is partial, require the application of that provision insofar as it has itself accepted it.

#### **Article 31 – Denunciation**

- 1 Any Party may, at any time, denounce this Convention by means of a notification addressed to one of the Depositaries.
- 2 Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Depositary.
- 3 Any Party which denounces the Convention shall remain bound by the provisions of Article 22 for as long as it retains in its possession any documents or information obtained under the Convention.

#### **Article 32 – Depositaries and their functions**

- 1 The Depositary with whom an act, notification or communication has been accomplished, shall notify the member States of the Council of Europe and the member countries of OECD and any Party to this Convention of:
  - a any signature;

- b the deposit of any instrument of ratification, acceptance or approval;
  - c any date of entry into force of this Convention in accordance with the provisions of Articles 28 and 29;
  - d any declaration made in pursuance of the provisions of paragraph 3 of Article 4 or paragraph 3 of Article 9 and the withdrawal of any such declaration;
  - e any reservation made in pursuance of the provisions of Article 30 and the withdrawal of any reservation effected in pursuance of the provisions of paragraph 4 of Article 30;
  - f any notification received in pursuance of the provisions of paragraph 3 or 4 of Article 2, paragraph 3 of Article 3, Article 29 or paragraph 1 of Article 31;
  - g any other act, notification or communication relating to this Convention.
- 2 The Depositary receiving a communication or making a notification in pursuance of the provisions of paragraph 1 shall inform immediately the other Depositary thereof.

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

Established by the Depositaries the 1<sup>st</sup> day of June 2011 pursuant to Article X.4 of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, in English and French, both texts being equally authentic, in two copies of which one shall be deposited in the archives of each Depositary. The Depositaries shall transmit a certified copy to each Party to the Convention as amended by the Protocol and to each State entitled to become a party.

**CONVENTION  
ON MUTUAL ADMINISTRATIVE ASSISTANCE  
IN TAX MATTERS**

Text amended by the provisions of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, which entered into force on 1st June 2011

**CONVENTION  
CONCERNANT L'ASSISTANCE ADMINISTRATIVE  
EN MATIÈRE FISCALE**

Texte amendé conformément aux dispositions du Protocole d'amendement à la Convention concernant l'assistance administrative mutuelle en matière fiscale, entré en vigueur le 1<sup>er</sup> juin 2011.

### **Preamble**

The member States of the Council of Europe and the member countries of the Organisation for Economic Co-operation and Development (OECD), signatories of this Convention,

Considering that the development of international movement of persons, capital, goods and services – although highly beneficial in itself – has increased the possibilities of tax avoidance and evasion and therefore requires increasing co-operation among tax authorities;

Welcoming the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally;

Considering that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

Recognising that international co-operation can play an important part in facilitating the proper determination of tax liabilities and in helping the taxpayer to secure his rights;

Considering that fundamental principles entitling every person to have his rights and obligations determined in accordance with a proper legal procedure should be recognised as applying to tax matters in all States and that States should endeavour to protect the legitimate interests of taxpayers, including appropriate protection against discrimination and double taxation;

Convinced therefore that States should carry out measures or supply information, having regard to the necessity of protecting the confidentiality of information, and taking account of international instruments for the protection of privacy and flows of personal data;

Considering that a new co-operative environment has emerged and that it is desirable that a multilateral instrument is made available to allow the widest number of States to obtain the benefits of the new co-operative environment and at the same time implement the highest international standards of co-operation in the tax field;

Desiring to conclude a convention on mutual administrative assistance in tax matters,

Have agreed as follows:

### Préambule

Les Etats membres du Conseil de l'Europe et les pays membres de l'Organisation de Coopération et de Développement Economiques (OCDE), signataires de la présente Convention,

Considérant que le développement des mouvements internationaux de personnes, de capitaux, de biens et de services – par ailleurs largement bénéfique – a accru les possibilités d'évasion et de fraude fiscales, ce qui nécessite une coopération croissante entre les autorités fiscales;

Prenant note avec satisfaction de tous les efforts déployés au cours des dernières années sur le plan international, que ce soit à titre bilatéral ou multilatéral, pour lutter contre l'évasion et la fraude fiscales;

Considérant qu'une coordination des efforts est nécessaire entre les Etats pour encourager toutes les formes d'assistance administrative en matière fiscale, pour les impôts de toute nature, tout en assurant une protection appropriée des droits des contribuables;

Reconnaissant que la coopération internationale peut jouer un rôle important en facilitant une évaluation correcte des obligations fiscales et en aidant le contribuable à faire respecter ses droits;

Considérant que les principes fondamentaux en vertu desquels toute personne peut, dans la détermination de ses droits et obligations, prétendre à une procédure régulière doivent être reconnus dans tous les Etats comme s'appliquant en matière fiscale et que les Etats devraient s'efforcer de protéger les intérêts légitimes du contribuable, en lui accordant notamment une protection appropriée contre la discrimination et la double imposition;

Convaincus dès lors que les Etats devraient prendre des mesures ou fournir des renseignements en tenant compte de la nécessité de protéger la confidentialité des renseignements ainsi que des instruments internationaux relatifs à la protection de la vie privée et au flux de données de caractère personnel;

Considérant qu'un nouveau cadre de coopération s'est mis en place et qu'il est souhaitable de disposer d'un instrument multilatéral pour permettre au plus grand nombre d'Etats de bénéficier du nouveau cadre de coopération et également d'appliquer les normes internationales de coopération les plus élevées dans le domaine fiscal;

Désireux de conclure une convention d'assistance administrative mutuelle en matière fiscale,

Sont convenus de ce qui suit:

## Chapter I – Scope of the Convention

### Article 1 – Object of the Convention and persons covered

- 1 The Parties shall, subject to the provisions of Chapter IV, provide administrative assistance to each other in tax matters. Such assistance may involve, where appropriate, measures taken by judicial bodies.
- 2 Such administrative assistance shall comprise:
  - a exchange of information, including simultaneous tax examinations and participation in tax examinations abroad;
  - b assistance in recovery, including measures of conservancy; and
  - c service of documents.
- 3 A Party shall provide administrative assistance whether the person affected is a resident or national of a Party or of any other State.

### Article 2 – Taxes covered

- 1 This Convention shall apply:
  - a to the following taxes:
    - i taxes on income or profits,
    - ii taxes on capital gains which are imposed separately from the tax on income or profits,
    - iii taxes on net wealth,  
imposed on behalf of a Party; and
  - b to the following taxes:
    - i taxes on income, profits, capital gains or net wealth which are imposed on behalf of political subdivisions or local authorities of a Party,
    - ii compulsory social security contributions payable to general government or to social security institutions established under public law, and
    - iii taxes in other categories, except customs duties, imposed on behalf of a Party, namely:
      - A. estate, inheritance or gift taxes,
      - B. taxes on immovable property,
      - C. general consumption taxes, such as value added or sales taxes,
      - D. specific taxes on goods and services such as excise taxes,
      - E. taxes on the use or ownership of motor vehicles,
      - F. taxes on the use or ownership of movable property other than motor vehicles,
      - G. any other taxes;
    - iv taxes in categories referred to in sub-paragraph iii. above which are imposed on behalf of political subdivisions or local authorities of a Party.
- 2 The existing taxes to which the Convention shall apply are listed in Annex A in the categories referred to in paragraph 1.

## Chapitre 1 – Champ d'application de la Convention

### Article 1 – Objet de la Convention et personnes visées

- 1 Les Parties s'accordent mutuellement, sous réserve des dispositions du chapitre IV, une assistance administrative en matière fiscale. Cette assistance couvre, le cas échéant, des actes accomplis par des organes juridictionnels.
- 2 Cette assistance administrative comprend:
  - a l'échange de renseignements, y compris les contrôles fiscaux simultanés et la participation à des contrôles fiscaux menés à l'étranger;
  - b le recouvrement des créances fiscales y compris les mesures conservatoires; et
  - c la notification de documents.
- 3 Une Partie accordera son assistance administrative, que la personne affectée soit un résident ou un ressortissant d'une Partie ou de tout autre Etat.

### Article 2 – Impôts visés

- 1 La présente Convention s'applique:
  - a aux impôts suivants:
    - i impôts sur le revenu ou les bénéfices,
    - ii impôts sur les gains en capital qui sont perçus séparément de l'impôt sur le revenu ou les bénéfices,
    - iii impôts sur l'actif net,qui sont perçus pour le compte d'une Partie; et
  - b aux impôts suivants:
    - i impôts sur le revenu, les bénéfices ou les gains en capital ou l'actif net qui sont perçus pour le compte des subdivisions politiques ou des collectivités locales d'une Partie,
    - ii cotisations de sécurité sociale obligatoires dues aux administrations publiques ou aux organismes de sécurité sociale de droit public, et
    - iii impôts d'autres catégories, à l'exception des droits de douane, perçus pour le compte d'une Partie, à savoir:
      - A. impôts sur les successions ou les donations,
      - B. impôts sur la propriété immobilière,
      - C. impôts généraux sur les biens et services, tels que taxes sur la valeur ajoutée ou impôts sur les ventes,
      - D. impôts sur des biens et services déterminés, tels que droits d'accises,
      - E. impôts sur l'utilisation ou la propriété des véhicules à moteur,
      - F. impôts sur l'utilisation ou la propriété de biens mobiliers autres que les véhicules à moteur,
      - G. tout autre impôt;
    - iv impôts des catégories visées à l'alinéa iii. ci-dessus, qui sont perçus pour le compte des subdivisions politiques ou des collectivités locales d'une Partie.
- 2 Les impôts existants auxquels s'applique la présente Convention sont énumérés à l'annexe A selon les catégories mentionnées au paragraphe 1.

- 3 The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the "Depositaries") of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.
- 4 The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to or in place of the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.

## **Chapter II – General definitions**

### **Article 3 – Definitions**

- 1 For the purposes of this Convention, unless the context otherwise requires:
  - a the terms "applicant State" and "requested State" mean respectively any Party applying for administrative assistance in tax matters and any Party requested to provide such assistance;
  - b the term "tax" means any tax or social security contribution to which the Convention applies pursuant to Article 2;
  - c the term "tax claim" means any amount of tax, as well as interest thereon, related administrative fines and costs incidental to recovery, which are owed and not yet paid;
  - d the term "competent authority" means the persons and authorities listed in Annex B;
  - e the term "nationals" in relation to a Party means:
    - i all individuals possessing the nationality of that Party, and
    - ii all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

For each Party that has made a declaration for that purpose, the terms used above will be understood as defined in Annex C.

- 2 As regards the application of the Convention by a Party, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes covered by the Convention.
- 3 The Parties shall notify one of the Depositaries of any change to be made to Annexes B and C. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary in question.

- 3 Les Parties communiquent au Secrétaire Général du Conseil de l'Europe ou au Secrétaire Général de l'OCDE (ci-après dénommés « Dépositaires ») toute modification devant être apportée à l'annexe A et résultant d'une modification de la liste mentionnée au paragraphe 2. Ladite modification prendra effet le premier jour du mois qui suit l'expiration d'une période de trois mois après la date de réception de la notification par le Dépositaire.
- 4 La présente Convention s'applique aussi, dès leur introduction, aux impôts de nature identique ou analogue qui seraient établis dans une Partie après l'entrée en vigueur de la Convention à son égard et qui s'ajouteraient aux impôts existants énumérés à l'annexe A, ou qui les remplaceraient. Dans ce cas, la Partie intéressée informera l'un des Dépositaires de l'introduction de ces impôts.

## Chapitre II – Définitions générales

### Article 3 – Définitions

- 1 Aux fins de la présente Convention, à moins que le contexte n'exige une interprétation différente:
  - a les expressions « Etat requérant » et « Etat requis » désignent respectivement toute Partie qui demande assistance administrative en matière fiscale et toute Partie à laquelle cette assistance est demandée;
  - b le terme « impôt » désigne tout impôt ou cotisation de sécurité sociale, visé par la présente Convention conformément à l'article 2;
  - c l'expression « créance fiscale » désigne tout montant d'impôt ainsi que les intérêts, les amendes administratives et les frais de recouvrement y afférents, qui sont dus et non encore acquittés;
  - d l'expression « autorité compétente », désigne les personnes et autorités énumérées à l'annexe B;
  - e le terme « ressortissants », à l'égard d'une Partie, désigne:
    - i toutes les personnes physiques qui possèdent la nationalité de cette Partie, et
    - ii toutes les personnes morales, sociétés de personnes, associations et autres entités constituées conformément à la législation en vigueur dans cette Partie.

Pour toute Partie qui fait une déclaration à cette fin, les termes utilisés ci-dessus devront être entendus au sens des définitions contenues dans l'annexe C.
- 2 Pour l'application de la Convention par une Partie, toute expression qui n'y est pas définie a le sens que lui attribue le droit de cette Partie concernant les impôts visés par la Convention, à moins que le contexte n'exige une interprétation différente.
- 3 Les Parties communiquent à l'un des Dépositaires toute modification devant être apportée aux annexes B et C. Ladite modification prendra effet le premier jour du mois qui suit l'expiration d'une période de trois mois après la date de réception de la notification par le Dépositaire.

## **Chapter III – Forms of assistance**

### **Section I – Exchange of information**

#### **Article 4 – General provision**

- 1 The Parties shall exchange any information, in particular as provided in this section, that is foreseeably relevant for the administration or enforcement of their domestic laws concerning the taxes covered by this Convention.
- 2 Deleted.
- 3 Any Party may, by a declaration addressed to one of the Depositaries, indicate that, according to its internal legislation, its authorities may inform its resident or national before transmitting information concerning him, in conformity with Articles 5 and 7.

#### **Article 5 – Exchange of information on request**

- 1 At the request of the applicant State, the requested State shall provide the applicant State with any information referred to in Article 4 which concerns particular persons or transactions.
- 2 If the information available in the tax files of the requested State is not sufficient to enable it to comply with the request for information, that State shall take all relevant measures to provide the applicant State with the information requested.

#### **Article 6 – Automatic exchange of information**

With respect to categories of cases and in accordance with procedures which they shall determine by mutual agreement, two or more Parties shall automatically exchange the information referred to in Article 4.

#### **Article 7 – Spontaneous exchange of information**

- 1 A Party shall, without prior request, forward to another Party information of which it has knowledge in the following circumstances:
  - a the first-mentioned Party has grounds for supposing that there may be a loss of tax in the other Party;
  - b a person liable to tax obtains a reduction in or an exemption from tax in the first-mentioned Party which would give rise to an increase in tax or to liability to tax in the other Party;
  - c business dealings between a person liable to tax in a Party and a person liable to tax in another Party are conducted through one or more countries in such a way that a saving in tax may result in one or the other Party or in both;
  - d a Party has grounds for supposing that a saving of tax may result from artificial transfers of profits within groups of enterprises;
  - e information forwarded to the first-mentioned Party by the other Party has enabled information to be obtained which may be relevant in assessing liability to tax in the latter Party.
- 2 Each Party shall take such measures and implement such procedures as are necessary to ensure that information described in paragraph 1 will be made available for transmission to another Party.

## **Chapitre III – Formes d’assistance**

### **Section I – Echange de renseignements**

#### **Article 4 – Disposition générale**

- 1 Les Parties échangent, notamment comme il est prévu dans la présente section, les renseignements vraisemblablement pertinents pour l’administration ou l’application de leurs législations internes relatives aux impôts visés par la présente Convention.
- 2 Supprimé.
- 3 Une Partie peut, par une déclaration adressée à l’un des Dépositaires, indiquer que, conformément à sa législation interne, ses autorités peuvent informer son résident ou ressortissant avant de fournir des renseignements le concernant en application des articles 5 et 7.

#### **Article 5 – Echange de renseignements sur demande**

- 1 À la demande de l’Etat requérant, l’Etat requis lui fournit tout renseignement visé à l’article 4 concernant une personne ou une transaction déterminée.
- 2 Si les renseignements disponibles dans les dossiers fiscaux de l’Etat requis ne lui permettent pas de donner suite à la demande de renseignements, il doit prendre toutes les mesures nécessaires afin de fournir à l’Etat requérant les renseignements demandés.

#### **Article 6 – Echange automatique de renseignements**

Pour des catégories de cas et selon les procédures qu’elles déterminent d’un commun accord, deux ou plusieurs Parties échangent automatiquement les renseignements visés à l’article 4.

#### **Article 7 – Echange spontané de renseignements**

- 1 Une Partie communique, sans demande préalable, à une autre Partie les informations dont elle a connaissance dans les situations suivantes :
  - a la première Partie a des raisons de présumer qu’il existe une réduction ou une exonération anormales d’impôt dans l’autre Partie ;
  - b un contribuable obtient, dans la première Partie, une réduction ou une exonération d’impôt qui devrait entraîner pour lui une augmentation d’impôt ou un assujettissement à l’impôt dans l’autre Partie ;
  - c des affaires entre un contribuable d’une Partie et un contribuable d’une autre Partie sont traitées par le biais d’un ou de plusieurs autres pays, de manière telle qu’il peut en résulter une diminution d’impôt dans l’une ou l’autre ou dans les deux ;
  - d une Partie a des raisons de présumer qu’il existe une diminution d’impôt résultant de transferts fictifs de bénéfices à l’intérieur de groupes d’entreprises ;
  - e à la suite d’informations communiquées à une Partie par une autre Partie, la première Partie a pu recueillir des informations qui peuvent être utiles à l’établissement de l’impôt dans l’autre Partie.
- 2 Chaque Partie prend les mesures et met en œuvre les procédures nécessaires pour que les renseignements visés au paragraphe 1 lui parviennent en vue de leur transmission à une autre Partie.

#### **Article 8 – Simultaneous tax examinations**

- 1 At the request of one of them, two or more Parties shall consult together for the purposes of determining cases and procedures for simultaneous tax examinations. Each Party involved shall decide whether or not it wishes to participate in a particular simultaneous tax examination.
- 2 For the purposes of this Convention, a simultaneous tax examination means an arrangement between two or more Parties to examine simultaneously, each in its own territory, the tax affairs of a person or persons in which they have a common or related interest, with a view to exchanging any relevant information which they so obtain.

#### **Article 9 – Tax examinations abroad**

- 1 At the request of the competent authority of the applicant State, the competent authority of the requested State may allow representatives of the competent authority of the applicant State to be present at the appropriate part of a tax examination in the requested State.
- 2 If the request is acceded to, the competent authority of the requested State shall, as soon as possible, notify the competent authority of the applicant State about the time and place of the examination, the authority or official designated to carry out the examination and the procedures and conditions required by the requested State for the conduct of the examination. All decisions with respect to the conduct of the tax examination shall be made by the requested State.
- 3 A Party may inform one of the Depositories of its intention not to accept, as a general rule, such requests as are referred to in paragraph 1. Such a declaration may be made or withdrawn at any time.

#### **Article 10 – Conflicting information**

If a Party receives from another Party information about a person's tax affairs which appears to it to conflict with information in its possession, it shall so advise the Party which has provided the information.

### **Section II – Assistance in recovery**

#### **Article 11 – Recovery of tax claims**

- 1 At the request of the applicant State, the requested State shall, subject to the provisions of Articles 14 and 15, take the necessary steps to recover tax claims of the first-mentioned State as if they were its own tax claims.
- 2 The provision of paragraph 1 shall apply only to tax claims which form the subject of an instrument permitting their enforcement in the applicant State and, unless otherwise agreed between the Parties concerned, which are not contested.

However, where the claim is against a person who is not a resident of the applicant State, paragraph 1 shall only apply, unless otherwise agreed between the Parties concerned, where the claim may no longer be contested.

- 3 The obligation to provide assistance in the recovery of tax claims concerning a deceased person or his estate, is limited to the value of the estate or of the property acquired by each beneficiary

#### **Article 8 – Contrôles fiscaux simultanés**

- 1 A la demande de l'une d'entre elles, deux ou plusieurs Parties se consultent pour déterminer les cas devant faire l'objet d'un contrôle fiscal simultané et les procédures à suivre. Chaque Partie décide si elle souhaite ou non participer, dans un cas déterminé, à un contrôle fiscal simultané.
- 2 Aux fins de la présente Convention, on entend par contrôle fiscal simultané un contrôle entrepris en vertu d'un accord par lequel deux ou plusieurs Parties conviennent de vérifier simultanément, chacune sur son territoire, la situation fiscale d'une ou de plusieurs personnes qui présente pour elles un intérêt commun ou complémentaire, en vue d'échanger les renseignements ainsi obtenus.

#### **Article 9 – Contrôles fiscaux à l'étranger**

- 1 A la demande de l'autorité compétente de l'Etat requérant l'autorité compétente de l'Etat requis peut autoriser des représentants de l'autorité compétente de l'Etat requérant à assister à la partie appropriée d'un contrôle fiscal dans l'Etat requis.
- 2 Si la demande est acceptée, l'autorité compétente de l'Etat requis fait connaître aussitôt que possible à l'autorité compétente de l'Etat requérant la date et le lieu du contrôle, l'autorité ou le fonctionnaire chargé de ce contrôle, ainsi que les procédures et conditions exigées par l'Etat requis pour la conduite du contrôle. Toute décision relative à la conduite du contrôle fiscal est prise par l'Etat requis.
- 3 Une Partie peut informer l'un des Dépositaires de son intention de ne pas accepter, de façon générale, les demandes visées au paragraphe 1. Cette déclaration peut être faite ou retirée à tout moment.

#### **Article 10 – Renseignements contradictoires**

Si une Partie reçoit d'une autre Partie des renseignements sur la situation fiscale d'une personne qui lui paraissent en contradiction avec ceux dont elle dispose, elle en avise la Partie qui a fourni les renseignements.

### **Section II – Assistance en vue du recouvrement**

#### **Article 11 – Recouvrement des créances fiscales**

- 1 A la demande de l'Etat requérant, l'Etat requis procède, sous réserve des dispositions des articles 14 et 15, au recouvrement des créances fiscales du premier Etat comme s'il s'agissait de ses propres créances fiscales.
- 2 Les dispositions du paragraphe 1 ne s'appliquent qu'aux créances fiscales qui font l'objet d'un titre permettant d'en poursuivre le recouvrement dans l'Etat requérant et qui, à moins que les Parties concernées n'en soient convenues autrement, ne sont pas contestées.  
Toutefois, si la créance concerne une personne qui n'a pas la qualité de résident dans l'Etat requérant, le paragraphe 1 s'applique seulement lorsque la créance ne peut plus être contestée, à moins que les Parties concernées n'en soient convenues autrement.
- 3 L'obligation d'accorder une assistance en vue du recouvrement des créances fiscales concernant une personne décédée ou sa succession est limitée à la valeur de la succession ou des

of the estate, according to whether the claim is to be recovered from the estate or from the beneficiaries thereof.

**Article 12 – Measures of conservancy**

At the request of the applicant State, the requested State shall, with a view to the recovery of an amount of tax, take measures of conservancy even if the claim is contested or is not yet the subject of an instrument permitting enforcement.

**Article 13 – Documents accompanying the request**

- 1 The request for administrative assistance under this section shall be accompanied by:
  - a a declaration that the tax claim concerns a tax covered by the Convention and, in the case of recovery that, subject to paragraph 2 of Article 11, the tax claim is not or may not be contested,
  - b an official copy of the instrument permitting enforcement in the applicant State, and
  - c any other document required for recovery or measures of conservancy.
  
- 2 The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognised, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument permitting enforcement in the latter State.

**Article 14 – Time limits**

- 1 Questions concerning any period beyond which a tax claim cannot be enforced shall be governed by the law of the applicant State. The request for assistance shall give particulars concerning that period.
- 2 Acts of recovery carried out by the requested State in pursuance of a request for assistance, which, according to the laws of that State, would have the effect of suspending or interrupting the period mentioned in paragraph 1, shall also have this effect under the laws of the applicant State. The requested State shall inform the applicant State about such acts.
- 3 In any case, the requested State is not obliged to comply with a request for assistance which is submitted after a period of 15 years from the date of the original instrument permitting enforcement.

**Article 15 – Priority**

The tax claim in the recovery of which assistance is provided shall not have in the requested State any priority specially accorded to the tax claims of that State even if the recovery procedure used is the one applicable to its own tax claims.

**Article 16 – Deferral of payment**

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

biens reçus par chacun des bénéficiaires de la succession selon que la créance est à recouvrer sur la succession ou auprès des bénéficiaires de celle-ci.

#### **Article 12 – Mesures conservatoires**

A la demande de l'Etat requérant, l'Etat requis prend des mesures conservatoires en vue du recouvrement d'un montant d'impôt, même si la créance est contestée ou si le titre exécutoire n'a pas encore été émis.

#### **Article 13 – Documents accompagnant la demande**

- 1 La demande d'assistance administrative, présentée en vertu de la présente section, est accompagnée :
  - a d'une attestation précisant que la créance fiscale concerne un impôt visé par la présente Convention et, en ce qui concerne le recouvrement, que, sous réserve de l'article 11, paragraphe 2, elle n'est pas ou ne peut être contestée,
  - b d'une copie officielle du titre permettant l'exécution dans l'Etat requérant, et
  - c de tout autre document exigé pour le recouvrement ou pour prendre les mesures conservatoires.
- 2 Le titre permettant l'exécution dans l'Etat requérant est, s'il y a lieu et conformément aux dispositions en vigueur dans l'Etat requis, admis, homologué, complété ou remplacé dans les plus brefs délais suivant la date de réception de la demande d'assistance par un titre permettant l'exécution dans l'Etat requis.

#### **Article 14 – Délais**

- 1 Les questions concernant le délai au-delà duquel la créance fiscale ne peut être exigée sont régies par la législation de l'Etat requérant. La demande d'assistance contient des renseignements sur ce délai.
- 2 Les actes de recouvrement accomplis par l'Etat requis à la suite d'une demande d'assistance et qui, suivant la législation de cet Etat, auraient pour effet de suspendre ou d'interrompre le délai mentionné au paragraphe 1 ont le même effet au regard de la législation de l'Etat requérant. L'Etat requis informe l'Etat requérant des actes ainsi accomplis.
- 3 En tout état de cause, l'Etat requis n'est pas tenu de donner suite à une demande d'assistance qui est présentée après une période de 15 ans à partir de la date du titre exécutoire initial.

#### **Article 15 – Privilèges**

La créance fiscale pour le recouvrement de laquelle une assistance est accordée ne jouit dans l'Etat requis d'aucun des privilèges spécialement attachés aux créances fiscales de cet Etat même si la procédure de recouvrement utilisée est celle qui s'applique à ses propres créances fiscales.

#### **Article 16 – Délais de paiement**

Si sa législation ou sa pratique administrative le permet dans des circonstances analogues, l'Etat requis peut consentir un délai de paiement ou un paiement échelonné, mais il en informe au préalable l'Etat requérant.

### **Section III – Service of documents**

#### **Article 17 – Service of documents**

- 1 At the request of the applicant State, the requested State shall serve upon the addressee documents, including those relating to judicial decisions, which emanate from the applicant State and which relate to a tax covered by this Convention.
- 2 The requested State shall effect service of documents:
  - a by a method prescribed by its domestic laws for the service of documents of a substantially similar nature;
  - b to the extent possible, by a particular method requested by the applicant State or the closest to such method available under its own laws.
- 3 A Party may effect service of documents directly through the post on a person within the territory of another Party.
- 4 Nothing in the Convention shall be construed as invalidating any service of documents by a Party in accordance with its laws.
- 5 When a document is served in accordance with this article, it need not be accompanied by a translation. However, where it is satisfied that the addressee cannot understand the language of the document, the requested State shall arrange to have it translated into or a summary drafted in its or one of its official languages. Alternatively, it may ask the applicant State to have the document either translated into or accompanied by a summary in one of the official languages of the requested State, the Council of Europe or the OECD.

### **Chapter IV – Provisions relating to all forms of assistance**

#### **Article 18 – Information to be provided by the applicant State**

- 1 A request for assistance shall indicate where appropriate:
  - a the authority or agency which initiated the request made by the competent authority;
  - b the name, address, or any other particulars assisting in the identification of the person in respect of whom the request is made;
  - c in the case of a request for information, the form in which the applicant State wishes the information to be supplied in order to meet its needs;
  - d in the case of a request for assistance in recovery or measures of conservancy, the nature of the tax claim, the components of the tax claim and the assets from which the tax claim may be recovered;
  - e in the case of a request for service of documents, the nature and the subject of the document to be served;
  - f whether it is in conformity with the law and administrative practice of the applicant State and whether it is justified in the light of the requirements of Article 21.2.g.
- 2 As soon as any other information relevant to the request for assistance comes to its knowledge, the applicant State shall forward it to the requested State.

### **Section III – Notification de documents**

#### **Article 17 – Notification de documents**

- 1 A la demande de l'Etat requérant, l'Etat requis notifie au destinataire les documents, y compris ceux ayant trait à des décisions judiciaires, qui émanent de l'Etat requérant et concernent un impôt visé par la présente Convention.
- 2 L'Etat requis procède à la notification :
  - a selon les formes prescrites par sa législation interne pour la notification de documents de nature identique ou analogue;
  - b dans la mesure du possible, selon la forme particulière demandée par l'Etat requérant, ou la forme la plus rapprochée prévue par sa législation interne.
- 3 Une Partie peut faire procéder directement par voie postale à la notification d'un document à une personne se trouvant sur le territoire d'une autre Partie.
- 4 Aucune disposition de la Convention ne peut avoir pour effet d'entacher de nullité une notification de documents effectuée par une Partie conformément à sa législation.
- 5 Lorsqu'un document est notifié conformément au présent article, sa traduction n'est pas exigée. Toutefois, lorsqu'il lui paraît établi que le destinataire ne connaît pas la langue dans laquelle le document est libellé, l'Etat requis en fait effectuer une traduction ou établir un résumé dans sa langue officielle ou l'une de ses langues officielles. Il peut également demander à l'Etat requérant que le document soit traduit ou accompagné d'un résumé dans l'une des langues officielles de l'Etat requis, du Conseil de l'Europe ou de l'OCDE.

### **Chapitre IV – Dispositions communes aux diverses formes d'assistance**

#### **Article 18 – Renseignements à fournir par l'Etat requérant**

- 1 La demande d'assistance précise, en tant que de besoin :
  - a l'autorité ou le service qui est à l'origine de la demande présentée par l'autorité compétente;
  - b le nom, l'adresse ou tous les autres détails permettant d'identifier la personne au sujet de laquelle la demande est présentée;
  - c dans le cas d'une demande de renseignements, la forme sous laquelle l'Etat requérant souhaite recevoir le renseignement pour répondre à ses besoins;
  - d dans le cas d'une demande d'assistance en vue d'un recouvrement ou de mesures conservatoires, la nature de la créance fiscale, les éléments constitutifs de cette créance et les biens sur lesquels elle peut être recouvrée;
  - e dans le cas d'une demande de notification, la nature et l'objet du document à notifier;
  - f si la demande est conforme à la législation et à la pratique administrative de l'Etat requérant et si elle est justifiée au regard de l'article 21.2.g.
- 2 L'Etat requérant communique à l'Etat requis, dès qu'il en a connaissance, tous les autres renseignements relatifs à la demande d'assistance.

**Article 19 – Deleted**

**Article 20 – Response to the request for assistance**

- 1 If the request for assistance is complied with, the requested State shall inform the applicant State of the action taken and of the result of the assistance as soon as possible.
- 2 If the request is declined, the requested State shall inform the applicant State of that decision and the reason for it as soon as possible.
- 3 If, with respect to a request for information, the applicant State has specified the form in which it wishes the information to be supplied and the requested State is in a position to do so, the requested State shall supply it in the form requested.

**Article 21 – Protection of persons and limits to the obligation to provide assistance**

- 1 Nothing in this Convention shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested State.
- 2 Except in the case of Article 14, the provisions of this Convention shall not be construed so as to impose on the requested State the obligation:
  - a to carry out measures at variance with its own laws or administrative practice or the laws or administrative practice of the applicant State;
  - b to carry out measures which would be contrary to public policy (*ordre public*);
  - c to supply information which is not obtainable under its own laws or its administrative practice or under the laws of the applicant State or its administrative practice;
  - d 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*);
  - e to provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation, or of any other convention which the requested State has concluded with the applicant State;
  - f to provide administrative assistance for the purpose of administering or enforcing a provision of the tax law of the applicant State, or any requirement connected therewith, which discriminates against a national of the requested State as compared with a national of the applicant State in the same circumstances;
  - g to provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or administrative practice, except where recourse to such measures would give rise to disproportionate difficulty;
  - h to provide assistance in recovery in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the applicant State.
- 3 If information is requested by the applicant State in accordance with this Convention, the requested State shall use its information gathering measures to obtain the requested information, even though the requested State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations contained in this Convention, but in no case shall such limitations, including in particular those of

**Article 19 – Supprimé**

**Article 20 – Suite réservée à la demande d'assistance**

- 1 S'il est donné suite à la demande d'assistance, l'Etat requis informe l'Etat requérant, dans les plus brefs délais, des mesures prises ainsi que du résultat de son assistance.
- 2 Si la demande est rejetée, l'Etat requis en informe l'Etat requérant dans les plus brefs délais, en lui indiquant les motifs du rejet.
- 3 Si, dans le cas d'une demande de renseignement, l'Etat requérant a précisé la forme sous laquelle il souhaite recevoir le renseignement et si l'Etat requis est en mesure de le faire, ce dernier fournira le renseignement dans la forme souhaitée.

**Article 21 – Protection des personnes et limites de l'obligation d'assistance**

- 1 Aucune disposition de la présente Convention ne peut être interprétée comme limitant les droits et garanties accordés aux personnes par la législation ou la pratique administrative de l'Etat requis.
- 2 Sauf en ce qui concerne l'article 14, les dispositions de la présente Convention ne peuvent être interprétées comme imposant à l'Etat requis l'obligation :
  - a de prendre des mesures qui dérogent à sa législation ou à sa pratique administrative, ou à la législation ou à la pratique administrative de l'Etat requérant;
  - b de prendre des mesures qui seraient contraires à l'ordre public;
  - c de fournir des renseignements qui ne pourraient être obtenus sur la base de sa législation ou de sa pratique administrative, ou de la législation ou de la pratique administrative de l'Etat requérant;
  - d de fournir des renseignements qui révéleraient un secret commercial, industriel, professionnel ou un procédé commercial, ou des renseignements dont la communication serait contraire à l'ordre public;
  - e d'accorder une assistance administrative si et dans la mesure où il estime que l'imposition de l'Etat requérant est contraire aux principes d'imposition généralement admis ou aux dispositions d'une convention en vue d'éviter la double imposition ou de toute autre convention qu'il a conclue avec l'Etat requérant;
  - f d'accorder une assistance administrative afin d'appliquer ou exécuter une disposition de la législation fiscale de l'Etat requérant, ou de satisfaire une obligation s'y rattachant, qui est discriminatoire à l'encontre d'un ressortissant de l'Etat requis par rapport à un ressortissant de l'Etat requérant qui se trouve dans les mêmes circonstances;
  - g d'accorder une assistance administrative si l'Etat requérant n'a pas épuisé toutes les mesures raisonnables prévues par sa législation ou sa pratique administrative, à moins que le recours à de telles mesures ne donne lieu à des difficultés disproportionnées;
  - h d'accorder une assistance au recouvrement dans les cas où la charge administrative qui en résulte pour cet Etat est nettement disproportionnée par rapport aux avantages qui peuvent en être tirés par l'Etat requérant.
- 3 Si des renseignements sont demandés par l'Etat requérant conformément à la présente Convention, l'Etat requis utilise les pouvoirs dont il dispose pour obtenir les renseignements demandés, même s'il n'en a pas besoin à ses propres fins fiscales. L'obligation qui figure dans la phrase précédente est soumise aux limitations prévues par la présente Convention, sauf si ces limitations, et en particulier celles des paragraphes 1 et 2, sont susceptibles d'empêcher

paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because it has no domestic interest in such information.

- 4 In no case shall the provisions of this Convention, including in particular those of paragraphs 1 and 2, be construed to permit a requested 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 22 – Secrecy**

- 1 Any information obtained by a Party under this Convention shall be treated as secret and protected in the same manner as information obtained under the domestic law of that Party and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Party as required under its domestic law.
- 2 Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) concerned with the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party, or the oversight of the above. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes.
- 3 If a Party has made a reservation provided for in sub-paragraph a. of paragraph 1 of Article 30, any other Party obtaining information from that Party shall not use it for the purpose of a tax in a category subject to the reservation. Similarly, the Party making such a reservation shall not use information obtained under this Convention for the purpose of a tax in a category subject to the reservation.
- 4 Notwithstanding the provisions of paragraphs 1, 2 and 3, information received by a Party may be used for other purposes when such information may be used for such other purposes under the laws of the supplying Party and the competent authority of that Party authorises such use. Information provided by a Party to another Party may be transmitted by the latter to a third Party, subject to prior authorisation by the competent authority of the first-mentioned Party.

#### **Article 23 – Proceedings**

- 1 Proceedings relating to measures taken under this Convention by the requested State shall be brought only before the appropriate body of that State.
- 2 Proceedings relating to measures taken under this Convention by the applicant State, in particular those which, in the field of recovery, concern the existence or the amount of the tax claim or the instrument permitting its enforcement, shall be brought only before the appropriate body of that State. If such proceedings are brought, the applicant State shall inform the requested State which shall suspend the procedure pending the decision of the body in question. However, the requested State shall, if asked by the applicant State, take measures of conservancy to safeguard recovery. The requested State can also be informed of such proceed-

l'Etat requis de communiquer des renseignements uniquement parce que ceux-ci ne présentent pas d'intérêt pour lui dans le cadre national.

- 4 En aucun cas les dispositions de cette Convention, et en particulier celles des paragraphes 1 et 2, ne peuvent être interprétées comme permettant à un Etat requis de refuser de communiquer des renseignements uniquement parce que ceux-ci sont détenus par une banque, un autre établissement financier, un mandataire ou une personne agissant en qualité d'agent ou de fiduciaire, ou parce que ces renseignements se rattachent aux droits de propriété d'une personne.

#### **Article 22 – Secret**

- 1 Les renseignements obtenus par une Partie en application de la présente Convention sont tenus secrets et protégés dans les mêmes conditions que celles prévues pour les renseignements obtenus en application de la législation de cette Partie et, en tant que de besoin pour assurer le niveau nécessaire de protection des données à caractère personnel, conformément aux garanties qui peuvent être spécifiées par la Partie fournissant les renseignements comme étant requises au titre de sa législation.
- 2 Ces renseignements ne sont communiqués en tout cas qu'aux personnes ou autorités (y compris les tribunaux et les organes administratifs ou de surveillance) concernées par l'établissement, la perception ou le recouvrement des impôts de cette Partie, par les procédures ou les poursuites pénales concernant ces impôts, ou par les décisions sur les recours se rapportant à ces impôts ou par le contrôle de ce qui précède. Seules lesdites personnes ou autorités peuvent utiliser ces renseignements et uniquement aux fins indiquées ci-dessus. Elles peuvent, nonobstant les dispositions du paragraphe 1, en faire état au cours d'audiences publiques de tribunaux ou dans des jugements concernant lesdits impôts.
- 3 Lorsqu'une Partie a formulé une réserve prévue à l'article 30, paragraphe 1, alinéa a., toute autre Partie qui obtient des renseignements de la première Partie ne peut pas les utiliser pour un impôt inclus dans une catégorie qui a fait l'objet de la réserve. De même, la Partie ayant formulé la réserve ne peut pas utiliser, pour un impôt inclus dans la catégorie qui fait l'objet de la réserve, les renseignements obtenus en vertu de la présente Convention.
- 4 Nonobstant les dispositions des paragraphes 1, 2 et 3, les renseignements obtenus par une Partie peuvent être utilisés à d'autres fins lorsque l'utilisation de tels renseignements à de telles fins est possible selon la législation de la Partie qui fournit les renseignements et que l'autorité compétente de cette Partie consent à une telle utilisation. Les renseignements fournis par une Partie à une autre Partie peuvent être transmis par celle-ci à une troisième Partie, sous réserve de l'autorisation préalable de l'autorité compétente de la première Partie.

#### **Article 23 – Procédures**

- 1 Les actions se rapportant aux mesures prises en vertu de la présente Convention par l'Etat requis sont intentées exclusivement devant l'instance appropriée dudit Etat.
- 2 Les actions se rapportant aux mesures prises par l'Etat requérant en vertu de la présente Convention, en particulier celles qui, en matière de recouvrement, concernent l'existence ou le montant de la créance fiscale ou le titre qui permet d'en poursuivre l'exécution, sont intentées exclusivement devant l'instance appropriée de ce même Etat. Si une telle action est exercée, l'Etat requérant en informe immédiatement l'Etat requis et celui-ci suspend la procédure en attendant la décision de l'instance saisie. Toutefois, si l'Etat requérant le lui demande, il prend des mesures conservatoires en vue du recouvrement. L'Etat requis peut aussi être informé

ings by any interested person. Upon receipt of such information the requested State shall consult on the matter, if necessary, with the applicant State.

- 3 As soon as a final decision in the proceedings has been given, the requested State or the applicant State, as the case may be, shall notify the other State of the decision and the implications which it has for the request for assistance.

## **Chapter V – Special provisions**

### **Article 24 – Implementation of the Convention**

- 1 The Parties shall communicate with each other for the implementation of this Convention through their respective competent authorities. The competent authorities may communicate directly for this purpose and may authorise subordinate authorities to act on their behalf. The competent authorities of two or more Parties may mutually agree on the mode of application of the Convention among themselves.
- 2 Where the requested State considers that the application of this Convention in a particular case would have serious and undesirable consequences, the competent authorities of the requested and of the applicant State shall consult each other and endeavour to resolve the situation by mutual agreement.
- 3 A co-ordinating body composed of representatives of the competent authorities of the Parties shall monitor the implementation and development of this Convention, under the aegis of the OECD. To that end, the co-ordinating body shall recommend any action likely to further the general aims of the Convention. In particular it shall act as a forum for the study of new methods and procedures to increase international co-operation in tax matters and, where appropriate, it may recommend revisions or amendments to the Convention. States which have signed but not yet ratified, accepted or approved the Convention are entitled to be represented at the meetings of the co-ordinating body as observers.
- 4 A Party may ask the co-ordinating body to furnish opinions on the interpretation of the provisions of the Convention.
- 5 Where difficulties or doubts arise between two or more Parties regarding the implementation or interpretation of the Convention, the competent authorities of those Parties shall endeavour to resolve the matter by mutual agreement. The agreement shall be communicated to the co-ordinating body.
- 6 The Secretary General of OECD shall inform the Parties, and the Signatory States which have not yet ratified, accepted or approved the Convention, of opinions furnished by the co-ordinating body according to the provisions of paragraph 4 above and of mutual agreements reached under paragraph 5 above.

### **Article 25 – Language**

Requests for assistance and answers thereto shall be drawn up in one of the official languages of the OECD and of the Council of Europe or in any other language agreed bilaterally between the Contracting States concerned.

d'une telle action par toute personne intéressée; dès réception de cette information, il consultera, s'il y a lieu, l'Etat requérant à ce sujet.

- 3 Dès qu'il a été définitivement statué sur l'action intentée, l'Etat requis ou, selon le cas, l'Etat requérant notifie à l'autre Etat la décision prise et ses effets sur la demande d'assistance.

## **Chapitre V – Dispositions spéciales**

### **Article 24 – Mise en œuvre de la Convention**

- 1 Les Parties communiquent entre elles pour la mise en œuvre de la présente Convention par l'intermédiaire de leurs autorités compétentes respectives; celles-ci peuvent communiquer directement entre elles à cet effet et peuvent autoriser des autorités qui leur sont subordonnées à agir en leur nom. Les autorités compétentes de deux ou plusieurs Parties peuvent fixer d'un commun accord les modalités d'application de la Convention en ce qui les concerne.
- 2 Lorsque l'Etat requis estime que l'application de la présente Convention dans un cas particulier pourrait avoir des conséquences indésirables graves, les autorités compétentes de l'Etat requis et de l'Etat requérant se concertent et s'efforcent de résoudre la situation par voie d'accord mutuel.
- 3 Un organe de coordination composé de représentants des autorités compétentes des Parties suit, sous l'égide de l'OCDE, la mise en œuvre de la Convention et ses développements. A cet effet, il recommande toute mesure susceptible de contribuer à la réalisation des objectifs généraux de la Convention. En particulier, il constitue un forum pour l'étude de méthodes et procédures nouvelles tendant à accroître la coopération internationale en matière fiscale et, s'il y a lieu, il recommande de réviser la Convention ou d'y apporter des amendements. Les Etats qui ont signé mais n'ont pas encore ratifié, accepté ou approuvé la Convention pourront se faire représenter aux réunions de l'organe de coordination à titre d'observateur.
- 4 Toute Partie peut inviter l'organe de coordination à émettre un avis quant à l'interprétation des dispositions de la Convention.
- 5 Si des difficultés ou des doutes surgissent entre deux ou plusieurs Parties quant à la mise en œuvre ou à l'interprétation de la Convention, les autorités compétentes desdites Parties s'efforcent de résoudre la question par voie d'accord amiable. La décision est communiquée à l'organe de coordination.
- 6 Le Secrétaire Général de l'OCDE fait part aux Parties ainsi qu'aux Etats signataires de la Convention qui ne l'ont pas encore ratifiée, acceptée ou approuvée des avis émis par l'organe de coordination conformément aux dispositions du paragraphe 4 ci-dessus et des accords amiables obtenus en vertu du paragraphe 5 ci-dessus.

### **Article 25 – Langues**

Les demandes d'assistance ainsi que les réponses sont rédigées dans l'une des langues officielles de l'OCDE ou du Conseil de l'Europe ou dans toute autre langue que les Parties concernées conviennent bilatéralement d'employer.

#### **Article 26 – Costs**

Unless otherwise agreed bilaterally by the Parties concerned:

- a ordinary costs incurred in providing assistance shall be borne by the requested State;
- b extraordinary costs incurred in providing assistance shall be borne by the applicant State.

### **Chapter VI – Final provisions**

#### **Article 27 – Other international agreements or arrangements**

- 1 The possibilities of assistance provided by this Convention do not limit, nor are they limited by, those contained in existing or future international agreements or other arrangements between the Parties concerned or other instruments which relate to co-operation in tax matters.
- 2 Notwithstanding paragraph 1, those Parties which are member States of the European Union can apply, in their mutual relations, the possibilities of assistance provided for by the Convention in so far as they allow a wider co-operation than the possibilities offered by the applicable European Union rules.

#### **Article 28 – Signature and entry into force of the Convention**

- 1 This Convention shall be open for signature by the member States of the Council of Europe and the member countries of OECD. It is subject to ratification, acceptance or approval. Instruments of ratification, acceptance or approval shall be deposited with one of the Depositaries.
- 2 This Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date on which five States have expressed their consent to be bound by the Convention in accordance with the provisions of paragraph 1.
- 3 In respect of any member State of the Council of Europe or any member country of OECD which subsequently expresses its consent to be bound by it, the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of the deposit of the instrument of ratification, acceptance or approval.
- 4 Any member State of the Council of Europe or any member country of OECD which becomes a Party to the Convention after the entry into force of the Protocol amending this Convention, opened for signature on 27th May 2010 (the "2010 Protocol"), shall be a Party to the Convention as amended by that Protocol, unless they express a different intention in a written communication to one of the Depositaries.
- 5 After the entry into force of the 2010 Protocol, any State which is not a member of the Council of Europe or of the OECD may request to be invited to sign and ratify this Convention as amended by the 2010 Protocol. Any request to this effect shall be addressed to one of the Depositaries, who shall transmit it to the Parties. The Depositary shall also inform the Committee of Ministers of the Council of Europe and the OECD Council. The decision to invite States which so request to become Party to this Convention shall be taken by consensus by the Parties to the Convention through the co-ordinating body. In respect of any State ratifying the Convention as amended by the 2010 Protocol in accordance with this paragraph, this Convention shall enter into force on the first day of the month following the expiration of a

#### **Article 26 – Frais**

Sauf si les Parties concernées en conviennent autrement par voie bilatérale :

- a les frais ordinaires engagés pour fournir l'assistance sont à la charge de l'Etat requis ;
- b les frais extraordinaires engagés pour fournir l'assistance sont à la charge de l'Etat requérant.

### **Chapitre VI – Dispositions finales**

#### **Article 27 – Autres accords et arrangements internationaux**

- 1 Les possibilités d'assistance prévues par la présente Convention ne limiteront pas ni ne seront limitées par celles découlant de tous accords internationaux et autres arrangements qui existent ou pourront exister entre les Parties concernées ou de tous autres instruments qui se rapportent à la coopération en matière fiscale.
- 2 Nonobstant les dispositions du paragraphe 1, les Parties qui sont Etats membres de l'Union européenne, peuvent appliquer, dans leurs relations mutuelles, les possibilités d'assistance prévues par la Convention, dans la mesure où elles permettent une coopération plus large que celles offertes par les règles applicables de l'Union européenne.

#### **Article 28 – Signature et entrée en vigueur de la Convention**

- 1 La présente Convention est ouverte à la signature des Etats membres du Conseil de l'Europe et des pays membres de l'OCDE. Elle sera soumise à ratification, acceptation ou approbation. Les instruments de ratification, d'acceptation ou d'approbation seront déposés près de l'un des Dépositaires.
- 2 La Convention entrera en vigueur le premier jour du mois qui suit l'expiration d'une période de trois mois après la date à laquelle cinq Etats auront exprimé leur consentement à être liés par la Convention conformément aux dispositions du paragraphe 1.
- 3 Pour tout Etat membre du Conseil de l'Europe ou pays membre de l'OCDE qui exprimera ultérieurement son consentement à être lié par la Convention, celle-ci entrera en vigueur le premier jour du mois qui suit l'expiration d'une période de trois mois après la date du dépôt de l'instrument de ratification, d'acceptation ou d'approbation.
- 4 Tout Etat membre du Conseil de l'Europe ou pays membre de l'OCDE qui devient Partie à la Convention après l'entrée en vigueur du Protocole amendant la présente Convention, ouvert à la signature le 27 mai 2010 (le « Protocole de 2010 »), sera Partie à la Convention telle qu'amendée par ce Protocole, sauf s'il exprime une intention différente dans une notification écrite adressée à l'un des Dépositaires.
- 5 Après l'entrée en vigueur du Protocole de 2010, tout Etat qui n'est pas membre du Conseil de l'Europe ou de l'OCDE peut demander à être invité à signer et ratifier la Convention telle qu'amendée par le Protocole de 2010. Toute demande en ce sens devra être adressée à l'un des Dépositaires qui la transmettra aux Parties. Le Dépositaire en informera également le Comité des Ministres du Conseil de l'Europe et le Conseil de l'OCDE. La décision d'inviter les Etats qui ont demandé à devenir Parties à la Convention sera prise par consensus par les Parties à la Convention par l'intermédiaire de l'organe de coordination. Pour tout Etat qui ratifiera la Convention telle qu'amendée par le Protocole de 2010 conformément au présent paragraphe, la présente Convention entrera en vigueur le premier jour du mois qui suit l'expiration d'une

period of three months after the date of deposit of the instrument of ratification with one of the Depositaries.

- 6 The provisions of this Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to taxable periods beginning on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the year following the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party. Any two or more Parties may mutually agree that the Convention, as amended by the 2010 Protocol, shall have effect for administrative assistance related to earlier taxable periods or charges to tax.
- 7 Notwithstanding paragraph 6, for tax matters involving intentional conduct which is liable to prosecution under the criminal laws of the applicant Party, the provisions of this Convention, as amended by the 2010 Protocol, shall have effect from the date of entry into force in respect of a Party in relation to earlier taxable periods or charges to tax.

#### **Article 29 – Territorial application of the Convention**

- 1 Each State may, at the time of signature, or when depositing its instrument of ratification, acceptance or approval, specify the territory or territories to which this Convention shall apply.
- 2 Any State may, at any later date, by a declaration addressed to one of the Depositaries, extend the application of this Convention to any other territory specified in the declaration. In respect of such territory the Convention shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of such declaration by the Depositary.
- 3 Any declaration made under either of the two preceding paragraphs may, in respect of any territory specified in such declaration, be withdrawn by a notification addressed to one of the Depositaries. The withdrawal shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

#### **Article 30 – Reservations**

- 1 Any State may, at the time of signature or when depositing its instrument of ratification, acceptance or approval or at any later date, declare that it reserves the right:
  - a not to provide any form of assistance in relation to the taxes of other Parties in any of the categories listed in sub-paragraph b. of paragraph 1 of Article 2, provided that it has not included any domestic tax in that category under Annex A of the Convention;
  - b not to provide assistance in the recovery of any tax claim, or in the recovery of an administrative fine, for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;
  - c not to provide assistance in respect of any tax claim, which is in existence at the date of entry into force of the Convention in respect of that State or, where a reservation has

période de trois mois après la date du dépôt de l'instrument de ratification auprès de l'un des Dépositaires.

- 6 Les dispositions de la présente Convention, telle qu'amendée par le Protocole de 2010, s'appliquent à l'assistance administrative couvrant les périodes d'imposition qui débutent le 1<sup>er</sup> janvier, ou après le 1<sup>er</sup> janvier de l'année qui suit celle durant laquelle la Convention, telle qu'amendée par le Protocole de 2010, entrera en vigueur à l'égard d'une Partie ou, en l'absence de période d'imposition, elles s'appliquent à l'assistance administrative portant sur des obligations fiscales prenant naissance le 1<sup>er</sup> janvier, ou après le 1<sup>er</sup> janvier de l'année qui suit celle durant laquelle la Convention, telle qu'amendée par le Protocole de 2010, entrera en vigueur à l'égard d'une Partie. Deux Parties ou plus peuvent convenir que la Convention, telle qu'amendée par le Protocole de 2010, prendra effet pour ce qui concerne l'assistance administrative portant sur des périodes d'imposition ou obligations fiscales antérieures.
- 7 Nonobstant les dispositions du paragraphe 6, les dispositions de la présente Convention, telle qu'amendée par le Protocole de 2010, prendront effet à compter de sa date d'entrée en vigueur à l'égard d'une Partie, pour ce qui concerne les affaires fiscales faisant intervenir un acte intentionnel passible de poursuites en vertu du droit pénal de la Partie requérante portant sur des périodes d'imposition ou obligations fiscales antérieures.

#### **Article 29 – Application territoriale de la Convention**

- 1 Au moment de la signature ou du dépôt de son instrument de ratification, d'acceptation ou d'approbation, chaque Etat peut désigner le ou les territoires auxquels s'appliquera la présente Convention.
- 2 Tout Etat peut, à tout autre moment par la suite, par une déclaration adressée à l'un des Dépositaires, étendre l'application de la présente Convention à tout autre territoire désigné dans la déclaration. La Convention entrera en vigueur à l'égard de ce territoire le premier jour du mois qui suit l'expiration d'une période de trois mois après la date de réception de la déclaration par le Dépositaire.
- 3 Toute déclaration faite en vertu de l'un des deux paragraphes précédents pourra être retirée, en ce qui concerne tout territoire désigné dans cette déclaration, par notification adressée à l'un des Dépositaires. Le retrait prendra effet le premier jour du mois qui suit l'expiration d'une période de trois mois après la date de réception de la notification par le Dépositaire.

#### **Article 30 – Réserves**

- 1 Tout Etat peut, au moment de la signature ou au moment du dépôt de son instrument de ratification, d'acceptation ou d'approbation, déclarer qu'il se réserve le droit:
  - a de n'accorder aucune forme d'assistance pour les impôts des autres Parties entrant dans l'une quelconque des catégories énumérées à l'article 2, paragraphe 1, alinéa b. à condition que ladite Partie n'ait inclus dans l'annexe A de la Convention aucun de ses propres impôts entrant dans cette catégorie;
  - b de ne pas accorder d'assistance en matière de recouvrement de créances fiscales quelconques, ou de recouvrement d'amendes administratives soit pour tous les impôts soit seulement pour les impôts d'une ou plusieurs des catégories énumérées à l'article 2, paragraphe 1;
  - c de ne pas accorder d'assistance en rapport avec des créances fiscales qui existent déjà à la date d'entrée en vigueur de la Convention pour cet Etat ou, si une réserve a, au préalable,

previously been made under sub-paragraph a. or b. above, at the date of withdrawal of such a reservation in relation to taxes in the category in question;

- d not to provide assistance in the service of documents for all taxes or only for taxes in one or more of the categories listed in paragraph 1 of Article 2;
- e not to permit the service of documents through the post as provided for in paragraph 3 of Article 17;
- f to apply paragraph 7 of Article 28 exclusively for administrative assistance related to taxable periods beginning on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party, or where there is no taxable period, for administrative assistance related to charges to tax arising on or after 1 January of the third year preceding the one in which the Convention, as amended by the 2010 Protocol, entered into force in respect of a Party.

- 2 No other reservation may be made.
- 3 After the entry into force of the Convention in respect of a Party, that Party may make one or more of the reservations listed in paragraph 1 which it did not make at the time of ratification, acceptance or approval. Such reservations shall enter into force on the first day of the month following the expiration of a period of three months after the date of receipt of the reservation by one of the Depositaries.
- 4 Any Party which has made a reservation under paragraphs 1 and 3 may wholly or partly withdraw it by means of a notification addressed to one of the Depositaries. The withdrawal shall take effect on the date of receipt of such notification by the Depositary in question.
- 5 A Party which has made a reservation in respect of a provision of this Convention may not require the application of that provision by any other Party; it may, however, if its reservation is partial, require the application of that provision insofar as it has itself accepted it.

#### **Article 31 – Denunciation**

- 1 Any Party may, at any time, denounce this Convention by means of a notification addressed to one of the Depositaries.
- 2 Such denunciation shall become effective on the first day of the month following the expiration of a period of three months after the date of receipt of the notification by the Depositary.
- 3 Any Party which denounces the Convention shall remain bound by the provisions of Article 22 for as long as it retains in its possession any documents or information obtained under the Convention.

#### **Article 32 – Depositaries and their functions**

- 1 The Depositary with whom an act, notification or communication has been accomplished, shall notify the member States of the Council of Europe and the member countries of OECD and any Party to this Convention of:
  - a any signature;
  - b the deposit of any instrument of ratification, acceptance or approval;

été faite en vertu de l'alinéa a. ou b. ci-dessus, à la date du retrait d'une telle réserve au sujet des impôts de la catégorie en question ;

- d de ne pas accorder d'assistance en matière de notification de documents soit pour tous les impôts soit seulement pour les impôts d'une ou de plusieurs des catégories énumérées à l'article 2, paragraphe 1 ;
  - e de ne pas accepter les notifications par voie postale prévues à l'article 17, paragraphe 3 ;
  - f d'appliquer l'article 28 paragraphe 7 exclusivement pour l'assistance administrative couvrant les périodes d'imposition qui débutent le 1<sup>er</sup> janvier, ou après le 1<sup>er</sup> janvier de la troisième année précédant celle où la Convention, telle qu'amendée par le Protocole de 2010, est entrée en vigueur à l'égard d'une Partie, ou en l'absence de période d'imposition, pour l'assistance administrative portant sur des obligations fiscales prenant naissance le 1<sup>er</sup> janvier ou après le 1<sup>er</sup> janvier de la troisième année précédant celle où la Convention, telle qu'amendée par le Protocole de 2010, est entrée en vigueur à l'égard d'une Partie.
- 2 Aucune autre réserve n'est admise.
  - 3 Toute Partie peut, après l'entrée en vigueur de la Convention à son égard, formuler une ou plusieurs réserves visées au paragraphe 1 dont elle n'avait pas fait usage lors de la ratification, acceptation ou approbation. De telles réserves entreront en vigueur le premier jour du mois qui suit l'expiration d'une période de trois mois après la date de réception de la réserve par l'un des Dépositaires.
  - 4 Toute Partie qui a formulé une réserve en vertu des paragraphes 1 et 3 peut la retirer en tout ou en partie en adressant une notification à l'un des Dépositaires. Le retrait prendra effet à la date de réception de la notification par le Dépositaire.
  - 5 La Partie qui a formulé une réserve au sujet d'une disposition de la présente Convention ne peut prétendre à l'application de cette disposition par une autre Partie ; toutefois, elle peut, si la réserve est partielle, prétendre à l'application de cette disposition dans la mesure où elle l'a acceptée.

#### **Article 31 – Dénonciation**

- 1 Toute Partie peut, à tout moment, dénoncer la présente Convention en adressant une notification à l'un des Dépositaires.
- 2 La dénonciation prendra effet le premier jour du mois qui suit l'expiration d'une période de trois mois après la date de réception de la notification par le Dépositaire.
- 3 La Partie qui dénonce la présente Convention reste liée par l'article 22 tant qu'elle conserve en sa possession des informations, documents ou autres renseignements obtenus en application de la Convention.

#### **Article 32 – Dépositaires et leurs fonctions**

- 1 Le Dépositaire auprès duquel un acte, une notification ou une communication sera accompli notifiera aux Etats membres du Conseil de l'Europe et aux pays membres de l'OCDE et à toute Partie à la présente Convention :
  - a toute signature ;
  - b le dépôt de tout instrument de ratification, d'acceptation ou d'approbation ;

- c any date of entry into force of this Convention in accordance with the provisions of Articles 28 and 29;
  - d any declaration made in pursuance of the provisions of paragraph 3 of Article 4 or paragraph 3 of Article 9 and the withdrawal of any such declaration;
  - e any reservation made in pursuance of the provisions of Article 30 and the withdrawal of any reservation effected in pursuance of the provisions of paragraph 4 of Article 30;
  - f any notification received in pursuance of the provisions of paragraph 3 or 4 of Article 2, paragraph 3 of Article 3, Article 29 or paragraph 1 of Article 31;
  - g any other act, notification or communication relating to this Convention.
- 2 The Depositary receiving a communication or making a notification in pursuance of the provisions of paragraph 1 shall inform immediately the other Depositary thereof.

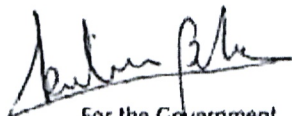
- c toute date d'entrée en vigueur de la présente Convention conformément aux dispositions des articles 28 et 29;
  - d toute déclaration formulée en application des dispositions de l'article 4, paragraphe 3 ou de l'article 9, paragraphe 3 et le retrait desdites déclarations;
  - e toute réserve formulée en application des dispositions de l'article 30 et le retrait de toute réserve effectué en application des dispositions de l'article 30, paragraphe 4;
  - f toute notification reçue en application des dispositions de l'article 2, paragraphes 3 ou 4, de l'article 3, paragraphe 3, de l'article 29 ou de l'article 31, paragraphe 1;
  - g tout autre acte, notification ou communication ayant trait à la présente Convention.
- 2 Le Dépositaire qui reçoit une communication ou qui effectue une notification conformément au paragraphe 1 en informera immédiatement l'autre Dépositaire.

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

Established by the Depositaries the 1<sup>st</sup> day of June 2011 pursuant to Article X.4 of the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters, in English and French, both texts being equally authentic, in two copies of which one shall be deposited in the archives of each Depositary. The Depositaries shall transmit a certified copy to each Party to the Convention as amended by the Protocol and to each State entitled to become a party.

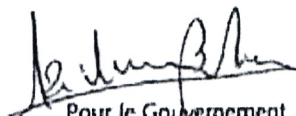
En foi de quoi, les soussignés, dûment autorisés à cet effet, ont signé la présente Convention.

Etabli par les Dépositaires le 1<sup>er</sup> juin 2011 en vertu de l'article X.4 du Protocole d'amendement à la Convention concernant l'assistance administrative mutuelle en matière fiscale, en français et en anglais, les deux textes faisant également foi, en deux exemplaires dont un sera déposé dans les archives de chaque Dépositaire. Les Dépositaires en communiqueront copie certifiée conforme à chacune des Parties à la Convention telle qu'amendée par le Protocole et à chacun des Etats ayant qualité pour devenir partie.



For the Government  
of the Republic of Albania:

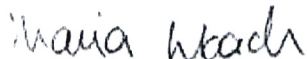
01.03.2013



Pour le Gouvernement  
de la République d'Albanie:

01.03.2013

For the Government  
of the Principality of Andorra:



05.11.2013.

Pour le Gouvernement  
de la Principauté d'Andorre:

For the Government  
of the Republic of Armenia:

Pour le Gouvernement  
de la République d'Arménie:

For the Government  
of Australia:

Pour le Gouvernement  
de l'Australie:



3 Nov 11



3 Nov 11

For the Government  
of the Republic of Austria:

Pour le Gouvernement  
de la République d'Autriche:



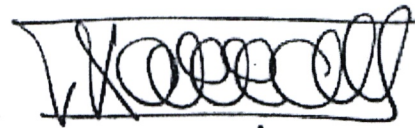
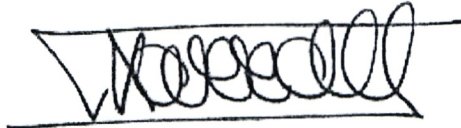
29<sup>th</sup> July 2013

For the Government  
of Bosnia and Herzegovina:

Pour le Gouvernement  
de la Bosnie-Herzégovine:

For the Government  
of the Republic of Bulgaria:

Pour le Gouvernement  
de la République de Bulgarie:



24 Oct. 2013

24 Oct. 2013

For the Government  
of the Republic of Chile:

Pour le Gouvernement  
de la République du Chili:

For the Government  
of the Republic of Croatia:

Pour le Gouvernement  
de la République de Croatie:

For the Government  
of the Republic of Cyprus:

Pour le Gouvernement  
de la République de Chypre:

For the Government  
of the Czech Republic:

*Blank Tyl*  
26 October 2012

Pour le Gouvernement  
de la République tchèque:

*Blank Tyl*  
26 October 2012

For the Government  
of the Republic of Estonia:

*Jürgen Lipp*  
29.05.2012

Pour le Gouvernement  
de la République d'Estonie:

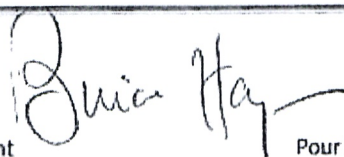
For the Government  
of the Hellenic Republic:

For the Government  
of the Republic of Hungary:

Pour le Gouvernement  
de la République hellénique:

Pour le Gouvernement  
de la République de Hongrie:

For the Government  
of Ireland:



30 June 2011

Pour le Gouvernement  
d'Irlande:

For the Government  
of the State of Israel:

Pour le Gouvernement  
de l'Etat d'Israël:

24/11/15



For the Government  
of Japan:

Pour le Gouvernement  
du Japon:

For the Government  
of the Republic of Latvia:

Pour le Gouvernement  
de la République de Lettonie:



29.05.2015.

For the Government  
of the Principality of Liechtenstein:

Pour le Gouvernement  
de la Principauté de Liechtenstein:

K. Gy  
21-11-2018

For the Government  
of the Republic of Lithuania:

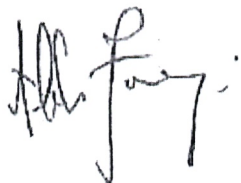
Pour le Gouvernement  
de la République de Lituanie:

For the Government  
of the Grand Duchy of Luxembourg:

Pour le Gouvernement  
du Grand-Duché de Luxembourg:

For the Government  
of Malta:

Pour le Gouvernement  
de Malte:





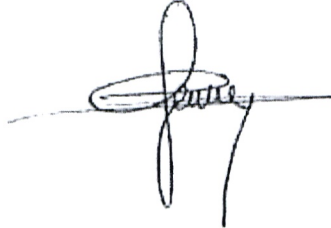
26-10-2012

26-10-2012

For the Principality  
of Monaco:

Pour la Principauté  
de Monaco:

*Le 13 octobre 2014*

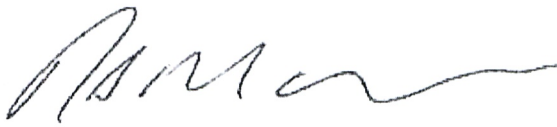
A handwritten signature in black ink, appearing to be 'G. de la Roche', written over a horizontal line.

For the Government  
of the Republic of Montenegro:

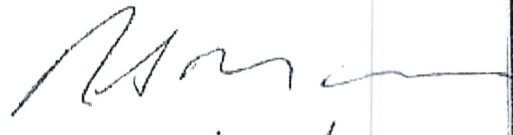
Pour le Gouvernement  
de la République du Monténégro:

For the Government  
of New Zealand:

Pour le Gouvernement  
de Nouvelle-Zélande:



*26/10/12*

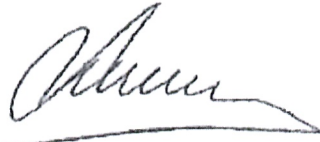


*26/10/12*

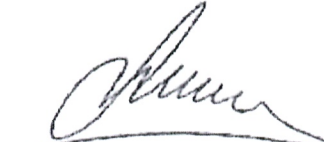
For the Government  
of Romania:

Pour le Gouvernement  
de la Roumanie:

For the Government  
of the Russian Federation:

  
03.11.11

Pour le Gouvernement  
de la Fédération de Russie:

  
05.11.11

For the Government  
of the Republic of San Marino:

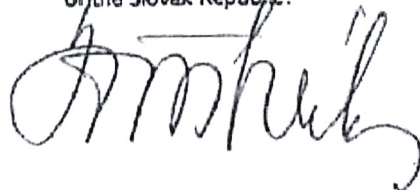
Pour le Gouvernement  
de la République de Saint-Marin:

*ul* 21/11/2013

For the Republic of Serbia:

Pour la République de Serbie:

For the Government  
of the Slovak Republic:

  
29.05.2013

Pour le Gouvernement  
de la République slovaque:

For the Government  
of the Swiss Confederation:

*Stefan Felber*  
15/10/2013

Pour le Gouvernement  
de la Confédération suisse:

*Stefan Felber*  
15/10/2013

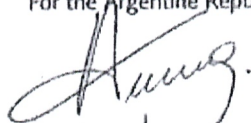
For the Government  
of the Turkish Republic:

*Mehmet Kemal*  
3/11/2011

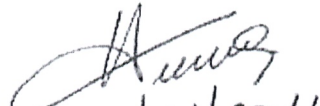
Pour le Gouvernement  
de la République turque:


*Mehmet Kemal*  
3/11/2011

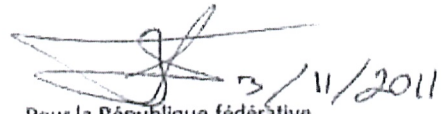
For the Argentine Republic:

  
3/11/2011

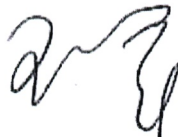
Pour la République argentine:

  
3/11/2011

  
3/11/2011  
For the Federative Republic  
of Brazil:

  
3/11/2011  
Pour la République fédérative  
du Brésil:

For the People's Republic  
of China:

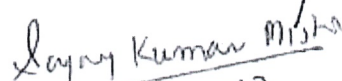


Pour la République populaire  
de Chine:

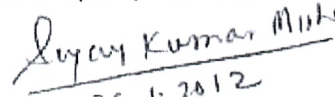


2013. 8. 27

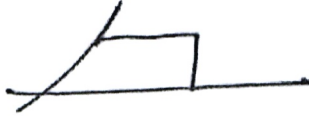
For the Republic of India:

  
26.1.2012

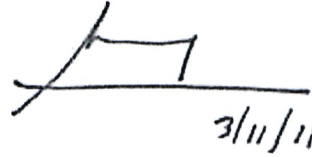
Pour la République de l'Inde:

2013. 8. 27  
  
26.1.2012

For the Republic of Indonesia:

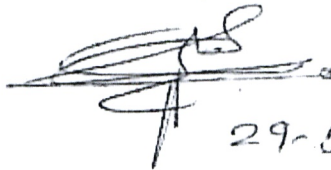


Pour la République d'Indonésie:




3/11/11

For the Kingdom  
of Saudi Arabia:




29-5-2013

Pour le Royaume  
d'Arabie Saoudite:




For the Republic  
of South Africa:



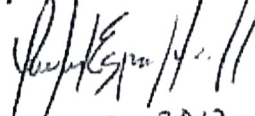
3-11-2011

Pour la République  
d'Afrique du Sud:



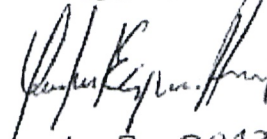
3-11-2011

For the Republic  
of Costa Rica:



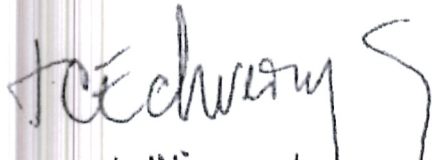
1-3-2012

Pour la République  
du Costa Rica:

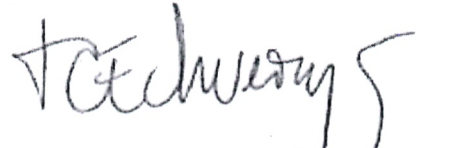


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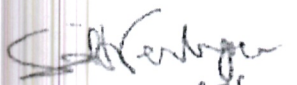
For the Republic  
of Colombia:

  
23/05/2012


Pour la République  
de Colombie:

  
23/05/2012

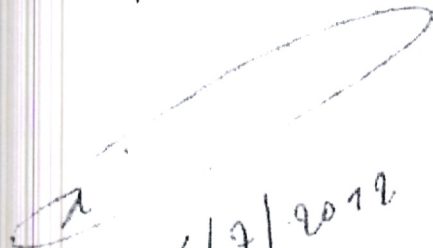
For the Republic  
of Ghana:

  
10/7/12

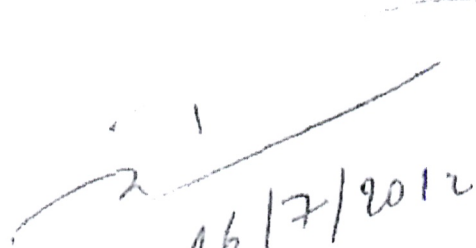
Pour la République  
du Ghana:

  
10/7/12


For the Republic of Tunisia:

  
16/7/2012


Pour la République Tunisienne:

  
16/7/2012

For the Republic of Guatemala:

  
5/12/2012

Pour la République du Guatemala:

  
5/12/2012

For the Kingdom of Morocco:



Chakib Benmoussa  
21 Mai 2013

Pour le Royaume du Maroc:



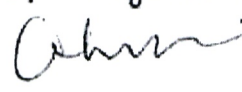
Chakib Benmoussa  
21 Mai 2013

For Belize:



29. May. 2013

For the Federal Republic  
of Nigeria:

 29/5/2013.

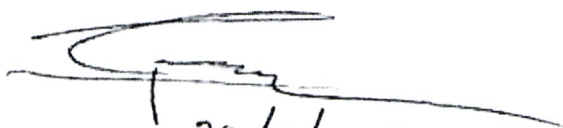
Pour B elize:



29. May. 2013

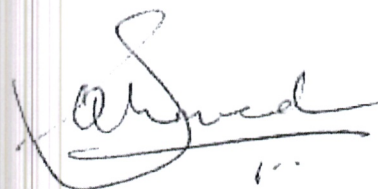
Pour la R epublique f ed erale  
du Nig eria:

For the Republic of  
Singapore:

  
29/5/2013

Pour la R epublique de  
Singapour:

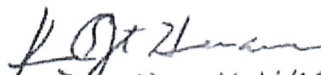
For the Republic of Kenya:



Pour la République  
du Kenya:

8/2/2016.

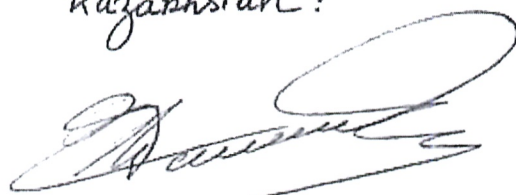
For the Republic of  
the Philippines:

  
RIM B. JACINTO-HERNANDES  
26/09/2014

For the Republic of  
Kazakhstan:

Pour la République  
des Philippines:


Pour la République du  
Kazakhstan:



23/12/2013

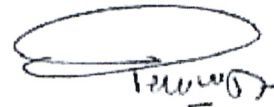
For the Republic of  
Cameroon:

Pour la République du  
Cameroun

  
25/06/2014

For the Gabonese Republic

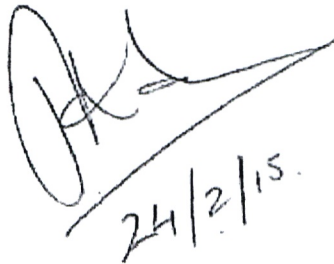
Par la République  
Gabonaise



Le 03/07/2014

For the Republic of Seychelles

Par la République des  
Seychelles



24/2/15.

For the Republic of El Salvador

Par la République  
d'El Salvador

Francisco M. Salgado  
7 June 2015

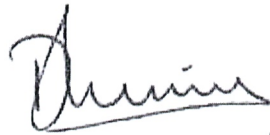
For the Republic of Mauritius

Par la République de Maurice

J. W. S. S. S.  
23 June 2015

For Barbados:

Pour la Barbade :



OCTOBER 28<sup>th</sup> 2015

For the Republic of  
Uganda

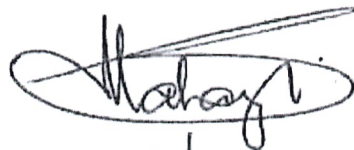
Pour la République  
d'Ouganda :



November 4 2015

For Nive

Pour Nive



November 27 2015.

For the Republic  
of Senegal

Par la République  
du Sénégal

  
4 Février 2016

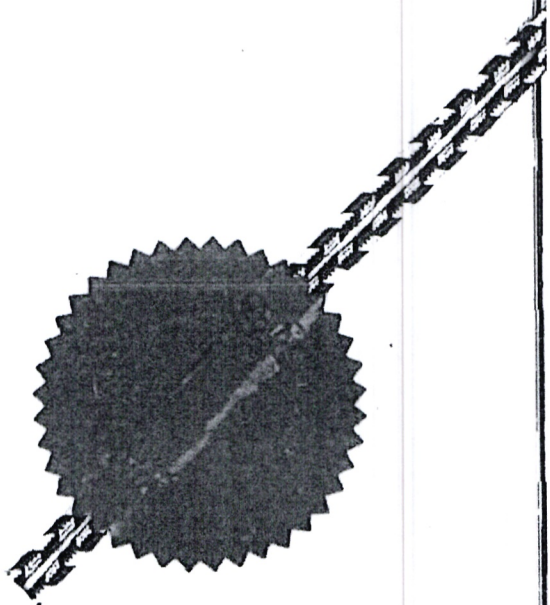




Certified a true copy of the original.  
Copie certifiée conforme à l'original.



Nicola BONUCCI  
Director for Legal Affairs  
OECD  
Directeur des Affaires juridiques  
OCDE  
Paris, 08/02/2016



PRINCIPAL SECRETARY  
THE NATIONAL TREASURY  
09 AUG 2019 414  
RECEIVED  
P.O. Box 30007 - 00100, NAIROBI



**THE PRESIDENCY**  
**EXECUTIVE OFFICE OF THE PRESIDENT**  
**HEAD OF THE PUBLIC SERVICE**

Telegraphic Address  
Telephone: +254-20-2227436  
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**CAB/GEN.3/1/1/VOL.XV/(115)**  
Ref. No. ....  
and date

**SECRET**

STATE HOUSE  
P.O. Box 40530-00100  
Nairobi, Kenya

1st August, 2019

**Dr. Julius M. Muia, EBS** ✓  
Principal Secretary/National Treasury  
National Treasury & Planning  
**NAIROBI**

**Amb. Macharia Kamau, CBS**  
Principal Secretary  
Ministry of Foreign Affairs  
**NAIROBI**

**Mr. Kennedy N. Ogeto, EBS**  
Solicitor General  
Office of the Attorney-General &  
Department of Justice  
**NAIROBI**

PS TREASURY OFFICE	
Take Necessary Action	
Please See Me	
Please Review and Advice	
Note	✓
To Keep in View	✓
Noted & Appreciated	
Please Let's Discuss	

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09 AUG 2019  
Principal Secretary  
National Treasury

Dear *Dr Muia*,

**THE RATIFICATION OF THE AMENDED MULTILATERAL CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS**

I refer to the **4<sup>th</sup> Cabinet Meeting - 2019** held on **1<sup>st</sup> August, 2019** during which the Cabinet Secretary for National Treasury presented Cabinet Memorandum **CAB(19)9**, jointly submitted by the Attorney-General. The Memorandum sought Cabinet approval for the ratification of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters (MAC) which was approved by the Fifth Cabinet Meeting held on 8<sup>th</sup> June, 2016.

I wish to inform you that Cabinet **considered** the Memorandum and:

DIRECTOR  
MACRO & FISCAL AFFAIRS  
NATIONAL TREASURY  
14 AUG 2019 806  
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- (i) **Noted** the contents of the Memorandum.
- (ii) **Approved** the ratification of the Convention signed on behalf of the Government of the Republic of Kenya by the Head of Kenya's mission to France as jointly authorized by the Cabinet Secretary for National Treasury and the Cabinet Secretary for Foreign Affairs.
- (iii) **Directed** the Cabinet Secretary for National Treasury & Planning and the Attorney-General to take appropriate action.

Please proceed and take action as directed by Cabinet.

Yours



**JOSEPH K. KINYUA, EGH, CBS**  
**HEAD OF THE PUBLIC SERVICE**

**Copy to: Hon. (Amb.) Ukur Yatani**  
Cabinet Secretary for Labour & Social Protection and  
Ag. Cabinet Secretary for National Treasury & Planning  
**NAIROBI**

**Amb. (Dr.) Monica K. Juma, DPhil, CBS**  
Cabinet Secretary  
Ministry of Foreign Affairs  
**NAIROBI**

**Justice (Rtd.) Paul K. Kihara, CBS**  
Attorney-General  
Office of the Attorney-General &  
Department of Justice  
**NAIROBI**

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