



HRVATSKI SABOR

KLASA: 022-03/20-01/125

URBROJ: 65-20-02

Zagreb, 5. studenoga 2020.



Hs\*\*NP\*022-03/20-01/125\*65-20-02\*\*Hs

**P.Z. br. 59**

**ZASTUPNICAMA I ZASTUPNICIMA  
HRVATSKOGA SABORA**

**PREDSJEDNICAMA I PREDSJEDNICIMA  
RADNIH TIJELA**

Na temelju članaka 178. i 192., a u svezi članka 207.a Poslovnika Hrvatskoga sabora u prilogu upućujem ***Konačni prijedlog zakona o potvrđivanju Mnogostrane konvencije o provedbi mjera povezanih s ugovorima o izbjegavanju dvostrukog oporezivanja u svrhu sprječavanja smanjenja porezne osnovice i preusmjeravanja dobiti***, koji je predsjedniku Hrvatskoga sabora podnijela Vlada Republike Hrvatske, aktom od 5. studenoga 2020. godine.

Za svoje predstavnike, koji će u njezino ime sudjelovati u radu Hrvatskoga sabora i njegovih radnih tijela, Vlada je odredila potpredsjednika Vlade Republike Hrvatske i ministra financija dr. sc. Zdravka Marića, državne tajnike Zdravka Zrинуšića, Stipu Župana i Stjepana Čuraja, te ravnatelja Porezne uprave Božidara Kutlešu.

**PREDSJEDNIK**

**Gordan Jandroković**



**VLADA REPUBLIKE HRVATSKE**

KLASA: 022-03/20-01/90

URBROJ: 50301-05/20-20-7

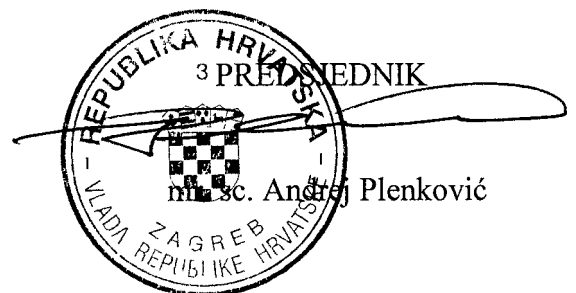
Zagreb, 5. studenoga 2020.

**PREDSJEDNIKU HRVATSKOGA SABORA**

**PREDMET:** Konačni prijedlog zakona o potvrđivanju Mnogostrane konvencije o provedbi mjera povezanih s ugovorima o izbjegavanju dvostrukog oporezivanja u svrhu sprječavanja smanjenja porezne osnovice i preusmjeravanja dobiti

Na temelju članka 85. Ustava Republike Hrvatske (Narodne novine, br. 85/10 – pročišćeni tekst i 5/14 – Odluka Ustavnog suda Republike Hrvatske) i članka 207.a Poslovnika Hrvatskoga sabora (Narodne novine, br. 81/13, 113/16, 69/17, 29/18, 53/20 i 119/20 – Odluka Ustavnog suda Republike Hrvatske), Vlada Republike Hrvatske podnosi Konačni prijedlog zakona o potvrđivanju Mnogostrane konvencije o provedbi mjera povezanih s ugovorima o izbjegavanju dvostrukog oporezivanja u svrhu sprječavanja smanjenja porezne osnovice i preusmjeravanja dobiti.

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**KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU MNOGOSTRANE KONVENCIJE  
O PROVEDBI MJERA POVEZANIH S UGOVORIMA O IZBJEGAVANJU  
DVOSTRUKOG OPOREZIVANJA U SVRHU SPRJEČAVANJA SMANJENJA  
POREZNE OSNOVICE I PREUSMJERAVANJA DOBITI**

# **KONAČNI PRIJEDLOG ZAKONA O POTVRĐIVANJU MNOGOSTRANE KONVENCIJE O PROVEDBI MJERA POVEZANIH S UGOVORIMA O IZBJEGAVANJU DVOSTRUKOG OPOREZIVANJA U SVRHU SPRJEČAVANJA SMANJENJA POREZNE OSNOVICE I PREUSMJERAVANJA DOBITI**

## **I. USTAVNA OSNOVA ZA DONOŠENJE ZAKONA**

Ustavna osnova za donošenje Zakona o potvrđivanju Mnogostrane konvencije o provedbi mjera povezanih s ugovorima o izbjegavanju dvostrukog oporezivanja u svrhu sprječavanja smanjenja porezne osnovice i preusmjerenja dobiti (u daljnjem tekstu: Mnogostrana konvencija) sadržana je u odredbi članka 140. stavka 1. Ustava Republike Hrvatske (Narodne novine, br. 85/10 – pročišćeni tekst i 5/14 – Odluka Ustavnog suda Republike Hrvatske).

## **II. OCJENA STANJA I CILJ KOJI SE DONOŠENJEM ZAKONA ŽELI POSTIĆI**

Posredstvom Ministarstva vanjskih i europskih poslova Republika Hrvatska, Ministarstvo financija zaprimilo je poziv Organizacije za gospodarsku suradnju i razvitak (OECD) da se Republika Hrvatska priključi BEPS akcijskom planu (akcijski plan u vezi mjera za sprječavanje smanjenja porezne osnovice i preusmjerenja dobiti, u daljnjem tekstu: BEPS) kao „BEPS pridruženi član“ kroz „Okvir za implementaciju paketa mjera protiv BEPS-a“.

Republika Hrvatska je od 19. travnja 2016. „BEPS pridruženi član“ OECD Okvira za implementaciju paketa mjera protiv BEPS-a. Do 2016. „BEPS pridruženi član“ su bile samo države članice G20 koje nisu istodobno bile i članice OECD-a. Ponuda Republici Hrvatskoj da postane „BEPS pridruženi član“ bila je izraz želje OECD-a i G20 da se implementacija BEPS akcijskog plana istodobno provodi na globalnoj razini, dakle i među državama koje nisu članice OECD-a ili G20. Odluka o pružanju mogućnosti pristupanja BEPS akcijskom planu državama koje nisu članice OECD-a ili G20 u svojstvu „BEPS pridruženog člana“ donesena je na sastanku ministara financija G20 u Šangaju, Kini, 26. do 27. veljače 2016., kada su prihvaćeni i dotadašnji rezultati rada na BEPS-u.

U okviru BEPS akcijskog plana OECD je sukladno Mjeri 15 BEPS akcijskog plana 24. studenoga 2016. sastavio Mnogostranu konvenciju te je ista od 31. prosinca 2016. otvorena za potpisivanje svim državama, Guernseyu, Otoku Manu, Jerseyu i svim ostalim jurisdikcijama ovlaštenima postati strankom Mnogostrane konvencije odlukom donesenom konsenzusom svih stranaka i potpisnica. Mnogostrana konvencija podložna je ratifikaciji, prihvatu ili odobrenju.

Mnogostranu konvenciju je 7. lipnja 2017. u Parizu, u ime Republike Hrvatske, potpisao državni tajnik u Ministarstvu financija Željko Tufekčić.

Donošenjem Zakona preinačit će se, na brz i efikasan način, međunarodna porezna pravila i smanjiti mogućnosti za izbjegavanje plaćanja poreza od strane multinacionalnih društava. Točnije, rezultati BEPS akcijskog plana provest će se u 65 sklopljenih ugovora o izbjegavanju dvostrukog oporezivanja koje Republika Hrvatska ima s drugim državama te koji su na snazi i u primjeni, ukoliko i odnosne države navedu ugovor sklopljen s Republikom Hrvatskom kao ugovor obuhvaćen Mnogostranom konvencijom. Na taj način će se omogućiti implementacija određenih minimalnih standarda potrebnih za efikasno sprječavanje zlouporabe ugovora o izbjegavanju dvostrukog oporezivanja te za efikasnije postupke zajedničkog dogovaranja. Isto tako, prihvaćanjem Mnogostrane

konvencije i donošenjem zakona izbjeći će se skupi i brojni dvostrani pregovori u svrhu izmjena ugovora o izbjegavanju dvostrukog oporezivanja s ciljem provedbe BEPS mjera. Ujedno će se osigurati dosljedna primjena rezultata BEPS akcijskog plana, što će za posljedicu imati pravnu sigurnost i predvidivost za društva diljem svijeta te bolje funkcioniranje međunarodnog pravnog sustava za dobrobit svih građana.

### **III. OSNOVNA PITANJA KOJA SE PREDLAŽU UREDITI ZAKONOM**

Ovim Zakonom potvrđuje se Mnogostrana konvencija, kako bi njezine odredbe u smislu članka 141. Ustava Republike Hrvatske postale dio unutarnjeg pravnog poretka Republike Hrvatske.

Mnogostrana konvencija predstavlja rezultat napora vlada diljem svijeta koje su primijetile da gube značajne prihode od oporezivanja poduzeća zbog agresivnog međunarodnog poreznog planiranja koje ima učinak umjetnog preusmjeravanja dobiti na lokacije na kojima poduzeća ne podliježu oporezivanja ili podliježu smanjenom oporezivanju. Ista ima za cilj osigurati da se dobit oporezuje tamo gdje se obavlja gospodarska djelatnost i gdje nastaje određena vrijednost. Ujedno se njome želi osigurati da se postojeći ugovori o izbjegavanju dvostrukog oporezivanja dohotka tumače na način da se uklanja dvostruko oporezivanje u pogledu poreza obuhvaćenih tim ugovorima, bez stvaranja prilika za neoporezivanje ili smanjeno oporezivanje putem utaje ili izbjegavanja plaćanja poreza.

Sama provedba Mnogostrane konvencije treba omogućiti brzu, koordiniranu i dosljednu provedbu mjera za sprječavanje BEPS-a te ista predstavlja učinkoviti mehanizam za provedbu dogovorenih promjena na sinkronizirani i djelotvorni način u mreži postojećih ugovora o izbjegavanju dvostrukog oporezivanja.

Mnogostranom konvencijom utvrđuju se odredbe kojima se preinačuju pojedine odredbe obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja, od kojih neke sačinjavaju tzv. minimalni standard koji mora biti zadovoljen, dok druge odredbe imaju opcionalni karakter. Da bi pojedine odredbe iz Mnogostrane konvencije imale pravni učinak na primjenu postojećih dvostranih ugovora o izbjegavanju dvostrukog oporezivanja prije svega je potrebno da obje države, koje između sebe imaju sklopljen ugovor o izbjegavanju dvostrukog oporezivanja, navedu jedna drugu kao državu čiji ugovor će biti obuhvaćen Mnogostranom konvencijom te da obje države pristanu na primjenu pojedinih odredbi iz Mnogostrane konvencije.

Nadalje, stranke Mnogostrane konvencije mogu staviti rezerve da se odredbe pojedinih članaka, stavaka ili podstavaka Mnogostrane konvencije u cijelosti ne primjenjuju na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja ili da se odredbe pojedinih članaka, stavaka ili podstavaka Mnogostrane konvencije u cijelosti ne primjenjuju na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže predmetnu odredbu.

Isto tako, države koje nisu stavile rezervu propisanu u pojedinom članku, stavku ili podstavku Mnogostrane konvencije dužne su obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja pojedinu odredbu propisanu pojedinim člankom, stavkom ili podstavkom Mnogostrane konvencije. Države koje odaberu primjenjivati određene mogućnosti propisane pojedinim člankom, stavkom ili podstavkom Mnogostrane konvencije dužne su o svojem izboru obavijestiti depozitara dostavom obavijesti.

Republika Hrvatska je prilikom potpisivanja Mnogostrane konvencije dostavila depozitaru privremeni popis svojih rezervi i obavijesti te će prilikom polaganja svoje isprave o ratifikaciji priopćiti konačni popis rezervi i obavijesti čiji je sadržaj naveden u prilogu iz članka 3. ovog Zakona.

#### **IV. OCJENA I IZVORI SREDSTAVA POTREBNIH ZA PROVOĐENJE ZAKONA**

Za provedbu ovoga Zakona nije potrebno osigurati dodatna financijska sredstva u državnom proračunu Republike Hrvatske.

#### **V. ZAKONI KOJIMA SE POTVRĐUJU MEĐUNARODNI UGOVORI**

Temelj za donošenje ovoga Zakona nalazi se u članku 207.a Poslovnika Hrvatskoga sabora (Narodne novine, br. 81/13, 113/16, 69/17, 29/18, 53/20 i 119/20 – Odluka Ustavnog suda Republike Hrvatske), prema kojemu se zakoni kojima se, u skladu s Ustavom Republike Hrvatske, potvrđuju međunarodni ugovori donose u pravilu u jednom čitanju, a postupak donošenja pokreće se podnošenjem konačnog prijedloga zakona o potvrđivanju međunarodnog ugovora.

Donošenje ovoga Zakona pretpostavka je za ispunjenje formalno-pravnih pretpostavki kako bi Mnogostrana konvencija stupila na snagu u odnosu na Republiku Hrvatsku.

Naime, s obzirom na razloge navedene u točkama II. i III. ovoga Prijedloga zakona te s obzirom da je za provedbu dogovorenih mehanizama iz Mnogostrane konvencije potrebno što skorije stvoriti uvjete za stupanje Mnogostrane konvencije na snagu, ocjenjuje se da postoji interes da Republika Hrvatska što skorije okonča svoj unutarnju pravni postupak, kako bi se stvorile pretpostavke da Mnogostrana konvencija, u skladu sa svojim odredbama stupi na snagu.

S obzirom na prirodu postupka potvrđivanja međunarodnih ugovora, kojima država i formalno izražava spremnost da bude vezana već potpisanim međunarodnim ugovorom, kao i na činjenicu da u ovoj fazi postupka u pravilu nisu moguće izmjene ili dopune teksta međunarodnog ugovora, predlaže se ovaj Konačni prijedlog zakona raspraviti i prihvatiti u jednom čitanju.

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POREZNE OSNOVICE I PREUSMJERAVANJA DOBITI**

**Članak 1.**

Potvrđuje se Mnogostrana konvencija o provedbi mjera povezanih s ugovorima o izbjegavanju dvostrukog oporezivanja u svrhu sprječavanja smanjenja porezne osnovice i preusmjerenja dobiti, sastavljena u Parizu 24. studenoga 2016. u izvorniku na engleskom i francuskom jeziku, a koju je Republika Hrvatska potpisala 7. lipnja 2017.

**Članak 2.**

Tekst Mnogostrane konvencije iz članka 1. ovoga Zakona, u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik, glasi:

**MNOGOSTRANA KONVENCIJA  
O PROVEDBI MJERA POVEZANIH S UGOVORIMA O  
IZBJEGAVANJU DVOSTRUKOG OPOREZIVANJA U  
SVRHU SPRJEČAVANJA SMANJENJA POREZNE  
OSNOVICE I PREUSMJERAVANJA DOBITI**



Stranke ove Konvencije,

prepoznajući da vlade gube značajne prihode od oporezivanja poduzeća zbog agresivnog međunarodnog poreznog planiranja, koje ima učinak umjetnog preusmjeravanja dobiti na lokacije na kojima poduzeća ne podliježu oporezivanju ili podliježu smanjenom oporezivanju;

imajući na umu da su smanjenje porezne osnovice i preusmjeravanje dobiti (u daljnjem tekstu: „BEPS“) gorući problem ne samo industrijaliziranih zemalja, nego i gospodarstava u usponu i zemalja u razvoju;

prepoznajući važnost osiguranja oporezivanja dobiti tamo gdje se obavljaju značajne gospodarske djelatnosti koje stvaraju dobit te tamo gdje nastaje vrijednost;

pozdravljajući paket mjera razvijen u okviru BEPS projekta OECD-a/skupine G20 (u daljnjem tekstu: „OECD/G20 BEPS paket“);

primjećujući da je OECD/G20 BEPS paket obuhvaćao mjere povezane s ugovorima o izbjegavanju dvostrukog oporezivanja usmjerene na rješavanje određenih instrumenata hibridne neusklađenosti, sprječavanje zlouporabe ugovora, rješavanje problema umjetnog izbjegavanja statusa stalne poslovne jedinice i poboljšanje rješavanja sporova;

svjesne potrebe za osiguranjem brze, koordinirane i dosljedne provedbe mjera za sprječavanje BEPS-a povezanih s ugovorima u multilateralnom kontekstu;

primjećujući potrebu za osiguranjem da se postojeći ugovori o izbjegavanju dvostrukog oporezivanja dohotka tumače na način da se uklanja dvostruko oporezivanje u pogledu poreza obuhvaćenih tim ugovorima, bez stvaranja prilika za neoporezivanje ili umanjeno oporezivanje putem porezne utaje ili izbjegavanja plaćanja poreza (uključujući putem dogovora o stjecanju ugovornih pogodnosti, s ciljem ostvarivanja olakšica predviđenih u tim ugovorima za neizravnu povlasticu rezidenata trećih jurisdikcija);

prepoznajući potrebu za učinkovitim mehanizmom za provedbu dogovorenih promjena na sinkronizirani i djelotvorni način u mreži postojećih ugovora o izbjegavanju dvostrukog oporezivanja dohotka bez potrebe za ponovnim dvostranim pregovaranjem svakog takvog ugovora;

sporazumjele su se kako slijedi:

## **DIO I. OPSEG I TUMAČENJE IZRAZA**

### **Članak 1. – Opseg Konvencije**

Ovom se Konvencijom preinačuju svi obuhvaćeni ugovori o izbjegavanju dvostrukog oporezivanja definirani u podstavku a) stavka 1. članka 2. (Tumačenje izraza).

### **Članak 2. – Tumačenje izraza**

1. U svrhu ove Konvencije primjenjuju se sljedeće definicije:

- a) Izraz „obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja” znači ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak (bez obzira na to jesu li obuhvaćeni i drugi porezi):
  - i) koji je na snazi između dvije ili više:
    - A) stranaka; i/ili
    - B) jurisdikcija ili područja koji su stranke prethodno opisanog ugovora te za čije je međunarodne odnose stranka odgovorna; i
  - ii) u pogledu kojeg je svaka takva stranka depozitaru dala obavijest u kojoj navodi ugovor, kao i sve instrumente kojima se on izmjenjuje i dopunjuje ili koji su mu popratni (za koje su navedeni naslov, nazivi stranaka, datum potpisivanja te, ako je to primjenjivo u trenutku obavijesti, datum stupanja na snagu), kao ugovor za koji želi da bude obuhvaćen ovom Konvencijom.
- b) Izraz „stranka” znači:
  - i) država za koju je ova Konvencija na snazi sukladno članku 34. (Stupanje na snagu); ili
  - ii) jurisdikcija koja je potpisala ovu Konvenciju sukladno podstavcima b) ili c) stavka 1. članka 27. (Potpisivanje i ratifikacija, prihvata ili odobrenje) te za koju je ova Konvencija na snazi sukladno članku 34. (Stupanje na snagu).
- c) Izraz „ugovorna jurisdikcija” znači stranka obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.
- d) Izraz „potpisnica” znači država ili jurisdikcija koja je potpisala ovu Konvenciju, ali za koju Konvencija još uvijek nije na snazi.

2. Što se tiče primjene ove Konvencije u bilo kojem trenutku od strane stranke, bilo koji izraz koji nije definiran ovom Konvencijom, osim ako kontekst ne zahtijeva drukčije, ima značenje koje u tom trenutku ima prema odgovarajućem obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja.

## **DIO II.**

### **HIBRIDNE NEUSKLAĐENOSTI**

#### **Članak 3. - Transparentni subjekti**

1. U svrhu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, dohodak koji je ostvaren od strane ili putem subjekta ili aranžmana koji se smatra u cijelosti ili djelomično porezno transparentnim prema poreznim propisima bilo koje ugovorne jurisdikcije smatra se dohotkom rezidenta ugovorne jurisdikcije, ali samo u mjeri u kojoj se dohodak, u svrhu oporezivanja od strane te ugovorne jurisdikcije, smatra dohotkom rezidenta te ugovorne jurisdikcije.

2. Odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima se zahtijeva da ugovorna jurisdikcija izuzme od poreza na dohodak ili da odobri odbitak ili kredit jednak porezu na dohodak plaćenom u pogledu dohotka koji je ostvario rezident te ugovorne jurisdikcije koji se može oporezivati u drugoj ugovornoj jurisdikciji u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ne primjenjuju se u mjeri u kojoj je takvim odredbama dopušteno oporezivanje od te druge ugovorne jurisdikcije samo zato što je dohodak također dohodak koji je ostvario rezident te druge ugovorne jurisdikcije.

3. U pogledu obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja za koji su jedna ili više stranaka izrazile rezervu opisanu u podstavku a) stavka 3. članka 11. (Primjena ugovora o izbjegavanju dvostrukog oporezivanja radi ograničavanja prava stranke na oporezivanje vlastitih rezidenata), na kraju stavka 1. dodaje se sljedeća rečenica: „Ni u kojem slučaju se odredbe ovog stavka ne smiju tumačiti kao da imaju učinak na pravo ugovorne jurisdikcije da oporezuje rezidente te ugovorne jurisdikcije.”

4. Stavak 1. (kako može biti preinačen stavkom 3). primjenjuje se umjesto ili u slučaju nepostojanja odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja u mjeri u kojoj se one odnose na pitanje smatra li se dohodak koji je ostvaren od strane ili putem subjekata ili aranžmana, koji se smatraju porezno transparentnima u skladu s poreznim propisom bilo koje ugovorne jurisdikcije (bilo putem općeg pravila ili podrobnim utvrđivanjem tretmana određenih činjeničnih obrazaca te vrsta subjekata ili aranžmana) dohotkom rezidenta ugovorne jurisdikcije.

5. Stranka može zadržati pravo:

- a) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
- b) da se stavak 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu opisanu u stavku 4.;
- c) da se stavak 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu opisanu u stavku 4., kojom se uskraćuju povlastice na temelju ugovora u slučaju dohotka koji je ostvaren od strane ili putem subjekata ili aranžmana osnovanih u trećoj jurisdikciji;
- d) da se stavak 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu opisanu u stavku 4., kojom se podrobno utvrđuje tretman određenih činjeničnih obrazaca te vrsta subjekata ili aranžmana;
- e) da se stavak 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu opisanu u stavku 4., kojom se podrobno utvrđuje tretman određenih činjeničnih obrazaca te vrsta subjekata ili aranžmana i uskraćuju povlastice na temelju ugovora u slučaju dohotka koji je ostvaren od strane ili putem subjekata ili aranžmana osnovanih u trećoj jurisdikciji;

- f) da se stavak 2. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
- g) da se stavak 1. primjenjuje samo na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu opisanu u stavku 4., kojom se detaljno utvrđuje tretman određenih činjeničnih obrazaca te vrsta subjekata ili aranžmana.

6. Svaka stranka koja nije izrazila rezervu opisanu u podstavku a) ili b) stavka 5. dužna je obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u stavku 4. koja ne podliježe rezervi iz podstavaka c) do e) stavka 5. te, ako je to slučaj, broj članka i stavka svake takve odredbe. U slučaju stranke koja je izrazila rezervu iz podstavka g) stavka 5., obavijest iz prethodne rečenice ograničena je na obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji podliježu toj rezervi. U slučaju da su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ta se odredba zamjenjuje odredbama stavka 1. (kako može biti preinačen stavkom 3.) u mjeri predviđenoj stavkom 4. U ostalim slučajevima, stavak 1. (kako može biti preinačen stavkom 3.) zamjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne sa stavkom 1. (kako može biti preinačen stavkom 3.).

#### **Članak 4. – Subjekti s dvostrukom rezidentnošću**

1. Ako je, na temelju odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, osoba koja nije fizička osoba rezident više od jedne ugovorne jurisdikcije, nadležna tijela ugovornih jurisdikcija će nastojati zajedničkim dogovorom utvrditi ugovornu jurisdikciju čijim će se rezidentom takva osoba smatrati u svrhu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, uzimajući u obzir mjesto stvarne uprave, mjesto u kojem je osnovana ili na drugi način utemeljena i sve druge bitne čimbenike. U slučaju da takav dogovor nije postignut, takva osoba nema pravo na olakšicu ili izuzeće od plaćanja poreza predviđeno obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja, osim u mjeri i na način na koji bi se mogla dogovoriti nadležna tijela ugovornih jurisdikcija.

2. Stavak 1. primjenjuje se umjesto ili u slučaju nepostojanja odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima su određena pravila za utvrđivanje treba li se osoba koja nije fizička osoba smatrati rezidentom jedne od ugovornih jurisdikcija u slučajevima u kojima bi se ta osoba inače smatrala rezidentom više od jedne ugovorne jurisdikcije. Međutim, stavak 1. ne primjenjuje se na odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koje se izričito odnose na rezidentnost poduzeća koja sudjeluju u aranžmanima dvojno uvrštenih poduzeća.

3. Stranka može zadržati pravo:

- a) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
- b) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji se već odnose na slučajeve u kojima je osoba koja nije fizička osoba rezident više od jedne ugovorne jurisdikcije zahtijevanjem od nadležnih tijela ugovorne jurisdikcije da nastoje postići zajednički dogovor o jednoj ugovornoj jurisdikciji čiji će osoba biti rezident;
- c) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji se već odnose na slučajeve u kojima je osoba koja nije fizička osoba rezident više od jedne ugovorne jurisdikcije uskraćivanjem povlastica na temelju ugovora bez

zahtijevanja od nadležnih tijela ugovorne jurisdikcije da nastoje postići zajednički dogovor o jednoj ugovornoj jurisdikciji čiji će osoba biti rezident;

- d) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji se već odnose na slučajeve u kojima je osoba koja nije fizička osoba rezident više od jedne ugovorne jurisdikcije zahtijevanjem od nadležnih tijela ugovorne jurisdikcije da nastoje postići zajednički dogovor o jednoj ugovornoj jurisdikciji čiji će osoba biti rezident te da utvrde tretman za takvu osobu prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja ako nije moguće postići takav dogovor;
- e) da se posljednja rečenica stavka 1. zamijeni sljedećim tekstom u svrhu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja: „U slučaju nepostojanja takvog dogovora, takva osoba neće imati pravo na bilo kakvu olakšicu ili izuzeće od plaćanja poreza predviđeno obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja.”;
- f) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja sa strankama koje su izrazile rezervu opisanu u podstavku e).

4. Svaka stranka koja nije izrazila rezervu opisanu u podstavku a) stavka 3. dužna je obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u stavku 2., koja ne podliježe rezervi iz podstavaka b) do d) stavka 3. te, ako je to slučaj, broj članka i stavka svake takve odredbe. U slučaju da su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ta se odredba zamjenjuje odredbama stavka 1. U ostalim slučajevima, stavak 1. zamjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne sa stavkom 1.

#### ***Članak 5. – Primjena metoda za uklanjanje dvostrukog oporezivanja***

1. Stranka može odabrati primjenjivati stavke 2. i 3. (Mogućnost A), stavke 4. i 5. (Mogućnost B) ili stavke 6. i 7. (Mogućnost C) ili može odabrati da neće primjenjivati nijednu od mogućnosti. Ako svaka ugovorna jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja odabere različitu mogućnost (ili ako jedna ugovorna jurisdikcija odabere jednu mogućnost, a druga odabere da neće primjenjivati nijednu mogućnost), u pogledu njezinih rezidenata primjenjuje se mogućnost koju je odabrala svaka ugovorna jurisdikcija.

#### ***Mogućnost A***

2. Odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima se inače izuzima dohodak koji je ostvario ili imovina koju posjeduje rezident ugovorne jurisdikcije od oporezivanja u toj ugovornoj jurisdikciji u svrhu uklanjanja dvostrukog oporezivanja ne primjenjuju se ako druga ugovorna jurisdikcija primjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kako bi izuzela takav dohodak ili imovinu od oporezivanja ili kako bi ograničila stopu po kojoj se takav dohodak ili imovina mogu oporezivati. U potonjem slučaju, prvo spomenuta ugovorna jurisdikcija dopušta kao odbitak od poreza na dohodak ili imovinu tog rezidenta iznos jednak porezu plaćenom u drugoj ugovornoj jurisdikciji. Takav odbitak, međutim, ne smije biti veći od onog dijela poreza koji je izračunat prije odbitka, a koji se može pripisati takvim dijelovima dohotka ili imovine koji se mogu oporezivati u toj drugoj ugovornoj jurisdikciji.

3. Stavak 2. primjenjuje se na obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja kojim bi se inače zahtijevalo od ugovorne jurisdikcije da izuzme dohodak ili imovinu opisane u tom stavku.

***Mogućnost B***

4. Odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima se inače izuzima dohodak koji je ostvario rezident ugovorne jurisdikcije od oporezivanja u toj ugovornoj jurisdikciji u svrhu uklanjanja dvostrukog oporezivanja jer ta ugovorna jurisdikcija takav dohodak smatra dividendom ne primjenjuju se ako takav dohodak dovodi do odbitka u svrhu utvrđivanja oporezive dobiti rezidenta druge ugovorne jurisdikcije prema zakonima te druge ugovorne jurisdikcije. U tom slučaju, prvospomenuta ugovorna jurisdikcija dopušta kao odbitak od poreza na dohodak tog rezidenta iznos jednak porezu na dohodak plaćenom u drugoj ugovornoj jurisdikciji. Takav odbitak, međutim, ne smije biti veći od onog dijela poreza na dohodak koji je izračunat prije odbitka, a koji se može pripisati takvom dohotku koji se može oporezivati u toj drugoj ugovornoj jurisdikciji.

5. Stavak 4. primjenjuje se na obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja kojim bi se inače zahtijevalo od ugovorne jurisdikcije da izuzme dohodak opisan u tom stavku.

***Mogućnost C***

6. a) Ako rezident ugovorne jurisdikcije ostvaruje dohodak ili posjeduje imovinu koji se mogu oporezivati u drugoj ugovornoj jurisdikciji sukladno odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (osim u mjeri u kojoj je tim odredbama dopušteno oporezivanje od strane te druge ugovorne jurisdikcije samo zato što je dohodak također dohodak koji ostvaruje rezident te druge ugovorne jurisdikcije), prvospomenuta ugovorna jurisdikcija dopušta:

- i) kao odbitak od poreza na dohodak tog rezidenta, iznos jednak porezu na dohodak plaćenom u toj drugoj ugovornoj jurisdikciji;
- ii) kao odbitak od poreza na imovinu tog rezidenta, iznos jednak porezu na imovinu plaćenu u drugoj ugovornoj jurisdikciji.

Takav odbitak, međutim, ne smije biti veći od onog dijela poreza na dohodak ili imovinu koji je izračunat prije odbitka, a koji se može pripisati dohotku ili imovinu koji se mogu oporezivati u toj drugoj ugovornoj jurisdikciji.

b) Ako je, u skladu s bilo kojom odredbom obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, dohodak koji je ostvario ili imovina koju posjeduje rezident ugovorne jurisdikcije izuzet od oporezivanja u toj ugovornoj jurisdikciji, takva ugovorna jurisdikcija ipak može, prilikom izračuna iznosa poreza na preostali dohodak ili imovinu takvog rezidenta, uzeti u obzir izuzeti dohodak ili imovinu.

7. Stavak 6. primjenjuje se umjesto odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima se, u svrhu uklanjanja dvostrukog oporezivanja, zahtijeva od ugovorne jurisdikcije da izuzme od oporezivanja u toj ugovornoj jurisdikciji dohodak koji je ostvario ili imovina koju posjeduje rezident te ugovorne jurisdikcije koji se, u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, može oporezivati u drugoj ugovornoj jurisdikciji.

8. Stranka koja odabere ne primjenjivati nijednu mogućnost prema stavku 1. može zadržati pravo u potpunosti ne primjenjivati ovaj članak u pogledu jednog ili više utvrđenih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja (ili u pogledu svih svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja).

9. Stranka koja odabere ne primjenjivati *Mogućnost C* može zadržati pravo, u pogledu jednog ili više utvrđenih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja (ili u pogledu svih svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja), ne dopustiti drugoj ugovornoj jurisdikciji (ili ugovornim

jurisdikcijama) da primjenjuju Mogućnost C.

10. Svaka stranka koja odabere primjenjivati mogućnost iz stavka 1. dužna je o svojem izboru obavijestiti depozitara. Takva obavijest sadrži:

- a) u slučaju da je stranka odabrala primjenjivati Mogućnost A, popis njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji sadrže odredbu opisanu u stavku 3., kao i broj članka i stavka svake takve odredbe;
- b) u slučaju da je stranka odabrala primjenjivati Mogućnost B, popis njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji sadrže odredbu opisanu u stavku 5., kao i broj članka i stavka svake takve odredbe;
- c) u slučaju da je stranka odabrala primjenjivati Mogućnost C, popis njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji sadrže odredbu opisanu u stavku 7., kao i broj članka i stavka svake takve odredbe.

Mogućnost se primjenjuje s obzirom na odredbu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo ako je stranka koja je odabrala primjenjivati tu mogućnost dostavila takvu obavijest u pogledu te odredbe.

### **DIO III. ZLOUPORABA UGOVORA**

#### ***Članak 6. – Svrha obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja***

1. Obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja preinačuje se kako bi uključio sljedeći tekst preambule:

„Namjeravajući ukloniti dvostruko oporezivanje u pogledu poreza obuhvaćenih ovim ugovorom, bez stvaranja prilika za neoporezivanje ili umanjeno oporezivanje putem porezne utaje ili izbjegavanja plaćanja poreza (uključujući putem dogovora o stjecanju ugovornih pogodnosti s ciljem ostvarivanja olakšica predviđenih u ovom ugovorom za neizravnu povlasticu rezidenata trećih jurisdikcija);”.

2. Tekst opisan u stavku 1. uključen je u obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja umjesto ili u slučaju nepostojanja teksta preambule obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koji se odnosi na namjeru uklanjanja dvostrukog oporezivanja, bez obzira na to odnosi li se taj tekst također i na namjeru nestvaranja prilika za neoporezivanje ili umanjeno oporezivanje.

3. Stranka također može odabrati uključiti sljedeći tekst preambule u pogledu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji ne sadrže tekst preambule koji se odnosi na želju za razvojem gospodarskog odnosa ili poboljšanjem suradnje u poreznim pitanjima:

„Želeći dodatno razvijati svoj gospodarski odnos i poboljšati svoju suradnju u poreznim pitanjima;”.

4. Stranka može zadržati pravo ne primjenjivati stavak 1. na svoje obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže tekst preambule kojim se opisuje namjera ugovornih jurisdikcija da uklone dvostruko oporezivanje bez stvaranja prilika za neoporezivanje ili umanjeno oporezivanje, neovisno o tome je li taj tekst ograničen na slučajeve porezne utaje ili izbjegavanja plaćanja poreza (uključujući putem dogovora o stjecanju ugovornih pogodnosti s ciljem ostvarivanja olakšica predviđenih obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja za neizravnu povlasticu rezidenata trećih jurisdikcija) ili se šire primjenjuje.

5. Svaka je stranka dužna obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja, osim onih koji su u okviru rezerve prema stavku 4., tekst preambule opisan u stavku 2. te, ako je to slučaj, o tekstu odgovarajućeg stavka preambule. U slučaju da su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu teksta preambule, takav se tekst preambule zamjenjuje tekstem opisanim u stavku 1. U ostalim slučajevima, tekst opisan u stavku 1. dodaje se uz postojeći tekst preambule.

6. Svaka stranka koja odabere primjenjivati stavak 3. dužna je o svojem izboru obavijestiti depozitara. Takva obavijest također mora obuhvaćati popis obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji već ne sadrže tekst preambule koji se odnosi na želju za razvojem gospodarskog odnosa ili poboljšanjem suradnje u poreznim pitanjima. Tekst opisan u stavku 3. uključuje se u obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije odabrale primjenjivati taj stavak te su dostavile takvu obavijest u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.

#### ***Članak 7. – Sprječavanje zlouporabe ugovora***

1. Neovisno o bilo kojoj odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, povlastica prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja ne dodjeljuje se u pogledu dijela dohotka ili imovine ako se može razumno zaključiti, uzimajući u obzir sve bitne čimbenike i okolnosti, da je dobivanje povlastice bila jedna od glavnih svrha bilo kojeg instrumenta ili transakcije koja je izravno ili neizravno dovela



do te povlastice, osim ako se ne utvrdi da bi dodjeljivanje te povlastice u tim okolnostima bilo u skladu s ciljem i svrhom odgovarajućih odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.

2. Stavak 1. primjenjuje se umjesto ili u slučaju nepostojanja odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojim se uskraćuju sve ili dio povlastica koje bi inače bile pružene prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja ako je glavna svrha ili jedna od glavnih svrha bilo kojeg aranžmana ili transakcije, ili bilo koje osobe povezane s aranžmanom ili transakcijom, bila ostvarivanje tih povlastica.

3. Stranka koja nije izrazila rezervu opisanu u podstavku a) stavka 15. također može odabrati primijeniti stavak 4. u pogledu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja.

4. Ako je osobi uskraćena povlastica prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja prema odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (kako može biti preinačen ovom Konvencijom) kojima se uskraćuju sve ili dio povlastica koje bi inače bile pružene prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja ako je glavna svrha ili jedna od glavnih svrha bilo kojeg aranžmana ili transakcije, ili bilo koje osobe povezane s aranžmanom ili transakcijom, bila ostvarivanje tih povlastica, nadležno tijelo ugovorne jurisdikcije koja bi inače dodijelila tu povlasticu ipak će smatrati da ta osoba ima pravo na tu povlasticu ili na drukčije povlastice u pogledu određenog dijela dohotka ili imovine, ako takvo nadležno tijelo, na zahtjev te osobe te nakon razmatranja odgovarajućih činjenica i okolnosti, utvrdi da bi takve povlastice bile dodijeljene toj osobi u slučaju nepostojanja transakcije ili aranžmana. Nadležno tijelo ugovorne jurisdikcije kojoj je rezident druge ugovorne jurisdikcije podnio zahtjev prema ovom stavku savjetuje se s nadležnim tijelom te druge ugovorne jurisdikcije prije odbijanja zahtjeva.

5. Stavak 4. primjenjuje se na odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (kako može biti preinačen ovom Konvencijom) kojima se uskraćuju sve ili dio povlastica koje bi inače bile pružene prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja ako je glavna svrha ili jedna od glavnih svrha bilo kojeg aranžmana ili transakcije ili bilo koje osobe povezane s aranžmanom ili transakcijom, bila ostvarivanje tih povlastica.

6. Stranka također može odabrati primijeniti odredbe sadržane u stavcima 8. do 13. (u daljnjem tekstu: Odredba o pojednostavljenom ograničenju povlastica) na svoje obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja slanjem obavijesti opisane u podstavku c) stavka 17. Odredba o pojednostavljenom ograničenju povlastica primjenjuje se u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo ako su ju sve ugovorne jurisdikcije odabrale primjenjivati.

7. U slučaju da neke, ali ne sve, ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja odaberu primjenjivati Odredbu o pojednostavljenom ograničenju povlastica sukladno stavku 6., neovisno o odredbama tog stavka, Odredba o pojednostavljenom ograničenju povlastica primjenjuje se u pogledu dodjeljivanja povlastica prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja:

- a) od strane svih ugovornih jurisdikcija, ako sve ugovorne jurisdikcije koje nisu odabrale primjenjivati Odredbu o pojednostavljenom ograničenju povlastica sukladno stavku 6. izraze suglasnost s takvom primjenom na način da odabere primjenjivati ovaj podstavak te da o tome sukladno obavijeste depozitara; ili
- b) samo od strane ugovornih jurisdikcija koje su odabrale primjenjivati Odredbu o pojednostavljenom ograničenju povlastica, ako sve ugovorne jurisdikcije koje nisu odabrale primjenjivati Odredbu o pojednostavljenom ograničenju povlastica sukladno stavku 6. izraze suglasnost s takvom primjenom na način da odabere primjenjivati ovaj podstavak te da o tome obavijeste depozitara.

### ***Odredba o pojednostavljenom ograničenju povlastica***

8. Osim kako je inače predviđeno Odredbom o pojednostavljenom ograničenju povlastica, rezident ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja nema pravo na povlasticu koja bi mu inače bila odobrena obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja, osim povlastice prema odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja:

- a) kojima je utvrđena rezidentnost osobe osim fizičke osobe koja je rezident više od jedne ugovorne jurisdikcije zbog odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je definiran rezident ugovorne jurisdikcije;
- b) kojima je predviđeno da će ugovorna jurisdikcija poduzeću iz te ugovorne jurisdikcije dodijeliti odgovarajuće usklađenje nakon početnog usklađenja koje je provela druga ugovorna jurisdikcija, u skladu s obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja, za iznos poreza koji je prvospomenuta ugovorna jurisdikcija obračunala na dobit od povezanog poduzeća; ili
- c) kojima je rezidentima ugovorne jurisdikcije omogućeno da od nadležnog tijela te ugovorne jurisdikcije zatraže da razmotri slučajeve oporezivanja koji nisu u skladu s obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja,

osim ako je takav rezident u trenutku kada bi takva povlastica bila odobrena „kvalificirana osoba”, kako je definirano u stavku 9.

9. Rezident ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja je kvalificirana osoba u trenutku kada bi povlastica inače bila odobrena obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja ako je rezident u tom trenutku:

- a) fizička osoba;
- b) ta ugovorna jurisdikcija, ili njezina politička jedinica ili lokalna vlast, ili agencija ili javno tijelo bilo koje takve ugovorne jurisdikcije, političke jedinice ili lokalne vlasti;
- c) društvo ili drugi subjekt, ako se glavnim razredom njegovih dionica redovito trguje na jednoj ili više priznatih burzi;
- d) osoba, osim fizičke osoba, koja je:
  - i) vrsta neprofitne organizacije o kojoj su se ugovorne jurisdikcije usuglasile razmjennom diplomatskih nota; ili
  - ii) subjekt ili aranžman osnovan u toj ugovornoj jurisdikciji koji se smatra zasebnom osobom prema poreznim propisima te ugovorne jurisdikcije te:
    - A) osnovan i njime se upravlja, isključivo ili gotovo isključivo, u svrhu primjene ili pružanja mirovinskih povlastica te pomoćnih ili sporednih povlastica fizičkim osobama te ga, kao takvog, uređuje ugovorna jurisdikcija ili jedna od njezinih političkih jedinica ili lokalnih vlasti, ili
    - B) osnovan i njime se upravlja, isključivo ili gotovo isključivo, u svrhu ulaganja sredstava u korist subjekata ili aranžmana iz pododjeljka (A);
- e) osoba, osim fizičke osobe, ako, barem tijekom polovice dana u dvanaestomjesečnom razdoblju koje uključuje taj trenutak u kojem bi inače bila odobrena povlastica, osobe koje su rezidenti te ugovorne jurisdikcije te koje imaju pravo na povlastice iz obuhvaćenog ugovora o izbjegavanju

dvostrukog oporezivanja prema podstavcima a) do d), izravno ili neizravno, posjeduju najmanje 50 posto dionica te osobe.

10. a) Rezident ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja imat će pravo na povlastice obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja u pogledu dijela dohotka ostvarenog u drugoj ugovornoj jurisdikciji, neovisno o tome je li rezident kvalificirana osoba, ako je rezident aktivno uključen u obavljanje poslovne djelatnosti u prvospomenutoj ugovornoj jurisdikciji te dohodak ostvaren u drugoj ugovornoj jurisdikciji potječe iz tog poslovanja ili je povezan s njime. U svrhu Odredbe o pojednostavljenom ograničenju povlastica izraz „aktivno obavljanje poslovne djelatnosti” ne obuhvaća sljedeće djelatnosti ili njihove kombinacije:
- i) djelovanje kao holding-društvo;
  - ii) pružanje sveobuhvatnog nadzora ili upravljanja grupom kompanija;
  - iii) pružanje grupnog financiranja (uključujući očuvanje likvidnosti); ili
  - iv) ulaganje ili upravljanje ulaganjima, osim ako te djelatnosti ne provodi banka, osiguravajuće društvo ili registrirani trgovac vrijednosnim papirima u okviru svojeg uobičajenog poslovanja kao takvog.
- b) Ako rezident ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ostvaruje dio dohotka od poslovne djelatnosti koju taj rezident provodi u drugoj ugovornoj jurisdikciji ili ako ostvaruje dio dohotka koji nastaje u drugoj ugovornoj jurisdikciji od povezane osobe, smatra se da su uvjeti opisani u podstavku a) zadovoljeni u pogledu takvog dijela samo ako je poslovna djelatnost koju rezident obavlja u prvospomenutoj ugovornoj jurisdikciji s kojom je dio povezan značajna u odnosu na istu djelatnost ili srodnu poslovnu djelatnost koju rezident ili takva povezana osoba obavlja u drugoj ugovornoj jurisdikciji. Značaj poslovne djelatnosti u svrhu ovog podstavka utvrđuje se na temelju svih činjenica i okolnosti.
- c) U svrhu primjene ovog stavka, smatra se da djelatnosti koje provode povezane osobe u pogledu rezidenta ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja provodi takav rezident.

11. Rezident ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koji nije kvalificirana osoba također ima pravo na povlasticu koja bi inače bila odobrena obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja u pogledu dijela dohotka ako, barem tijekom polovice dana u dvanaestomjesečnom razdoblju koje uključuje taj trenutak u kojem bi inače bila odobrena povlastica, osobe koje su jednakovrijedni korisnici posjeduju, izravno ili neizravno, najmanje 75 posto stvarnih udjela rezidenta.

12. Ako rezident ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja nije kvalificirana osoba sukladno odredbama stavka 9. niti ima pravo na povlastice prema stavku 10. ili 11., nadležno tijelo druge ugovorne jurisdikcije ipak može dodijeliti povlastice obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ili povlastice u pogledu određenog dijela dohotka, uzimajući u obzir predmet i svrhu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ali samo ako taj rezident dokaže na zadovoljstvo takvog nadležnog tijela da ni njegovo osnivanje, stjecanje ili održavanje, niti vođenje njegovog poslovanja nije bila jedna od glavnih svrha stjecanja povlastica prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja. Prije dodjeljivanja ili uskraćivanja zahtjeva koji je, prema ovom stavku, podnio rezident ugovorne jurisdikcije, nadležno tijelo druge ugovorne jurisdikcije kojoj je podnesen zahtjev savjetuje se s nadležnim tijelom prvospomenute ugovorne jurisdikcije.

13. U svrhu Odredbe o pojednostavljenom ograničenju povlastica:

- a) izraz „priznata burza” označava:
  - i) svaku burzu osnovanu i uređenu kao takvu prema propisima bilo koje ugovorne jurisdikcije;
  - ii) bilo koja drugu burzu o kojoj se nadležna tijela ugovornih jurisdikcija usuglase;
- b) izraz „glavni razred dionica” označava razred ili razrede dionica društva koje predstavljaju većinu ukupnog glasačkog prava i vrijednosti društva ili razred ili razrede stvarnih udjela subjekta koji predstavljaju većinu ukupnog glasačkog prava i vrijednosti subjekta;
- c) izraz „jednakovrijedan korisnik” označava bilo koju osobu koja bi imala pravo na povlastice u pogledu dijela dohotka odobrenog od strane ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja prema domaćim propisima te ugovorne jurisdikcije, obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja ili bilo kojem drugom međunarodnom instrumentu koje su jednakovrijedne ili povoljnije od povlastica koje se odobravaju za taj dio dohotka prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja; za svrhe utvrđivanja je li osoba jednakovrijedni korisnik u pogledu dividendi, smatra se da osoba posjeduje istu imovinu društva koje plaća dividende kao takvu imovinu društva koje potražuje povlasticu u pogledu posjedovanih dividendi;
- d) u pogledu subjekata koji nisu društva, izraz „dionice” označava udjele koji su usporedivi s dionicama;
- e) dvije se osobe smatraju „povezanim osobama” ako jedna posjeduje, izravno ili neizravno, najmanje 50 posto stvarnog udjela u drugoj (ili, u slučaju društva, najmanje 50 posto ukupnog glasačkog prava i vrijednosti dionica društva) ili druga osoba posjeduje, izravno ili neizravno, najmanje 50 posto stvarnog udjela (ili, u slučaju društva, najmanje 50 posto ukupnog glasačkog prava i vrijednosti dionica društva) u svakoj osobi; u svakom slučaju, osoba se smatra povezanom s drugom ako, na temelju svih odgovarajućih činjenica i okolnosti, jedna ima kontrolu nad drugom ili su obje pod kontrolom iste osobe ili osoba.

14. Odredba o pojednostavljenom ograničenju povlastica primjenjuje se umjesto ili u slučaju nepostojanja odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima bi se ograničile povlastice obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (ili kojima bi se ograničile povlastice drukčije od povlastice prema odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja povezane s rezidentnošću, povezanim poduzećima ili jednakim postupanjem ili povlastice koja nije ograničena samo na rezidente ugovorne jurisdikcije) samo na rezidenta koji ispunjava uvjete za takve povlastice zadovoljavajući jedan ili više kategorijskih testova.

15. Stranka može zadržati pravo:

- a) da se stavak 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja jer namjerava prihvatiti kombinaciju detaljne odredbe o ograničenju povlastica te ili pravila za identificiranje provodničkih financijskih struktura ili test osnovne svrhe, čime zadovoljava minimalni standard za sprječavanje zlouporabe ugovora prema OECD/G20 BEPS paketu; u takvim slučajevima ugovorne jurisdikcije nastoje postići rješenje koje zadovoljava minimalni standard na uzajamno zadovoljstvo;
- b) da se stavak 1. (te stavak 4. u slučaju stranke koja je odabrala primjenjivati taj stavak) ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbe kojima se uskraćuju povlastice koje bi inače bile pružene obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja ako je glavna svrha ili jedna od glavnih svrha bilo kojeg aranžmana ili transakcije, ili bilo koje osobe povezane s aranžmanom ili transakcijom, bila

ostvarivanje tih povlastica;

- c) da se Odredba o pojednostavljenom ograničenju povlastica ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu opisanu u stavku 14.

16. Osim ako se Odredba o pojednostavljenom ograničenju povlastica primjenjuje u pogledu dodjeljivanja povlastica prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja od strane jedne ili više stranaka sukladno stavku 7., stranka koja odabere primjenjivati, sukladno stavku 6., Odredbu o pojednostavljenom ograničenju povlastica može zadržati pravo u cijelosti ne primjenjivati ovaj članak u pogledu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja za koje jedna ili više drugih ugovornih jurisdikcija nisu odabrale primjenjivati Odredbu o pojednostavljenom ograničenju povlastica. U takvim slučajevima, ugovorne jurisdikcije nastoje postići rješenje na uzajamno zadovoljstvo koje zadovoljava minimalni standard za sprječavanje zlouporabe ugovora prema OECD/G20 BEPS paketa.

17. a) Svaka stranka koja nije izrazila rezervu opisanu u podstavku a) stavka 15. dužna je obavijestiti depozitara o tome sadrži li bilo koji od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji ne podliježe rezervi opisanoj u podstavku b) stavka 15. odredbu opisanu u stavku 2. te, ako je to slučaj, broj članka i stavka svake takve odredbe. U slučaju da su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ta se odredba zamjenjuje odredbama stavka 1. (te, ako je to primjenjivo, stavka 4.). U ostalim slučajevima stavak 1. (te, ako je to primjenjivo, stavak 4.) zamjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne sa stavkom 1. (te, ako je to primjenjivo, stavkom 4.). Stranka koja dostavlja obavijest prema ovom podstavku također može uključiti izjavu da, iako takva stranka prihvaća primjenu stavka 1. samo kao privremenu mjeru, namjerava, ako je to moguće, usvojiti odredbu o ograničenju povlastica, uz ili kao zamjenu za stavak 1., putem bilateralnih pregovora.
- b) Svaka stranka koja odabere primjenjivati stavak 4. dužna je o svojem izboru obavijestiti depozitara. Stavak 4. primjenjuje se na obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile takvu obavijest.
- c) Svaka stranka koja odabere primjenjivati Odredbu o pojednostavljenom ograničenju povlastica sukladno stavku 6. dužna je o svojem izboru obavijestiti depozitara. Osim ako takva stranka nije izrazila rezervu opisanu u podstavku c) stavka 15., takva obavijest također mora sadržavati popis njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji sadrže odredbu opisanu u stavku 14., kao i broj članka i stavka svake takve odredbe.
- d) Svaka stranka koja ne odabere primjenjivati Odredbu o pojednostavljenom ograničenju povlastica sukladno stavku 6., već odabere primjenjivati ili podstavak a) ili b) stavka 7. dužna je o svojem izboru obavijestiti depozitara. Osim ako takva stranka nije izrazila rezervu opisanu u podstavku c) stavka 15., takva obavijest također uključuje i popis njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji sadrže odredbu opisanu u stavku 14., kao i broj članka i stavka svake takve odredbe.
- e) U slučaju da su sve ugovorne jurisdikcije dostavile obavijest sukladno podstavku c) ili d) u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ta se odredba zamjenjuje Odredbom o pojednostavljenom ograničenju povlastica. U ostalim slučajevima, Odredba o pojednostavljenom ograničenju povlastica zamjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne s Odredbom o pojednostavljenom ograničenju povlastica.

### **Članak 8. – Transakcije za prijenos dividendi**

1. Odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima su dividende koje je platilo društvo koje je rezident ugovorne jurisdikcije izuzete od oporezivanja ili kojima je ograničena stopa po kojoj se takve dividende mogu oporezivati, pod uvjetom da je stvarni korisnik ili primatelj društvo koje je rezident druge ugovorne jurisdikcije i koje posjeduje, drži ili kontrolira više od određenog iznosa imovine, udjela, dionica, glasačke moći, glasačkog prava ili sličnih korisničkih udjela u društvu koje plaća dividende, primjenjuju se samo ako su vlasnički uvjeti opisani u tim odredbama ispunjeni tijekom razdoblja od 365 dana koje obuhvaća dan plaćanja dividendi (u svrhu računanja tog razdoblja ne uzimaju se u obzir promjene vlasništva koje bi izravno nastale kao rezultat reorganizacije, kao što je reorganizacija spajanjem ili podjelom, društva koje posjeduje udjele ili plaća dividende).
2. Najkraće razdoblje držanja iz stavka 1. primjenjuje se umjesto ili u slučaju nepostojanja najkraćeg razdoblja držanja u odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja opisanim u stavku 1.
3. Stranka može zadržati pravo:
  - a) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
  - b) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja u mjeri u kojoj odredbe opisane u stavku 1. već obuhvaćaju:
    - i) najkraće razdoblje držanja;
    - ii) najkraće razdoblje držanja kraće od razdoblja od 365 dana; ili
    - iii) najkraće razdoblje držanja dulje od razdoblja od 365 dana.
4. Svaka stranka koja nije izrazila rezervu opisanu u podstavku a) stavka 3. dužna je obavijestiti depozitar o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u stavku 1., koja ne podliježe rezervi opisanoj u podstavku b) stavka 3. te, ako je to slučaj, broj članka i stavka svake takve odredbe. Stavak 1. primjenjuje se u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile obavijest u pogledu te odredbe.

### **Članak 9. – Kapitalni dobitci od otuđenja dionica ili udjela subjekata koji ostvaruju vrijednost prvenstveno na temelju nepokretne imovine**

1. Odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima se uređuju ti dobitci koje je rezident ugovorne jurisdikcije ostvario otuđenjem dionica ili drugih prava sudjelovanja u subjektu mogu se oporezivati u drugoj ugovornoj jurisdikciji pod uvjetom da je više od određenog dijela vrijednosti tih dionica ili prava ostvareno na temelju nepokretne imovine (nekretnina) koja se nalazi u drugoj ugovornoj jurisdikciji (ili pod uvjetom da se više od određenog dijela imovine subjekta sastoji od nepokretne imovine (nekretnine)):
  - a) primjenjuju se ako je u bilo kojem trenutku tijekom razdoblja od 365 dana koje prethodi otuđenju postignut odgovarajući prag vrijednosti; i
  - b) primjenjuju se na dionice ili usporedive udjele, kao što su udjeli u partnerstvu ili trustu (u mjeri u kojoj takve dionice ili udjeli već nisu obuhvaćeni) uz sve dionice ili prava koja su već obuhvaćena odredbama.

2. Razdoblje iz podstavka a) stavka 1. primjenjuje se umjesto ili u slučaju nepostojanja vremenskog razdoblja za utvrđivanje je li postignut odgovarajući prag vrijednosti u odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja opisanima u stavku 1.

3. Stranka također može odabrati da će primjenjivati stavak 4. u pogledu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja.

4. Za potrebe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, dobitci koje je rezident ugovorne jurisdikcije ostvario otuđenjem dionica ili usporedivih udjela, kao što su udjeli u partnerstvu ili trustu, mogu se oporezivati u drugoj ugovornoj jurisdikciji ako, u bilo kojem trenutku tijekom razdoblja od 365 dana koje prethodi otuđenju, te dionice ili usporedivi udjeli ostvaruju više od 50 posto svoje vrijednosti, izravno ili neizravno, iz nepokretne imovine (nekretnina) koja se nalazi u toj drugoj ugovornoj jurisdikciji.

5. Stavak 4. primjenjuje se umjesto ili u slučaju nepostojanja odredaba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima se uređuju dobitci koje je rezident ugovorne jurisdikcije ostvario otuđenjem dionica ili drugih prava sudjelovanja u subjektu mogu se oporezivati u drugoj ugovornoj jurisdikciji pod uvjetom da je više od određenog dijela vrijednosti tih dionica ili prava ostvareno na temelju nepokretne imovine (nekretnina) koja se nalazi u toj drugoj ugovornoj jurisdikciji ili pod uvjetom da se više od određenog dijela imovine subjekta sastoji od takve nepokretne imovine (nekretnine).

6. Stranka može zadržati pravo:

- a) da se stavak 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
- b) da se podstavak a) stavka 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
- c) da se podstavak b) stavka 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
- d) da se podstavak a) stavka 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu kao što je ona opisana u stavku 1., koja obuhvaća razdoblje za utvrđivanje je li postignut odgovarajući prag vrijednosti;
- e) da se podstavak b) stavka 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu kao što je ona opisana u stavku 1., koja se primjenjuje na otuđenje udjela osim dionica;
- f) da se stavak 4. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbe opisane u stavku 5.

7. Svaka stranka koja nije izrazila rezervu opisanu u podstavku a) stavka 6. dužna je obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u stavku 1. te, ako je to slučaj, broj članka i stavka svake takve odredbe. Stavak 1. primjenjuje se u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile obavijest u pogledu te odredbe.

8. Svaka stranka koja odabere primjenjivati stavak 4. dužna je o svojem izboru obavijestiti depozitara. Stavak 4. primjenjuje se na obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile takvu obavijest. U tom se slučaju stavak 1. ne primjenjuje u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja. U slučaju da stranka nije izrazila rezervu opisanu u podstavku f) stavka 6. te je izrazila rezervu opisanu u podstavku a) stavka 6., takva obavijest također uključuje i popis njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji sadrže odredbu opisanu u

stavku 5., kao i broj članka i stavka svake takve odredbe. U slučaju da su sve ugovorne jurisdikcije dostavile obavijest u pogledu odredbe Obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja prema ovom stavku ili stavku 7., ta se odredba zamjenjuje odredbama stavka 4. U ostalim slučajevima, stavak 4. zamjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne sa stavkom 4.

**Članak 10. – Pravilo protiv zlouporabe za stalne poslovne jedinice koje se nalaze u trećim jurisdikcijama**

1. Ako:

- a) poduzeće ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ostvaruje dobit iz druge ugovorne jurisdikcije, a prvo spomenuta ugovorna jurisdikcija smatra da se ta dobit može pripisati stalnoj poslovnoj jedinici poduzeća koje se nalazi u trećoj jurisdikciji; i
- b) dobit koja se može pripisati toj stalnoj poslovnoj jedinici izuzeta je od oporezivanja u prvo spomenutoj ugovornoj jurisdikciji,

povlastice obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ne primjenjuju se na bilo koji dio dobiti za koju porez u trećoj jurisdikciji iznosi manje od 60 posto poreza koji bi bio uveden za taj dio dobiti u prvo spomenutoj ugovornoj jurisdikciji da se ta stalna poslovna jedinica nalazi u prvo spomenutoj ugovornoj jurisdikciji. U takvom slučaju, bilo koja dobit na koju se primjenjuju odredbe ovog stavka ostaje oporeziva sukladno domaćim propisima druge ugovorne jurisdikcije, neovisno o drugim odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.

2. Stavak 1. ne primjenjuje se ako je dobit ostvarena iz druge ugovorne jurisdikcije opisana u stavku 1. stečen u vezi s ili pored aktivnog obavljanja poslovne djelatnosti putem stalne poslovne jedinice (osim poslova ulaganja, upravljanja ili jednostavno držanja ulaganja za vlastiti račun poduzeća, osim ako su te djelatnosti djelatnosti bankarstva, osiguranja ili djelatnosti povezane s vrijednosnicama koje provode banka, osiguravajuće poduzeće odnosno registrirani trgovac vrijednosnim papirima).

3. Ako su povlastice iz obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja uskraćene sukladno stavku 1. u pogledu dijela dobiti koju je ostvario rezident ugovorne jurisdikcije, nadležno tijelo druge ugovorne jurisdikcije može, neovisno o tome, dodijeliti te povlastice u pogledu tog dijela dobiti ako, u okviru odgovora na zahtjev koji je podnio taj rezident, to nadležno tijelo utvrdi da je dodjeljivanje povlastica opravdano jer takav rezident nije ispunio zahtjeve stavaka 1. i 2. Nadležno tijelo ugovorne jurisdikcije kojoj je rezident druge ugovorne jurisdikcije podnio zahtjev prema prethodnoj rečenici savjetuje se s nadležnim tijelom druge ugovorne jurisdikcije prije odobrenja ili odbijanja zahtjeva.

4. Stavci 1. do 3. primjenjuju se umjesto ili u slučaju nepostojanja odredaba obuhvaćenog ugovora kojima se uskraćuju ili ograničavaju povlastice koje bi inače bile dodijeljene poduzeću ugovorne jurisdikcije koje ostvaruje dobit iz druge ugovorne jurisdikcije koja se može pripisati stalnoj poslovnoj jedinici poduzeća koja se nalazi u trećoj jurisdikciji.

5. Stranka može zadržati pravo:

- a) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
- b) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbe opisane u stavku 4.;
- c) da se ovaj članak primjenjuje samo na njezine obuhvaćene ugovore o izbjegavanju dvostrukog



oporezivanja koji već sadrže odredbe opisane u stavku 4.

6. Svaka stranka koja nije izrazila rezervu opisanu u podstavku a) ili b) stavka 5. dužna je obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u stavku 4. te, ako je to slučaj, broj članka i stavka svake takve odredbe. U slučaju da su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ta se odredba zamjenjuje odredbama stavaka 1. do 3. U ostalim slučajevima, stavci 1. do 3. zamjenjuju odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne s tim stavcima.

***Članak 11. – Primjena ugovora o izbjegavanju dvostrukog oporezivanja u svrhu ograničavanja prava stranke na oporezivanje vlastitih rezidenata***

1. Obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja ne utječe na oporezivanje ugovorne jurisdikcije vlastitih rezidenata, osim u pogledu povlastica koje se dodjeljuju prema odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja:

- a) kojima se zahtijeva da ta ugovorna jurisdikcija dodijeli poduzeću iz te ugovorne jurisdikcije povezano ili odgovarajuće usklađenje nakon početnog usklađenja koje je provela druga ugovorna jurisdikcija, u skladu s obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja, za iznos poreza koji je prvospomenuta ugovorna jurisdikcija obračunala na dobit stalne poslovne jedinice poduzeća ili dobit povezanog poduzeća;
- b) koje mogu utjecati na to kako ta ugovorna jurisdikcija oporezuje fizičku osobu koja je rezident te ugovorne jurisdikcije ako ta fizička osoba ostvaruje dohodak u pogledu usluga koje pruža drugoj ugovornoj jurisdikciji ili političkoj jedinici ili lokalnoj vlasti ili drugom usporedivom tijelu;
- c) koje mogu utjecati na to kako ta ugovorna jurisdikcija oporezuje fizičku osobu koja je rezident te ugovorne jurisdikcije ako je taj fizička osoba također student, vježbenik, pripravnik ili učitelj, profesor, predavač, instruktor, istraživač ili istraživački znanstvenik koji ispunjava uvjete obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja;
- d) kojima se zahtijeva da ta ugovorna jurisdikcija odobri porezni odbitak ili izuzeće od poreza rezidentima te ugovorne jurisdikcije u pogledu dohotka koji druga ugovorna jurisdikcija može oporezivati u skladu s obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja (uključujući dobit koja se može pripisati stalnoj poslovnoj jedinici koja se nalazi u toj drugoj ugovornoj jurisdikciji u skladu s obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja);
- e) kojima se štite rezidenti te ugovorne jurisdikcije od određenih praksi nejednakog postupanja pri oporezivanju te ugovorne jurisdikcije;
- f) kojima je rezidentima te ugovorne jurisdikcije omogućeno da od nadležnog tijela te ili druge ugovorne jurisdikcije zatraže da razmotri slučajeve oporezivanja koji nisu u skladu s obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja;
- g) koje mogu utjecati na to kako ta ugovorna jurisdikcija oporezuje fizičku osobu koja je rezident te ugovorne jurisdikcije ako je ta fizička osoba član diplomatske misije, vladine misije ili konzularnog ureda druge ugovorne jurisdikcije;
- h) kojima je predviđeno da su mirovine ili druga plaćanja na temelju zakonodavstva o socijalnom osiguranju druge ugovorne jurisdikcije oporezive samo u toj drugoj ugovornoj jurisdikciji;
- i) kojima je predviđeno da su mirovine ili slična plaćanja, rente, alimentacije ili druga plaćanja za

uzdržavanje koja nastaju u drugoj ugovornoj jurisdikciji oporeziva samo u toj drugoj ugovornoj jurisdikciji; ili

- j) kojima je na drugi način izričito ograničeno pravo ugovorne jurisdikcije da oporezuje vlastite rezidente ili kojima je izričito predviđeno da ugovorna jurisdikcija u kojoj nastane dio dohotka ima isključivo pravo oporezivanja tog dijela dohotka.

2. Stavak 1. primjenjuje se umjesto ili u slučaju nepostojanja odredaba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je utvrđeno da obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja neće utjecati na oporezivanje ugovorne jurisdikcije vlastitih rezidenata.

3. Stranka može zadržati pravo:

- a) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
- b) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu opisanu u stavku 2.

4. Svaka stranka koja nije izrazila rezervu opisanu u podstavku a) ili b) stavka 3. dužna je obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u stavku 2. te, ako je to slučaj, broj članka i stavka svake takve odredbe. U slučaju da su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ta se odredba zamjenjuje odredbama stavka 1. U ostalim slučajevima, stavak 1. zamjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne sa stavkom 1.

**DIO IV.**  
**IZBJEGAVANJE STATUSA STALNE POSLOVNE**  
**JEDINICE**

**Članak 12. – Umjetno izbjegavanje statusa stalne poslovne jedinice putem posredničkih aranžmana i sličnih strategija**

1. Neovisno o odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojim je definiran izraz „stalna poslovna jedinica”, ali podložno stavku 2., kada osoba djeluje u ugovornoj jurisdikciji obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja u ime poduzeća te, pri tome, uobičajeno sklapa ugovore ili uobičajeno ima glavnu ulogu u postupku sklapanja ugovora koji se rutinski sklapaju bez značajne preinake od strane poduzeće, te ako se ti ugovori sklapaju:

- a) u ime poduzeća; ili
- b) za prijenos vlasništva, ili za dodjeljivanje prava na korištenje, imovine koju posjeduje to poduzeće ili za koju to poduzeće ima pravo korištenja; ili
- c) za pružanje usluga od strane tog poduzeća,

smatra se da to poduzeće ima stalnu poslovnu jedinicu u toj ugovornoj jurisdikciji u pogledu svih djelatnosti koje ta osoba poduzima za poduzeće osim ako te djelatnosti, da ih obavlja poduzeće putem stalnog mjesta poslovanja tog poduzeća koje se nalazi u toj ugovornoj jurisdikciji, ne bi dovelo do toga da se to stalno mjesto poslovanja smatra stalnom poslovnom jedinicom prema definiciji stalne poslovne jedinice sadržanoj u obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja (kako može biti preinačen ovom Konvencijom).

2. Stavak 1. ne primjenjuje se ako osoba koja djeluje u ugovornoj jurisdikciji obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja u ime poduzeća druge ugovorne jurisdikcije posluje u prvospomenutoj ugovornoj jurisdikciji kao zastupnik sa samostalnim statusom i djeluje za poduzeće u okviru tog redovitog poslovanja. Međutim, ako osoba djeluje isključivo ili gotovo isključivo u ime jednog ili više poduzeća s kojima je usko povezana, ta se osoba ne smatra zastupnikom sa samostalnim statusom u smislu ovog stavka u pogledu bilo kojeg takvog poduzeća.

3. a) Stavak 1. primjenjuje se umjesto odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima se opisuju uvjeti pod kojima se smatra da poduzeće ima stalnu poslovnu jedinicu u ugovornoj jurisdikciji (ili se osoba smatra stalnom poslovnom jedinicom u ugovornoj jurisdikciji) u pogledu djelatnosti koju osoba koja nije zastupnik sa samostalnim statusom poduzima za poduzeće, ali samo u mjeri u kojoj se takve odredbe odnose na situaciju u kojoj takva osoba u toj ugovornoj jurisdikciji ima i uobičajeno provodi ovlast za sklapanje ugovora u ime poduzeća.
- b) Stavak 2. primjenjuje se umjesto odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je predviđeno da se ne smatra da poduzeće ima stalnu poslovnu jedinicu u ugovornoj jurisdikciji u pogledu djelatnosti koju zastupnik sa samostalnim statusom poduzima za poduzeće.

4. Stranka može zadržati pravo da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja.

5. Svaka stranka koja nije izrazila rezervu opisanu u stavku 4. dužna je obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u

podstavku a) stavka 3., kao i o broju članka i stavka svake takve odredbe. Stavak 1. primjenjuje se u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile obavijest u pogledu te odredbe.

6. Svaka stranka koja nije izrazila rezervu opisanu u stavku 4. dužna je obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u podstavku b) stavka 3. te, ako je to slučaj, broj članka i stavka svake takve odredbe. Stavak 2. primjenjuje se u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile obavijest u pogledu te odredbe.

### ***Članak 13. – Umjetno izbjegavanje statusa stalne poslovne jedinice putem izuzeća za određene aktivnosti***

1. Stranka može odabrati primjenjivati stavak 2. (Mogućnost A) ili stavak 3. (Mogućnost B) ili može odabrati da neće primjenjivati niti jednu mogućnost.

#### ***Mogućnost A***

2. Neovisno o odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je definiran izraz „stalna poslovna jedinica”, smatra se da izraz „stalna poslovna jedinica” ne obuhvaća:

- a) djelatnosti izričito navedene u obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja (prije preinake ovom Konvencijom) kao djelatnosti za koje se smatra da ne čine stalnu poslovnu jedinicu, neovisno o tome ovisi li ta iznimka od statusa stalne poslovne jedinice o tome je li djelatnosti pripremne ili pomoćne naravi;
- b) održavanje stalnog mjesta poslovanja isključivo u svrhu obavljanja, za poduzeće, bilo koje djelatnosti koja nije opisana u podstavku a);
- c) održavanje stalnog mjesta poslovanja isključivo u svrhu bilo koje kombinacije djelatnosti navedene u podstavcima a) i b),

pod uvjetom da je takva djelatnost ili, u slučaju podstavka c), ukupna djelatnost stalnog mjesta poslovanja, pripremne ili pomoćne naravi.

#### ***Mogućnost B***

3. Neovisno o odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je definiran izraz „stalna poslovna jedinica”, smatra se da izraz „stalna poslovna jedinica” ne obuhvaća:

- a) djelatnosti izričito navedene u obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja (prije preinake ovom Konvencijom) kao djelatnosti za koje se smatra da ne čine stalnu poslovnu jedinicu, neovisno o tome ovisi li ta iznimka od statusa stalne poslovne jedinice o tome je li djelatnost pripremne ili pomoćne naravi, osim u mjeri u kojoj je odgovarajućom odredbom obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja izričito predviđeno da se smatra da određena djelatnost ne čini stalnu poslovnu jedinicu pod uvjetom da je djelatnost pripremne ili pomoćne naravi;
- b) održavanje stalnog mjesta poslovanja isključivo u svrhu obavljanja, za poduzeće, bilo koje djelatnosti koja nije opisana u podstavku a), pod uvjetom da je ta djelatnost pripremne ili pomoćne naravi;

- c) održavanje stalnog mjesta poslovanja isključivo u svrhu bilo koje kombinacije djelatnosti navedene u podstavcima a) i b), pod uvjetom da je ukupna djelatnost stalnog mjesta poslovanja koja proizlazi iz ove kombinacije pripremne ili pomoćne naravi.

4. Odredba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (kako može biti preinačena stavkom 2. ili 3.) u kojoj su navedene određene djelatnosti za koje se smatra da ne čine stalnu poslovnu jedinicu ne primjenjuje se na stalno mjesto poslovanja koje koristi ili održava poduzeće ako isto poduzeće ili usko povezano poduzeće obavlja poslovanje na istom mjestu ili na drugom mjestu u istoj ugovornoj jurisdikciji i:

- a) to mjesto ili drugo mjesto čine stalnu poslovnu jedinicu poduzeća ili usko povezanog poduzeća prema odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je definirana stalna poslovna jedinica; ili
- b) ukupna djelatnost koja proizlazi iz kombinacije djelatnosti koje obavljaju dva poduzeća na istom mjestu ili isto poduzeće ili usko povezana poduzeća na dva mjesta, nije pripremne ili pomoćne naravi,

pod uvjetom da poslovne djelatnosti koje obavljaju dva poduzeća na istom mjestu ili isto poduzeće ili usko povezana poduzeća na dva mjesta predstavljaju nadopunjujuće funkcije koje su dio jedinstvenog poslovanja.

- 5. a) Stavci 2. ili 3. primjenjuju se umjesto odgovarajućih dijelova odredaba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja u kojima su navedene određene djelatnosti za koje se smatra da ne čine stalnu poslovnu jedinicu čak i ako se djelatnost obavlja putem stalnog mjesta poslovanja (ili odredaba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koje imaju sličan učinak).
- b) Stavak 4. primjenjuje se na odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (kako mogu biti preinačene stavcima 2. ili 3.) u kojima su navedene određene djelatnosti za koje se smatra da ne čine stalnu poslovnu jedinicu čak i ako se djelatnost obavlja putem stalnog mjesta poslovanja (ili na odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koje imaju sličan učinak).

6. Stranka može zadržati pravo:

- a) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
- b) da se stavak 2. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja u kojima se izričito navodi popis određenih djelatnosti za koje se smatra da ne čine stalnu poslovnu jedinicu samo ako je svaka od tih djelatnosti pripremne ili pomoćne naravi;
- c) da se stavak 4. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja.

7. Svaka stranka koja odabere primjenjivati mogućnost iz stavka 1. dužna je o svojem izboru obavijestiti depozitara. Takva obavijest također sadrži popis njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji sadrže odredbu opisanu u podstavku a) stavka 5., kao i broj članka i stavka svake takve odredbe. Mogućnost se primjenjuje u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije odabrale primjenjivati istu mogućnost te su dostavile takvu obavijest u pogledu te odredbe.

8. Svaka stranka koja nije izrazila rezervu opisanu u podstavku a) ili c) stavka 6. te koja nije odabrala primjenjivati jednu od mogućnosti prema stavku 1. dužna je obavijestiti depozitara o tome sadrži li svaki od

njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u podstavku b) stavka 5. te, ako je to slučaj, broj članka i stavka svake takve odredbe. Stavak 4. primjenjuje se u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile obavijest u pogledu te odredbe na temelju ovog stavka ili stavka 7.

#### **Članak 14. – Razdvajanje ugovora**

1. Isključivo kako bi se utvrdilo je li premašeno razdoblje (ili razdoblja) iz odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojom se utvrđuje vremensko razdoblje (ili razdoblja) nakon kojeg određeni projekti ili djelatnosti čine stalnu poslovnu jedinicu:

- a) ako poduzeće iz ugovorne jurisdikcije obavlja djelatnosti u drugoj ugovornoj jurisdikciji na mjestu koje čini gradilište, građevinski projekt, montažni projekt ili drugi određeni projekt utvrđen u odgovarajućoj odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ili obavlja djelatnosti nadzora ili savjetovanja u vezi s takvim mjestom, u slučaju odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koja se odnosi na takve djelatnosti i te se djelatnosti obavljaju tijekom jednog ili više vremenskih razdoblja koja ukupno prelaze 30 dana, ne prelazeći pritom razdoblje ili razdoblja iz odgovarajuće odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja; i
- b) ako se povezane djelatnosti obavljaju u toj drugoj ugovornoj jurisdikciji na (ili, ako se odgovarajuća odredba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja primjenjuje na djelatnosti nadzora ili savjetovanja, u vezi s) istim gradilištem, građevinskim ili montažnim projektom ili na drugom mjestu utvrđenom u odgovarajućoj odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja tijekom različitih vremenskih razdoblja, od kojih svako prelazi 30 dana, od strane jedne ili više poduzeća usko povezanih s prvospomenutim poduzećem,

ova različita vremenska razdoblja dodaju se ukupnom vremenskom razdoblju tijekom kojeg je prvospomenuto poduzeće obavljalo djelatnosti na tom gradilištu, građevinskom ili montažnom projektu ili na drugom mjestu utvrđenom u odgovarajućoj odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.

2. Stavak 1. primjenjuje se umjesto ili u slučaju nepostojanja odredaba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja u mjeri u kojoj se takve odredbe odnose na podjelu ugovora na višestruke dijelove kako bi se izbjegla primjena vremenskog razdoblja u vezi s postojanjem stalne poslovne jedinice za određene projekte ili djelatnosti opisane u stavku 1.

3. Stranka može zadržati pravo:

- a) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja;
- b) da se ovaj članak u cijelosti ne primjenjuje na odredbe njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koje se odnose na istraživanje ili iskorištavanje prirodnih resursa.

4. Svaka stranka koja nije izrazila rezervu opisanu u podstavku a) stavka 3. dužna je obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u stavku 2. koja ne podliježe rezervi iz podstavka b) stavka 3. te, ako je to slučaj, broj članka i stavka svake takve odredbe. U slučaju da su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ta se odredba zamjenjuje odredbama

stavka 1. u mjeri u kojoj je to predviđeno stavkom 2. U ostalim slučajevima, stavak 1. zamjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne sa stavkom 1.

#### ***Članak 15. – Definicija osobe usko povezane s poduzećem***

1. U svrhu odredaba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja preinačenih stavkom 2. članka 12. (Umjetno izbjegavanje statusa stalne poslovne jedinice putem posredničkih aranžmana i sličnih strategija), stavkom 4. članka 13. (Umjetno izbjegavanje statusa stalne poslovne jedinice putem izuzeća za određene aktivnosti) ili stavkom 1. članka 14. (Razdvajanje ugovora), smatra se da je osoba usko povezana s poduzećem ako, na temelju svih odgovarajućih činjenica i okolnosti, jedno ima kontrolu nad drugim ili su oboje pod kontrolom istih osoba ili poduzeća. U svakom slučaju, osoba se smatra usko povezana s poduzećem ako jedno izravno ili neizravno posjeduje više od 50 posto stvarnog udjela u drugom (ili, u slučaju društva, više od 50 posto ukupnog glasačkog prava i vrijednosti dionica društva ili stvarnog vlasničkog udjela u društvu) ili ako druga osoba izravno ili neizravno posjeduje više od 50 posto stvarnog udjela (ili, u slučaju poduzeća, više od 50 posto ukupnog glasačkog prava i vrijednosti dionica društva ili stvarnog vlasničkog udjela u društvu) u osobi i poduzeću.

2. Stranka koja je izrazila rezerve opisane u stavku 4. članka 12. (Umjetno izbjegavanje statusa stalne poslovne jedinice putem posredničkih aranžmana i sličnih strategija), podstavcima a) ili c) stavka 6. članka 13. (Umjetno izbjegavanje statusa stalne poslovne jedinice putem izuzeća za određene aktivnosti) te podstavku a) stavka 3. članka 14. (Razdvajanje ugovora) može zadržati pravo da se ovaj članak u cijelosti ne primjenjuje na obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja na koje se primjenjuju te rezerve.

**DIO V.**  
**POBOLJŠANJE RJEŠAVANJA SPOROVA**

**Članak 16. – Postupak zajedničkog dogovaranja**

1. Ako osoba smatra da postupci jedne ili objiju ugovornih jurisdikcija kao posljedicu za tu osobu imaju ili će imati oporezivanje koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ona može, neovisno o pravnim lijekovima predviđenima domaćim propisima tih ugovornih jurisdikcija, iznijeti svoj slučaj pred nadležno tijelo bilo koje ugovorne jurisdikcije. Slučaj se mora prijaviti u roku od tri godine od prve obavijesti o postupku koji je doveo do oporezivanja koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.
2. Nadležno tijelo nastoji, ako smatra da je prigovor opravdan i ako samo nije u mogućnosti doći do zadovoljavajućeg rješenja, riješiti slučaj zajedničkim dogovorom s nadležnim tijelom druge ugovorne jurisdikcije, radi izbjegavanja oporezivanja koje nije u skladu s obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja. Svaki postignuti dogovor provodi se neovisno o vremenskim rokovima domaćim propisima ugovornih jurisdikcija.
3. Nadležna tijela ugovornih jurisdikcija nastoje zajedničkim dogovorom riješiti sve teškoće ili dvojbe proizašle iz tumačenja ili primjene obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja. Ona se također mogu međusobno savjetovati radi uklanjanja dvostrukog oporezivanja u slučajevima koji nisu predviđeni obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja.
4. a) i) Prva rečenica stavka 1. primjenjuje se umjesto ili u slučaju nepostojanja odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (ili njihovih dijelova) kojima je predviđeno da, ako osoba smatra da postupci jedne ili objiju ugovornih jurisdikcija kao posljedicu za tu osobu imaju ili će imati oporezivanje koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ona može, neovisno o pravnim lijekovima predviđenim u domaćim propisima tih ugovornih jurisdikcija, iznijeti svoj slučaj pred nadležno tijelo ugovorne jurisdikcije čiji je rezident, uključujući odredbe prema kojima se, ako se na slučaj koji je iznijela ta osoba primjenjuju odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja o zabrani diskriminacije na temelju državljanstva, slučaj može iznijeti pred nadležno tijelo ugovorne jurisdikcije čija je ta osoba državljanin.  
ii) Druga rečenica stavka 1. primjenjuje se umjesto odredaba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je predviđeno da se slučaj iz prve rečenice stavka 1. mora prijaviti unutar određenog vremenskog roka kraćeg od tri godine od prve obavijesti o postupku koji je doveo do oporezivanja koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ili u slučaju nepostojanja odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojom je opisano vremensko razdoblje unutar kojeg slučaj mora biti prijavljen.
- b) i) Prva rečenica stavka 2. primjenjuje se u slučaju nepostojanja odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je predviđeno da će nadležno tijelo pred koje je slučaj iznesen od strane osobe iz stavka 1., ako smatra da je prigovor opravdan i ako samo nije u mogućnosti doći do zadovoljavajućeg rješenja, riješiti slučaj zajedničkim dogovorom s nadležnim tijelom druge ugovorne jurisdikcije, radi izbjegavanja oporezivanja koje nije u skladu s obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja.



- ii) Druga rečenica stavka 2. primjenjuje se u slučaju nepostojanja odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je predviđeno da se svaki postignuti dogovor provodi neovisno o vremenskim rokovima domaćih propisa ugovornih jurisdikcija.
- c) i) Prva rečenica stavka 3. primjenjuje se u slučaju nepostojanja odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je predviđeno da nadležna tijela ugovornih jurisdikcija nastoje zajedničkim dogovorom riješiti sve teškoće ili dvojbe proizašle iz tumačenja ili primjene obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.
- ii) Druga rečenica stavka 3. primjenjuje se u slučaju nepostojanja odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je predviđeno da se nadležna tijela mogu također međusobno savjetovati radi uklanjanja dvostrukog oporezivanja u slučajevima koji nisu predviđeni obuhvaćenim ugovorom o izbjegavanju dvostrukog oporezivanja.

5. Stranka može zadržati pravo:

- a) da se prva rečenica stavka 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja ako namjerava ispuniti minimalni standard za poboljšanje postupka rješavanja sporova na temelju OECD/G20 BEPS paketa na način da zajamči da, prema svakom od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja (osim obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojim je osobi dopušteno da iznese slučaj pred nadležno tijelo bilo koje ugovorne jurisdikcije), ako osoba smatra da postupci jedne ili obiju ugovornih jurisdikcija kao posljedicu za tu osobu imaju ili će imati oporezivanje koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ona može, neovisno o pravnim lijekovima predviđenim domaćim propisima tih ugovornih jurisdikcija, iznijeti svoj slučaj pred nadležno tijelo ugovorne jurisdikcije čiji je rezident ili, ako se na slučaj koji je ta osoba iznijela primjenjuje odredba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja o zabrani diskriminacije na temelju državljanstva, nadležnom tijelu ugovorne jurisdikcije čiji je državljanin; nadležno tijelo te ugovorne jurisdikcije provest će postupak dvostranog obavještanja ili savjetovanja s nadležnim tijelom druge ugovorne jurisdikcije za slučajeve u kojima nadležno tijelo kojemu je iznesen slučaj postupka zajedničkog dogovaranja ne smatra prigovor poreznog obveznika opravdanim;
- b) da se druga rečenica stavka 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja kojima nije predviđeno da se slučaj iz prve rečenice stavka 1. mora prijaviti unutar određenog vremenskog razdoblja ako namjerava ispuniti minimalni standard za poboljšanje postupka rješavanja sporova na temelju OECD/G20 BEPS paketa na način da zajamči da, u svrhu svih takvih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja, porezni obveznik iz stavka 1. ima pravo prijaviti slučaj u roku od najmanje tri godine od prve obavijesti o postupku koji je doveo do oporezivanja koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja;
- c) da se druga rečenica stavka 2. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja jer se, u svrhu svih njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja:
  - i) svi dogovori postignuti u okviru postupka zajedničkog dogovaranja primjenjuju neovisno o vremenskim rokovima utvrđenim domaćim propisima ugovornih jurisdikcija; ili
  - ii) namjerava ispuniti minimalni standard za poboljšanje postupka rješavanja sporova na

temelju OECD/G20 BEPS paketa na način da, u pregovorima za sklapanje dvostranog ugovora, prihvaća odredbu ugovora kojom je predviđeno sljedeće:

- A) ugovorne jurisdikcije ne provode usklađenje dobiti koja se može pripisati stalnoj poslovnoj jedinici poduzeća jedne ugovorne jurisdikcije nakon razdoblja o kojem se obje ugovorne jurisdikcije međusobno savjetuju od kraja porezne godine u kojoj bi se dobit pripisala stalnoj poslovnoj jedinici (ova se odredba ne primjenjuje u slučaju prijevare, krajnje nepažnje ili hotimične pogreške); i
- B) ugovorne jurisdikcije ne uključuju u dobit poduzeća i ne oporezuju sukladno, dobit koju bi steklo poduzeće, ali koju nije steklo zbog uvjeta iz odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koja se odnosi na povezana poduzeća, nakon razdoblja o kojem se obje ugovorne jurisdikcije međusobno savjetuju od kraja porezne godine u kojoj bi se dobit pripisala stalnoj poslovnoj jedinici (ova se odredba ne primjenjuje u slučaju prijevare, krajnje nepažnje ili hotimične pogreške).

- 6. a) Svaka stranka koja nije izrazila rezervu opisanu u podstavku a) stavka 5. dužna je obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u točki i) podstavka a) stavka 4. te, ako je to slučaj, broj članka i stavka svake takve odredbe. U slučaju da su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ta se odredba zamjenjuje prvom rečenicom stavka 1. U ostalim slučajevima, prva rečenica stavka 1. zamjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne s tom rečenicom.
- b) Svaka stranka koja nije izrazila rezervu opisanu u podstavku b) stavka 5. dužna je obavijestiti depozitara o:
  - i) popisu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji sadrže odredbu kojom je predviđeno da se slučaj iz prve rečenice stavka 1. mora prijaviti unutar određenog vremenskog roka kraćeg od tri godine od prve obavijesti o postupku koji je doveo do oporezivanja koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, kao i broj članka i stavka svake takve odredbe; odredba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja zamjenjuje se drugom rečenicom stavka 1. ako su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu te odredbe; u ostalim slučajevima, podložno točki ii), druga rečenica stavka 1. zamjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne s drugom rečenicom stavka 1.;
  - ii) popisu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji sadrže odredbu kojom je predviđeno da se slučaj iz prve rečenice stavka 1. mora prijaviti unutar određenog vremenskog roka koji iznosi najmanje tri godine od prve obavijesti o postupku koji je doveo do oporezivanja koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, kao i broj članka i stavka svake takve odredbe; druga rečenica stavka 1. ne primjenjuje se na obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja ako su sve ugovorne jurisdikcije dostavile obavijest u pogledu tog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.
- c) Svaka stranka dužna je dostaviti depozitaru:
  - i) popis svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji ne sadrže odredbu opisanu u točki i) podstavka b) stavka 4.; prva rečenica stavka 2. primjenjuje se

na obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu tog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja;

- ii) u slučaju stranke koja nije izrazila rezervu opisanu u podstavku c) stavka 5., popis njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji ne sadrže odredbu opisanu u točki ii) podstavka b) stavka 4.; druga rečenica stavka 2. primjenjuje se na obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu tog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.
- d) Svaka stranka dužna je dostaviti depozitaru:
- i) popis njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji ne sadrže odredbu opisanu u točki i) podstavka c) stavka 4.; prva rečenica stavka 3. primjenjuje se na obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu tog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja;
  - ii) popis njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji ne sadrže odredbu opisanu u točki i) podstavka c) stavka 4.; druga rečenica stavka 3. primjenjuje se na obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja samo ako su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu tog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.

### **Članak 17. – Odgovarajuća usklađenja**

1. Ako ugovorna jurisdikcija u dobit poduzeća te ugovorne jurisdikcije uključuje - i sukladno tome oporezuje - dobit na koju je poduzeću druge ugovorne jurisdikcije već obračunat porez u toj drugoj ugovornoj jurisdikciji i takva uključena dobit je dobit za koju prvospomenuta ugovorna jurisdikcija tvrdi da je dobit koju bi poduzeće prvospomenute ugovorne jurisdikcije ostvarilo da su uvjeti dogovoreni između ta dva poduzeća bili jednaki onima koje bi dogovorila samostalna poduzeća, tada ta druga ugovorna jurisdikcija na odgovarajući način usklađuje iznosa poreza koji je u njoj obračunat na tu dobit. Pri utvrđivanju takvog usklađenja, trebaju se uzeti u obzir druge odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja te se nadležna tijela ugovornih jurisdikcija, prema potrebi, međusobno savjetuju.

2. Stavak 1. primjenjuje se umjesto ili u slučaju nepostojanja odredbe kojom se od ugovorne jurisdikcije zahtijeva da provede odgovarajuća usklađenja iznosa poreza koji je u njoj obračunat na dobit poduzeća te ugovorne jurisdikcije ako druga ugovorna jurisdikcija uključuje tu dobit u dobit poduzeća te druge ugovorne jurisdikcije i sukladno oporezuje tu dobit i takva uključena dobit je dobit za koju prvospomenuta ugovorna jurisdikcija tvrdi da je dobit koju bi poduzeće prvospomenute ugovorne jurisdikcije ostvarilo da su uvjeti dogovoreni između ta dva poduzeća bili jednaki onima koje bi dogovorila samostalna poduzeća.

3. Stranka može zadržati pravo:

- a) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu opisanu u stavku 2.;
- b) da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja ako u slučaju nepostojanja odredbe iz stavka 2. njezinog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja:

- i) provodi odgovarajuće usklađenje iz stavka 1.; ili
  - ii) njezino nadležno tijelo nastoji riješiti slučaj prema odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koje se odnose na postupak zajedničkog dogovaranja;
- c) u slučaju stranke koja je izrazila rezervu iz točke ii) podstavka c) stavka 5. članka 16. (Postupak zajedničkog dogovaranja), da se ovaj članak u cijelosti ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja ako u svojim pregovorima za sklapanje dvostranih ugovora prihvati odredbu ugovora kakva je sadržana u stavku 1., pod uvjetom da su ugovorne jurisdikcije uspjele postići dogovor o toj odredbi i o odredbama opisanim u točki ii) podstavka c) stavka 5. članka 16. (Postupak zajedničkog dogovaranja).

4. Svaka stranka koja nije izrazila rezervu opisanu u stavku 3. dužna je obavijestiti depozitara o tome sadrži li svaki od njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja odredbu opisanu u stavku 2. te, ako je to slučaj, broj članka i stavka svake takve odredbe. U slučaju da su sve ugovorne jurisdikcije dostavile takvu obavijest u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ta se odredba zamjenjuje odredbama stavka 1. U ostalim slučajevima, stavak 1. zamjenjuje odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj su te odredbe nesukladne sa stavkom 1.

## **DIO VI. ARBITRAŽA**

### **Članak 18. – Odabir o primjeni dijela VI.**

Stranka može odabrati primjenjivati ovaj dio u pogledu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja i o tome je dužna obavijestiti depozitara. Ovaj se dio primjenjuje u vezi s dvjema ugovornim jurisdikcijama u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo ako su obje ugovorne jurisdikcije dostavile takvu obavijest.

### **Članak 19. – Obvezna obvezujuća arbitraža**

1. Ako:

- a) prema odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (kako može biti preinačen stavkom 1. članka 16. (Postupak zajedničkog dogovaranja)) kojom je predviđeno da osoba može iznijeti slučaj nadležnom tijelu ugovorne jurisdikcije ako ta osoba smatra da postupci jedne ili obje ugovornih jurisdikcija kao posljedicu imaju ili će imati oporezivanje koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (kako može biti preinačen Konvencijom), osoba je iznijela slučaj nadležnom tijelu ugovorne jurisdikcije jer su postupci jedne ili obje ugovornih jurisdikcija kao posljedicu imali oporezivanje te osobe koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (kako može biti preinačen Konvencijom); i
- b) nadležna tijela ne mogu postići dogovor o rješavanju slučaja sukladno odredbi obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (kako može biti preinačen stavkom 2. članka 16. (Postupak zajedničkog dogovaranja)) kojom je predviđeno da će nadležno tijelo nastojati riješiti slučaj zajedničkim dogovorom s nadležnim tijelom druge ugovorne jurisdikcije u razdoblju od dvije godine od datuma početka iz stavka 8. ili 9., ovisno o slučaju (osim ako prije isteka tog razdoblja nadležna tijela ugovornih jurisdikcija nisu dogovorila drukčije vremensko razdoblje u pogledu tog slučaja te su o tom dogovoru obavijesti osobu koja je iznijela slučaj),

bilo koje neriješeno pitanje koje proizlazi iz slučaja, ako osoba to zatraži pisanim putem, podnose se na arbitražu na način opisan u ovom dijelu, u skladu sa svim pravilima i postupcima koje su usuglasila nadležna tijela ugovornih jurisdikcija sukladno odredbama stavka 10.

2. Ako je nadležno tijelo obustavilo postupak zajedničkog dogovaranja iz stavka 1. jer je slučaj, u pogledu jednog ili više istih pitanja, u postupku pred sudom ili upravnim sudom, razdoblje iz podstavka b) stavka 1. obustavlja se dok sud ili upravni sud ne donese konačnu odluku ili do obustave ili povlačenja slučaja. Nadalje, ako su se osoba koja je iznijela slučaj i nadležno tijelo dogovorili da će obustaviti postupak zajedničkog dogovaranja, razdoblje iz podstavka b) stavka 1. prestaje teći dok se obustave pokrene.

3. Ako su oba nadležna tijela suglasna da osoba na koju izravno utječe slučaj nije pravovremeno dostavila nikakve dodatne materijalne informacije koje je zatražilo bilo koje nadležno tijelo nakon početka razdoblja iz podstavka b) stavka 1., razdoblje iz podstavka b) stavka 1. produljuje se za vrijeme jednako razdoblju koje započinje na datum na koji su informacije zatražene te završava na datum na koji su informacije dostavljene.

4. a) Odluka arbitraže u pogledu pitanja podnesenih na arbitražu provodi se na temelju zajedničkog dogovora u pogledu slučaja iz stavka 1. Odluka arbitraže je konačna.

- b) Odluka arbitraže obvezujuća je za obje ugovorne jurisdikcije, osim u sljedećim slučajevima:
- i) ako osoba na koju slučaj izravno utječe ne prihvaća zajednički dogovor kojim se provodi odluka arbitraže. U takvom slučaju, slučaj nije prikladan za bilo kakva daljnja razmatranja od strane nadležnih tijela. Smatra se da osoba na koju izravno utječe slučaj nije prihvatila zajednički dogovor kojim se provodi odluka arbitraže o slučaju ako bilo koja osoba na koju izravno utječe slučaj u roku od 60 dana od datuma na koji je toj osobi poslana obavijest o zajedničkom dogovoru, povuče sva pitanja riješena zajedničkim dogovorom kojim se provodi arbitražna odluka s razmatranja bilo kojeg suda ili upravnog suda ili ako na neki drugi način prekine bilo koji aktualni sudski ili upravni postupak u pogledu takvih pitanja na način dosljedan tom zajedničkom dogovoru.
  - ii) ako u konačnoj odluci sudova jedne od ugovornih jurisdikcija stoji da je arbitražna odluka nevažeća. U takvom slučaju smatra se da nije podnesen zahtjev za arbitražu iz stavka 1. te da nije proveden arbitražni postupak (osim u svrhu članaka 21. (Povjerljivosti arbitražnog postupka) i 25. (Troškovi arbitražnog postupka)). U takvom slučaju može se podnijeti novi zahtjev za arbitražu, osim ako nadležna tijela nisu suglasna da takav novi zahtjev nije dopušten.
  - iii) ako osoba na koju slučaj izravno utječe odluči voditi sudski spor o pitanjima koja su riješena zajedničkim dogovorom kojim se provodi arbitražna odluka na bilo kojem sudu ili upravnom sudu.

5. Nadležno tijelo koje je primilo prvotni zahtjev za postupak zajedničkog dogovora, kako je opisano u podstavku a) stavka 1., u roku od dva kalendarska mjeseca od primitka zahtjeva:

- a) šalje obavijest osobi koja je iznijela slučaj o tome da je primilo zahtjev; i
- b) šalje obavijest o tom zahtjevu, zajedno s preslikom zahtjeva, nadležnom tijelu druge ugovorne jurisdikcije.

6. U roku od tri kalendarska mjeseca nakon što nadležno tijelo primi zahtjev za postupak zajedničkog dogovaranja (ili presliku tog zahtjeva od nadležnog tijela druge ugovorne jurisdikcije), to nadležno tijelo može ili:

- a) obavijestiti osobu koja je iznijela slučaj i drugo nadležno tijelo da je primilo informacije potrebne za materijalno razmatranje slučaja; ili
- b) zatražiti dodatne informacije od te osobe u tu svrhu.

7. Ako su, sukladno podstavku b) stavka 6., jedno ili oba nadležna tijela od osobe koja je iznijela slučaj zatražile dodatne informacije potrebne za materijalno razmatranje slučaja, nadležno tijelo koje je zatražilo dodatne informacije, u roku od tri kalendarska mjeseca od primitka dodatnih informacija od te osobe, obavještava tu osobu i drugo nadležno tijelo ili:

- a) da je primilo zatražene informacije; ili
- b) da još nedostaju neke od zatraženih informacija.

8. Ako nijedno nadležno tijelo nije zatražilo dodatne informacije u skladu s podstavkom b) stavka 6., datum početka iz stavka 1. jest raniji od sljedećih datuma:

- a) datuma na koji su oba nadležna tijela obavijestila osobu koja je iznijela slučaj sukladno podstavku a) stavka 6.; i
- b) datuma koji je tri kalendarska mjeseca nakon obavještenja nadležnog tijela druge ugovorne jurisdikcije sukladno podstavku b) stavka 5.

9. Ako su zatražene dodatne informacije sukladno podstavku b) stavka 6., datum početka iz stavka 1. jest raniji od sljedećih datuma:

- a) najkasnijeg datuma na koji su nadležna tijela koja su zatražila dodatne informacije obavijestila osobu koja je iznijela slučaj i drugo nadležno tijelo sukladno podstavku a) stavka 7.; i
- b) datuma koji je tri kalendarska mjeseca nakon što su oba nadležna tijela primila sve informacije koje je bilo koje nadležno tijelo zatražilo od osobe koja je iznijela slučaj.

Međutim, ako jedno ili oba nadležna tijela pošalju obavijest iz podstavka b) stavka 7., takva obavijest se smatra zahtjevom za dodatne informacije prema podstavku b) stavka 6.

10. Nadležna tijela ugovornih jurisdikcija na temelju zajedničkog dogovora (sukladno članku odgovarajućeg obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja o postupcima zajedničkog dogovaranja) utvrđuju način primjene odredaba sadržanih u ovom dijelu, uključujući minimum informacija potrebnih kako bi svako nadležno tijelo poduzelo materijalno razmatranje slučaja. Takav se dogovor mora postići prije datuma na koji se neriješena pitanja iz slučaja za početak mogu podnijeti na arbitražu, nakon čega se mogu povremeno preinačiti.

11. U svrhu primjene ovog članka na obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja, stranka može zadržati pravo na zamjenu dvogodišnjeg razdoblja utvrđenog u podstavku b) stavka 1. trogodišnjim razdobljem.

12. Stranka može zadržati pravo na primjenu sljedećih pravila u pogledu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja, neovisno o odredbama ovog članka:

- a) bilo koje neriješeno pitanje koje proizlazi iz postupka zajedničkog dogovaranja koji inače spada u opseg arbitražnog postupka predviđenog ovom Konvencijom ne podnosi se na arbitražu ako je sud ili upravni sud bilo koje ugovorne jurisdikcije već donio odluku o tom pitanju;
- b) ako, u bilo kojem trenutku nakon podnošenja zahtjeva za arbitražu, a prije nego što arbitražno vijeće obavijesti nadležna tijela ugovornih jurisdikcija o svojoj odluci, sud ili upravni sud jedne od ugovornih jurisdikcija donese odluku o tome pitanju, arbitražni postupak se okončava.

## **Članak 20. – Imenovanje arbitara**

1. Osim u mjeri u kojoj su nadležna tijela ugovornih jurisdikcija postigla suglasnost oko različitih pravila, za potrebe ovog dijela primjenjuju se stavci 2. do 4.

2. Imenovanje članova arbitražnog vijeća uređeno je sljedećim pravilima:

- a) Arbitražno vijeće sastoji se od tri pojedinačna člana koji su stručni ili iskusni u pitanjima međunarodnog oporezivanja.

- b) Svako nadležno tijelo imenuje jednog člana vijeća u roku od 60 dana od datuma zahtjeva za arbitražu prema stavku 1. članka 19. (Obavezna i obvezujuća arbitraža). Tako imenovana dva člana, u roku od 60 dana od datuma kada je imenovan drugi član, imenuju trećeg člana koji će imati funkciju predsjedavajućeg arbitražnog vijeća. Predsjedavajući arbitražnog vijeća ne smije biti državljanin ili rezident ugovornih jurisdikcija.
- c) Svaki član arbitražnog vijeća mora biti nepristran i neovisan u odnosu na nadležna tijela, porezne uprave i ministarstva financija ugovornih jurisdikcija te na sve osobe na koje izravno utječe slučaj (kao i njihove savjetnike) u trenutku kada prihvati imenovanje te mora zadržati nepristranost i neovisnost tijekom čitavog postupka te tijekom razumnog vremenskog razdoblja nakon toga mora izbjegavati postupanje koje može ugroziti dojam nepristranosti i neovisnost arbitara u pogledu postupka.

3. U slučaju da nadležno tijelo ugovorne jurisdikcije ne imenuje člana arbitražnog vijeća na način i unutar vremenskih razdoblja utvrđenih u stavku 2. ili na temelju dogovora nadležnih tijela ugovornih jurisdikcija, člana u ime tog nadležnog tijela imenuje najviše pozicionirani dužnosnik Centra za poreznu politiku i upravu Organizacije za gospodarsku suradnju i razvitak koji nije državljanin niti jedne ugovorne jurisdikcije.

4. Ako dva prvoimenovana člana arbitražnog vijeća ne imenuju predsjedavajućeg arbitražnog vijeća na način i unutar vremenskih razdoblja utvrđenih u stavku 2. ili na temelju dogovora nadležnih tijela ugovornih jurisdikcija, predsjedavajućeg imenuje najviše pozicionirani dužnosnik Centra za poreznu politiku i upravu Organizacije za gospodarsku suradnju i razvitak koji nije državljanin niti jedne ugovorne jurisdikcije.

#### ***Članak 21. – Povjerljivost arbitražnog postupka***

1. Isključivo u svrhu primjene odredbi ovog dijela te odredbi odgovarajućeg obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja i domaćih propisa ugovornih jurisdikcija u području razmjene informacija, povjerljivosti i upravne pomoći, članovi arbitražnog postupka i najviše tri člana osoblja po članu (te budući arbitri u mjeri nužnoj za provjeru njihove sposobnosti da ispune zahtjeve za arbitre) smatraju se osobama ili nadležnim tijelima kojima se smiju otkrivati informacije. Informacije koje primi arbitražno vijeće ili budući arbitri te informacije koje nadležna tijela prime od arbitražnog vijeća smatraju se informacijama koje se razmjenjuju prema odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja povezanih s razmjenom informacija i upravnom pomoći.

2. Nadležna tijela ugovornih jurisdikcija jamče da se članovi arbitražnog vijeća i njihovo osoblje, prije njihovog sudjelovanja u arbitražnom postupku, pisanim putem obvežu da će sa svima informacijama koje se odnose na arbitražni postupak postupati dosljedno u skladu s povjerljivošću i neotkrivanjem obveza opisanima u odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja u vezi s razmjenom informacija i upravnom pomoći te prema primjenjivim propisima ugovornih jurisdikcija.

#### ***Članak 22. – Rješavanje slučaja prije zaključivanja arbitraže***

U svrhu ovog dijela i odredaba odgovarajućeg obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je predviđeno rješavanje slučajeva putem zajedničkog dogovaranja, postupak zajedničkog dogovaranja, kao i arbitražni postupak, u pogledu slučaja okončava se ako, u bilo kojem trenutku nakon podnošenja zahtjeva za arbitražu te prije nego što arbitražno vijeće dostavi svoju odluku nadležnim tijelima ugovornih jurisdikcija:

- a) nadležna tijela ugovornih jurisdikcija postignu zajednički dogovor o rješavanju predmeta; ili



- b) osoba koja je iznijela slučaj povuče zahtjev za arbitražu ili zahtjev za postupak zajedničkog dogovaranja.

### **Članak 23. – Vrsta arbitražnog postupka**

1. Osim u mjeri u kojoj su nadležna tijela ugovornih jurisdikcija postigla suglasnost oko različitih pravila, u pogledu arbitražnog postupka sukladno ovom dijelu primjenjuju se sljedeća pravila:

- a) Nakon što se slučaj podnese na arbitražu, nadležno tijelo svake ugovorne jurisdikcije do dogovorenog datuma podnosi arbitražnom vijeću predloženo rješenje kojim se rješavaju sva neriješena pitanja u slučaju (uzimajući u obzir sve prethodno postignute dogovore u tom slučaju između nadležnih tijela ugovornih jurisdikcija). Predloženo rješenje ograničeno je na utvrđivanje određenog novčanog iznosa (primjerice, dohotka ili troška) ili, ako je tako utvrđeno, najviše stope poreza obračunatog sukladno obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja, za svako usklađenje ili slično pitanje u okviru slučaja. U slučaju da nadležna tijela ugovornih jurisdikcija nisu uspjela postići dogovor o pitanju koje se odnosi na uvjete primjene odredbe odgovarajućeg obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (u daljnjem tekstu: pitanje praga), kao što je pitanje je li fizička osoba rezident ili postoji li stalna poslovna jedinica, nadležna tijela mogu podnijeti alternativna predložena rješenja u pogledu pitanja čije utvrđivanje ovisi o rješavanju takvih pitanja praga.
- b) Nadležno tijelo svake ugovorne jurisdikcije također može podnijeti prateću dokumentaciju na razmatranje arbitražnog vijeća. Svako nadležno tijelo koje podnese predloženo rješenje ili prateću dokumentaciju dostavlja njihovu presliku drugom nadležnom tijelu do krajnjeg datuma za dostavu predloženog rješenja i prateće dokumentacije. Svako nadležno tijelo također može dostaviti arbitražnom vijeću, do dogovorenog datuma, podnesak s odgovorom u pogledu predloženog rješenja i prateće dokumentacije koju je dostavilo drugo nadležno tijelo. Preslika podneska s odgovorom dostavlja se drugom nadležnom tijelu do krajnjeg datuma za dostavu podneska s odgovorom.
- c) Arbitražno vijeće donosi odluku o odabiru jednog od predloženih rješenja za slučaj koji su podnijela nadležna tijela u pogledu svakog pitanja i pitanja praga i ne dostavlja razumno ili bilo kakvo drugo obrazloženje odluke. Arbitražna odluka usvaja se običnom većinom članova vijeća. Arbitražno vijeće dostavlja svoju odluku nadležnim tijelima ugovornih jurisdikcija u pisanom obliku. Odluka o arbitraži nema vrijednost presedana.

2. U svrhu primjene ovog članka u pogledu njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja, stranka može zadržati pravo da se stavak 1. ne primjenjuje na njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja. U takvom slučaju, osim u mjeri u kojoj su nadležna tijela ugovornih jurisdikcija postigla suglasnost o drukčijim pravilima, u pogledu arbitražnog postupka primjenjuju se sljedeća pravila:

- a) Nakon što se slučaj podnese na arbitražu, nadležno tijelo svake ugovorne jurisdikcije svim članovima vijeća bez odlaganja pruža sve informacije potrebne za donošenje arbitražne odluke. Osim ako se nadležna tijela ugovornih jurisdikcija ne dogovore drukčije, sve informacije koje nisu bile dostupne obama nadležnim tijelima prije nego što su oba primila zahtjev za arbitražu ne uzimaju se u obzir u svrhu donošenja odluke.
- b) Arbitražno vijeće odlučuje o pitanjima podnesenim na arbitražu u skladu s primjenjivim odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja te, podložno tim odredbama, odredbama domaćih propisa ugovornih jurisdikcija. Članovi vijeća također

razmatraju sve ostale izvore koje nadležna tijela ugovornih jurisdikcija mogu izričito utvrditi zajedničkim dogovorom.

- c) Odluka o arbitraži dostavlja se nadležnim tijelima ugovornih jurisdikcija u pisanom obliku, a u njoj se navode korišteni izvori prava i razlozi koji su doveli do njezina donošenja. Arbitražna odluka donosi se običnom većinom glasova članova vijeća. Odluka o arbitraži nema vrijednost presedana.

3. Stranka koja nije izrazila rezervu opisanu u stavku 2. može zadržati pravo da se prethodni stavci ovog članka ne primjenjuju u pogledu njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja sklopljenih sa strankama koje su izrazile takvu rezervu. U takvom slučaju, nadležna tijela ugovornih jurisdikcija svakog takvog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja nastoje postići dogovor o vrsti arbitražnog postupka koji se primjenjuje u pogledu tog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja. Do postizanja takvog ugovora, članak 19. (Obavezna i obvezujuća arbitraža) ne primjenjuje se u pogledu takvog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.

4. Stranka također može odabrati primjenjivati stavak 5. u pogledu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja i tome je dužna obavijestiti depozitara. Stavak 5. primjenjuje se u vezi dvije ugovorne jurisdikcije u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ako je bila koja ugovorna jurisdikcija dostavila takvu obavijest.

5. Prije početka arbitražnog postupka, nadležna tijela ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja jamče da se svaka osoba koja je iznijela slučaj i njihovi savjetnici u pisanom obliku obvežu da neće otkrivati drugim osobama informacije primljene tijekom arbitražnog postupka ili od nadležnog tijela ili od arbitražnog vijeća. Postupak zajedničkog dogovaranja prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja, kao i arbitražni postupak iz ovog dijela, okončavaju se u pogledu slučaja ako, u bilo kojem trenutku nakon izrade zahtjeva za arbitražu te prije nego što arbitražno vijeće dostavi svoju odluku nadležnim tijelima ugovornih jurisdikcija, osoba koja je iznijela slučaj ili njezini savjetnici počine materijalnu povredu tog dogovora.

6. Neovisno o odredbama stavka 4., stranka koja odabere ne primjenjivati stavak 5. može zadržati pravo ne primjenjivati stavak 5. u pogledu jednog ili više utvrđenih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja ili u pogledu svim svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja.

7. Stranka koja odabere primjenjivati stavak 5. može zadržati pravo da se ovaj dio ne primjenjuje u pogledu svih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja za koje je druga ugovorna strana izrazila rezervu sukladno stavku 6.

#### **Članak 24. – Sporazum o drukčijem rješenju**

1. U svrhu primjene ovog dijela u pogledu njezinih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja, stranka može odabrati primjenjivati stavak 2. i tome je dužna obavijestiti depozitara. Stavak 2. primjenjuje se u vezi dvije ugovorne jurisdikcije u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo ako su obje ugovorne jurisdikcije dostavile takvu obavijest.

2. Neovisno o odredbama stavka 4. članka 19. (Obavezna i obvezujuća arbitraža), odluka o arbitraži sukladno ovom dijelu nije obvezujuća za ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja i ne primjenjuje se ako nadležna tijela ugovornih jurisdikcija postignu sporazum o drukčijem rješenju svih neriješenih pitanja u roku od tri kalendarska mjeseca od dana kada im je dostavljena odluka o arbitraži.

3. Stranka koja odabere primjenjivati stavak 2. može zadržati pravo da primjenjuje stavak 2. samo u pogledu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja na koje se primjenjuje stavak 2. članka 23. (Vrsta arbitražnog postupka).

### **Članak 25. – Troškovi arbitražnog postupka**

U okviru arbitražnog postupka iz ovog dijela naknade i troškove članova arbitražnog vijeća, kao i sve troškove ugovornih jurisdikcija nastale u vezi arbitražnog postupka, snose ugovorne jurisdikcije na način koji se utvrđuje zajedničkim dogovorom nadležnih tijela ugovornih jurisdikcija. U slučaju nepostojanja takvog dogovora, svaka ugovorna jurisdikcija snosi vlastite troškove i troškove svojeg imenovanog člana vijeća. Troškove predsjedavajućeg arbitražnog vijeća i ostale troškove povezane s provedbom arbitražnog postupka snose ugovorne jurisdikcije u jednakim omjerima.

### **Članak 26. – Sukladnost**

1. Podložno članku 18. (Odabir o primjeni dijela VI.), odredbe ovog dijela primjenjuju se umjesto ili u slučaju nepostojanja odredaba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojima je predviđena arbitraža neriješenih pitanja koja proizlaze iz slučaja postupka zajedničkog dogovaranja. Svaka stranka koja odabere primjenjivati ovaj dio dužna je obavijestiti depozitara o tome sadrži li svaki njezin obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja, osim onih unutar opsega rezerve prema stavku 4., takvu odredbu te, ako je to slučaj, broj članka i stavka svake takve odredbe. U slučaju da su dvije ugovorne jurisdikcije dostavile obavijest u pogledu odredbe obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ta se odredba zamjenjuje odredbama ovog dijela između tih ugovornih jurisdikcija.

2. Bilo koje neriješeno pitanje koja proizlazi iz slučaja postupka zajedničkog dogovaranja koje inače nije obuhvaćeno opsegom arbitražnog postupka predviđenog ovim dijelom ne podnosi se na arbitražu ako je pitanje obuhvaćeno opsegom slučaja u pogledu kojeg je prethodno uspostavljeno arbitražno vijeće ili slično tijelo u skladu s dvostranim ili mnogostranim konvencijama kojima je predviđena obavezna i obvezujuća arbitraža neriješenih pitanja koja proizlaze iz slučaja postupka zajedničkog dogovaranja.

3. Podložno stavku 1., ništa u ovom dijelu ne utječe na ispunjenje širih obaveza u pogledu arbitraže neriješenih pitanja koja proizlaze u kontekstu postupka zajedničkog dogovaranja u skladu s drugim konvencijama u kojima su ugovorne jurisdikcije stranke ili će postati stranke.

4. Stranka može zadržati pravo da se ovaj dio ne primjenjuje u pogledu jednog ili više utvrđenih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja (ili na sve njezine obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja) kojima je već predviđena obavezna i obvezujuća arbitraža neriješenih pitanja koja proizlaze iz slučaja postupka zajedničkog dogovaranja.

**DIO VII.**  
**ZAVRŠNE ODREDBE**

**Članak 27. – Potpisivanje i ratifikacija, prihvata ili odobrenje**

1. Ova je Konvencija otvorena za potpisivanje od 31. prosinca 2016.:
  - a) svim državama;
  - b) Guernseyju (Ujedinjena Kraljevina Velike Britanije i Sjeverne Irske); Otoku Manu (Ujedinjena Kraljevina Velike Britanije i Sjeverne Irske); Jerseyju (Ujedinjena Kraljevina Velike Britanije i Sjeverne Irske); i
  - c) svim ostalim jurisdikcijama ovlaštenim postati strankom na temelju odluke donesene konsenzusom stranaka i potpisnica.
2. Ova Konvencija je podložna ratifikaciji, prihvatu ili odobrenju.

**Članak 28. – Rezerve**

1. Podložno stavku 2., na ovu Konvenciju ne mogu se staviti nikakve rezerve, osim onih izričito dopuštenih:
  - a) stavkom 5. članka 3. (Transparentni subjekti);
  - b) stavkom 3. članka 4. (Subjekti s dvostrukom rezidentnošću);
  - c) staccima 8. i 9. članka 5. (Primjena metoda za uklanjanje dvostrukog oporezivanja);
  - d) stavkom 4. članka 6. (Svrha obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja);
  - e) staccima 15. i 16. članka 7. (Sprječavanje zlouporabe ugovora);
  - f) stavkom 3. članka 8. (Transakcije za prijenos dividendi);
  - g) stavkom 6. članka 9. (Kapitalni dobitci od otuđenja dionica ili udjela subjekata koji ostvaruju vrijednost prvenstveno na temelju nepokretne imovine);
  - h) stavkom 5. članka 10. (Pravilo protiv zlouporabe za stalne poslovne jedinice koje se nalaze u trećim jurisdikcijama);
  - i) stavkom 3. članka 11. (Primjena ugovora o izbjegavanju dvostrukog oporezivanja u svrhu ograničavanja prava stranke na oporezivanje vlastitih rezidenata);
  - j) stavkom 4. članka 12. (Umjetno izbjegavanje statusa stalne poslovne jedinice putem posredničkih aranžmana i sličnih strategija);
  - k) stavkom 6. članka 13. (Umjetno izbjegavanje statusa stalne poslovne jedinice putem izuzeća za određene aktivnosti);

- l) stavkom 3. članka 14. (Razdvajanje ugovora);
  - m) stavkom 2. članka 15. (Definicija osobe usko povezane s poduzećem);
  - n) stavkom 5. članka 16. (Postupak zajedničkog dogovaranja);
  - o) stavkom 3. članka 17. (Odgovarajuća usklađenja);
  - p) stavicima 11. i 12. članka 19. (Obvezna i obvezujuća arbitraža);
  - q) stavicima 2., 3., 6. i 7. članka 23. (Vrsta arbitražnog postupka);
  - r) stavkom 3. članka 24. (Sporazum o drukčijem rješenju);
  - s) stavkom 4. članka 26. (Sukladnost);
  - t) stavicima 6. i 7. članka 35. (Početak primjene); i
  - u) stavkom 2. članka 36. (Početak primjene dijela VI.).
2. a) Neovisno o stavku 1., stranka koja prema članku 18. (Odabir o primjeni Dijela VI.) odabere primjenjivati dio VI. (Arbitraža) može formulirati jednu ili više rezervi u pogledu opsega slučajeva podobnih za arbitražu prema odredbama dijela VI. (Arbitraža). Za stranku koja prema članku 18. (Odabir o primjeni Dijela VI.) odabere primjenjivati dio VI. (Arbitraža) nakon što postane strankom ove Konvencije, rezerve sukladno ovom podstavku stavljaju se istovremeno s obavijesti te stranke depozitaru sukladno stavku 18. (Odabir o primjeni dijela VI.).
- b) Rezerve stavljene prema podstavku a) podliježu prihvatu. Smatra se da je stranka prihvatila rezervu stavljenu prema podstavku a) ako nije obavijestila depozitara da se protivi rezervi do isteka razdoblja od dvanaest kalendarskih mjeseci koje počinje na datum obavijesti o rezervi depozitara ili do datuma na koji položi svoj ispravu o ratifikaciji, prihvatu ili odobrenju, ovisno o tome što je kasnije. Za stranku koja prema članku 18. (Odabir o primjeni dijela VI.) odabere primjenjivati dio VI. (Arbitraža) nakon što postane strankom ove Konvencije, prigovori na prethodne rezerve koje su stavile druge stranke sukladno podstavku a) mogu se staviti istovremeno s obavijesti prvospomenute stranke depozitaru sukladno članku 18. (Odabir o primjeni dijela VI.). Kada stranka iznese prigovor na rezervu stavljenu prema podstavku a), između stranke koja je stavila prigovor i stranke koja je stavila rezervu ne primjenjuje se dio VI. (Arbitraža) u cijelosti.
3. Osim ako izričito nije predviđeno drukčije u odgovarajućim odredbama ove Konvencije, rezervom stavljenom u skladu sa stavkom 1. ili 2. se:
- a) mijenjaju za stranku, koja je stavila rezervu u njezinim odnosima s drugom strankom, odredbe ove Konvencije na koje se odnosi rezerva u mjeri obuhvaćenoj rezervom; i
  - b) mijenjaju one odredbe u istoj mjeri za drugu stranku u njezinim odnosima sa strankom koja je stavila rezervu.
4. Rezerve primjenjive na obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji su sklopljeni od ili u ime jurisdikcije ili područja za čije je međunarodne odnose stranka odgovorna, kada ta jurisdikcija ili područje nije stranka Konvencije sukladno podstavku b) ili c) stavka 1. članka 27. (Potpisivanje i ratifikacija, prihvata ili odobrenje), stavlja odgovorna stranka i mogu se razlikovati od rezervi koje je ta stranka stavila za

svoje vlastite obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja.

5. Rezerve se stavljaju u trenutku potpisivanja ili prilikom polaganja isprave o ratifikaciji, prihvatu ili odobrenju, podložno odredbama stavaka 2., 6. i 9. ovog članka, te stavka 5. članka 29. (Obavijesti). Međutim, za stranku koja sukladno članku 18. (Odabir o primjeni dijela VI.) odabere primjenjivati dio VI. (Arbitraža) nakon što je postala strankom ove Konvencije, rezerve opisane u podstavcima p), q), r) i s) stavka 1. ovog članka stavljaju se istovremenom s obavijesti te stranke depozitaru sukladno članku 18. (Odabir o primjeni dijela VI.).

6. Ako su rezerve stavljene u trenutku potpisivanja, one se potvrđuju prilikom polaganja isprave o ratifikaciji, prihvatu ili odobrenju, osim ako dokumentom koji sadrži rezerve nije izričito navedeno da ga valja smatrati konačnim, podložno odredbama stavaka 2., 5. i 9. ovog članka, te stavka 5. članka 29. (Obavijesti).

7. Ako rezerve nisu stavljene u trenutku potpisivanja, u tom se trenutku depozitaru dostavlja privremeni popis očekivanih rezervi.

8. Za rezerve stavljene sukladno svakoj od sljedećih odredbi, popis ugovora o kojima se obavijestilo sukladno točki ii) podstavka a) stavka 1. članka 2. (Tumačenje izraza) koji su unutar opsega rezerve opisane u odgovarajućoj odredbi (te, u slučaju rezerve sukladno bilo kojoj od sljedećih odredbi osim onih navedenih u podstavcima c), d) i n), broj članka i stavka svake odgovarajuće odredbe) mora biti dostavljen kada se stavljaju takve rezerve:

- a) podstavcima b), c), d), e) i g) stavka 5. članka 3. (Transparentni subjekti);
- b) podstavcima b), c) i d) stavka 3. članka 4. (Subjekti s dvostrukom rezidentnošću);
- c) stavcima 8. i 9. članka 5. (Primjena metoda za uklanjanje dvostrukog oporezivanja);
- d) stavkom 4. članka 6. (Svrha obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja);
- e) podstavcima b) i c) stavka 15. članka 7. (Sprječavanje zlouporabe ugovora);
- f) točkama i), ii) i iii) podstavka b) stavka 3. članka 8. (Transakcije za prijenos dividendi);
- g) podstavcima d), e) i f) stavka 6. članka 9. (Kapitalni dobitci od otuđenja dionica ili udjela subjekata koji ostvaruju vrijednost prvenstveno na temelju nepokretne imovine);
- h) podstavcima b) i c) stavka 5. članka 10. (Pravilo protiv zlouporabe za stalne poslovne jedinice koje se nalaze u trećim jurisdikcijama);
- i) podstavkom b) stavka 3. članka 11. (Primjena ugovora o izbjegavanju dvostrukog oporezivanja u svrhu ograničavanja prava stranke na oporezivanje vlastitih rezidenata);
- j) podstavkom b) stavka 6. članka 13. (Umjetno izbjegavanje statusa stalne poslovne jedinice putem izuzeća za određene aktivnosti);
- k) podstavkom b) stavka 3. članka 14. (Razdvajanje ugovora);
- l) podstavkom b) stavka 5. članka 16. (Postupak zajedničkog dogovaranja);
- m) podstavkom a) stavka 3. članka 17. (Odgovarajuća usklađenja);

- n) stavkom 6. članka 23. (Vrsta arbitražnog postupka); i
- o) stavkom 4. članka 26. (Sukladnost).

Rezerve opisane u gornjim podstavcima a) do o) ne primjenjuju se niti na jedan obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja koji nije naveden na popisu opisanom u ovom stavku.

9. Svaka stranka koja je stavila rezervu u skladu sa stavkom 1. ili 2. može ju u svakom trenutku povući ili zamijeniti ograničenijom rezervom upućivanjem obavijesti depozitaru. Takva stranka daje sve dodatne obavijesti sukladno stavku 6. članka 29. (Obavijesti) koje se mogu zahtijevati uslijed povlačenja ili zamjene rezerve. Podložno stavku 7. članka 35. (Početak primjene), povlačenje ili zamjena proizvodi učinak:

- a) u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo s državama ili jurisdikcijama koje su stranke Konvencije, kada depozitar primi obavijest o povlačenju ili zamjeni rezerve:
  - i) za rezerve u pogledu odredaba koje se odnose na poreze zadržane na izvoru, kada se događaj koji je doveo do nastanka takvih poreza dogodio na ili nakon 1. siječnja godine koja slijedi nakon isteka razdoblja od šest kalendarskih mjeseci počevši od datuma obavijesti depozitara o povlačenju ili zamjeni rezerve; i
  - ii) za rezerve u pogledu svih ostalih odredaba, za poreze ubrane u pogledu razdoblja oporezivanja koja počinju na ili nakon 1. siječnja godine koja slijedi nakon isteka razdoblja od šest kalendarskih mjeseci počevši od datuma obavijesti depozitara o povlačenju ili zamjeni rezerve; i
- b) u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja za koji jedna ili više ugovornih jurisdikcija postane strankom ove Konvencije nakon datuma na koji je depozitar primio obavijest o povlačenju ili zamjeni: na kasniji od datuma na koji Konvencija stupa na snagu za te ugovorne jurisdikcije.

### **Članak 29. – Obavijesti**

1. Podložno stavcima 5. i 6. ovog članka i stavku 7. članka 35. (Početak primjene), obavijesti u skladu sa sljedećim odredbama daju se u trenutku potpisivanja ili prilikom polaganja isprave o ratifikaciji, prihvatu ili odobrenju:

- a) točkom ii) podstavka a) stavka 1. članka 2. (Tumačenje izraza);
- b) stavkom 6. članka 3. (Transparentni subjekti);
- c) stavkom 4. članka 4. (Subjekti s dvostrukom rezidentnošću);
- d) stavkom 10. članka 5. (Primjena metoda za uklanjanje dvostrukog oporezivanja);
- e) stavcima 5. i 6. članka 6. (Svrha obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja);
- f) stavkom 17. članka 7. (Sprječavanje zlouporabe ugovora);
- g) stavkom 4. članka 8. (Transakcije za prijenos dividendi);

- h) stavcima 7. i 8. članka 9. (Kapitalni dobitci od otuđenja dionica ili udjela subjekata koji ostvaruju vrijednost prvenstveno na temelju nepokretne imovine);
- i) stavkom 6. članka 10. (Pravilo protiv zlorabe za stalne poslovne jedinice koje se nalaze u trećim jurisdikcijama);
- j) stavkom 4. članka 11. (Primjena ugovora o izbjegavanju dvostrukog oporezivanja u svrhu ograničavanja prava stranke na oporezivanje vlastitih rezidenata);
- k) stavcima 5. i 6. članka 12. (Umjetno izbjegavanje statusa stalne poslovne jedinice putem posredničkih aranžmana i sličnih strategija);
- l) stavcima 7 i 8. članka 13. (Umjetno izbjegavanje statusa stalne poslovne jedinice putem izuzeća za određene aktivnosti);
- m) stavkom 4. članka 14. (Razdvajanje ugovora);
- n) stavkom 6. članka 16. (Postupak zajedničkog dogovaranja);
- o) stavkom 4. članka 17. (Odgovarajuća usklađenja);
- p) člankom 18. (Odabir o primjeni dijela VI.);
- q) stavkom 4. članka 23. (Vrsta arbitražnog postupka);
- r) stavkom 1. članka 24. (Sporazum o drukčijem rješenju);
- s) stavkom 1. članka 26. (Sukladnost); i
- t) stavcima 1., 2., 3. i 5. i 7. članka 35. (Početak primjene).

2. Obavijesti u pogledu obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja koji su sklopljeni od ili u ime jurisdikcije ili područja za čije je međunarodne odnose stranka odgovorna, kada ta jurisdikcija ili područje nije stranka Konvencije sukladno podstavku b) ili c) stavka 1. članka 27. (Potpisivanje i ratifikacija, prihvata ili odobrenje), stavlja odgovorna stranka i mogu se razlikovati od obavijesti koje je ta stranka stavila za svoje vlastite obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja.

3. Ako su obavijesti dane u trenutku potpisivanja, one se potvrđuju prilikom polaganja isprave o ratifikaciji, prihvatu ili odobrenju, osim ako dokumentom koji sadrži obavijesti nije izričito utvrđeno da ga valja smatrati konačnim, podložno odredbama stavaka 5. i 6. ovog članka te stavka 7. članka 35. (Početak primjene).

4. Ako obavijesti nisu dane u trenutku potpisivanja, u tom se trenutku depozitaru dostavlja privremeni popis očekivanih obavijesti.

5. Stranka u svakom trenutku može proširiti popis ugovora dostavljenih prema točki ii) podstavka a) stavka 1. članka 2. (Tumačenje izraza) na način obavješćivanja depozitara. Stranka u toj obavijesti navodi je li ugovor unutar opsega bilo kojih rezerva koje je stavila stranka i koje su navedene u stavku 8. članka 28. (Rezerve). Stranka također može staviti novu rezervu opisanu u stavku 8. članka 28. (Rezerve) ako bi dodatni ugovor bio prvi ugovor unutar opsega takve rezerve. Stranka također navodi sve dodatne obavijesti koje se mogu zahtijevati prema podstavcima b) do s) stavka 1. kako bi obuhvatila uključivanje dodatnih ugovora.



Nastavno, ako proširenje prvi put dovede do uključenja ugovora o izbjegavanju dvostrukog oporezivanja koji je sklopljen od ili u ime jurisdikcije ili područja za čije je međunarodne odnose stranka odgovorna, stranka navodi sve rezerve (sukladno stavku 4. članka 28. (Rezerve)) ili obavijesti (sukladno stavku 2. ovog članka) primjenjive na obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji su sklopljeni od ili u ime jurisdikcije ili područja. Na datum na koji dodani ugovor(i) dostavljen(i) prema točki ii) podstavka a) stavka 1. članka 2. (Tumačenje izraza) postane/postanu obuhvaćeni ugovor(i) o izbjegavanju dvostrukog oporezivanja, odredbama članka 35. (Početak primjene) uređuje se datum od kojeg preinake obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja proizvode učinak.

6. Stranka može dati dodatne obavijesti sukladno podstavcima b) do s) stavka 1. upućivanjem obavijesti depozitaru. Te obavijesti proizvode učinak:

- a) u pogledu obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja samo s državama ili jurisdikcijama koje su stranke Konvencije kada depozitar primi dodatnu obavijest:
  - i) za obavijesti u pogledu odredaba koje se odnose na poreze zadržane na izvoru, kada se događaj koji je doveo do nastanka takvih poreza dogodio na ili nakon 1. siječnja godine koja slijedi nakon isteka razdoblja od šest kalendarskih mjeseci počevši od datuma obavijesti depozitara o dodatnoj obavijesti; i
  - ii) za obavijesti u pogledu svih ostalih odredaba, za poreze ubrane u pogledu razdoblja oporezivanja koja počinju na ili nakon 1. siječnja godine koja slijedi nakon isteka razdoblja od šest kalendarskih mjeseci počevši od datuma obavijesti depozitara o dodatnoj obavijesti; i
- b) u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja za koji jedna ili više ugovornih jurisdikcija postane strankom ove Konvencije nakon datuma na koji je depozitar primio dodatnu obavijest: na kasniji od datuma na koji Konvencija stupa na snagu za te ugovorne jurisdikcije.

### ***Članak 30. – Naknadne preinake obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja***

Odredbama iz ove Konvencije ne dovode se u pitanje naknadne preinake obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koje se mogu dogovoriti između ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.

### ***Članak 31. – Konferencija stranaka***

1. Stranke mogu sazvati Konferenciju stranaka u svrhe donošenja bilo kojih odluka ili obavljanja bilo kojih funkcija koje mogu biti potrebne ili prikladne prema odredbama ove Konvencije.
2. Konferenciju stranaka održava depozitar.
3. Bilo koja stranka može zatražiti Konferenciju stranaka upućivanjem zahtjeva depozitaru. Depozitar obavještava sve stranke o svakom zahtjevu. Nakon toga, depozitar saziva Konferenciju stranaka, pod uvjetom da je zahtjev podržala jedna trećina stranaka u roku od šest kalendarskih mjeseci od kada ih je depozitar obavijestio o zahtjevu.

### **Članak 32. – Tumačenje i provedba**

1. Bilo koje pitanje koje proizlazi u pogledu tumačenja ili provedbe odredaba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, kako su preinačene ovom Konvencijom, utvrđuje se u skladu s odredbom/odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koja/koje se odnose na rješavanje pitanja tumačenja ili primjene obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja (kako te odredbe mogu biti preinačene ovom Konvencijom) zajedničkim dogovorom.
2. Bilo koje pitanje koja proizlazi u pogledu tumačenja ili provedbe ove Konvencije može uputiti Konferencija stranaka sazvana u skladu sa stavkom 3. članka 31. (Konferencija stranaka).

### **Članak 33. – Izmjena i dopuna**

1. Bilo koja stranka može predložiti izmjenu i dopunu ove Konvencije podnošenjem predložene izmjene i dopune depozitaru.
2. Konferencija stranaka može se sazvati kako bi se razmotrila predložena izmjena i dopuna u skladu sa stavkom 3. članka 31. (Konferencija stranaka).

### **Članak 34. – Stupanje na snagu**

1. Ova Konvencija stupa na snagu prvog dana mjeseca koji slijedi nakon isteka razdoblja od tri kalendarska mjeseca počevši od datuma polaganja pete isprave o ratifikaciji, prihvatu ili odobrenju.
2. Za svaku potpisnicu koja ratificira, prihvati ili odobri ovu Konvenciju nakon polaganja pete isprave o ratifikaciji, prihvatu ili odobrenju, Konvencija stupa na snagu prvog dana mjeseca koji slijedi nakon isteka razdoblja od tri kalendarska mjeseca počevši od datuma polaganja isprave o ratifikaciji, prihvatu ili odobrenju od takve potpisnice.

### **Članak 35. – Početak primjene**

1. Odredbe ove Konvencije proizvode učinak u svakoj ugovornoj jurisdikciji u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja:
  - a) u pogledu poreza zadržanih na izvoru, na plaćene ili odbijene iznose za nerezidente, kada se događaj koji je doveo do nastanka takvih poreza dogodio na ili nakon prvog dana sljedeće kalendarske godine koja počinje na ili nakon kasnijeg od datuma na koji ova Konvencija stupa na snagu za svaku od ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja;
  - b) u pogledu svih ostalih poreza koje ubere ta ugovorna jurisdikcija, za poreze ubrane u pogledu poreznih razdoblja koja počinju na ili nakon isteka razdoblja od šest kalendarskih mjeseci (ili kraćeg razdoblja, ako sve ugovorne jurisdikcije obavijeste depozitara da namjeravaju primjenjivati takvo kraće razdoblje) počevši od kasnijeg datuma na koji ova Konvencija stupa na snagu za svaku od ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog

oporezivanja.

2. Isključivo u svrhu svoje vlastite primjene podstavka a) stavka 1. i podstavka a) stavka 5., stranka može odabrati zamijeniti „porezno razdoblje” za „kalendarsku godinu” i o tome obavješćuje depozitara.

3. Isključivo u svrhu svoje vlastite primjene podstavka b) stavka 1. i podstavka b) stavka 5., stranka može odabrati zamijeniti upućivanja na „porezna razdoblja koja počinju na ili nakon isteka razdoblja” s upućivanjem na „porezna razdoblja koja počinju na ili nakon 1. siječnja sljedeće godine koja počinje na ili nakon isteka razdoblja” i o tome obavješćuje depozitara.

4. Neovisno o prethodnim odredbama ovog članka, članak 16. (Postupak zajedničkog dogovaranja) proizvodi učinak u pogledu obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja za slučaj iznesen nadležnom tijelu ugovorne jurisdikcije na ili nakon kasnijeg od datuma na koji ova Konvencija stupa na snagu za svaku od ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, osim u slučajevima koji nisu ispunjavali uvjete za iznošenje od tog datuma prema obuhvaćenom ugovoru o izbjegavanju dvostrukog oporezivanja prije nego je izmijenjen Konvencijom, ne uzimajući u obzir porezno razdoblje na koje se odnosi slučaj.

5. Za novi obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja koji proizlazi iz proširenja sukladno stavku 5. članka 29. (Obavijesti) popisa ugovora dostavljenih prema točki ii) podstavka a) stavka 1. članka 2. (Tumačenje izraza), odredbe ove Konvencije proizvode učinak u svakoj ugovornoj jurisdikciji:

- a) u pogledu poreza zadržanih na izvoru, na plaćene ili odbijene iznose za nerezidente, kada se događaj koji je doveo do nastanka takvih poreza dogodio na ili nakon prvog dana sljedeće kalendarske godine koja počinje na ili nakon 30 dana od datuma obavijesti depozitara o obavijesti o proširenju popisa ugovora; i
- b) u pogledu svih ostalih poreza koje ubere ta ugovorna jurisdikcija, za poreze ubrane u pogledu poreznih razdoblja koja počinju na ili nakon isteka razdoblja od devet kalendarskih mjeseci (ili kraćeg razdoblja, ako sve ugovorne jurisdikcije obavijeste depozitara da namjeravaju primjenjivati takvo kraće razdoblje) od datuma obavijesti depozitara o obavijesti o proširenju popisa ugovora.

6. Stranka može zadržati pravo da ne primjenjuje stavak 4. u pogledu svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja.

7. a) Stranka može zadržati pravo na zamjenu:

- i) upućivanja u stavcima 1. i 4. na „na ili nakon kasnijih od datuma na koji ova Konvencija stupa na snagu za svaku od ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja”; i
- ii) upućivanja u stavku 5. na „datuma obavijesti depozitara o obavijesti o proširenju popisa ugovora”;

upućivanjima na „30 dana nakon datuma na koji depozitar primi posljednju obavijest od svake ugovorne jurisdikcije koja stavlja rezervu opisanu u stavku 7. članka 35. (Početak primjene) da je dovršila svoje unutarnje postupke kako bi odredbe ove Konvencije počele proizvoditi učinak u pogledu tog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ”;

- iii) upućivanja u podstavku a) stavka 9. članka 28. (Rezerve) na „od datuma obavijesti depozitara o obavijesti o povlačenju ili zamjeni rezerve”; i

- iv) upućivanja u podstavku b) stavka 9. članka 28. (Rezerve) na „na kasniji od datuma na koji Konvencija stupa na snagu za te ugovorne jurisdikcije”; upućivanjima na „30 dana nakon datuma na koji depozitar primi posljednju obavijest od svake ugovorne jurisdikcije koja stavlja rezervu opisanu u stavku 7. članka 35. (Početak primjene) da je dovršila svoje unutarnje postupke kako bi povlačenje ili zamjena rezerve počelo proizvoditi učinak u pogledu tog određenog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ”;
- v) upućivanja u podstavku a) stavka 6. članka 29. (Obavijesti) na „datuma obavijesti depozitara o dodatnoj obavijesti”; i
- vi) upućivanja u podstavku b) stavka 6. članka 29. (Obavijesti) na „na kasniji od datuma na koji Konvencija stupa na snagu za te ugovorne jurisdikcije”;

upućivanjima na „30 dana nakon datuma na koji depozitar primi posljednju obavijest od svake ugovorne jurisdikcije koja stavlja rezervu opisanu u stavku 7. članka 35. (Početak primjene) da je dovršila svoje unutarnje postupke kako bi dodatna obavijest počela proizvoditi učinak u pogledu tog određenog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ”;

- vii) upućivanja u stavcima 1. i 2. članka 36. (Početak primjene dijela VI.) na „kasnijeg od datuma na koji ova Konvencija stupa na snagu za svaku od ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja”;

upućivanjima na „30 dana nakon datuma na koji depozitar primi posljednju obavijest od svake ugovorne jurisdikcije koja stavlja rezervu opisanu u stavku 7. članka 35. (Početak primjene) da je dovršila svoje unutarnje postupke kako bi odredbe ove Konvencije počele proizvoditi učinak u pogledu tog određenog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja”; i

- viii) upućivanje u stavku 3. članka 36. (Početak primjenedijela VI.) na „datum obavijesti depozitara o obavijesti o proširenju popisa ugovora”;
- ix) upućivanja u stavku 4. članka 36. (Početak primjene dijela VI.) na „datuma obavijesti depozitara o obavijesti o povlačenju rezerve”, „datuma obavijesti depozitara o obavijesti o zamjeni rezerve” i „datuma obavijesti depozitara o obavijesti o povlačenju prigovora na rezervu”; i
- x) upućivanje u stavku 5. članka 36. (Početak primjene dijela VI.) na „datum obavijesti depozitara o dodatnoj obavijesti”;

upućivanjima na „30 dana nakon datuma na koji depozitar primi posljednju obavijest od svake ugovorne jurisdikcije koja stavlja rezervu opisanu u stavku 7. članka 35. (Početak primjene) da je dovršila svoje unutarnje postupke kako bi odredbe dijela VI. (Arbitraža) počele proizvoditi učinak u pogledu tog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ”.

- b) Stranka koja je stavila rezervu u skladu s podstavkom a) istovremeno dostavlja potvrdu o okončanju svojih unutarnjih postupaka depozitaru i drugoj ugovornoj jurisdikciji ili ugovornim jurisdikcijama.
- c) Ako jedna ili više ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja stavi rezervu prema ovom stavku, datum stupanja na snagu odredaba Konvencije, povlačenja ili zamjene rezerve, dodatne obavijesti u pogledu tog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja ili dijela VI. (Arbitraža) uređen je ovim stavkom za sve ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja.

**Članak 36. – Početak primjene dijela VI.**

1. Ne dovodeći u pitanje stavak 9. članka 28. (Rezerve), stavak 6. članka 29. (Obavijesti) i stavke 1. do 6. članka 35. (Početak primjene), u pogledu dvije ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, odredbe dijela VI. (Arbitraža) proizvode učinak:

- a) u pogledu slučajeva iznesenih nadležnom tijelu ugovorne jurisdikcije (kako je opisano u podstavku a) stavka 1. članka 19. (Obvezna i obvezujuća arbitraža)), na ili nakon kasnijeg od datuma na koji ova Konvencija stupa na snagu za svaku od ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja; i
- b) u pogledu slučajeva podnesenih nadležnom tijelu ugovorne jurisdikcije prije kasnijeg od datuma na koji ova Konvencija stupa na snagu za svaku od ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, na datum na koji su obje ugovorne jurisdikcije obavijestile depozitara da su postigle zajednički dogovor sukladno stavku 10. članka 19. (Obvezna i obvezujuća arbitraža), zajedno s informacijama o datumu ili datumima na koji se smatra da su takvi slučajevi izneseni nadležnom tijelu ugovorne jurisdikcije (kako je opisano u podstavku a) stavka 1. članka 19. (Obvezna i obvezujuća arbitraža)) sukladno uvjetima tog zajedničkog dogovora.

2. Stranka može zadržati pravo na primjenu dijela VI. (Arbitraža) na slučaj iznesen nadležnom tijelu ugovorne jurisdikcije prije kasnijeg od datuma na koji ova Konvencija stupa na snagu za svaku od ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja samo u mjeri u kojoj se nadležna tijela obiju ugovornih jurisdikcija usuglase da će se primjenjivati na taj određeni slučaj.

3. U slučaju novog obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja koji proizlazi iz proširenja sukladno stavku 5. članka 29. (Obavijesti) popisa ugovora dostavljenih prema točki ii) podstavka a) stavka 1. članka 2. (Tumačenje izraza), upućivanje u stavcima 1. i 2. ovog članka na „kasnijeg od datuma na koji ova Konvencija stupa na snagu za svaku od ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja” zamjenjuje se upućivanjima na „datum obavijesti depozitara o obavijesti o proširenju popisa ugovora”.

4. Povlačenje ili zamjena rezerve stavljene prema stavku 4. članka 26. (Sukladnost) sukladno stavku 9. članka 28. (Rezerve) ili povlačenje prigovora na rezervu stavljenu prema stavku 2. članka 28. (Rezerve) koje dovodi do primjene dijela VI. (Arbitraža) između dvije ugovorne jurisdikcije obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja proizvodi učinak sukladno podstavcima a) i b) stavka 1. ovog članka, osim što se upućivanja na „kasnijeg od datuma na koji ova Konvencija stupa na snagu za svaku ugovornu jurisdikciju obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja” zamjenjuju upućivanjima na „datuma obavijesti depozitara o obavijesti o povlačenju rezerve”, „datuma obavijesti depozitara o obavijesti o zamjeni rezerve” odnosno „datuma obavijesti depozitara o obavijesti o povlačenju prigovora na rezervu”.

5. Dodatna obavijest dana sukladno podstavku p) stavka 1. članka 29. (Obavijesti) proizvodi učinak sukladno podstavcima a) i b) stavka 1., osim što se upućivanja u stavcima 1. i 2. ovog članka na „kasnijeg od datuma na koji ova Konvencija stupa na snagu za svaku od ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja” zamjenjuju upućivanjima na „datuma obavijesti depozitara o dodatnoj obavijesti”.

**Članak 37. - Povlačenje**

1. Bilo koja stranka se može, u svakom trenutku, povući iz ove Konvencije na način da uputi obavijest depozitaru.
2. Povlačenje sukladno stavku 1. proizvodi učinak na datum na koji depozitar primi obavijest. U slučajevima kada je ova Konvencija stupila na snagu u pogledu svih ugovornih jurisdikcija obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja prije datuma na koji povlačenje stranke proizvede učinak, taj obuhvaćeni ugovor o izbjegavanju dvostrukog oporezivanja ostaje kako je izmijenjen ovom Konvencijom.

**Članak 38. – Odnos s protokolima**

1. Ova Konvencija može biti dopunjena s jednim ili više protokola.
2. Kako bi postala strankom protokola, država ili jurisdikcija također mora biti strankom ove Konvencije.
3. Stranka ove Konvencije nije obvezana protokolom osim ako ne postane strankom protokola u skladu s njegovim odredbama.

**Članak 39. – Depozitar**

1. Glavni tajnik Organizacije za gospodarsku suradnju i razvitak je depozitar ove Konvencije i bilo kojeg protokola sukladno članku 38. (Odnos s protokolima).
2. Depozitar obavješćuje stranke i potpisnice u roku od jednog kalendarskog mjeseca o:
  - a) svakom potpisivanju sukladno članku 27. (Potpisivanje i ratifikacija, prihvata ili odobrenje);
  - b) polaganju svake isprave o ratifikaciji, prihvatu ili odobrenju sukladno članku 27. (Potpisivanje i ratifikacija, prihvata ili odobrenje);
  - c) svakoj rezervi ili povlačenju ili zamjeni rezerve sukladno članku 28. (Rezerve);
  - d) svakoj obavijesti ili dodatnoj obavijesti sukladno članku 29. (Obavijesti);
  - e) svakoj predloženoj izmjeni i dopuni ove Konvencije sukladno članku 33. (Izmjena i dopuna);
  - f) svakom povlačenju iz ove Konvencije sukladno članku 37. (Povlačenje); i
  - g) svim ostalim priopćenjima povezanim s ovom Konvencijom.
3. Depozitar održava javno dostupne popise:
  - a) obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja;
  - b) rezervi koje su stavile stranke; i
  - c) obavijesti koje su stranke dale.

U potvrdu toga, niže potpisani, propisno za to ovlašteni, potpisali su ovu Konvenciju.

Sastavljeno u Parizu, 24. studenoga 2016. godine, na engleskom i francuskom jeziku, pri čemu su oba teksta jednako vjerodostojna, u jednom primjerku koji je pohranjen u arhivu Organizacije za gospodarsku suradnju i razvitak.

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**MULTILATERAL CONVENTION  
TO IMPLEMENT TAX TREATY RELATED MEASURES  
TO PREVENT BASE EROSION AND PROFIT SHIFTING**



The Parties to this Convention,

Recognising that governments lose substantial corporate tax revenue because of aggressive international tax planning that has the effect of artificially shifting profits to locations where they are subject to non-taxation or reduced taxation;

Mindful that base erosion and profit shifting (hereinafter referred to as “BEPS”) is a pressing issue not only for industrialised countries but also for emerging economies and developing countries;

Recognising the importance of ensuring that profits are taxed where substantive economic activities generating the profits are carried out and where value is created;

Welcoming the package of measures developed under the OECD/G20 BEPS project (hereinafter referred to as the “OECD/G20 BEPS package”);

Noting that the OECD/G20 BEPS package included tax treaty-related measures to address certain hybrid mismatch arrangements, prevent treaty abuse, address artificial avoidance of permanent establishment status, and improve dispute resolution;

Conscious of the need to ensure swift, co-ordinated and consistent implementation of the treaty-related BEPS measures in a multilateral context;

Noting the need to ensure that existing agreements for the avoidance of double taxation on income are interpreted to eliminate double taxation with respect to the taxes covered by those agreements without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in those agreements for the indirect benefit of residents of third jurisdictions);

Recognising the need for an effective mechanism to implement agreed changes in a synchronised and efficient manner across the network of existing agreements for the avoidance of double taxation on income without the need to bilaterally renegotiate each such agreement;

Have agreed as follows:

**PART I.**  
**SCOPE AND INTERPRETATION OF TERMS**

*Article 1 – Scope of the Convention*

This Convention modifies all Covered Tax Agreements as defined in subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms).

*Article 2 – Interpretation of Terms*

1. For the purpose of this Convention, the following definitions apply:
  - a) The term “Covered Tax Agreement” means an agreement for the avoidance of double taxation with respect to taxes on income (whether or not other taxes are also covered):
    - i) that is in force between two or more:
      - A) Parties; and/or
      - B) jurisdictions or territories which are parties to an agreement described above and for whose international relations a Party is responsible; and
    - ii) with respect to which each such Party has made a notification to the Depositary listing the agreement as well as any amending or accompanying instruments thereto (identified by title, names of the parties, date of signature, and, if applicable at the time of the notification, date of entry into force) as an agreement which it wishes to be covered by this Convention.
  - b) The term “Party” means:
    - i) A State for which this Convention is in force pursuant to Article 34 (Entry into Force); or
    - ii) A jurisdiction which has signed this Convention pursuant to subparagraph b) or c) of paragraph 1 of Article 27 (Signature and Ratification, Acceptance or Approval) and for which this Convention is in force pursuant to Article 34 (Entry into Force).
  - c) The term “Contracting Jurisdiction” means a party to a Covered Tax Agreement.
  - d) The term “Signatory” means a State or jurisdiction which has signed this Convention but for which the Convention is not yet in force.
2. As regards the application of this Convention at any time by a Party, any term not defined herein shall, unless the context otherwise requires, have the meaning that it has at that time under the relevant Covered Tax Agreement.

**PART II.**  
**HYBRID MISMATCHES**

***Article 3 - Transparent Entities***

1. For the purposes of a Covered Tax Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting Jurisdiction shall be considered to be income of a resident of a Contracting Jurisdiction but only to the extent that the income is treated, for purposes of taxation by that Contracting Jurisdiction, as the income of a resident of that Contracting Jurisdiction.
2. Provisions of a Covered Tax Agreement that require a Contracting Jurisdiction to exempt from income tax or provide a deduction or credit equal to the income tax paid with respect to income derived by a resident of that Contracting Jurisdiction which may be taxed in the other Contracting Jurisdiction according to the provisions of the Covered Tax Agreement shall not apply to the extent that such provisions allow taxation by that other Contracting Jurisdiction solely because the income is also income derived by a resident of that other Contracting Jurisdiction.
3. With respect to Covered Tax Agreements for which one or more Parties has made the reservation described in subparagraph a) of paragraph 3 of Article 11 (Application of Tax Agreements to Restrict a Party's Right to Tax its Own Residents), the following sentence will be added at the end of paragraph 1: "In no case shall the provisions of this paragraph be construed to affect a Contracting Jurisdiction's right to tax the residents of that Contracting Jurisdiction."
4. Paragraph 1 (as it may be modified by paragraph 3) shall apply in place of or in the absence of provisions of a Covered Tax Agreement to the extent that they address whether income derived by or through entities or arrangements that are treated as fiscally transparent under the tax law of either Contracting Jurisdiction (whether through a general rule or by identifying in detail the treatment of specific fact patterns and types of entities or arrangements) shall be treated as income of a resident of a Contracting Jurisdiction.
5. A Party may reserve the right:
  - a) for the entirety of this Article not to apply to its Covered Tax Agreements;
  - b) for paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision described in paragraph 4;
  - c) for paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision described in paragraph 4 which denies treaty benefits in the case of income derived by or through an entity or arrangement established in a third jurisdiction;
  - d) for paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision described in paragraph 4 which identifies in detail the treatment of specific fact patterns and types of entities or arrangements;
  - e) for paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision described in paragraph 4 which identifies in detail the treatment of specific fact patterns and types of entities or arrangements and denies treaty benefits in the case of income derived by or through an entity or arrangement established in a third jurisdiction;

- f) for paragraph 2 not to apply to its Covered Tax Agreements;
- g) for paragraph 1 to apply only to its Covered Tax Agreements that already contain a provision described in paragraph 4 which identifies in detail the treatment of specific fact patterns and types of entities or arrangements.

6. Each Party that has not made a reservation described in subparagraph a) or b) of paragraph 5 shall notify the Depositary of whether each of its Covered Tax Agreements contains a provision described in paragraph 4 that is not subject to a reservation under subparagraphs c) through e) of paragraph 5, and if so, the article and paragraph number of each such provision. In the case of a Party that has made the reservation described in subparagraph g) of paragraph 5, the notification pursuant to the preceding sentence shall be limited to Covered Tax Agreements that are subject to that reservation. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraph 1 (as it may be modified by paragraph 3) to the extent provided in paragraph 4. In other cases, paragraph 1 (as it may be modified by paragraph 3) shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1 (as it may be modified by paragraph 3).

#### ***Article 4 – Dual Resident Entities***

1. Where by reason of the provisions of a Covered Tax Agreement a person other than an individual is a resident of more than one Contracting Jurisdiction, the competent authorities of the Contracting Jurisdictions shall endeavour to determine by mutual agreement the Contracting Jurisdiction of which such person shall be deemed to be a resident for the purposes of the Covered Tax Agreement, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by the Covered Tax Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting Jurisdictions.

2. Paragraph 1 shall apply in place of or in the absence of provisions of a Covered Tax Agreement that provide rules for determining whether a person other than an individual shall be treated as a resident of one of the Contracting Jurisdictions in cases in which that person would otherwise be treated as a resident of more than one Contracting Jurisdiction. Paragraph 1 shall not apply, however, to provisions of a Covered Tax Agreement specifically addressing the residence of companies participating in dual-listed company arrangements.

3. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for the entirety of this Article not to apply to its Covered Tax Agreements that already address cases where a person other than an individual is a resident of more than one Contracting Jurisdiction by requiring the competent authorities of the Contracting Jurisdictions to endeavour to reach mutual agreement on a single Contracting Jurisdiction of residence;
- c) for the entirety of this Article not to apply to its Covered Tax Agreements that already address cases where a person other than an individual is a resident of more than one Contracting Jurisdiction by denying treaty benefits without requiring the competent authorities of the

Contracting Jurisdictions to endeavour to reach mutual agreement on a single Contracting Jurisdiction of residence;

- d) for the entirety of this Article not to apply to its Covered Tax Agreements that already address cases where a person other than an individual is a resident of more than one Contracting Jurisdiction by requiring the competent authorities of the Contracting Jurisdictions to endeavour to reach mutual agreement on a single Contracting Jurisdiction of residence, and that set out the treatment of that person under the Covered Tax Agreement where such an agreement cannot be reached;
- e) to replace the last sentence of paragraph 1 with the following text for the purposes of its Covered Tax Agreements: “In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by the Covered Tax Agreement.”;
- f) for the entirety of this Article not to apply to its Covered Tax Agreements with Parties that have made the reservation described in subparagraph e).

4. Each Party that has not made a reservation described in subparagraph a) of paragraph 3 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 2 that is not subject to a reservation under subparagraphs b) through d) of paragraph 3, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraph 1. In other cases, paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1.

#### ***Article 5 – Application of Methods for Elimination of Double Taxation***

1. A Party may choose to apply either paragraphs 2 and 3 (Option A), paragraphs 4 and 5 (Option B), or paragraphs 6 and 7 (Option C), or may choose to apply none of the Options. Where each Contracting Jurisdiction to a Covered Tax Agreement chooses a different Option (or where one Contracting Jurisdiction chooses to apply an Option and the other chooses to apply none of the Options), the Option chosen by each Contracting Jurisdiction shall apply with respect to its own residents.

##### ***Option A***

2. Provisions of a Covered Tax Agreement that would otherwise exempt income derived or capital owned by a resident of a Contracting Jurisdiction from tax in that Contracting Jurisdiction for the purpose of eliminating double taxation shall not apply where the other Contracting Jurisdiction applies the provisions of the Covered Tax Agreement to exempt such income or capital from tax or to limit the rate at which such income or capital may be taxed. In the latter case, the first-mentioned Contracting Jurisdiction shall allow as a deduction from the tax on the income or capital of that resident an amount equal to the tax paid in that other Contracting Jurisdiction. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income or capital which may be taxed in that other Contracting Jurisdiction.

3. Paragraph 2 shall apply to a Covered Tax Agreement that would otherwise require a Contracting Jurisdiction to exempt income or capital described in that paragraph.

***Option B***

4. Provisions of a Covered Tax Agreement that would otherwise exempt income derived by a resident of a Contracting Jurisdiction from tax in that Contracting Jurisdiction for the purpose of eliminating double taxation because such income is treated as a dividend by that Contracting Jurisdiction shall not apply

where such income gives rise to a deduction for the purpose of determining the taxable profits of a resident of the other Contracting Jurisdiction under the laws of that other Contracting Jurisdiction. In such case, the first-mentioned Contracting Jurisdiction shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in that other Contracting Jurisdiction. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to such income which may be taxed in that other Contracting Jurisdiction.

5. Paragraph 4 shall apply to a Covered Tax Agreement that would otherwise require a Contracting Jurisdiction to exempt income described in that paragraph.

***Option C***

6. a) Where a resident of a Contracting Jurisdiction derives income or owns capital which may be taxed in the other Contracting Jurisdiction in accordance with the provisions of a Covered Tax Agreement (except to the extent that these provisions allow taxation by that other Contracting Jurisdiction solely because the income is also income derived by a resident of that other Contracting Jurisdiction), the first-mentioned Contracting Jurisdiction shall allow:

- i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other Contracting Jurisdiction;
- ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other Contracting Jurisdiction.

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

b) Where in accordance with any provision of the Covered Tax Agreement income derived or capital owned by a resident of a Contracting Jurisdiction is exempt from tax in that Contracting Jurisdiction, such Contracting Jurisdiction may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

7. Paragraph 6 shall apply in place of provisions of a Covered Tax Agreement that, for purposes of eliminating double taxation, require a Contracting Jurisdiction to exempt from tax in that Contracting Jurisdiction income derived or capital owned by a resident of that Contracting Jurisdiction which, in accordance with the provisions of the Covered Tax Agreement, may be taxed in the other Contracting Jurisdiction.

8. A Party that does not choose to apply an Option under paragraph 1 may reserve the right for the entirety of this Article not to apply with respect to one or more identified Covered Tax Agreements (or with respect to all of its Covered Tax Agreements).

9. A Party that does not choose to apply Option C may reserve the right, with respect to one or more identified Covered Tax Agreements (or with respect to all of its Covered Tax Agreements), not to permit the other Contracting Jurisdiction(s) to apply Option C.

10. Each Party that chooses to apply an Option under paragraph 1 shall notify the Depositary of its choice of Option. Such notification shall also include:

- a) in the case of a Party that chooses to apply Option A, the list of its Covered Tax Agreements which contain a provision described in paragraph 3, as well as the article and paragraph number of each such provision;
- b) in the case of a Party that chooses to apply Option B, the list of its Covered Tax Agreements which contain a provision described in paragraph 5, as well as the article and paragraph number of each such provision;
- c) in the case of a Party that chooses to apply Option C, the list of its Covered Tax Agreements which contain a provision described in paragraph 7, as well as the article and paragraph number of each such provision.

An Option shall apply with respect to a provision of a Covered Tax Agreement only where the Party that has chosen to apply that Option has made such a notification with respect to that provision.

**PART III.  
TREATY ABUSE**

***Article 6 – Purpose of a Covered Tax Agreement***

1. A Covered Tax Agreement shall be modified to include the following preamble text:

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

2. The text described in paragraph 1 shall be included in a Covered Tax Agreement in place of or in the absence of preamble language of the Covered Tax Agreement referring to an intent to eliminate double taxation, whether or not that language also refers to the intent not to create opportunities for non-taxation or reduced taxation.

3. A Party may also choose to include the following preamble text with respect to its Covered Tax Agreements that do not contain preamble language referring to a desire to develop an economic relationship or to enhance co-operation in tax matters:

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

4. A Party may reserve the right for paragraph 1 not to apply to its Covered Tax Agreements that already contain preamble language describing the intent of the Contracting Jurisdictions to eliminate double taxation without creating opportunities for non-taxation or reduced taxation, whether that language is limited to cases of tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the Covered Tax Agreement for the indirect benefit of residents of third jurisdictions) or applies more broadly.

5. Each Party shall notify the Depository of whether each of its Covered Tax Agreements, other than those that are within the scope of a reservation under paragraph 4, contains preamble language described in paragraph 2, and if so, the text of the relevant preambular paragraph. Where all Contracting Jurisdictions have made such a notification with respect to that preamble language, such preamble language shall be replaced by the text described in paragraph 1. In other cases, the text described in paragraph 1 shall be included in addition to the existing preamble language.

6. Each Party that chooses to apply paragraph 3 shall notify the Depository of its choice. Such notification shall also include the list of its Covered Tax Agreements that do not already contain preamble language referring to a desire to develop an economic relationship or to enhance co-operation in tax matters. The text described in paragraph 3 shall be included in a Covered Tax Agreement only where all Contracting Jurisdictions have chosen to apply that paragraph and have made such a notification with respect to the Covered Tax Agreement.



### *Article 7 – Prevention of Treaty Abuse*

1. Notwithstanding any provisions of a Covered Tax Agreement, a benefit under the Covered Tax Agreement shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the Covered Tax Agreement.
2. Paragraph 1 shall apply in place of or in the absence of provisions of a Covered Tax Agreement that deny all or part of the benefits that would otherwise be provided under the Covered Tax Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits.
3. A Party that has not made the reservation described in subparagraph a) of paragraph 15 may also choose to apply paragraph 4 with respect to its Covered Tax Agreements.
4. Where a benefit under a Covered Tax Agreement is denied to a person under provisions of the Covered Tax Agreement (as it may be modified by this Convention) that deny all or part of the benefits that would otherwise be provided under the Covered Tax Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits, the competent authority of the Contracting Jurisdiction that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or capital, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement. The competent authority of the Contracting Jurisdiction to which a request has been made under this paragraph by a resident of the other Contracting Jurisdiction shall consult with the competent authority of that other Contracting Jurisdiction before rejecting the request.
5. Paragraph 4 shall apply to provisions of a Covered Tax Agreement (as it may be modified by this Convention) that deny all or part of the benefits that would otherwise be provided under the Covered Tax Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits.
6. A Party may also choose to apply the provisions contained in paragraphs 8 through 13 (hereinafter referred to as the “Simplified Limitation on Benefits Provision”) to its Covered Tax Agreements by making the notification described in subparagraph c) of paragraph 17. The Simplified Limitation on Benefits Provision shall apply with respect to a Covered Tax Agreement only where all Contracting Jurisdictions have chosen to apply it.
7. In cases where some but not all of the Contracting Jurisdictions to a Covered Tax Agreement choose to apply the Simplified Limitation on Benefits Provision pursuant to paragraph 6, then, notwithstanding the provisions of that paragraph, the Simplified Limitation on Benefits Provision shall apply with respect to the granting of benefits under the Covered Tax Agreement:
  - a) by all Contracting Jurisdictions, if all of the Contracting Jurisdictions that do not choose pursuant to paragraph 6 to apply the Simplified Limitation on Benefits Provision agree to such application by choosing to apply this subparagraph and notifying the Depositary accordingly; or

- b) only by the Contracting Jurisdictions that choose to apply the Simplified Limitation on Benefits Provision, if all of the Contracting Jurisdictions that do not choose pursuant to paragraph 6 to apply the Simplified Limitation on Benefits Provision agree to such application by choosing to apply this subparagraph and notifying the Depository accordingly.

***Simplified Limitation on Benefits Provision***

8. Except as otherwise provided in the Simplified Limitation on Benefits Provision, a resident of a Contracting Jurisdiction to a Covered Tax Agreement shall not be entitled to a benefit that would otherwise be accorded by the Covered Tax Agreement, other than a benefit under provisions of the Covered Tax Agreement:

- a) which determine the residence of a person other than an individual which is a resident of more than one Contracting Jurisdiction by reason of provisions of the Covered Tax Agreement that define a resident of a Contracting Jurisdiction;
- b) which provide that a Contracting Jurisdiction will grant to an enterprise of that Contracting Jurisdiction a corresponding adjustment following an initial adjustment made by the other Contracting Jurisdiction, in accordance with the Covered Tax Agreement, to the amount of tax charged in the first-mentioned Contracting Jurisdiction on the profits of an associated enterprise; or
- c) which allow residents of a Contracting Jurisdiction to request that the competent authority of that Contracting Jurisdiction consider cases of taxation not in accordance with the Covered Tax Agreement,

unless such resident is a “qualified person”, as defined in paragraph 9 at the time that the benefit would be accorded.

9. A resident of a Contracting Jurisdiction to a Covered Tax Agreement shall be a qualified person at a time when a benefit would otherwise be accorded by the Covered Tax Agreement if, at that time, the resident is:

- a) an individual;
- b) that Contracting Jurisdiction, or a political subdivision or local authority thereof, or an agency or instrumentality of any such Contracting Jurisdiction, political subdivision or local authority;
- c) a company or other entity, if the principal class of its shares is regularly traded on one or more recognised stock exchanges;
- d) a person, other than an individual, that:
  - i) is a non-profit organisation of a type that is agreed to by the Contracting Jurisdictions through an exchange of diplomatic notes; or
  - ii) is an entity or arrangement established in that Contracting Jurisdiction that is treated as a separate person under the taxation laws of that Contracting Jurisdiction and:
    - A) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and

that is regulated as such by that Contracting Jurisdiction or one of its political subdivisions or local authorities; or

- B) that is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in subdivision A);
- e) a person other than an individual, if, on at least half the days of a twelve-month period that includes the time when the benefit would otherwise be accorded, persons who are residents of that Contracting Jurisdiction and that are entitled to benefits of the Covered Tax Agreement under subparagraphs a) to d) own, directly or indirectly, at least 50 per cent of the shares of the person.
10. a) A resident of a Contracting Jurisdiction to a Covered Tax Agreement will be entitled to benefits of the Covered Tax Agreement with respect to an item of income derived from the other Contracting Jurisdiction, regardless of whether the resident is a qualified person, if the resident is engaged in the active conduct of a business in the first-mentioned Contracting Jurisdiction, and the income derived from the other Contracting Jurisdiction emanates from, or is incidental to, that business. For purposes of the Simplified Limitation on Benefits Provision, the term “active conduct of a business” shall not include the following activities or any combination thereof:
- i) operating as a holding company;
  - ii) providing overall supervision or administration of a group of companies;
  - iii) providing group financing (including cash pooling); or
  - iv) making or managing investments, unless these activities are carried on by a bank, insurance company or registered securities dealer in the ordinary course of its business as such.
- b) If a resident of a Contracting Jurisdiction to a Covered Tax Agreement derives an item of income from a business activity conducted by that resident in the other Contracting Jurisdiction, or derives an item of income arising in the other Contracting Jurisdiction from a connected person, the conditions described in subparagraph a) shall be considered to be satisfied with respect to such item only if the business activity carried on by the resident in the first-mentioned Contracting Jurisdiction to which the item is related is substantial in relation to the same activity or a complementary business activity carried on by the resident or such connected person in the other Contracting Jurisdiction. Whether a business activity is substantial for the purposes of this subparagraph shall be determined based on all the facts and circumstances.
- c) For purposes of applying this paragraph, activities conducted by connected persons with respect to a resident of a Contracting Jurisdiction to a Covered Tax Agreement shall be deemed to be conducted by such resident.
11. A resident of a Contracting Jurisdiction to a Covered Tax Agreement that is not a qualified person shall also be entitled to a benefit that would otherwise be accorded by the Covered Tax Agreement with respect to an item of income if, on at least half of the days of any twelve-month period that includes the time when the benefit would otherwise be accorded, persons that are equivalent beneficiaries own, directly or indirectly, at least 75 per cent of the beneficial interests of the resident.
12. If a resident of a Contracting Jurisdiction to a Covered Tax Agreement is neither a qualified person pursuant to the provisions of paragraph 9, nor entitled to benefits under paragraph 10 or 11, the competent

authority of the other Contracting Jurisdiction may, nevertheless, grant the benefits of the Covered Tax Agreement, or benefits with respect to a specific item of income, taking into account the object and purpose of the Covered Tax Agreement, but only if such resident demonstrates to the satisfaction of such competent authority that neither its establishment, acquisition or maintenance, nor the conduct of its operations, had as one of its principal purposes the obtaining of benefits under the Covered Tax Agreement. Before either granting or denying a request made under this paragraph by a resident of a Contracting Jurisdiction, the competent authority of the other Contracting Jurisdiction to which the request has been made shall consult with the competent authority of the first-mentioned Contracting Jurisdiction.

13. For the purposes of the Simplified Limitation on Benefits Provision:

- a) the term “recognised stock exchange” means:
  - i) any stock exchange established and regulated as such under the laws of either Contracting Jurisdiction; and
  - ii) any other stock exchange agreed upon by the competent authorities of the Contracting Jurisdictions;
- b) the term “principal class of shares” means the class or classes of shares of a company which represents the majority of the aggregate vote and value of the company or the class or classes of beneficial interests of an entity which represents in the aggregate a majority of the aggregate vote and value of the entity;
- c) the term “equivalent beneficiary” means any person who would be entitled to benefits with respect to an item of income accorded by a Contracting Jurisdiction to a Covered Tax Agreement under the domestic law of that Contracting Jurisdiction, the Covered Tax Agreement or any other international instrument which are equivalent to, or more favourable than, benefits to be accorded to that item of income under the Covered Tax Agreement; for the purposes of determining whether a person is an equivalent beneficiary with respect to dividends, the person shall be deemed to hold the same capital of the company paying the dividends as such capital the company claiming the benefit with respect to the dividends holds;
- d) with respect to entities that are not companies, the term “shares” means interests that are comparable to shares;
- e) two persons shall be “connected persons” if one owns, directly or indirectly, at least 50 per cent of the beneficial interest in the other (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) or another person owns, directly or indirectly, at least 50 per cent of the beneficial interest (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) in each person; in any case, a person shall be connected to another if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same person or persons.

14. The Simplified Limitation on Benefits Provision shall apply in place of or in the absence of provisions of a Covered Tax Agreement that would limit the benefits of the Covered Tax Agreement (or that would limit benefits other than a benefit under the provisions of the Covered Tax Agreement relating to residence, associated enterprises or non-discrimination or a benefit that is not restricted solely to residents of a Contracting Jurisdiction) only to a resident that qualifies for such benefits by meeting one or more categorical tests.

15. A Party may reserve the right:

- a) for paragraph 1 not to apply to its Covered Tax Agreements on the basis that it intends to adopt a combination of a detailed limitation on benefits provision and either rules to address conduit financing structures or a principal purpose test, thereby meeting the minimum standard for preventing treaty abuse under the OECD/G20 BEPS package; in such cases, the Contracting Jurisdictions shall endeavour to reach a mutually satisfactory solution which meets the minimum standard;
- b) for paragraph 1 (and paragraph 4, in the case of a Party that has chosen to apply that paragraph) not to apply to its Covered Tax Agreements that already contain provisions that deny all of the benefits that would otherwise be provided under the Covered Tax Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits;
- c) for the Simplified Limitation on Benefits Provision not to apply to its Covered Tax Agreements that already contain the provisions described in paragraph 14.

16. Except where the Simplified Limitation on Benefits Provision applies with respect to the granting of benefits under a Covered Tax Agreement by one or more Parties pursuant to paragraph 7, a Party that chooses pursuant to paragraph 6 to apply the Simplified Limitation on Benefits Provision may reserve the right for the entirety of this Article not to apply with respect to its Covered Tax Agreements for which one or more of the other Contracting Jurisdictions has not chosen to apply the Simplified Limitation on Benefits Provision. In such cases, the Contracting Jurisdictions shall endeavour to reach a mutually satisfactory solution which meets the minimum standard for preventing treaty abuse under the OECD/G20 BEPS package.

17. a) Each Party that has not made the reservation described in subparagraph a) of paragraph 15 shall notify the Depository of whether each of its Covered Tax Agreements that is not subject to a reservation described in subparagraph b) of paragraph 15 contains a provision described in paragraph 2, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraph 1 (and where applicable, paragraph 4). In other cases, paragraph 1 (and where applicable, paragraph 4) shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1 (and where applicable, paragraph 4). A Party making a notification under this subparagraph may also include a statement that while such Party accepts the application of paragraph 1 alone as an interim measure, it intends where possible to adopt a limitation on benefits provision, in addition to or in replacement of paragraph 1, through bilateral negotiation.
- b) Each Party that chooses to apply paragraph 4 shall notify the Depository of its choice. Paragraph 4 shall apply to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification.
- c) Each Party that chooses to apply the Simplified Limitation on Benefits Provision pursuant to paragraph 6 shall notify the Depository of its choice. Unless such Party has made the reservation described in subparagraph c) of paragraph 15, such notification shall also include the list of its Covered Tax Agreements which contain a provision described in paragraph 14, as well as the article and paragraph number of each such provision.

- d) Each Party that does not choose to apply the Simplified Limitation on Benefits Provision pursuant to paragraph 6, but chooses to apply either subparagraph a) or b) of paragraph 7 shall notify the Depositary of its choice of subparagraph. Unless such Party has made the reservation described in subparagraph c) of paragraph 15, such notification shall also include the list of its Covered Tax Agreements which contain a provision described in paragraph 14, as well as the article and paragraph number of each such provision.
- e) Where all Contracting Jurisdictions have made a notification under subparagraph c) or d) with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the Simplified Limitation on Benefits Provision. In other cases, the Simplified Limitation on Benefits Provision shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with the Simplified Limitation on Benefits Provision.

### ***Article 8 – Dividend Transfer Transactions***

1. Provisions of a Covered Tax Agreement that exempt dividends paid by a company which is a resident of a Contracting Jurisdiction from tax or that limit the rate at which such dividends may be taxed, provided that the beneficial owner or the recipient is a company which is a resident of the other Contracting Jurisdiction and which owns, holds or controls more than a certain amount of the capital, shares, stock, voting power, voting rights or similar ownership interests of the company paying the dividends, shall apply only if the ownership conditions described in those provisions are met throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).
2. The minimum holding period provided in paragraph 1 shall apply in place of or in the absence of a minimum holding period in provisions of a Covered Tax Agreement described in paragraph 1.
3. A Party may reserve the right:
  - a) for the entirety of this Article not to apply to its Covered Tax Agreements;
  - b) for the entirety of this Article not to apply to its Covered Tax Agreements to the extent that the provisions described in paragraph 1 already include:
    - i) a minimum holding period;
    - ii) a minimum holding period shorter than a 365 day period; or
    - iii) a minimum holding period longer than a 365 day period.
4. Each Party that has not made a reservation described in subparagraph a) of paragraph 3 shall notify the Depositary of whether each of its Covered Tax Agreements contains a provision described in paragraph 1 that is not subject to a reservation described in subparagraph b) of paragraph 3, and if so, the article and paragraph number of each such provision. Paragraph 1 shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that provision.

***Article 9 – Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property***

1. Provisions of a Covered Tax Agreement providing that gains derived by a resident of a Contracting Jurisdiction from the alienation of shares or other rights of participation in an entity may be taxed in the other Contracting Jurisdiction provided that these shares or rights derived more than a certain part of their value from immovable property (real property) situated in that other Contracting Jurisdiction (or provided that more than a certain part of the property of the entity consists of such immovable property (real property)):
  - a) shall apply if the relevant value threshold is met at any time during the 365 days preceding the alienation; and
  - b) shall apply to shares or comparable interests, such as interests in a partnership or trust (to the extent that such shares or interests are not already covered) in addition to any shares or rights already covered by the provisions.
2. The period provided in subparagraph a) of paragraph 1 shall apply in place of or in the absence of a time period for determining whether the relevant value threshold in provisions of a Covered Tax Agreement described in paragraph 1 was met.
3. A Party may also choose to apply paragraph 4 with respect to its Covered Tax Agreements.
4. For purposes of a Covered Tax Agreement, gains derived by a resident of a Contracting Jurisdiction from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting Jurisdiction if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other Contracting Jurisdiction.
5. Paragraph 4 shall apply in place of or in the absence of provisions of a Covered Tax Agreement providing that gains derived by a resident of a Contracting Jurisdiction from the alienation of shares or other rights of participation in an entity may be taxed in the other Contracting Jurisdiction provided that these shares or rights derived more than a certain part of their value from immovable property (real property) situated in that other Contracting Jurisdiction, or provided that more than a certain part of the property of the entity consists of such immovable property (real property).
6. A Party may reserve the right:
  - a) for paragraph 1 not to apply to its Covered Tax Agreements;
  - b) for subparagraph a) of paragraph 1 not to apply to its Covered Tax Agreements;
  - c) for subparagraph b) of paragraph 1 not to apply to its Covered Tax Agreements;
  - d) for subparagraph a) of paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision of the type described in paragraph 1 that includes a period for determining whether the relevant value threshold was met;
  - e) for subparagraph b) of paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision of the type described in paragraph 1 that applies to the alienation of interests other than shares;

- f) for paragraph 4 not to apply to its Covered Tax Agreements that already contain the provisions described in paragraph 5.

7. Each Party that has not made the reservation described in subparagraph a) of paragraph 6 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 1, and if so, the article and paragraph number of each such provision. Paragraph 1 shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have made a notification with respect to that provision.

8. Each Party that chooses to apply paragraph 4 shall notify the Depository of its choice. Paragraph 4 shall apply to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification. In such case, paragraph 1 shall not apply with respect to that Covered Tax Agreement. In the case of a Party that has not made the reservation described in subparagraph f) of paragraph 6 and has made the reservation described in subparagraph a) of paragraph 6, such notification shall also include the list of its Covered Tax Agreements which contain a provision described in paragraph 5, as well as the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made a notification with respect to a provision of a Covered Tax Agreement under this paragraph or paragraph 7, that provision shall be replaced by the provisions of paragraph 4. In other cases, paragraph 4 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 4.

***Article 10 – Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions***

1. Where:

- a) an enterprise of a Contracting Jurisdiction to a Covered Tax Agreement derives income from the other Contracting Jurisdiction and the first-mentioned Contracting Jurisdiction treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction; and
- b) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned Contracting Jurisdiction,

the benefits of the Covered Tax Agreement shall not apply to any item of income on which the tax in the third jurisdiction is less than 60 per cent of the tax that would be imposed in the first-mentioned Contracting Jurisdiction on that item of income if that permanent establishment were situated in the first-mentioned Contracting Jurisdiction. In such a case, any income to which the provisions of this paragraph apply shall remain taxable according to the domestic law of the other Contracting Jurisdiction, notwithstanding any other provisions of the Covered Tax Agreement.

2. Paragraph 1 shall not apply if the income derived from the other Contracting Jurisdiction described in paragraph 1 is derived in connection with or is incidental to the active conduct of a business carried on through the permanent establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively).

3. If benefits under a Covered Tax Agreement are denied pursuant to paragraph 1 with respect to an item of income derived by a resident of a Contracting Jurisdiction, the competent authority of the other Contracting Jurisdiction may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of paragraphs 1 and 2. The competent authority of



the Contracting Jurisdiction to which a request has been made under the preceding sentence by a resident of the other Contracting Jurisdiction shall consult with the competent authority of that other Contracting Jurisdiction before either granting or denying the request.

4. Paragraphs 1 through 3 shall apply in place of or in the absence of provisions of a Covered Tax Agreement that deny or limit benefits that would otherwise be granted to an enterprise of a Contracting Jurisdiction which derives income from the other Contracting Jurisdiction that is attributable to a permanent establishment of the enterprise situated in a third jurisdiction.

5. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for the entirety of this Article not to apply to its Covered Tax Agreements that already contain the provisions described in paragraph 4;
- c) for this Article to apply only to its Covered Tax Agreements that already contain the provisions described in paragraph 4.

6. Each Party that has not made the reservation described in subparagraph a) or b) of paragraph 5 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 4, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraphs 1 through 3. In other cases, paragraphs 1 through 3 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with those paragraphs.

***Article 11 – Application of Tax Agreements to Restrict a Party’s Right to Tax its Own Residents***

1. A Covered Tax Agreement shall not affect the taxation by a Contracting Jurisdiction of its residents, except with respect to the benefits granted under provisions of the Covered Tax Agreement:

- a) which require that Contracting Jurisdiction to grant to an enterprise of that Contracting Jurisdiction a correlative or corresponding adjustment following an initial adjustment made by the other Contracting Jurisdiction, in accordance with the Covered Tax Agreement, to the amount of tax charged in the first-mentioned Contracting Jurisdiction on the profits of a permanent establishment of the enterprise or the profits of an associated enterprise;
- b) which may affect how that Contracting Jurisdiction taxes an individual who is a resident of that Contracting Jurisdiction if that individual derives income in respect of services rendered to the other Contracting Jurisdiction or a political subdivision or local authority or other comparable body thereof;
- c) which may affect how that Contracting Jurisdiction taxes an individual who is a resident of that Contracting Jurisdiction if that individual is also a student, business apprentice or trainee, or a teacher, professor, lecturer, instructor, researcher or research scholar who meets the conditions of the Covered Tax Agreement;

- d) which require that Contracting Jurisdiction to provide a tax credit or tax exemption to residents of that Contracting Jurisdiction with respect to the income that the other Contracting Jurisdiction may tax in accordance with the Covered Tax Agreement (including profits that are attributable to a permanent establishment situated in that other Contracting Jurisdiction in accordance with the Covered Tax Agreement);
- e) which protect residents of that Contracting Jurisdiction against certain discriminatory taxation practices by that Contracting Jurisdiction;
- f) which allow residents of that Contracting Jurisdiction to request that the competent authority of that or either Contracting Jurisdiction consider cases of taxation not in accordance with the Covered Tax Agreement;
- g) which may affect how that Contracting Jurisdiction taxes an individual who is a resident of that Contracting Jurisdiction when that individual is a member of a diplomatic mission, government mission or consular post of the other Contracting Jurisdiction;
- h) which provide that pensions or other payments made under the social security legislation of the other Contracting Jurisdiction shall be taxable only in that other Contracting Jurisdiction;
- i) which provide that pensions and similar payments, annuities, alimony payments or other maintenance payments arising in the other Contracting Jurisdiction shall be taxable only in that other Contracting Jurisdiction; or
- j) which otherwise expressly limit a Contracting Jurisdiction's right to tax its own residents or provide expressly that the Contracting Jurisdiction in which an item of income arises has the exclusive right to tax that item of income.

2. Paragraph 1 shall apply in place of or in the absence of provisions of a Covered Tax Agreement stating that the Covered Tax Agreement would not affect the taxation by a Contracting Jurisdiction of its residents.

3. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for the entirety of this Article not to apply to its Covered Tax Agreements that already contain the provisions described in paragraph 2.

4. Each Party that has not made the reservation described in subparagraph a) or b) of paragraph 3 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 2, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraph 1. In other cases, paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1.

**PART IV.**  
**AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS**

***Article 12 – Artificial Avoidance of Permanent Establishment Status through Commissionnaire Arrangements and Similar Strategies***

1. Notwithstanding the provisions of a Covered Tax Agreement that define the term “permanent establishment”, but subject to paragraph 2, where a person is acting in a Contracting Jurisdiction to a Covered Tax Agreement on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are:

- a) in the name of the enterprise; or
- b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or
- c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that Contracting Jurisdiction in respect of any activities which that person undertakes for the enterprise unless these activities, if they were exercised by the enterprise through a fixed place of business of that enterprise situated in that Contracting Jurisdiction, would not cause that fixed place of business to be deemed to constitute a permanent establishment under the definition of permanent establishment included in the Covered Tax Agreement (as it may be modified by this Convention).

2. Paragraph 1 shall not apply where the person acting in a Contracting Jurisdiction to a Covered Tax Agreement on behalf of an enterprise of the other Contracting Jurisdiction carries on business in the first-mentioned Contracting Jurisdiction as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

- 3. a) Paragraph 1 shall apply in place of provisions of a Covered Tax Agreement that describe the conditions under which an enterprise shall be deemed to have a permanent establishment in a Contracting Jurisdiction (or a person shall be deemed to be a permanent establishment in a Contracting Jurisdiction) in respect of an activity which a person other than an agent of an independent status undertakes for the enterprise, but only to the extent that such provisions address the situation in which such person has, and habitually exercises, in that Contracting Jurisdiction an authority to conclude contracts in the name of the enterprise.
- b) Paragraph 2 shall apply in place of provisions of a Covered Tax Agreement that provide that an enterprise shall not be deemed to have a permanent establishment in a Contracting Jurisdiction in respect of an activity which an agent of an independent status undertakes for the enterprise.

4. A Party may reserve the right for the entirety of this Article not to apply to its Covered Tax Agreements.

5. Each Party that has not made a reservation described in paragraph 4 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in subparagraph a) of

paragraph 3, as well as the article and paragraph number of each such provision. Paragraph 1 shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have made a notification with respect to that provision.

6. Each Party that has not made a reservation described in paragraph 4 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in subparagraph b) of paragraph 3, as well as the article and paragraph number of each such provision. Paragraph 2 shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that provision.

***Article 13 – Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions***

1. A Party may choose to apply paragraph 2 (Option A) or paragraph 3 (Option B) or to apply neither Option.

***Option A***

2. Notwithstanding the provisions of a Covered Tax Agreement that define the term “permanent establishment”, the term “permanent establishment” shall be deemed not to include:

- a) the activities specifically listed in the Covered Tax Agreement (prior to modification by this Convention) as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character;
- b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);
- c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),

provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

***Option B***

3. Notwithstanding the provisions of a Covered Tax Agreement that define the term “permanent establishment”, the term “permanent establishment” shall be deemed not to include:

- a) the activities specifically listed in the Covered Tax Agreement (prior to modification by this Convention) as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character, except to the extent that the relevant provision of the Covered Tax Agreement provides explicitly that a specific activity shall be deemed not to constitute a permanent establishment provided that the activity is of a preparatory or auxiliary character;

- b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a), provided that this activity is of a preparatory or auxiliary character;
- c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

4. A provision of a Covered Tax Agreement (as it may be modified by paragraph 2 or 3) that lists specific activities deemed not to constitute a permanent establishment shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting Jurisdiction and:

- a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of a Covered Tax Agreement defining a permanent establishment; or
- b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

- 5. a) Paragraph 2 or 3 shall apply in place of the relevant parts of provisions of a Covered Tax Agreement that list specific activities that are deemed not to constitute a permanent establishment even if the activity is carried on through a fixed place of business (or provisions of a Covered Tax Agreement that operate in a comparable manner).
- b) Paragraph 4 shall apply to provisions of a Covered Tax Agreement (as they may be modified by paragraph 2 or 3) that list specific activities that are deemed not to constitute a permanent establishment even if the activity is carried on through a fixed place of business (or provisions of a Covered Tax Agreement that operate in a comparable manner).

6. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for paragraph 2 not to apply to its Covered Tax Agreements that explicitly state that a list of specific activities shall be deemed not to constitute a permanent establishment only if each of the activities is of a preparatory or auxiliary character;
- c) for paragraph 4 not to apply to its Covered Tax Agreements.

7. Each Party that chooses to apply an Option under paragraph 1 shall notify the Depositary of its choice of Option. Such notification shall also include the list of its Covered Tax Agreements which contain a provision described in subparagraph a) of paragraph 5, as well as the article and paragraph number of each such provision. An Option shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have chosen to apply the same Option and have made such a notification with respect to that provision.

8. Each Party that has not made a reservation described in subparagraph a) or c) of paragraph 6 and does not choose to apply an Option under paragraph 1 shall notify the Depositary of whether each of its Covered Tax Agreements contains a provision described in subparagraph b) of paragraph 5, as well as the article and paragraph number of each such provision. Paragraph 4 shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have made a notification with respect to that provision under this paragraph or paragraph 7.

***Article 14 – Splitting-up of Contracts***

1. For the sole purpose of determining whether the period (or periods) referred to in a provision of a Covered Tax Agreement that stipulates a period (or periods) of time after which specific projects or activities shall constitute a permanent establishment has been exceeded:

- a) where an enterprise of a Contracting Jurisdiction carries on activities in the other Contracting Jurisdiction at a place that constitutes a building site, construction project, installation project or other specific project identified in the relevant provision of the Covered Tax Agreement, or carries on supervisory or consultancy activities in connection with such a place, in the case of a provision of a Covered Tax Agreement that refers to such activities, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding the period or periods referred to in the relevant provision of the Covered Tax Agreement; and
- b) where connected activities are carried on in that other Contracting Jurisdiction at (or, where the relevant provision of the Covered Tax Agreement applies to supervisory or consultancy activities, in connection with) the same building site, construction or installation project, or other place identified in the relevant provision of the Covered Tax Agreement during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

these different periods of time shall be added to the aggregate period of time during which the first-mentioned enterprise has carried on activities at that building site, construction or installation project, or other place identified in the relevant provision of the Covered Tax Agreement.

2. Paragraph 1 shall apply in place of or in the absence of provisions of a Covered Tax Agreement to the extent that such provisions address the division of contracts into multiple parts to avoid the application of a time period or periods in relation to the existence of a permanent establishment for specific projects or activities described in paragraph 1.

3. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for the entirety of this Article not to apply with respect to provisions of its Covered Tax Agreements relating to the exploration for or exploitation of natural resources.

4. Each Party that has not made a reservation described in subparagraph a) of paragraph 3 shall notify the Depositary of whether each of its Covered Tax Agreements contains a provision described in paragraph 2 that is not subject to a reservation under subparagraph b) of paragraph 3, and if so, the article and paragraph number

of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of

paragraph 1 to the extent provided in paragraph 2. In other cases, paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1.

***Article 15 – Definition of a Person Closely Related to an Enterprise***

1. For the purposes of the provisions of a Covered Tax Agreement that are modified by paragraph 2 of Article 12 (Artificial Avoidance of Permanent Establishment Status through Commissionnaire Arrangements and Similar Strategies), paragraph 4 of Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions), or paragraph 1 of Article 14 (Splitting-up of Contracts), a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

2. A Party that has made the reservations described in paragraph 4 of Article 12 (Artificial Avoidance of Permanent Establishment Status through Commissionnaire Arrangements and Similar Strategies), subparagraph a) or c) of paragraph 6 of Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions), and subparagraph a) of paragraph 3 of Article 14 (Splitting-up of Contracts) may reserve the right for the entirety of this Article not to apply to the Covered Tax Agreements to which those reservations apply.

**PART V.  
IMPROVING DISPUTE RESOLUTION**

***Article 16 – Mutual Agreement Procedure***

1. Where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, that person may, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, present the case to the competent authority of either Contracting Jurisdiction. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Jurisdiction, with a view to the avoidance of taxation which is not in accordance with the Covered Tax Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Jurisdictions.
3. The competent authorities of the Contracting Jurisdictions shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Covered Tax Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Covered Tax Agreement.
4.
  - a)
    - i) The first sentence of paragraph 1 shall apply in place of or in the absence of provisions of a Covered Tax Agreement (or parts thereof) that provide that where a person considers that the actions of one or both of the Contracting Jurisdiction result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, that person may, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, present the case to the competent authority of the Contracting Jurisdiction of which that person is a resident including provisions under which, if the case presented by that person comes under the provisions of a Covered Tax Agreement relating to non-discrimination based on nationality, the case may be presented to the competent authority of the Contracting Jurisdiction of which that person is a national.
    - ii) The second sentence of paragraph 1 shall apply in place of provisions of a Covered Tax Agreement that provide that a case referred to in the first sentence of paragraph 1 must be presented within a specific time period that is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement, or in the absence of a provision of a Covered Tax Agreement describing the time period within which such a case must be presented.
  - b)
    - i) The first sentence of paragraph 2 shall apply in the absence of provisions of a Covered Tax Agreement that provide that the competent authority that is presented with the case by the person referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Jurisdiction, with a view to the avoidance of taxation which is not in accordance with the Covered Tax Agreement.



- ii) The second sentence of paragraph 2 shall apply in the absence of provisions of a Covered Tax Agreement providing that any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Jurisdictions.
- c) i) The first sentence of paragraph 3 shall apply in the absence of provisions of a Covered Tax Agreement that provide that the competent authorities of the Contracting Jurisdictions shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Covered Tax Agreement.
- ii) The second sentence of paragraph 3 shall apply in the absence of provisions of a Covered Tax Agreement that provide that the competent authorities of the Contracting Jurisdictions may also consult together for the elimination of double taxation in cases not provided for in the Covered Tax Agreement.

5. A Party may reserve the right:

- a) for the first sentence of paragraph 1 not to apply to its Covered Tax Agreements on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS Package by ensuring that under each of its Covered Tax Agreements (other than a Covered Tax Agreement that permits a person to present a case to the competent authority of either Contracting Jurisdiction), where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, that person may present the case to the competent authority of the Contracting Jurisdiction of which the person is a resident or, if the case presented by that person comes under a provision of a Covered Tax Agreement relating to non-discrimination based on nationality, to that of the Contracting Jurisdiction of which that person is a national; and the competent authority of that Contracting Jurisdiction will implement a bilateral notification or consultation process with the competent authority of the other Contracting Jurisdiction for cases in which the competent authority to which the mutual agreement procedure case was presented does not consider the taxpayer's objection to be justified;
- b) for the second sentence of paragraph 1 not to apply to its Covered Tax Agreements that do not provide that the case referred to in the first sentence of paragraph 1 must be presented within a specific time period on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS package by ensuring that for the purposes of all such Covered Tax Agreements the taxpayer referred to in paragraph 1 is allowed to present the case within a period of at least three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement;
- c) for the second sentence of paragraph 2 not to apply to its Covered Tax Agreements on the basis that for the purposes of all of its Covered Tax Agreements:
  - i) any agreement reached via the mutual agreement procedure shall be implemented notwithstanding any time limits in the domestic laws of the Contracting Jurisdictions; or
  - ii) it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS package by accepting, in its bilateral treaty negotiations, a treaty provision providing that:

- A) the Contracting Jurisdictions shall make no adjustment to the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting Jurisdictions after a period that is mutually agreed between both Contracting Jurisdictions from the end of the taxable year in which the profits would have been attributable to the permanent establishment (this provision shall not apply in the case of fraud, gross negligence or wilful default); and
  - B) the Contracting Jurisdictions shall not include in the profits of an enterprise, and tax accordingly, profits that would have accrued to the enterprise but that by reason of the conditions referred to in a provision in the Covered Tax Agreement relating to associated enterprises have not so accrued, after a period that is mutually agreed between both Contracting Jurisdictions from the end of the taxable year in which the profits would have accrued to the enterprise (this provision shall not apply in the case of fraud, gross negligence or wilful default).
6. a) Each Party that has not made a reservation described in subparagraph a) of paragraph 5 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in clause i) of subparagraph a) of paragraph 4, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the first sentence of paragraph 1. In other cases, the first sentence of paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with that sentence.
- b) Each Party that has not made the reservation described in subparagraph b) of paragraph 5 shall notify the Depository of:
- i) the list of its Covered Tax Agreements which contain a provision that provides that a case referred to in the first sentence of paragraph 1 must be presented within a specific time period that is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement, as well as the article and paragraph number of each such provision; a provision of a Covered Tax Agreement shall be replaced by the second sentence of paragraph 1 where all Contracting Jurisdictions have made such a notification with respect to that provision; in other cases, subject to clause ii), the second sentence of paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with the second sentence of paragraph 1;
  - ii) the list of its Covered Tax Agreements which contain a provision that provides that a case referred to in the first sentence of paragraph 1 must be presented within a specific time period that is at least three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement, as well as the article and paragraph number of each such provision; the second sentence of paragraph 1 shall not apply to a Covered Tax Agreement where any Contracting Jurisdiction has made such a notification with respect to that Covered Tax Agreement.
- c) Each Party shall notify the Depository of:
- i) the list of its Covered Tax Agreements which do not contain a provision described in clause i) of subparagraph b) of paragraph 4; the first sentence of paragraph 2 shall apply

to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that Covered Tax Agreement;

- ii) in the case of a Party that has not made the reservation described in subparagraph c) of paragraph 5, the list of its Covered Tax Agreements which do not contain a provision described in clause ii) of subparagraph b) of paragraph 4; the second sentence of paragraph 2 shall apply to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that Covered Tax Agreement.
- d) Each Party shall notify the Depositary of:
- i) the list of its Covered Tax Agreements which do not contain a provision described in clause i) of subparagraph c) of paragraph 4; the first sentence of paragraph 3 shall apply to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that Covered Tax Agreement;
  - ii) the list of its Covered Tax Agreements which do not contain a provision described in clause ii) of subparagraph c) of paragraph 4; the second sentence of paragraph 3 shall apply to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that Covered Tax Agreement.

### ***Article 17 – Corresponding Adjustments***

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

2. Paragraph 1 shall apply in place of or in the absence of a provision that requires a Contracting Jurisdiction to make an appropriate adjustment to the amount of the tax charged therein on the profits of an enterprise of that Contracting Jurisdiction where the other Contracting Jurisdiction includes those profits in the profits of an enterprise of that other Contracting Jurisdiction and taxes those profits accordingly, and the profits so included are profits which would have accrued to the enterprise of that other Contracting Jurisdiction if the conditions made between the two enterprises had been those which would have been made between independent enterprises.

3. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements that already contain a provision described in paragraph 2;
- b) for the entirety of this Article not to apply to its Covered Tax Agreements on the basis that in the absence of a provision referred to in paragraph 2 in its Covered Tax Agreement:

- i) it shall make the appropriate adjustment referred to in paragraph 1; or
- ii) its competent authority shall endeavour to resolve the case under the provisions of a Covered Tax Agreement relating to mutual agreement procedure;
- c) in the case of a Party that has made a reservation under clause ii) of subparagraph c) of paragraph 5 of Article 16 (Mutual Agreement Procedure), for the entirety of this Article not to apply to its Covered Tax Agreements on the basis that in its bilateral treaty negotiations it shall accept a treaty provision of the type contained in paragraph 1, provided that the Contracting Jurisdictions were able to reach agreement on that provision and on the provisions described in clause ii) of subparagraph c) of paragraph 5 of Article 16 (Mutual Agreement Procedure).

4. Each Party that has not made a reservation described in paragraph 3 shall notify the Depositary of whether each of its Covered Tax Agreements contains a provision described in paragraph 2, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraph 1. In other cases, paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1.

**PART VI.  
ARBITRATION**

***Article 18 – Choice to Apply Part VI***

A Party may choose to apply this Part with respect to its Covered Tax Agreements and shall notify the Depository accordingly. This Part shall apply in relation to two Contracting Jurisdictions with respect to a Covered Tax Agreement only where both Contracting Jurisdictions have made such a notification.

***Article 19 – Mandatory Binding Arbitration***

1. Where:
  - a) under a provision of a Covered Tax Agreement (as it may be modified by paragraph 1 of Article 16 (Mutual Agreement Procedure)) that provides that a person may present a case to a competent authority of a Contracting Jurisdiction where that person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement (as it may be modified by the Convention), a person has presented a case to the competent authority of a Contracting Jurisdiction on the basis that the actions of one or both of the Contracting Jurisdictions have resulted for that person in taxation not in accordance with the provisions of the Covered Tax Agreement (as it may be modified by the Convention); and
  - b) the competent authorities are unable to reach an agreement to resolve that case pursuant to a provision of a Covered Tax Agreement (as it may be modified by paragraph 2 of Article 16 (Mutual Agreement Procedure)) that provides that the competent authority shall endeavour to resolve the case by mutual agreement with the competent authority of the other Contracting Jurisdiction, within a period of two years beginning on the start date referred to in paragraph 8 or 9, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting Jurisdictions have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in this Part, according to any rules or procedures agreed upon by the competent authorities of the Contracting Jurisdictions pursuant to the provisions of paragraph 10.

2. Where a competent authority has suspended the mutual agreement procedure referred to in paragraph 1 because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in subparagraph b) of paragraph 1 will stop running until either a final decision has been rendered by the court or administrative tribunal or the case has been suspended or withdrawn. In addition, where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in subparagraph b) of paragraph 1 will stop running until the suspension has been lifted.

3. Where both competent authorities agree that a person directly affected by the case has failed to provide in a timely manner any additional material information requested by either competent authority after the start of the period provided in subparagraph b) of paragraph 1, the period provided in subparagraph b) of paragraph 1 shall be extended for an amount of time equal to the period beginning on the date by which the information was requested and ending on the date on which that information was provided.

4.
  - a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1. The arbitration decision shall be final.
  - b) The arbitration decision shall be binding on both Contracting Jurisdictions except in the following cases:
    - i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.
    - ii) if a final decision of the courts of one of the Contracting Jurisdictions holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings)). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.
    - iii) if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.
5. The competent authority that received the initial request for a mutual agreement procedure as described in subparagraph a) of paragraph 1 shall, within two calendar months of receiving the request:
  - a) send a notification to the person who presented the case that it has received the request; and
  - b) send a notification of that request, along with a copy of the request, to the competent authority of the other Contracting Jurisdiction.
6. Within three calendar months after a competent authority receives the request for a mutual agreement procedure (or a copy thereof from the competent authority of the other Contracting Jurisdiction) it shall either:
  - a) notify the person who has presented the case and the other competent authority that it has received the information necessary to undertake substantive consideration of the case; or
  - b) request additional information from that person for that purpose.
7. Where pursuant to subparagraph b) of paragraph 6, one or both of the competent authorities have requested from the person who presented the case additional information necessary to undertake substantive

consideration of the case, the competent authority that requested the additional information shall, within three calendar months of receiving the additional information from that person, notify that person and the other competent authority either:

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

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

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

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

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

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

10. The competent authorities of the Contracting Jurisdictions shall by mutual agreement (pursuant to the article of the relevant Covered Tax Agreement regarding procedures for mutual agreement) settle the mode of application of the provisions contained in this Part, including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

11. For purposes of applying this Article to its Covered Tax Agreements, a Party may reserve the right to replace the two-year period set forth in subparagraph b) of paragraph 1 with a three-year period.

12. A Party may reserve the right for the following rules to apply with respect to its Covered Tax Agreements notwithstanding the other provisions of this Article:

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

concerning the issue is rendered by a court or administrative tribunal of one of the Contracting Jurisdictions, the arbitration process shall terminate.

#### ***Article 20 – Appointment of Arbitrators***

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

#### ***Article 21 – Confidentiality of Arbitration Proceedings***

1. Solely for the purposes of the application of the provisions of this Part and of the provisions of the relevant Covered Tax Agreement and of the domestic laws of the Contracting Jurisdictions related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective arbitrators and information that the competent authorities receive from the arbitration panel shall be considered information



that is exchanged under the provisions of the Covered Tax Agreement related to the exchange of information and administrative assistance.

2. The competent authorities of the Contracting Jurisdictions shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in the provisions of the Covered Tax Agreement related to exchange of information and administrative assistance and under the applicable laws of the Contracting Jurisdictions.

***Article 22 – Resolution of a Case Prior to the Conclusion of the Arbitration***

For the purposes of this Part and the provisions of the relevant Covered Tax Agreement that provide for resolution of cases through mutual agreement, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting Jurisdictions:

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

***Article 23 – Type of Arbitration Process***

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

- a) After a case is submitted to arbitration, the competent authority of each Contracting Jurisdiction shall submit to the arbitration panel, by a date set by agreement, a proposed resolution which addresses all unresolved issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities of the Contracting Jurisdictions). The proposed resolution shall be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax charged pursuant to the Covered Tax Agreement, for each adjustment or similar issue in the case. In a case in which the competent authorities of the Contracting Jurisdictions have been unable to reach agreement on an issue regarding the conditions for application of a provision of the relevant Covered Tax Agreement (hereinafter referred to as a “threshold question”), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.
- b) The competent authority of each Contracting Jurisdiction may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or supporting position paper shall provide a copy to the other competent authority by the date on which the proposed resolution and supporting position paper were due.

Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.

- c) The arbitration panel shall select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and shall not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the panel members. The arbitration panel shall deliver its decision in writing to the competent authorities of the Contracting Jurisdictions. The arbitration decision shall have no precedential value.

2. For the purpose of applying this Article with respect to its Covered Tax Agreements, a Party may reserve the right for paragraph 1 not to apply to its Covered Tax Agreements. In such a case, except to the extent that the competent authorities of the Contracting Jurisdictions mutually agree on different rules, the following rules shall apply with respect to an arbitration proceeding:

- a) After a case is submitted to arbitration, the competent authority of each Contracting Jurisdiction shall provide any information that may be necessary for the arbitration decision to all panel members without undue delay. Unless the competent authorities of the Contracting Jurisdictions agree otherwise, any information that was not available to both competent authorities before the request for arbitration was received by both of them shall not be taken into account for purposes of the decision.
- b) The arbitration panel shall decide the issues submitted to arbitration in accordance with the applicable provisions of the Covered Tax Agreement and, subject to these provisions, of those of the domestic laws of the Contracting Jurisdictions. The panel members shall also consider any other sources which the competent authorities of the Contracting Jurisdictions may by mutual agreement expressly identify.
- c) The arbitration decision shall be delivered to the competent authorities of the Contracting Jurisdictions in writing and shall indicate the sources of law relied upon and the reasoning which led to its result. The arbitration decision shall be adopted by a simple majority of the panel members. The arbitration decision shall have no precedential value.

3. A Party that has not made the reservation described in paragraph 2 may reserve the right for the preceding paragraphs of this Article not to apply with respect to its Covered Tax Agreements with Parties that have made such a reservation. In such a case, the competent authorities of the Contracting Jurisdictions of each such Covered Tax Agreement shall endeavour to reach agreement on the type of arbitration process that shall apply with respect to that Covered Tax Agreement. Until such an agreement is reached, Article 19 (Mandatory Binding Arbitration) shall not apply with respect to such a Covered Tax Agreement.

4. A Party may also choose to apply paragraph 5 with respect to its Covered Tax Agreements and shall notify the Depositary accordingly. Paragraph 5 shall apply in relation to two Contracting Jurisdictions with respect to a Covered Tax Agreement where either of the Contracting Jurisdictions has made such a notification.

5. Prior to the beginning of arbitration proceedings, the competent authorities of the Contracting Jurisdictions to a Covered Tax Agreement shall ensure that each person that presented the case and their

advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under the Covered Tax Agreement, as well as the arbitration proceeding under this Part, with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting Jurisdictions, a person that presented the case or one of that person's advisors materially breaches that agreement.

6. Notwithstanding paragraph 4, a Party that does not choose to apply paragraph 5 may reserve the right for paragraph 5 not to apply with respect to one or more identified Covered Tax Agreements or with respect to all of its Covered Tax Agreements.

7. A Party that chooses to apply paragraph 5 may reserve the right for this Part not to apply with respect to all Covered Tax Agreements for which the other Contracting Jurisdiction makes a reservation pursuant to paragraph 6.

#### ***Article 24 – Agreement on a Different Resolution***

1. For purposes of applying this Part with respect to its Covered Tax Agreements, a Party may choose to apply paragraph 2 and shall notify the Depository accordingly. Paragraph 2 shall apply in relation to two Contracting Jurisdictions with respect to a Covered Tax Agreement only where both Contracting Jurisdictions have made such a notification.

2. Notwithstanding paragraph 4 of Article 19 (Mandatory Binding Arbitration), an arbitration decision pursuant to this Part shall not be binding on the Contracting Jurisdictions to a Covered Tax Agreement and shall not be implemented if the competent authorities of the Contracting Jurisdictions agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

3. A Party that chooses to apply paragraph 2 may reserve the right for paragraph 2 to apply only with respect to its Covered Tax Agreements for which paragraph 2 of Article 23 (Type of Arbitration Process) applies.

#### ***Article 25 – Costs of Arbitration Proceedings***

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

#### ***Article 26 – Compatibility***

1. Subject to Article 18 (Choice to Apply Part VI), the provisions of this Part shall apply in place of or in the absence of provisions of a Covered Tax Agreement that provide for arbitration of unresolved issues

arising from a mutual agreement procedure case. Each Party that chooses to apply this Part shall notify the Depository of whether each of its Covered Tax Agreements, other than those that are within the scope of a reservation under paragraph 4, contains such a provision, and if so, the article and paragraph number of each such provision. Where two Contracting Jurisdictions have made a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of this Part as between those Contracting Jurisdictions.

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

3. Subject to paragraph 1, nothing in this Part shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the Contracting Jurisdictions are or will become parties.

4. A Party may reserve the right for this Part not to apply with respect to one or more identified Covered Tax Agreements (or to all of its Covered Tax Agreements) that already provide for mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case.

**PART VII.  
FINAL PROVISIONS**

***Article 27 – Signature and Ratification, Acceptance or Approval***

1. As of 31 December 2016, this Convention shall be open for signature by:
  - a) all States;
  - b) Guernsey (the United Kingdom of Great Britain and Northern Ireland); Isle of Man (the United Kingdom of Great Britain and Northern Ireland); Jersey (the United Kingdom of Great Britain and Northern Ireland); and
  - c) any other jurisdiction authorised to become a Party by means of a decision by consensus of the Parties and Signatories.
2. This Convention is subject to ratification, acceptance or approval.

***Article 28 – Reservations***

1. Subject to paragraph 2, no reservations may be made to this Convention except those expressly permitted by:
  - a) Paragraph 5 of Article 3 (Transparent Entities);
  - b) Paragraph 3 of Article 4 (Dual Resident Entities);
  - c) Paragraphs 8 and 9 of Article 5 (Application of Methods for Elimination of Double Taxation);
  - d) Paragraph 4 of Article 6 (Purpose of a Covered Tax Agreement);
  - e) Paragraphs 15 and 16 of Article 7 (Prevention of Treaty Abuse);
  - f) Paragraph 3 of Article 8 (Dividend Transfer Transactions);
  - g) Paragraph 6 of Article 9 (Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property);
  - h) Paragraph 5 of Article 10 (Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions);
  - i) Paragraph 3 of Article 11 (Application of Tax Agreements to Restrict a Party's Right to Tax its Own Residents);
  - j) Paragraph 4 of Article 12 (Artificial Avoidance of Permanent Establishment Status through Commissionaire Arrangements and Similar Strategies);
  - k) Paragraph 6 of Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions);

- l) Paragraph 3 of Article 14 (Splitting-up of Contracts);
  - m) Paragraph 2 of Article 15 (Definition of a Person Closely Related to an Enterprise);
  - n) Paragraph 5 of Article 16 (Mutual Agreement Procedure);
  - o) Paragraph 3 of Article 17 (Corresponding Adjustments);
  - p) Paragraphs 11 and 12 of Article 19 (Mandatory Binding Arbitration);
  - q) Paragraphs 2, 3, 6, and 7 of Article 23 (Type of Arbitration Process);
  - r) Paragraph 3 of Article 24 (Agreement on a Different Resolution);
  - s) Paragraph 4 of Article 26 (Compatibility);
  - t) Paragraphs 6 and 7 of Article 35 (Entry into Effect); and
  - u) Paragraph 2 of Article 36 (Entry into Effect of Part VI).
2. a) Notwithstanding paragraph 1, a Party that chooses under Article 18 (Choice to Apply Part VI) to apply Part VI (Arbitration) may formulate one or more reservations with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI (Arbitration). For a Party which chooses under Article 18 (Choice to Apply Part VI) to apply Part VI (Arbitration) after it has become a Party to this Convention, reservations pursuant to this subparagraph shall be made at the same time as that Party's notification to the Depository pursuant to Article 18 (Choice to Apply Part VI).
- b) Reservations made under subparagraph a) are subject to acceptance. A reservation made under subparagraph a) shall be considered to have been accepted by a Party if it has not notified the Depository that it objects to the reservation by the end of a period of twelve calendar months beginning on the date of notification of the reservation by the Depository or by the date on which it deposits its instrument of ratification, acceptance, or approval, whichever is later. For a Party which chooses under Article 18 (Choice to Apply Part VI) to apply Part VI (Arbitration) after it has become a Party to this Convention, objections to prior reservations made by other Parties pursuant to subparagraph a) can be made at the time of the first-mentioned Party's notification to the Depository pursuant to Article 18 (Choice to Apply Part VI). Where a Party raises an objection to a reservation made under subparagraph a), the entirety of Part VI (Arbitration) shall not apply as between the objecting Party and the reserving Party.
3. Unless explicitly provided otherwise in the relevant provisions of this Convention, a reservation made in accordance with paragraph 1 or 2 shall:
- a) modify for the reserving Party in its relations with another Party the provisions of this Convention to which the reservation relates to the extent of the reservation; and
  - b) modify those provisions to the same extent for the other Party in its relations with the reserving Party.
4. Reservations applicable to Covered Tax Agreements entered into by or on behalf of a jurisdiction or territory for whose international relations a Party is responsible, where that jurisdiction or territory is not a

Party to the Convention pursuant to subparagraph b) or c) of paragraph 1 of Article 27 (Signature and Ratification, Acceptance or Approval), shall be made by the responsible Party and can be different from the reservations made by that Party for its own Covered Tax Agreements.

5. Reservations shall be made at the time of signature or when depositing the instrument of ratification, acceptance or approval, subject to the provisions of paragraphs 2, 6 and 9 of this Article, and paragraph 5 of Article 29 (Notifications). However, for a Party which chooses under Article 18 (Choice to Apply Part VI) to apply Part VI (Arbitration) after it has become a Party to this Convention, reservations described in subparagraphs p), q), r) and s) of paragraph 1 of this Article shall be made at the same time as that Party's notification to the Depositary pursuant to Article 18 (Choice to Apply Part VI).

6. If reservations are made at the time of signature, they shall be confirmed upon deposit of the instrument of ratification, acceptance or approval, unless the document containing the reservations explicitly specifies that it is to be considered definitive, subject to the provisions of paragraphs 2, 5 and 9 of this Article, and paragraph 5 of Article 29 (Notifications).

7. If reservations are not made at the time of signature, a provisional list of expected reservations shall be provided to the Depositary at that time.

8. For reservations made pursuant to each of the following provisions, a list of agreements notified pursuant to clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms) that are within the scope of the reservation as defined in the relevant provision (and, in the case of a reservation under any of the following provisions other than those listed in subparagraphs c), d) and n), the article and paragraph number of each relevant provision) must be provided when such reservations are made:

- a) Subparagraphs b), c), d), e) and g) of paragraph 5 of Article 3 (Transparent Entities);
- b) Subparagraphs b), c) and d) of paragraph 3 of Article 4 (Dual Resident Entities);
- c) Paragraphs 8 and 9 of Article 5 (Application of Methods for Elimination of Double Taxation);
- d) Paragraph 4 of Article 6 (Purpose of a Covered Tax Agreement);
- e) Subparagraphs b) and c) of paragraph 15 of Article 7 (Prevention of Treaty Abuse);
- f) Clauses i), ii), and iii) of subparagraph b) of paragraph 3 of Article 8 (Dividend Transfer Transactions);
- g) Subparagraphs d), e) and f) of paragraph 6 of Article 9 (Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property);
- h) Subparagraphs b) and c) of paragraph 5 of Article 10 (Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions);
- i) Subparagraph b) of paragraph 3 of Article 11 (Application of Tax Agreements to Restrict a Party's Right to Tax its Own Residents);
- j) Subparagraph b) of paragraph 6 of Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions);
- k) Subparagraph b) of paragraph 3 of Article 14 (Splitting-up of Contracts);

- l) Subparagraph b) of paragraph 5 of Article 16 (Mutual Agreement Procedure);
- m) Subparagraph a) of paragraph 3 of Article 17 (Corresponding Adjustments);
- n) Paragraph 6 of Article 23 (Type of Arbitration Process); and
- o) Paragraph 4 of Article 26 (Compatibility).

The reservations described in subparagraphs a) through o) above shall not apply to any Covered Tax Agreement that is not included on the list described in this paragraph.

9. Any Party which has made a reservation in accordance with paragraph 1 or 2 may at any time withdraw it or replace it with a more limited reservation by means of a notification addressed to the Depositary. Such Party shall make any additional notifications pursuant to paragraph 6 of Article 29 (Notifications) which may be required as a result of the withdrawal or replacement of the reservation. Subject to paragraph 7 of Article 35 (Entry into Effect), the withdrawal or replacement shall take effect:

- a) with respect to a Covered Tax Agreement solely with States or jurisdictions that are Parties to the Convention when the notification of withdrawal or replacement of the reservation is received by the Depositary:
  - i) for reservations in respect of provisions relating to taxes withheld at source, where the event giving rise to such taxes occurs on or after 1 January of the year next following the expiration of a period of six calendar months beginning on the date of the communication by the Depositary of the notification of withdrawal or replacement of the reservation; and
  - ii) for reservations in respect of all other provisions, for taxes levied with respect to taxable periods beginning on or after 1 January of the year next following the expiration of a period of six calendar months beginning on the date of the communication by the Depositary of the notification of withdrawal or replacement of the reservation; and
- b) with respect to a Covered Tax Agreement for which one or more Contracting Jurisdictions becomes a Party to this Convention after the date of receipt by the Depositary of the notification of withdrawal or replacement: on the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions.

### ***Article 29 – Notifications***

1. Subject to paragraphs 5 and 6 of this Article, and paragraph 7 of Article 35 (Entry into Effect), notifications pursuant to the following provisions shall be made at the time of signature or when depositing the instrument of ratification, acceptance or approval:

- a) Clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms);
- b) Paragraph 6 of Article 3 (Transparent Entities);
- c) Paragraph 4 of Article 4 (Dual Resident Entities);
- d) Paragraph 10 of Article 5 (Application of Methods for Elimination of Double Taxation);



- e) Paragraphs 5 and 6 of Article 6 (Purpose of a Covered Tax Agreement);
- f) Paragraph 17 of Article 7 (Prevention of Treaty Abuse);
- g) Paragraph 4 of Article 8 (Dividend Transfer Transactions);
- h) Paragraphs 7 and 8 of Article 9 (Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property);
- i) Paragraph 6 of Article 10 (Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions);
- j) Paragraph 4 of Article 11 (Application of Tax Agreements to Restrict a Party's Right to Tax its Own Residents);
- k) Paragraphs 5 and 6 of Article 12 (Artificial Avoidance of Permanent Establishment Status through Commissionnaire Arrangements and Similar Strategies);
- l) Paragraphs 7 and 8 of Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions);
- m) Paragraph 4 of Article 14 (Splitting-up of Contracts);
- n) Paragraph 6 of Article 16 (Mutual Agreement Procedure);
- o) Paragraph 4 of Article 17 (Corresponding Adjustments);
- p) Article 18 (Choice to Apply Part VI);
- q) Paragraph 4 of Article 23 (Type of Arbitration Process);
- r) Paragraph 1 of Article 24 (Agreement on a Different Resolution);
- s) Paragraph 1 of Article 26 (Compatibility); and
- t) Paragraphs 1, 2, 3, 5 and 7 of Article 35 (Entry into Effect).

2. Notifications in respect of Covered Tax Agreements entered into by or on behalf of a jurisdiction or territory for whose international relations a Party is responsible, where that jurisdiction or territory is not a Party to the Convention pursuant to subparagraph b) or c) of paragraph 1 of Article 27 (Signature and Ratification, Acceptance or Approval), shall be made by the responsible Party and can be different from the notifications made by that Party for its own Covered Tax Agreements.

3. If notifications are made at the time of signature, they shall be confirmed upon deposit of the instrument of ratification, acceptance or approval, unless the document containing the notifications explicitly specifies that it is to be considered definitive, subject to the provisions of paragraphs 5 and 6 of this Article, and paragraph 7 of Article 35 (Entry into Effect).

4. If notifications are not made at the time of signature, a provisional list of expected notifications shall be provided at that time.

5. A Party may extend at any time the list of agreements notified under clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms) by means of a notification addressed to the Depositary. The Party shall specify in this notification whether the agreement falls within the scope of any of the reservations made by the Party which are listed in paragraph 8 of Article 28 (Reservations). The Party may also make a new reservation described in paragraph 8 of Article 28 (Reservations) if the additional agreement would be the first to fall within the scope of such a reservation. The Party shall also specify any additional notifications that may be required under subparagraphs b) through s) of paragraph 1 to reflect the inclusion of the additional agreements. In addition, if the extension results for the first time in the inclusion of a tax agreement entered into by or on behalf of a jurisdiction or territory for whose international relations a Party is responsible, the Party shall specify any reservations (pursuant to paragraph 4 of Article 28 (Reservations)) or notifications (pursuant to paragraph 2 of this Article) applicable to Covered Tax Agreements entered into by or on behalf of that jurisdiction or territory. On the date on which the added agreement(s) notified under clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms) become Covered Tax Agreements, the provisions of Article 35 (Entry into Effect) shall govern the date on which the modifications to the Covered Tax Agreement shall have effect.

6. A Party may make additional notifications pursuant to subparagraphs b) through s) of paragraph 1 by means of a notification addressed to the Depositary. These notifications shall take effect:

- a) with respect to Covered Tax Agreements solely with States or jurisdictions that are Parties to the Convention when the additional notification is received by the Depositary:
  - i) for notifications in respect of provisions relating to taxes withheld at source, where the event giving rise to such taxes occurs on or after 1 January of the year next following the expiration of a period of six calendar months beginning on the date of the communication by the Depositary of the additional notification; and
  - ii) for notifications in respect of all other provisions, for taxes levied with respect to taxable periods beginning on or after 1 January of the year next following the expiration of a period of six calendar months beginning on the date of the communication by the Depositary of the additional notification; and
- b) with respect to a Covered Tax Agreement for which one or more Contracting Jurisdictions becomes a Party to this Convention after the date of receipt by the Depositary of the additional notification: on the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions.

### ***Article 30 – Subsequent Modifications of Covered Tax Agreements***

The provisions in this Convention are without prejudice to subsequent modifications to a Covered Tax Agreement which may be agreed between the Contracting Jurisdictions of the Covered Tax Agreement.

### ***Article 31 – Conference of the Parties***

1. The Parties may convene a Conference of the Parties for the purposes of taking any decisions or exercising any functions as may be required or appropriate under the provisions of this Convention.
2. The Conference of the Parties shall be served by the Depositary.

3. Any Party may request a Conference of the Parties by communicating a request to the Depositary. The Depositary shall inform all Parties of any request. Thereafter, the Depositary shall convene a Conference of the Parties, provided that the request is supported by one-third of the Parties within six calendar months of the communication by the Depositary of the request.

#### ***Article 32 – Interpretation and Implementation***

1. Any question arising as to the interpretation or implementation of provisions of a Covered Tax Agreement as they are modified by this Convention shall be determined in accordance with the provision(s) of the Covered Tax Agreement relating to the resolution by mutual agreement of questions of interpretation or application of the Covered Tax Agreement (as those provisions may be modified by this Convention).

2. Any question arising as to the interpretation or implementation of this Convention may be addressed by a Conference of the Parties convened in accordance with paragraph 3 of Article 31 (Conference of the Parties).

#### ***Article 33 – Amendment***

1. Any Party may propose an amendment to this Convention by submitting the proposed amendment to the Depositary.

2. A Conference of the Parties may be convened to consider the proposed amendment in accordance with paragraph 3 of Article 31 (Conference of the Parties).

#### ***Article 34 – Entry into Force***

1. This Convention shall enter into force on the first day of the month following the expiration of a period of three calendar months beginning on the date of deposit of the fifth instrument of ratification, acceptance or approval.

2. For each Signatory ratifying, accepting, or approving this Convention after the deposit of the fifth instrument of ratification, acceptance or approval, the Convention shall enter into force on the first day of the month following the expiration of a period of three calendar months beginning on the date of the deposit by such Signatory of its instrument of ratification, acceptance or approval.

#### ***Article 35 – Entry into Effect***

1. The provisions of this Convention shall have effect in each Contracting Jurisdiction with respect to a Covered Tax Agreement:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after the first day of the next calendar year that

begins on or after the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement; and

- b) with respect to all other taxes levied by that Contracting Jurisdiction, for taxes levied with respect to taxable periods beginning on or after the expiration of a period of six calendar months (or a shorter period, if all Contracting Jurisdictions notify the Depository that they intend to apply such shorter period) from the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement.

2. Solely for the purpose of its own application of subparagraph a) of paragraph 1 and subparagraph a) of paragraph 5, a Party may choose to substitute “taxable period” for “calendar year”, and shall notify the Depository accordingly.

3. Solely for the purpose of its own application of subparagraph b) of paragraph 1 and subparagraph b) of paragraph 5, a Party may choose to replace the reference to “taxable periods beginning on or after the expiration of a period” with a reference to “taxable periods beginning on or after 1 January of the next year beginning on or after the expiration of a period”, and shall notify the Depository accordingly.

4. Notwithstanding the preceding provisions of this Article, Article 16 (Mutual Agreement Procedure) shall have effect with respect to a Covered Tax Agreement for a case presented to the competent authority of a Contracting Jurisdiction on or after the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement, except for cases that were not eligible to be presented as of that date under the Covered Tax Agreement prior to its modification by the Convention, without regard to the taxable period to which the case relates.

5. For a new Covered Tax Agreement resulting from an extension pursuant to paragraph 5 of Article 29 (Notifications) of the list of agreements notified under clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms), the provisions of this Convention shall have effect in each Contracting Jurisdiction:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after the first day of the next calendar year that begins on or after 30 days after the date of the communication by the Depository of the notification of the extension of the list of agreements; and
- b) with respect to all other taxes levied by that Contracting Jurisdiction, for taxes levied with respect to taxable periods beginning on or after the expiration of a period of nine calendar months (or a shorter period, if all Contracting Jurisdictions notify the Depository that they intend to apply such shorter period) from the date of the communication by the Depository of the notification of the extension of the list of agreements.

6. A Party may reserve the right for paragraph 4 not to apply with respect to its Covered Tax Agreements.

- 7. a) A Party may reserve the right to replace:
  - i) the references in paragraphs 1 and 4 to “the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement”; and
  - ii) the references in paragraph 5 to “the date of the communication by the Depository of the notification of the extension of the list of agreements”;

with references to “30 days after the date of receipt by the Depositary of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the provisions of this Convention with respect to that specific Covered Tax Agreement”;

- iii) the references in subparagraph a) of paragraph 9 of Article 28 (Reservations) to “on the date of the communication by the Depositary of the notification of withdrawal or replacement of the reservation”; and
- iv) the reference in subparagraph b) of paragraph 9 of Article 28 (Reservations) to “on the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions”;

with references to “30 days after the date of receipt by the Depositary of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the withdrawal or replacement of the reservation with respect to that specific Covered Tax Agreement”;

- v) the references in subparagraph a) of paragraph 6 of Article 29 (Notifications) to “on the date of the communication by the Depositary of the additional notification”; and
- vi) the reference in subparagraph b) of paragraph 6 of Article 29 (Notifications) to “on the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions”;

with references to “30 days after the date of receipt by the Depositary of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the additional notification with respect to that specific Covered Tax Agreement”;

- vii) the references in paragraphs 1 and 2 of Article 36 (Entry into Effect of Part VI) to “the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement”;

with references to “30 days after the date of receipt by the Depositary of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the provisions of this Convention with respect to that specific Covered Tax Agreement”;

- viii) the reference in paragraph 3 of Article 36 (Entry into Effect of Part VI) to “the date of the communication by the Depositary of the notification of the extension of the list of agreements”;
- ix) the references in paragraph 4 of Article 36 (Entry into Effect of Part VI) to “the date of the communication by the Depositary of the notification of withdrawal of the reservation”, “the date of the communication by the Depositary of the notification of replacement of the reservation” and “the date of the communication by the Depositary of the notification of withdrawal of the objection to the reservation”; and
- x) the reference in paragraph 5 of Article 36 (Entry into Effect of Part VI) to “the date of the communication by the Depositary of the additional notification”;

with references to “30 days after the date of receipt by the Depository of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the provisions of Part VI (Arbitration) with respect to that specific Covered Tax Agreement”.

- b) A Party making a reservation in accordance with subparagraph a) shall notify the confirmation of the completion of its internal procedures simultaneously to the Depository and the other Contracting Jurisdiction(s).
- c) If one or more Contracting Jurisdictions to a Covered Tax Agreement makes a reservation under this paragraph, the date of entry into effect of the provisions of the Convention, of the withdrawal or replacement of a reservation, of an additional notification with respect to that Covered Tax Agreement, or of Part VI (Arbitration) shall be governed by this paragraph for all Contracting Jurisdictions to the Covered Tax Agreement.

### ***Article 36 – Entry into Effect of Part VI***

1. Notwithstanding paragraph 9 of Article 28 (Reservations), paragraph 6 of Article 29 (Notifications), and paragraphs 1 through 6 of Article 35 (Entry into Effect), with respect to two Contracting Jurisdictions to a Covered Tax Agreement, the provisions of Part VI (Arbitration) shall have effect:

- a) with respect to cases presented to the competent authority of a Contracting Jurisdiction (as described in subparagraph a) of paragraph 1 of Article 19 (Mandatory Binding Arbitration)), on or after the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement; and
- b) with respect to cases presented to the competent authority of a Contracting Jurisdiction prior to the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement, on the date when both Contracting Jurisdictions have notified the Depository that they have reached mutual agreement pursuant to paragraph 10 of Article 19 (Mandatory Binding Arbitration), along with information regarding the date or dates on which such cases shall be considered to have been presented to the competent authority of a Contracting Jurisdiction (as described in subparagraph a) of paragraph 1 of Article 19 (Mandatory Binding Arbitration)) according to the terms of that mutual agreement.

2. A Party may reserve the right for Part VI (Arbitration) to apply to a case presented to the competent authority of a Contracting Jurisdiction prior to the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement only to the extent that the competent authorities of both Contracting Jurisdictions agree that it will apply to that specific case.

3. In the case of a new Covered Tax Agreement resulting from an extension pursuant to paragraph 5 of Article 29 (Notifications) of the list of agreements notified under clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms), the references in paragraphs 1 and 2 of this Article to “the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement” shall be replaced with references to “the date of the communication by the Depository of the notification of the extension of the list of agreements”.

4. A withdrawal or replacement of a reservation made under paragraph 4 of Article 26 (Compatibility) pursuant to paragraph 9 of Article 28 (Reservations), or the withdrawal of an objection to a reservation made under paragraph 2 of Article 28 (Reservations) which results in the application of Part VI (Arbitration)

between two Contracting Jurisdictions to a Covered Tax Agreement, shall have effect according to subparagraphs a) and b) of paragraph 1 of this Article, except that the references to “the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement” shall be replaced with references to “the date of the communication by the Depositary of the notification of withdrawal of the reservation”, “the date of the communication by the Depositary of the notification of replacement of the reservation” or “the date of the communication by the Depositary of the notification of withdrawal of the objection to the reservation”, respectively.

5. An additional notification made pursuant to subparagraph p) of paragraph 1 of Article 29 (Notifications) shall have effect according to subparagraphs a) and b) of paragraph 1, except that the references in paragraphs 1 and 2 of this Article to “the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement” shall be replaced with references to “the date of the communication by the Depositary of the additional notification”.

#### ***Article 37 - Withdrawal***

1. Any Party may, at any time, withdraw from this Convention by means of a notification addressed to the Depositary.

2. Withdrawal pursuant to paragraph 1 shall become effective on the date of receipt of the notification by the Depositary. In cases where this Convention has entered into force with respect to all Contracting Jurisdictions to a Covered Tax Agreement before the date on which a Party’s withdrawal becomes effective, that Covered Tax Agreement shall remain as modified by this Convention.

#### ***Article 38 – Relation with Protocols***

1. This Convention may be supplemented by one or more protocols.

2. In order to become a party to a protocol, a State or jurisdiction must also be a Party to this Convention.

3. A Party to this Convention is not bound by a protocol unless it becomes a party to the protocol in accordance with its provisions.

#### ***Article 39 – Depositary***

1. The Secretary-General of the Organisation for Economic Co-operation and Development shall be the Depositary of this Convention and any protocols pursuant to Article 38 (Relation with Protocols).

2. The Depositary shall notify the Parties and Signatories within one calendar month of:

a) any signature pursuant to Article 27 (Signature and Ratification, Acceptance or Approval);

b) the deposit of any instrument of ratification, acceptance or approval pursuant to Article 27 (Signature and Ratification, Acceptance or Approval);

- c) any reservation or withdrawal or replacement of a reservation pursuant to Article 28 (Reservations);
  - d) any notification or additional notification pursuant to Article 29 (Notifications);
  - e) any proposed amendment to this Convention pursuant to Article 33 (Amendment);
  - f) any withdrawal from this Convention pursuant to Article 37 (Withdrawal); and
  - g) any other communication related to this Convention.
3. The Depositary shall maintain publicly available lists of:
- a) Covered Tax Agreements;
  - b) reservations made by the Parties; and
  - c) notifications made by the Parties.

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

Done at Paris, the 24th day of November 2016, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Organisation for Economic Co-operation and Development.

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**Članak 3.**

Prilikom polaganja isprave o ratifikaciji Republika Hrvatska priopćit će na Mnogostranu konvenciju iz članka 1. ovoga Zakona rezerve i obavijesti koje su navedene u prilogu, na hrvatskom i engleskom jeziku, koji je sastavni dio ovoga Zakona.

**Članak 4.**

Provedba ovoga Zakona u djelokrugu je tijela državne uprave nadležnog za poslove financija.

**Članak 5.**

Na dan stupanja na snagu ovoga Zakona, Mnogostrana konvencija iz članka 1. ovoga Zakona nije na snazi u odnosu na Republiku Hrvatsku te će se podaci o njenom stupanju na snagu objaviti u skladu s odredbom članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora (Narodne novine, broj 28/96).

**Članak 6.**

Ovaj Zakon stupa na snagu osmoga dana od dana objave u Narodnim novinama.

## **Republika Hrvatska**

### **Status popisa rezervi i obavijesti prilikom polaganja isprave o ratifikaciji**

Ovaj dokument sadrži popis rezervi i obavijesti koji je sastavila Republika Hrvatska prilikom polaganja isprave o ratifikaciji u skladu s člancima 28. stavkom 6. i 29. stavkom 3. Konvencije.

**Članak 2. – Tumačenje izraza**

***Obavijest – Ugovori obuhvaćeni Konvencijom***

Sukladno članku 2. stavku 1. podstavku a) točki ii) Konvencije, Republika Hrvatska želi da sljedeći ugovori budu obuhvaćeni Konvencijom:

Br.	Naslov	Druga ugovorna jurisdikcija	Izvorni/ Dopunski instrument	Datum potpisivanja	Datum stupanja na snagu
1	Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu između Vlade Republike Hrvatske i Vlade Republike Albanije	Albanija	Izvorni	02.12.1994.	05.06.1997.
2	Ugovor između Republike Hrvatske i Republike Armenije o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Armenija	Izvorni	22.05.2009.	18.02.2010.
3	Ugovor između Republike Hrvatske i Republike Austrije o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Austrija	Izvorni	21.09.2000.	27.06.2001.
4	Ugovor između Republike Hrvatske i Republike Azerbajdžana o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Azerbajdžan	Izvorni	12.03.2012.	18.03.2013.
5	Ugovor između Vlade Republike Hrvatske i Vlade Republike Bjelarus o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Bjelarus	Izvorni	11.06.2003.	04.06.2004.
6	Ugovor između Republike Hrvatske i Kraljevine Belgije o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Belgija	Izvorni	31.10.2001.	01.04.2004.
7	Ugovor između Republike Hrvatske i Bosne i Hercegovine o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Bosna i Hercegovina	Izvorni	07.06.2004.	22.06.2005.
8	Ugovor između Republike Hrvatske i Republike Bugarske o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Bugarska	Izvorni	15.07.1997.	30.07.1998.
9	Ugovor između Republike Hrvatske i Kanade o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Kanada	Izvorni	09.12.1997.	23.11.1999.

10	Ugovor između Republike Hrvatske i Republike Čile o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Čile	Izvorni	24.06.2003.	22.12.2004.
11	Ugovor između Vlade Republike Hrvatske i Vlade Narodne Republike Kine o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak	Kina (Narodna Republika)	Izvorni	09.01.1995.	18.0.-2001.
12	Ugovor između Republike Hrvatske i Češke Republike o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Češka Republika	Izvorni	22.01.1999.	28.12.1999.
			Dopunski instrument	04.10.2011.	30.07.2012.
13	Ugovor između Republike Hrvatske i Kraljevine Danske o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Danska	Izvorni	14.09.2007.	22.02.2009.
14	Ugovor između Vlade Republike Hrvatske i Vlade Republike Estonije o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Estonija	Izvorni	03.04.2002.	12.07.2004.
15	Ugovor između Socijalističke Federativne Republike Jugoslavije i Republike Finske o izbjegavanju dvostrukog oporezivanja u odnosu na poreze na dohodak i na imovinu	Finska	Izvorni	08.05.1986.	18.12.1987.
16	Ugovor između Vlade Republike Hrvatske i Vlade Francuske Republike o izbjegavanju dvostrukog oporezivanja i sprečavanju plaćanja poreza na dohodak	Francuska	Izvorni	19.06.2003.	01.09.2005.
17	Ugovor između Republike Hrvatske i Gruzije o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Gruzija	Izvorni	18.01.2013.	06.12.2013.
18	Ugovor između Republike Hrvatske i Savezne Republike Njemačke o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Njemačka	Izvorni	06.02.2006.	20.12.2006.

19	Ugovor između Vlade Republike Hrvatske i Vlade Helenske Republike o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Grčka	Izvorni	18.10.1996.	18.12.1998.
20	Ugovor između Republike Hrvatske i Republike Mađarske o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Mađarska	Izvorni	30.08.1996.	08.05.1998.
21	Ugovor između Republike Hrvatske i Islanda o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Island	Izvorni	06.07.2010.	15.12.2011.
22	Ugovor između Vlade Republike Hrvatske i Vlade Republike Indije o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Indija	Izvorni	12.02.2014.	11.02.2015.
23	Ugovor između Vlade Republike Hrvatske i Vlade Republike Indonezije o izbjegavanju dvostrukog oporezivanja poreza na dohodak	Indonezija	Izvorni	15.02.2002.	16.03.2012.
24	Ugovor između Vlade Republike Hrvatske i Vlade Islamske Republike Iran o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Iran	Izvorni	20.05.2003.	30.10.2008.
25	Ugovor između Vlade Republike Hrvatske i Vlade Irske o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na dohodak od otuđenja imovine	Irska	Izvorni	21.06.2002.	30.10.2003.
26	Ugovor između Republike Hrvatske i Države Izrael o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i imovinu	Izrael	Izvorni	26.09.2006.	01.02.2007.
27	Ugovor između Vlade Republike Hrvatske i Vlade Talijanske Republike o izbjegavanju dvostrukog oporezivanja porezima na dohodak i sprječavanju izbjegavanja plaćanja poreza	Italija	Izvorni	29.10.1999.	15.09.2009.

28	Ugovor između Vlade Republike Hrvatske i Vlade Hašemitske Kraljevine Jordan o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Jordan	Izvorni	20.02.2005.	17.02.2006.
29	Ugovor između Vlade Republike Hrvatske i Vlade Republike Kazahstana o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Kazahstan	Izvorni	29.09.2017.	22.02.2019.
30	Ugovor između Republike Hrvatske i Republike Koreje o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Republika Koreja	Izvorni	13.11.2002.	15.09.2006.
31	Ugovor između Republike Hrvatske i Republike Kosova o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Kosovo	Izvorni	06.03.2017.	04.12.2017.
32	Ugovor između Republike Hrvatske i Države Kuvajt o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Kuvajt	Izvorni	29.05.2001.	09.01.2003.
33	Ugovor između Vlade Republike Hrvatske i Vlade Republike Latvije o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak	Latvija	Izvorni	19.05.2000.	27.02.2001.
34	Ugovor između Vlade Republike Hrvatske i Vlade Republike Litve o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak	Litva	Izvorni	04.05.2000.	30.03.2001.
35	Ugovor između Republike Hrvatske i Velikog Vojvodstva Luksemburga o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Luksemburg	Izvorni	20.06.2014.	13.01.2016.
36	Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu, između Vlade Republike Hrvatske i Vlade Republike Makedonije	Sjeverna Makedonija	Izvorni	06.07.1994.	11.01.1996.

37	Ugovor između Vlade Republike Hrvatske i Vlade Malezije o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Malezija	Izvorni	18.02.2002.	15.07.2004.
38	Ugovor između Republike Hrvatske i Republike Malte o izbjegavanju dvostrukog oporezivanja porezima na dohodak	Malta	Izvorni	21.10.1998.	22.08.1999.
39	Ugovor između Vlade Republike Hrvatske i Vlade Republike Mauricijus o izbjegavanju dvostrukog oporezivanja porezima na dohodak	Mauricijus	Izvorni	06.09.2002.	09.08.2003.
40	Ugovor između Vlade Republike Hrvatske i Vlade Republike Moldove o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Moldova	Izvorni	30.05.2005.	10.05.2006.
41	Ugovor između Vlade Republike Hrvatske i Savezne Vlade Savezne Republike Jugoslavije o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Crna Gora	Izvorni	14.12.2001.	22.04.2004.
42	Ugovor između Republike Hrvatske i Kraljevine Maroko o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Maroko	Izvorni	26.06.2008.	25.10.2012.
43	Ugovor između Vlade Republike Hrvatske i Kraljevine Nizozemske o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Nizozemska	Izvorni	23.05.2000.	06.04.2001.
44	Sporazum između Republike Hrvatske i Kraljevine Norveške o privremenoj primjeni Konvencije između Socijalističke Federativne Republike Jugoslavije i Kraljevine Norveške o izbjegavanju dvostrukog oporezivanja u odnosu na poreze na dohodak i na imovinu	Norveška	Izvorni	06.03.1996.	06.03.1996.
45	Ugovor između Republike Hrvatske i Sultanata Omana o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Oman	Izvorni	21.12.2009.	16.02.2011.



46	Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu, između Vlade Republike Hrvatske i Vlade Republike Poljske	Poljska	Izvorni	19.10.1994.	11.02.1996.
47	Konvencija između Republike Hrvatske i Portugalske Republike o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Portugal	Izvorni	04.10.2013.	28.02.2015.
48	Ugovor između Vlade Republike Hrvatske i Vlade Države Katar o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Katar	Izvorni	24.06.2008.	06.04.2009.
49	Ugovor između Vlade Republike Hrvatske i Vlade Rumunjske o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Rumunjska	Izvorni	25.01.1996.	28.11.1996.
50	Ugovor između Vlade Republike Hrvatske i Vlade Ruske Federacije o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Ruska Federacija	Izvorni	02.10.1995.	19.04.1997.
51	Ugovor između Republike Hrvatske i Republike San Marino o izbjegavanju dvostrukog oporezivanja porezima na dohodak	San Marino	Izvorni	18.10.2004.	05.12.2005.
			Dopunski instrument	01.08.2012.	21.05.2014.
52	Ugovor između Vlade Republike Hrvatske i Savezne Vlade Savezne Republike Jugoslavije o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Srbija	Izvorni	14.12.2001.	22.04.2004.
53	Ugovor između Republike Hrvatske i Slovačke Republike o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Slovačka Republika	Izvorni	12.02.1996.	14.11.1996.
54	Ugovor između Republike Hrvatske i Republike Slovenije o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Slovenija	Izvorni	10.06.2005.	10.11.2005.

55	Ugovor između Republike Hrvatske i Južnoafričke Republike o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak	Južna Afrika	Izvorni	18.11.1996.	7.11.1997.
56	Ugovor između Republike Hrvatske i Kraljevine Španjolske o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu	Španjolska	Izvorni	19.05.2005.	20.04.2006.
57	Sporazum između Socijalističke Federativne Republike Jugoslavije i Kraljevine Švedske o izbjegavanju dvostrukog oporezivanja u odnosu na poreze na dohodak i imovinu	Švedska	Izvorni	18.06.1980.	16.12.1981.
58	Ugovor između Republike Hrvatske i Švicarske Konfederacije o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Švicarska	Izvorni	12.03.1999.	20.12.1999.
59	Ugovor između Republike Hrvatske i Sirijske Arapske Republike o izbjegavanju dvostrukog oporezivanja porezima na dohodak	Sirijska Arapska Republika	Izvorni	18.07.2008.	06.02.2009.
60	Ugovor između Republike Hrvatske i Republike Turske o izbjegavanju dvostrukog oporezivanja porezom na dohodak	Turska	Izvorni	22.09.1997.	18.05.2000.
61	Ugovor između Vlade Republike Hrvatske i Vlade Turkmenistana o izbjegavanju dvostrukog oporezivanja porezima na dohodak	Turkmenistan	Izvorni	29.04.2014.	06.04.2015.
62	Ugovor između Vlade Republike Hrvatske i Vlade Ukrajine o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja porezima na dohodak i na imovinu	Ukrajina	Izvorni	10.09.1996.	01.06.1999.
63	Ugovor između Vlade Republike Hrvatske i Vlade Ujedinjenih Arapskih Emirata o izbjegavanju dvostrukog oporezivanja porezima na dohodak	Ujedinjeni Arapski Emirati	Izvorni	13.07.2017.	28.09.2018.

64	Ugovor između Republike Hrvatske i Ujedinjene Kraljevine Velike Britanije i Sjeverne Irske o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na dohodak od otuđenja imovine	Ujedinjena Kraljevina	Izvorni	15.01.2015.	19.11.2015.
65	Ugovor između Vlade Republike Hrvatske i Vlade Socijalističke Republike Vijetnama o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak	Vijetnam	Izvorni	27.07.2018.	23.05.2019.

**Članak 4. – Subjekti s dvostrukom rezidentnošću**

***Rezerva***

Sukladno članku 4. stavku 3. podstavku a) Konvencije, Republika Hrvatska zadržava pravo da članak 4. u cijelosti ne primjenjuje na svoje obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja.

**Članak 5. – Primjena metoda za uklanjanje dvostrukog oporezivanja**

***Rezerva***

Sukladno članku 5. stavku 8. Konvencije, Republika Hrvatska zadržava pravo da članak 5. u cijelosti ne primjenjuje na svoje obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja.

## Članak 6. – Svrha obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja

### Obavijest o izboru opcionalnih odredbi

Sukladno članku 6. stavku 6. Konvencije, Republika Hrvatska ovime odlučuje primijeniti članak 6. stavak 3.

### Obavijest o postojećem tekstu preambule u popisanim ugovorima

Sukladno članku 6. stavku 5. Konvencije, Republika Hrvatska smatra da sljedeći ugovori nisu u okviru rezerve prema članku 6. stavku 4. i da sadrže tekst preambule kako je opisan u članku 6. stavku 2. Ispod je naveden tekst relevantnog stavka preambule.

Broj popisanog ugovora	Druga ugovorna jurisdikcija	Tekst preambule
1	Albanija	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
2	Armenija	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak
3	Austrija	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu,
4	Azerbajdžan	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu
5	Bjelarus	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu
6	Belgija	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu,
7	Bosna i Hercegovina	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
8	Bugarska	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu,
9	Kanada	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak i na imovinu
10	Čile	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak
11	Kina (Narodna Republika)	Želeći da sklope Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak,
12	Češka Republika	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu,
13	Danska	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak,
14	Estonija	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak,
15	Finska	U želji da zakluče Ugovor o izbjegavanju dvostrukog oporezivanja u odnosu na poreze na dohodak i na imovinu,

16	Francuska	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak,
17	Gruzija	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu
18	Njemačka	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
19	Grčka	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
20	Mađarska	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
21	Island	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak,
22	Indija	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak
23	Indonezija	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja poreza na dohodak
24	Iran	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
25	Irska	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na dohodak od otuđenja imovine,
26	Izrael	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu
27	Italija	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i sprečavanju izbjegavanja plaćanja poreza...
28	Jordan	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak
29	Kazahstan	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak,
30	Republika Koreja	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak i na imovinu,
31	Kosovo	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak i na imovinu,
32	Kuvajt	u namjeri promicanja uzajamnih gospodarskih odnosa uklanjanjem poreznih prepreka kroz Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak i na imovinu
33	Latvija	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak,
34	Litva	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak,
35	Luksemburg	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu
36	Sjeverna Makedonija	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu

37	Malezija	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak
38	Malta	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak
39	Mauricijus	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak
40	Moldova	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak i na imovinu
41	Crna Gora	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
42	Maroko	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak
43	Nizozemska	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak i na imovinu,
44	Norveška	u želji da zakluče Sporazum o izbjegavanju dvostrukog oporezivanja dohotka i imovine
45	Oman	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak
46	Poljska	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu,
47	Portugal	želeći sklopiti Konvenciju o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak,
48	Katar	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak
49	Rumunjska	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
50	Ruska Federacija	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
51	San Marino	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak
52	Srbija	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
53	Slovačka Republika	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu,
54	Slovenija	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu,
55	Južna Afrika	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanju izbjegavanja plaćanja poreza na dohodak,
56	Španjolska	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na imovinu,
57	Švedska	u želji da zakluče Sporazum o izbjegavanju dvostrukog oporezivanja u odnosu na poreze na dohodak i imovinu
58	Švicarska	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu
59	Sirijska Arapska Republika	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak



60	Turska	Želeći sklopiti Ugovor o izbjegavanju dvostrukg oporezivanja poreza na dohodak
61	Turkmenistan	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak
62	Ukrajina	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprečavanja izbjegavanja plaćanja poreza na dohodak i na imovinu
63	Ujedinjeni Arapski Emirati	Želeći promicati svoje uzajamne gospodarske odnose sklapanjem između njih Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak,
64	Ujedinjena Kraljevina	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak i na dohodak od otuđenja imovine;
65	Vijetnam	želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja i sprječavanju izbjegavanja plaćanja poreza na dohodak,

***Obavijest o popisanim ugovorima koji ne sadrže postojeći tekst preambule***

Sukladno članku 6. stavku 6. Konvencije, Republika Hrvatska smatra da sljedeći ugovori ne sadrže tekst preambule koji se odnosi na želju za razvojem gospodarskog odnosa ili poboljšanjem suradnje u poreznim pitanjima.

Broj popisnog ugovora	Druga ugovorna jurisdikcija
1	Albanija
2	Armenija
3	Austrija
4	Azerbajdžan
5	Bjelarus
6	Belgija
7	Bosna i Hercegovina
8	Bugarska
9	Kanada
10	Čile
11	Kina (Narodna Republika)
12	Češka Republika
13	Danska
14	Estonija
15	Finska
16	Francuska
17	Gruzija
18	Njemačka
19	Grčka
20	Mađarska
21	Island
22	Indija
23	Indonezija
24	Iran
25	Irska
26	Izrael
27	Italija
28	Jordan
29	Kazahstan
30	Republika Koreja
31	Kosovo
32	Kuvajt
33	Latvija
34	Litva
35	Luksemburg
36	Sjeverna Makedonija
37	Malezija
38	Malta
39	Mauricijus
40	Moldova
41	Crna Gora
42	Maroko
43	Nizozemska
44	Norveška
45	Oman
46	Poljska
47	Portugal
48	Katar
49	Rumunjska

50	Ruska Federacija
51	San Marino
52	Srbija
53	Slovačka Republika
54	Slovenija
55	Južna Afrika
56	Španjolska
57	Švedska
58	Švicarska
59	Sirijska Arapska Republika
60	Turska
61	Turkmenistan
62	Ukrajina
63	Ujedinjeni Arapski Emirati
64	Ujedinjena Kraljevina
65	Vijetnam

**Članak 7. – Sprječavanje zlouporabe ugovora*****Obavijest o postojećim odredbama popisanih ugovora***

Sukladno članku 7. stavku 17. podstavku a) Konvencije, Republika Hrvatska smatra da sljedeći ugovori nisu podložni rezervi opisanoj u članku 7. stavku 15. podstavku b) i da sadrže odredbu opisanu u članku 7. stavku 2. Broj članka i stavka svake takve odredbe navedeni su u nastavku.

Broj popisnog ugovora	Druga ugovorna jurisdikcija	Odredba
16	Francuska	Članak 10(7)
43	Nizozemska	Članak 10(9)
45	Oman	Članci 11(9) i 12(7)
64	Ujedinjena Kraljevina	Članci 10(7), 11(7), 12(6) i 21(4)

**Članak 8. – Transakcije za prijenos dividendi**

***Rezerva***

Sukladno članku 8. stavku 3. podstavku a) Konvencije, Republika Hrvatska zadržava pravo da članak 8. u cijelosti ne primjenjuje na svoje obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja.

**Članak 9. – Kapitalni dobitci nastali od otuđenja dionica ili udjela subjekata koji ostvaruju vrijednost prvenstveno na temelju nepokretne imovine**

*Obavijest o izboru opcionalnih odredbi*

Sukladno članku 9. stavku 8. Konvencije, Republika Hrvatska ovime odlučuje primijeniti članak 9. stavak 4.

*Obavijest o postojećim odredbama popisanih ugovora*

Sukladno članku 9. stavku 7. Konvencije, Republika Hrvatska smatra da sljedeći ugovori sadrže odredbu opisanu u članku 9. stavku 1. Broj članka i stavka svake takve odredbe navedeni su u nastavku.

Broj popisanih ugovora	Druga ugovorna jurisdikcija	Odredba
1	Albanija	Članak 13(4)
2	Armenija	Članak 13(4)
4	Azerbajdžan	Članak 13(4)
7	Bosna i Hercegovina	Članak 13(4)
9	Kanada	Članak 13(4)
10	Čile	Članak 13(4)
11	Kina (Narodna Republika)	Članak 13(4)
13	Danska	Članak 13(4)
16	Francuska	Članak 13(1)(b)
17	Gruzija	Članak 13(4)
18	Njemačka	Članak 13(2)
22	Indija	Članak 13(4)
23	Indonezija	Članak 13(4)
24	Iran	Članak 13(4)
25	Irska	Članak 13(2)
26	Izrael	Članak 13(2)
28	Jordan	Članak 13(2)
29	Kazahstan	Članak 13(4)
31	Kosovo	Članak 13(4)
35	Luksemburg	Članak 13(4)
36	Sjeverna Makedonija	Članak 13(4)
38	Malta	Članak 13(2)
40	Moldova	Članak 13(4)
41	Crna Gora	Članak 13(4)
42	Maroko	Članak 13(4)
46	Poljska	Članak 13(4)
47	Portugal	Članak 13(4)
49	Rumunjska	Članak 13(4)
50	Ruska Federacija	Članak 13(4)
52	Srbija	Članak 13(4)
56	Španjolska	Članak 13(4)
58	Švicarska	Članak 13(4)
61	Turkmenistan	Članak 13(4)
62	Ukrajina	Članak 13(4)
64	Ujedinjena Kraljevina	Članak 13(2)
65	Vijetnam	Članak 14(4)

**Članak 10. – Pravilo protiv zlouporabe za stalne poslovne jedinice koje se nalaze u trećim jurisdikcijama**

*Rezerva*

Sukladno članku 10. stavku 5. podstavku a) Konvencije, Republika Hrvatska zadržava pravo da članak 10. u cijelosti ne primjenjuje na svoje obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja.

**Članak 12. – Umjetno izbjegavanje statusa stalne poslovne jedinice putem posredničkih aranžmana i sličnih strategija**

***Obavijest o postojećim odredbama popisanih ugovora***

Sukladno članku 12. stavku 5. Konvencije, Republika Hrvatska smatra da sljedeći ugovori sadrže odredbu opisanu u članku 12. stavku 3. podstavku a). Broj članka i stavka svake takve odredbe navedeni su u nastavku.



Broj popisnog ugovora	Druga ugovorna jurisdikcija	Odredba
1	Albanija	Članak 5(5)
2	Armenija	Članak 5(5)
3	Austrija	Članak 5(5)
4	Azerbajdžan	Članak 5(5)
5	Bjelarus	Članak 5(5)
6	Belgija	Članak 5(5)
7	Bosna i Hercegovina	Članak 5(5)
8	Bugarska	Članak 5(5)
9	Kanada	Članak 5(5)
10	Čile	Članak 5(5)
11	Kina (Narodna Republika)	Članak 5(5)
12	Češka Republika	Članak 5(5)
13	Danska	Članak 5(6)
14	Estonija	Članak 5(5)
15	Finska	Članak 5(5)
16	Francuska	Članak 5(5)
17	Gruzija	Članak 5(5)
18	Njemačka	Članak 5(5)
19	Grčka	Članak 5(5)
20	Mađarska	Članak 5(5)
21	Island	Članak 5(5)
22	Indija	Članak 5(6)
23	Indonezija	Članak 5(5)
24	Iran	Članak 5(5)
25	Irska	Članak 5(5)
26	Izrael	Članak 5(5)
27	Italija	Članak 5(4)
28	Jordan	Članak 5(5)
29	Kazahstan	Članak 5(5)
30	Republika Koreja	Članak 5(5)
31	Kosovo	Članak 5(5)
32	Kuvajt	Članak 5(8)
33	Latvija	Članak 5(5)
34	Litva	Članak 5(5)
35	Luksemburg	Članak 5(5)
36	Sjeverna Makedonija	Članak 5(5)
37	Malezija	Članak 5(5)
38	Malta	Članak 5(5)
39	Mauricijus	Članak 5(5)
40	Moldova	Članak 5(5)
41	Crna Gora	Članak 5(5)
42	Maroko	Članak 5(5)
43	Nizozemska	Članak 5(5)
44	Norveška	Članak 5(5)
45	Oman	Članak 5(5)
46	Poljska	Članak 5(5)
47	Portugal	Članak 5(5)
48	Katar	Članak 5(5)
49	Rumunjska	Članak 5(5)

50	Ruska Federacija	Članak 5(5)
51	San Marino	Članak 5(5)
52	Srbija	Članak 5(5)
53	Slovačka Republika	Članak 5(5)
54	Slovenija	Članak 5(5)
55	Južna Afrika	Članak 5(5)
56	Španjolska	Članak 5(5)
57	Švedska	Članak 5(4)
58	Švicarska	Članak 5(5)
59	Sirijska Arapska Republika	Članak 5(5)
60	Turska	Članak 5(5)
61	Turkmenistan	Članak 5(5)
62	Ukrajina	Članak 5(5)
63	Ujedinjeni Arapski Emirati	Članak 6(5)
64	Ujedinjena Kraljevina	Članak 5(5)
65	Vijetnam	Članak 5(5)(a)

Sukladno članku 12. stavku 6. Konvencije, Republika Hrvatska smatra da sljedeći ugovori sadrže odredbu opisanu u članku 12. stavku 3. podstavku b). Broj članka i stavka svake takve odredbe navedeni su u nastavku.

Broj popisnog ugovora	Druga ugovorna jurisdikcija	Odredba
1	Albanija	Članak 5(6)
2	Armenija	Članak 5(6)
3	Austrija	Članak 5(6)
4	Azerbajdžan	Članak 5(7)
5	Bjelarus	Članak 5(6)
6	Belgija	Članak 5(6)
7	Bosna i Hercegovina	Članak 5(6)
8	Bugarska	Članak 5(6)
9	Kanada	Članak 5(6)
10	Čile	Članak 5(7)
11	Kina (Narodna Republika)	Članak 5(6)
12	Češka Republika	Članak 5(6)
13	Danska	Članak 5(7)
14	Estonija	Članak 5(6)
15	Finska	Članak 5(6)
16	Francuska	Članak 5(6)
17	Gruzija	Članak 5(6)
18	Njemačka	Članak 5(6)
19	Grčka	Članak 5(6)
20	Mađarska	Članak 5(6)
21	Island	Članak 5(6)
22	Indija	Članak 5(8)
23	Indonezija	Članak 5(6)
24	Iran	Članak 5(6)
25	Irska	Članak 5(6)
26	Izrael	Članak 5(6)
27	Italija	Članak 5(5)
28	Jordan	Članak 5(7)
29	Kazahstan	Članak 5(6)
30	Republika Koreja	Članak 5(6)
31	Kosovo	Članak 5(6)
32	Kuvajt	Članak 5(9)
33	Latvija	Članak 5(6)
34	Litva	Članak 5(6)
35	Luksemburg	Članak 5(6)
36	Sjeverna Makedonija	Članak 5(6)
37	Malezija	Članak 5(6)
38	Malta	Članak 5(6)
39	Mauricijus	Članak 5(6)
40	Moldova	Članak 5(6)
41	Crna Gora	Članak 5(6)
42	Maroko	Članak 5(7)
43	Nizozemska	Članak 5(6)
44	Norveška	Članak 5(6)
45	Oman	Članak 5(6)
46	Poljska	Članak 5(6)
47	Portugal	Članak 5(6)
48	Katar	Članak 5(7)
49	Rumunjska	Članak 5(6)

50	Ruska Federacija	Članak 5(6)
51	San Marino	Članak 5(6)
52	Srbija	Članak 5(6)
53	Slovačka Republika	Članak 5(6)
54	Slovenija	Članak 5(6)
55	Južna Afrika	Članak 5(6)
56	Španjolska	Članak 5(6)
57	Švedska	Članak 5(5)
58	Švicarska	Članak 5(6)
59	Sirijska Arapska Republika	Članak 5(6)
60	Turska	Članak 5(6)
61	Turkmenistan	Članak 5(6)
62	Ukrajina	Članak 5(6)
63	Ujedinjeni Arapski Emirati	Članak 6(7)
64	Ujedinjena Kraljevina	Članak 5(6)
65	Vijetnam	Članak 5(7)

**Članak 13. – Umjetno izbjegavanje statusa stalne poslovne jedinice putem izuzeća za određene aktivnosti**

***Obavijest o izboru opcionalnih odredbi***

Sukladno članku 13. stavku 7. Konvencije, Republika Hrvatska ovime odlučuje primijeniti mogućnost A prema članku 13. stavku 1.

***Obavijest o postojećim odredbama popisanih ugovora***

Sukladno članku 13. stavku 7. Konvencije, Republika Hrvatska smatra da sljedeći ugovori sadrže odredbu opisanu u članku 13. stavku 5. podstavku a). Broj članka i stavka svake takve odredbe navedeni su u nastavku.

Broj popisnog ugovora	Druga ugovorna jurisdikcija	Odredba
1	Albanija	Članak 5(4)
2	Armenija	Članak 5(4)
3	Austrija	Članak 5(4)
4	Azerbajdžan	Članak 5(4)
5	Bjelarus	Članak 5(4)
6	Belgija	Članak 5(4)
7	Bosna i Hercegovina	Članak 5(4)
8	Bugarska	Članak 5(4)
9	Kanada	Članak 5(4)
10	Čile	Članak 5(4)
11	Kina (Narodna Republika)	Članak 5(4)
12	Češka Republika	Članak 5(4)
13	Danska	Članak 5(5)
14	Estonija	Članak 5(4)
15	Finska	Članak 5(4)
16	Francuska	Članak 5(4)
17	Gruzija	Članak 5(4)
18	Njemačka	Članak 5(4)
19	Grčka	Članak 5(4)
20	Mađarska	Članak 5(4)
21	Island	Članak 5(4)
22	Indija	Članak 5(5)
23	Indonezija	Članak 5(4)
24	Iran	Članak 5(4)
25	Irska	Članak 5(4)
26	Izrael	Članak 5(4)
27	Italija	Članak 5(3)
28	Jordan	Članak 5(4)
29	Kazahstan	Članak 5(4)
30	Republika Koreja	Članak 5(4)
31	Kosovo	Članak 5(4)
32	Kuvajt	Članak 5(7)
33	Latvija	Članak 5(4)
34	Litva	Članak 5(4)
35	Luksemburg	Članak 5(4)
36	Sjeverna Makedonija	Članak 5(4)
37	Malezija	Članak 5(4)
38	Malta	Članak 5(4)
39	Mauricijus	Članak 5(4)
40	Moldova	Članak 5(4)
41	Crna Gora	Članak 5(4)
42	Maroko	Članak 5(4)
43	Nizozemska	Članak 5(4)
44	Norveška	Članak 5(4)
45	Oman	Članak 5(4)
46	Poljska	Članak 5(4)
47	Portugal	Članak 5(4)
48	Katar	Članak 5(4)
49	Rumunjska	Članak 5(4)

50	Ruska Federacija	Članak 5(4)
51	San Marino	Članak 5(4)
52	Srbija	Članak 5(4)
53	Slovačka Republika	Članak 5(4)
54	Slovenija	Članak 5(4)
55	Južna Afrika	Članak 5(4)
56	Španjolska	Članak 5(4)
57	Švedska	Članak 5(3)
58	Švicarska	Članak 5(4)
59	Sirijska Arapska Republika	Članak 5(4)
60	Turska	Članak 5(4)
61	Turkmenistan	Članak 5(4)
62	Ukrajina	Članak 5(4)
63	Ujedinjeni Arapski Emirati	Članak 6(4)
64	Ujedinjena Kraljevina	Članak 5(4)
65	Vijetnam	Članak 5(4)

**Članak 14. – Razdvajanje ugovora**

***Rezerva***

Sukladno članku 14. stavku 3. podstavku a) Konvencije, Republika Hrvatska zadržava pravo da članak 14. u cijelosti ne primjenjuje na svoje obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja.



## Članak 16. – Postupak zajedničkog dogovaranja

### *Rezerva*

Sukladno članku 16. stavku 5. podstavku a) Konvencije, Republika Hrvatska zadržava pravo da prvu rečenicu članka 16. stavka 1. ne primjenjuje na svoje obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja ako namjerava ispuniti minimalni standard za poboljšanje rješavanja sporova prema OECD-a/G20 BEPS paketu na način da zajamči da, prema svakom od svojih obuhvaćenih ugovora o izbjegavanju dvostrukog oporezivanja (osim obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja kojim je osobi dopušteno da iznese slučaj nadležnom tijelu bilo koje ugovorne jurisdikcije), ako osoba smatra da postupci jedne ili objiju ugovornih jurisdikcija kao posljedica za tu osobu imaju ili će imati oporezivanje koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja, ona može, neovisno o pravnim lijekovima predviđenim u domaćim propisima tih ugovornih jurisdikcija, iznijeti slučaj pred nadležno tijelo ugovorne jurisdikcije čiji je rezident ili, ako se na slučaj koji je ta osoba iznijela primjenjuje odredba obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja o zabrani diskriminacije na temelju državljanstva, nadležnom tijelu ugovorne jurisdikcije čiji je državljanin; te će nadležno tijelo te ugovorne jurisdikcije provesti postupak dvostranog obavještanja ili savjetovanja s nadležnim tijelom druge ugovorne jurisdikcije za slučajeve u kojima nadležno tijelo kojemu je iznesen slučaj postupka zajedničkog dogovaranja ne smatra prigovor poreznog obveznika opravdanim.

### *Obavijest o postojećim odredbama popisanih ugovora*

Sukladno članku 16. stavku 6. podstavku b) točki i) Konvencije, Republika Hrvatska smatra da ugovori u nastavku sadrže odredbu prema kojoj se slučaj naveden u prvoj rečenici članka 16. stavka 1. mora prijaviti unutar određenog vremenskog razdoblja koje je kraće od tri godine od prve obavijesti o postupku koji je doveo do oporezivanja koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja. Broj članka i stavka svake takve odredbe navedeni su u nastavku.

Broj popisanih ugovora	Druga ugovorna jurisdikcija	Odredba
9	Kanada	Članak 25(1), druga rečenica
27	Italija	Članak 25(1), druga rečenica
44	Oman	Članak 25(1), druga rečenica
47	Katar	Članak 24(1), druga rečenica
50	San Marino	Članak 25(1), druga rečenica
57	Švedska	Članak 24(1)

Sukladno članku 16. stavku 6. podstavku b) točki ii) Konvencije, Republika Hrvatska smatra da ugovori u nastavku sadrže odredbu prema kojoj se slučaj naveden u prvoj rečenici članka 16. stavka 1. mora prijaviti unutar određenog vremenskog razdoblja koje je najmanje tri godine od prve obavijesti o postupku koji je doveo do oporezivanja koje nije u skladu s odredbama obuhvaćenog ugovora o izbjegavanju dvostrukog oporezivanja. Broj članka i stavka svake takve odredbe navedeni su u nastavku.

Broj popisanog ugovora	Druga ugovorna jurisdikcija	Odredba
1	Albanija	Članak 25(1), druga rečenica
2	Armenija	Članak 24(1), druga rečenica
3	Austrija	Članak 25(1), druga rečenica
4	Azerbajdžan	Članak 25(1), druga rečenica
5	Bjelarus	Članak 25(1), druga rečenica
6	Belgija	Članak 25(1), druga rečenica
7	Bosna i Hercegovina	Članak 26(1), druga rečenica
8	Bugarska	Članak 25(1), druga rečenica
10	Čile	Članak 24(1), druga rečenica
11	Kina (Narodna Republika)	Članak 25(1), druga rečenica
12	Češka Republika	Članak 25(1), druga rečenica
13	Danska	Članak 24(1), druga rečenica
14	Estonija	Članak 24(1), druga rečenica
15	Finska	Članak 24(1), druga rečenica
16	Francuska	Članak 25(1), druga rečenica
17	Gruzija	Članak 24(1), druga rečenica
18	Njemačka	Članak 25(1), druga rečenica
19	Grčka	Članak 25(1), druga rečenica
20	Mađarska	Članak 25(1), druga rečenica
21	Island	Članak 23(1), druga rečenica
22	Indija	Članak 25(1), druga rečenica
23	Indonezija	Članak 24(1), druga rečenica
24	Iran	Članak 25(1), druga rečenica
25	Irska	Članak 24(1), druga rečenica
26	Izrael	Članak 25(1), druga rečenica
28	Jordan	Članak 25(1), druga rečenica
29	Kazahstan	Članak 25(1), druga rečenica
30	Republika Koreja	Članak 26(1), druga rečenica
31	Kosovo	Članak 24(1), druga rečenica
33	Kuvajt	Članak 25(1), druga rečenica
33	Latvija	Članak 25(1), druga rečenica
34	Litva	Članak 25(1), druga rečenica
35	Luksemburg	Članak 25(1), druga rečenica
36	Sjeverna Makedonija	Članak 25(1), druga rečenica
37	Malezija	Članak 25(1), druga rečenica
38	Malta	Članak 24(1), druga rečenica
39	Mauricijus	Članak 25(1), druga rečenica
40	Moldova	Članak 24(1), druga rečenica
41	Crna Gora	Članak 25(1), druga rečenica
42	Maroko	Članak 25(1), druga rečenica
43	Nizozemska	Članak 26(1), druga rečenica
44	Norveška	Članak 25(1), druga rečenica
46	Poljska	Članak 25(1), druga rečenica
47	Portugal	Članak 25(1), druga rečenica
49	Rumunjska	Članak 25(1), druga rečenica
50	Ruska Federacija	Članak 25(1), druga rečenica
52	Srbija	Članak 25(1), druga rečenica
53	Slovačka Republika	Članak 25(1), druga rečenica
54	Slovenija	Članak 25(1), druga rečenica

55	Južna Afrika	Članak 24(1), druga rečenica
56	Španjolska	Članak 24(1), druga rečenica
58	Švicarska	Članak 25(1), druga rečenica
59	Sirijska Arapska Republika	Članak 25(1), druga rečenica
60	Turska	Članak 24(1), druga rečenica
61	Turkmenistan	Članak 23(1), druga rečenica
62	Ukrajina	Članak 25(1), druga rečenica
63	Ujedinjeni Arapski Emirati	Članak 26(1), druga rečenica
64	Ujedinjena Kraljevina	Članak 24(1), druga rečenica
65	Vijetnam	Članak 26(1), druga rečenica

**Obavijest o popisanim ugovorima koji ne sadrže postojeće odredbe**

Sukladno članku 16. stavku 6. podstavku c) točki i) Konvencije, Republika Hrvatska smatra da sljedeći ugovori ne sadrže odredbu opisanu u članku 16. stavku 4. podstavku b) točki i).

Broj popisnog ugovora	Druga ugovorna jurisdikcija
51	San Marino

Sukladno članku 16. stavku 6. podstavku c) točki ii) Konvencije, Republika Hrvatska smatra da sljedeći ugovori ne sadrže odredbu opisanu u članku 16. stavku 4. podstavku b) točki ii).

Broj popisnog ugovora	Druga ugovorna jurisdikcija
9	Kanada
10	Čile
23	Indonezija
24	Iran
37	Malezija
48	Katar
57	Švedska
58	Švicarska
60	Turska
64	Ujedinjena Kraljevina

Sukladno članku 16. stavku 6. podstavku d) točki ii) Konvencije, Republika Hrvatska smatra da sljedeći ugovori ne sadrže odredbu opisanu u članku 16. stavku 4. podstavku c) točki ii).

Broj popisnog ugovora	Druga ugovorna jurisdikcija
6	Belgija
10	Čile
25	Irska
45	Oman
47	Portugal
64	Ujedinjena Kraljevina

**Članak 17. – Odgovarajuća usklađenja*****Rezerva***

Sukladno članku 17. stavku 3. podstavku a) Konvencije, Republika Hrvatska zadržava pravo da članak 17. u cijelosti ne primjenjuje na svoje obuhvaćene ugovore o izbjegavanju dvostrukog oporezivanja koji već sadrže odredbu opisanu u članku 17. stavku 2. Ugovori u nastavku sadrže odredbe koje su u okviru te rezerve.

Broj popisanog ugovora	Druga ugovorna jurisdikcija	Odredba
1	Albanija	Članak 9 (2)
2	Armenija	Članak 9(2)
4	Azerbejdžan	Članak 9(2)
5	Bjelarus	Članak 9(2)
6	Belgija	Članak 9(2)
7	Bosna i Hercegovina	Članak 9(2)
8	Bugarska	Članak 9(2)
10	Čile	Članak 9(2)
11	Kina (Narodna Republika)	Članak 9(2)
12	Češka Republika	Članak 9(2)
13	Danska	Članak 9(2)
14	Estonija	Članak 9(2)
16	Francuska	Članak 9(2)
17	Gruzija	Članak 9(2)
18	Njemačka	Članak 9(2)
19	Grčka	Članak 9(2)
20	Mađarska	Članak 9(2)
21	Island	Članak 9(2)
22	Indija	Članak 9(2)
23	Indonezija	Članak 9(2)
24	Iran	Članak 9(2)
25	Irska	Članak 9(2)
26	Izrael	Članak 9(2)
27	Italija	Članak 9(2)
28	Jordan	Članak 9(2)
29	Kazahstan	Članak 9(2)
30	Republika Koreja	Članak 9(2)
31	Kosovo	Članak 9(2)
32	Kuvajt	Članak 9(2)
33	Latvija	Članak 9(2)
34	Litva	Članak 9(2)
35	Luksemburg	Članak 9(2)
36	Sjeverna Makedonija	Članak 9(2)
37	Malezija	Članak 9(2)
38	Malta	Članak 9(2)
39	Mauricijus	Članak 9(2)
40	Moldova	Članak 9(2)
41	Crna Gora	Članak 9(2)
42	Maroko	Članak 9(2)
43	Nizozemska	Članak 9(2)
45	Oman	Članak 9(2)
46	Poljska	Članak 9(2)
47	Portugal	Članak 9(2)
48	Katar	Članak 9(2)
49	Rumunjska	Članak 9(2)
50	Ruska Federacija	Članak 9(2)
51	San Marino	Članak 9(2)
52	Srbija	Članak 9(2)

53	Slovačka Republika	Članak 9(2)
54	Slovenija	Članak 9(2)
55	Južna Afrika	Članak 9(2)
56	Španjolska	Članak 9(2)
59	Sirijska Arapska Republika	Članak 9(2)
60	Turska	Članak 9(2)
61	Turkmenistan	Članak 9(2)
62	Ukrajina	Članak 9(2)
63	Ujedinjeni Arapski Emirati	Članak 10(2)
64	Ujedinjena Kraljevina	Članak 9(2)
65	Vijetnam	Članak 9(2)

## **Republic of Croatia**

### **Status of List of Reservations and Notifications upon Deposit of the Instrument of Ratification**

This document contains a list of reservations and notifications made by the Republic of Croatia upon deposit of the instrument of ratification pursuant to Articles 28(6) and 29(3) of the Convention.

**Article 2 – Interpretation of Terms**

***Notification - Agreements Covered by the Convention***

Pursuant to Article 2(1)(a)(ii) of the Convention, the Republic of Croatia wishes the following agreement(s) to be covered by the Convention:



No	Title	Other Contracting Jurisdiction	Original/ Amending Instrument	Date of Signature	Date of Entry into Force
1	Agreement between the Government of the Republic of Croatia and the Government of the Republic of Albania for the avoidance of double taxation with respect to taxes on income and on capital	Albania	Original	02-12-1994	05-06-1997
2	Agreement between the Republic of Croatia and the Republic of Armenia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Armenia	Original	22-05-2009	18-02-2010
3	Agreement between the Republic of Croatia and the Republic of Austria for the avoidance of double taxation with respect to taxes on income and on capital	Austria	Original	21-09-2000	27-06-2001
4	Agreement between the Republic of Croatia and the Republic of Azerbaijan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	Azerbaijan	Original	12-03-2012	18-03-2013
5	Agreement between the Government of the Republic of Croatia and the Government of the Republic of Belarus for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (property)	Belarus	Original	11-06-2003	04-06-2004
6	Agreement between the Republic of Croatia and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	Belgium	Original	31-10-2001	01-04-2004
7	Agreement between the Republic of Croatia and Bosnia and Herzegovina for the avoidance of double taxation with respect to taxes on income and on capital	Bosnia and Herzegovina	Original	07-06-2004	22-06-2005
8	Agreement between the Republic of Croatia and the Republic of Bulgaria for the avoidance of double taxation with respect to taxes on income and on capital	Bulgaria	Original	15-07-1997	30-07-1998

9	Agreement between the Government of the Republic of Croatia and the Government of Canada for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	Canada	Original	09-12-1997	23-11-1999
10	Convention between the Republic of Croatia and the Republic of Chile for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Chile	Original	24-06-2003	22-12-2004
11	Agreement between the Government of the Republic of Croatia and the Government of the people's Republic of China for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	China (People's Republic of)	Original	09-01-1995	18-05-2001
12	Agreement between the Republic of Croatia and the Czech Republic for the Avoidance of Double Taxation with respect to Taxes on the Income and on Capital	Czech Republic	Original	22-01-1999	28-12-1999
			Amending Instrument	04-10-2011	30-07-2012
13	Agreement between the Republic of Croatia and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Denmark	Original	14-09-2007	22-02-2009
14	Agreement between the Government of the Republic of Croatia and the Government of the Republic of Estonia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Estonia	Original	03-04-2002	12-07-2004
15	Convention between the Socialist Federal Republic of Yugoslavia and the Republic of Finland for the avoidance of double taxation with respect to taxes and on capital	Finland	Original	08-05-1986	18-12-1987
16	Agreement between the Government of the Republic of Croatia and the Government of the French Republic for the avoidance of double taxation and prevention of avoidance of income tax payment	France	Original	19-06-2003	01-09-2005

17	Agreement between the Republic of Croatia and Georgia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	Georgia	Original	18-01-2013	06-12-2013
18	Agreement between the Republic of Croatia and the Federal Republic of Germany for the avoidance of double taxation with respect to taxes and on capital Ugovor između Republike Hrvatske i Savezne Republike Njemačke o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu	Germany	Original	06-02-2006	20-12-2006
19	Agreement between the Government of the Republic of Croatia and the Government of the Hellenic Republic for the avoidance of double taxation with respect to taxes on income and on capital	Greece	Original	18-10-1996	18-12-1998
20	Agreement between the Republic of Croatia and the Republic of Hungary for the avoidance of double taxation with respect to taxes on income and on capital	Hungary	Original	30-08-1996	08-05-1998
21	Agreement between the Republic of Croatia and Iceland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Iceland	Original	06-07-2010	15-12-2011
22	Agreement between the Government of the Republic of Croatia and the Government of the Republic of India for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income	India	Original	12-02-2014	11-02-2015
23	Agreement between the Government of the Republic of Croatia and the Government of the Republic of Indonesia for the avoidance of double taxation with respect to taxes on income	Indonesia	Original	15-02-2002	16-03-2012

24	Agreement between the Government of the Republic of Croatia and the Government of the Islamic Republic of Iran for the avoidance of double taxation with respect to taxes on income and on capital	Iran	Original	20-05-2003	30-10-2008
25	Agreement between the Government of the Republic of Croatia and the Government of Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains	Ireland	Original	21-06-2002	30-10-2003
26	Agreement between the Republic of Croatia and the State of Israel for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	Israel	Original	26-09-2006	01-02-2007
27	Agreement between the Government of the Republic of Croatia and the Government of the Italian Republic for the avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion	Italy	Original	29-10-1999	15-09-2009
28	Agreement between the Government of the Republic of Croatia and the Government of the Hashemite Kingdom of Jordan for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income	Jordan	Original	20-02-2005	17-02-2006
29	Agreement between the Government of the Republic of Croatia and the Government of the Republic of Kazakhstan for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Kazakhstan	Original	29-09-2017	22-02-2019
30	Agreement between the Republic of Croatia and the Republic of Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	Korea	Original	13-11-2002	15-09-2006

31	Agreement between the Republic of Croatia and the Republic of Kosovo for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital	Kosovo	Original	06-03-2017	04-12-2017
32	Agreement between the Republic of Croatia and State of Kuwait for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	Kuwait	Original	29-05-2001	09-01-2003
33	Agreement between the Government of the Republic of Croatia and the Government of the Republic of Latvia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Latvia	Original	19-05-2000	27-02-2001
34	Agreement between the Government of the Republic of Croatia and the Government of the Republic of Lithuania for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income	Lithuania	Original	04-05-2000	30-03-2001
35	Agreement between the Republic of Croatia and the Grand Duchy of Luxembourg for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital	Luxembourg	Original	20-06-2014	13-01-2016
36	Agreement between the Government of the Republic of Croatia and the Government of the Republic of Macedonia for the avoidance of double taxation with respect to taxes on income and on capital	North Macedonia	Original	06-07-1994	11-01-1996
37	Agreement between the Government of the Republic of Croatia and the Government of Malaysia for avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Malaysia	Original	18-02-2002	15-07-2004
38	The Agreement between the Republic of Croatia and Malta for the avoidance of double taxation with respect to taxes on income	Malta	Original	21-10-1998	22-08-1999

39	Agreement between the Government of the Republic of Croatia and the Government of the Republic of Mauritius for the avoidance of double taxation with respect to taxes on income	Mauritius	Original	06-09-2002	09-08-2003
40	Convention between the Government of the Republic of Croatia and the Government of the Republic of Moldova for the avoidance of double taxation and the prevention of the fiscal evasion with respect to taxes on income and on capital	Moldova	Original	30-05-2005	10-05-2006
41	Agreement between the Government of the Republic of Croatia and the Federal Government of the Federal Republic of Yugoslavia for the avoidance of double taxation with respect to taxes on income and on capital	Montenegro	Original	14-12-2001	22-04-2004
42	Agreement between the Republic of Croatia and the Kingdom of Morocco for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Morocco	Original	26-06-2008	25-10-2012
43	Agreement between the Republic of Croatia and the Kingdom of the Netherlands for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital	Netherlands	Original	23-05-2000	06-04-2001
44	Agreement between the Republic of Croatia and the Kingdom of Norway regarding the provisional application of the Convention between the Socialist Federal Republic of Yugoslavia and the Kingdom of Norway for the avoidance of double taxation with respect to taxes on income and on capital	Norway	Original	06-03-1996	06-03-1996
45	Agreement between the Republic of Croatia and the Sultanate of Oman for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Oman	Original	21-12-2009	16-02-2011

46	Agreement between the Republic of Croatia and the Republic of Poland for the avoidance of double taxation with respect to taxes on income and on capital	Poland	Original	19-10-1994	11-02-1996
47	Convention between the Republic of Croatia and the Portuguese Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Portugal	Original	04-10-2013	28-02-2015
48	Agreement between the Government of the Republic of Croatia and the Government of the State of Qatar for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Qatar	Original	24-06-2008	06-04-2009
49	Agreement between the Government of the Republic of Croatia and the Government of Romania for the avoidance of double taxation with respect to taxes on income and on capital	Romania	Original	25-01-1996	28-11-1996
50	Agreement between the Government of the Republic of Croatia and the Government of the Russian Federation for the avoidance of double taxation with respect to taxes on income and on capital	Russian Federation	Original	02-10-1995	19-04-1997
51	Agreement between the Republic of Croatia and the Republic of San Marino for the avoidance of double taxation with respect to taxes on income	San Marino	Original	18-10-2004	05-12-2005
			Amending Instrument	01-08-2012	21-05-2014
52	Agreement between the Government of the Republic of Croatia and the Federal Government of the Federal Republic of Yugoslavia for the avoidance of double taxation with respect to taxes on income and on capital	Serbia	Original	14-12-2001	22-04-2004
53	Agreement between the Republic of Croatia and the Slovak Republic for the avoidance of double taxation with respect to taxes on income and on capital	Slovak Republic	Original	12-02-1996	14-11-1996

54	Agreement between the Republic of Croatia and the Republic of Slovenia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	Slovenia	Original	10-06-2005	10-11-2005
55	Agreement between the Republic of Croatia and the Republic of South Africa for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	South Africa	Original	18-11-1996	07-11-1997
56	Convention between the Republic of Croatia and the Kingdom of the Spain for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital	Spain	Original	19-05-2005	20-04-2006
57	Convention between the Socialist Federal Republic of Yugoslavia and the Kingdom of Sweden for the avoidance of double taxation with respect to taxes on income and on capital	Sweden	Original	18-06-1980	16-12-1981
58	Agreement between the Republic of Croatia and the Swiss Confederation for the avoidance of double taxation with respect to taxes on income and on capital	Switzerland	Original	12-03-1999	20-12-1999
59	Agreement between the Republic of Croatia and the Syrian Arab Republic for the avoidance of double taxation with respect to taxes on income	Syrian Arab Republic	Original	18-07-2008	06-02-2009
60	Agreement between the Republic of Croatia and the Republic of Turkey for the avoidance of double taxation with respect to taxes on income	Turkey	Original	22-09-1997	18-05-2000
61	Agreement between the Government of the Republic of Croatia and the Government of Turkmenistan for the avoidance of double taxation with respect to taxes on income	Turkmenistan	Original	29-04-2014	06-04-2015
62	Agreement between the Government of the Republic of Croatia and the Government of Ukraine for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital	Ukraine	Original	10-09-1996	01-06-1999



63	Agreement between the Government of the Republic of Croatia and the Government of the United Arab Emirates for the avoidance of double taxation with respect to taxes on income	United Arab Emirates	Original	13-07-2017	28-09-2018
64	Agreement between the Republic of Croatia and the United Kingdom of Great Britain and Northern Ireland for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains	United Kingdom	Original	15-01-2015	19-11-2015
65	Agreement between the Government of the Republic of Croatia and the Government of the Socialist Republic of Viet Nam for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income	Viet Nam	Original	27-07-2018	23-05-2019

**Article 4 – Dual Resident Entities**

***Reservation***

Pursuant to Article 4(3)(a) of the Convention, the Republic of Croatia reserves the right for the entirety of Article 4 not to apply to its Covered Tax Agreements.

**Article 5 – Application of Methods for Elimination of Double Taxation**

***Reservation***

Pursuant to Article 5(8) of the Convention, the Republic of Croatia reserves the right for the entirety of Article 5 not to apply with respect to all of its Covered Tax Agreements.

## Article 6 – Purpose of a Covered Tax Agreement

### *Notification of Choice of Optional Provisions*

Pursuant to Article 6(6) of the Convention, the Republic of Croatia hereby chooses to apply Article 6(3).

### *Notification of Existing Preamble Language in Listed Agreements*

Pursuant to Article 6(5) of the Convention, the Republic of Croatia considers that the following agreement(s) is(are) not within the scope of a reservation under Article 6(4) and contain(s) preamble language described in Article 6(2). The text of the relevant preambular paragraph is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Preamble Text
1	Albania	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital
2	Armenia	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income
3	Austria	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital,
4	Azerbaijan	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital
5	Belarus	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (property)
6	Belgium	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,
7	Bosnia and Herzegovina	desiring to conclude the Agreement for the avoidance of double taxation with respect to taxes on income and on capital
8	Bulgaria	Desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital,
9	Canada	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital
10	Chile	desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income
11	China (People's Republic of)	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
12	Czech Republic	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital,
13	Denmark	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

14	Estonia	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
15	Finland	Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital,
16	France	desiring to conclude the Agreement for the avoidance of double taxation and for the prevention of avoidance of income tax payment,
17	Georgia	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital
18	Germany	Želeći sklopiti Ugovor o izbjegavanju dvostrukog oporezivanja porezima na dohodak i na imovinu  Von dem Wunsch geleitet, ein Abkommen zur Vermeidung der Doppelbesteuerung auf dem Gebiet der Steuern vom Einkommen und vom Vermögen zu schließen
19	Greece	Desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital
20	Hungary	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital
21	Iceland	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
22	India	Desiring to conclude an Agreement for the avoidance of double taxation
23	Indonesia	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income
24	Iran	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital
25	Ireland	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains,
26	Israel	desiring to conclude an Agreement for the avoidance of double taxation and for the prevention of tax evasion with respect to taxes on income and on capital
27	Italy	Desiring to conclude an Agreement to avoid double taxation with respect to taxes on income and to prevent fiscal evasion...
28	Jordan	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income
29	Kazakhstan	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
30	Korea	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,
31	Kosovo	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

32	Kuwait	desiring to promote their mutual economic relations of an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital
33	Latvia	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
34	Lithuania	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
35	Luxembourg	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital
36	North Macedonia	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital
37	Malaysia	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income
38	Malta	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income
39	Mauritius	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income
40	Moldova	desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital
41	Montenegro	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital
42	Morocco	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income
43	Netherlands	Desiring that an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital be concluded by both States,
44	Norway	desiring to conclude a Convention for the Avoidance of Double Taxation with respect to taxes on income and on capital
45	Oman	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income
46	Poland	Desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital,
47	Portugal	desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,
48	Qatar	desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income
49	Romania	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital
50	Russian Federation	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital
51	San Marino	wishing to conclude an Agreement for the avoidance of double taxation with respect to taxes on income

52	Serbia	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital
53	Slovak Republic	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital,
54	Slovenia	desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,
55	South Africa	desiring to conclude an Agreement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income,
56	Spain	desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital,
57	Sweden	desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital
58	Switzerland	desiring to conclude a Agreement for the avoidance of double taxation with respect to taxes on income and on capital
59	Syrian Arab Republic	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income
60	Turkey	Desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income
61	Turkmenistan	desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income
62	Ukraine	desiring to conclude an Agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital
63	United Arab Emirates	Desiring to promote their mutual economic relations through the conclusion between them of an Agreement for the avoidance of double taxation with respect to taxes on income,
64	United Kingdom	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains;
65	Viet Nam	Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

***Notification of Listed Agreements Not Containing Existing Preamble Language***

Pursuant to Article 6(6) of the Convention, the Republic of Croatia considers that the following agreement(s) do(es) not contain preamble language referring to a desire to develop an economic relationship or to enhance co-operation in tax matters.

Listed Agreement Number	Other Contracting Jurisdiction
1	Albania
2	Armenia
3	Austria
4	Azerbaijan
5	Belarus
6	Belgium
7	Bosnia and Herzegovina
8	Bulgaria
9	Canada
10	Chile
11	China (People's Republic of)
12	Czech Republic
13	Denmark
14	Estonia
15	Finland
16	France
17	Georgia
18	Germany
19	Greece
20	Hungary
21	Iceland
22	India
23	Indonesia
24	Iran
25	Ireland
26	Israel
27	Italy
28	Jordan
29	Kazakhstan
30	Korea
31	Kosovo
32	Kuwait
33	Latvia
34	Lithuania
35	Luxembourg
36	North Macedonia
37	Malaysia
38	Malta
39	Mauritius
40	Moldova
41	Montenegro
42	Morocco
43	Netherlands
44	Norway
45	Oman
46	Poland
47	Portugal
48	Qatar
49	Romania



50	Russian Federation
51	San Marino
52	Serbia
53	Slovak Republic
54	Slovenia
55	South Africa
56	Spain
57	Sweden
58	Switzerland
59	Syrian Arab Republic
60	Turkey
61	Turkmenistan
62	Ukraine
63	United Arab Emirates
64	United Kingdom
65	Viet Nam

**Article 7 – Prevention of Treaty Abuse***Notification of Existing Provisions in Listed Agreements*

Pursuant to Article 7(17)(a) of the Convention, the Republic of Croatia considers that the following agreement(s) is(are) not subject to a reservation described in Article 7(15)(b) and contain(s) a provision described in Article 7(2). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
16	France	Article 10(7)
43	Netherlands	Article 10(9)
45	Oman	Articles 11(9) and 12(7)
64	United Kingdom	Articles 10(7), 11(7), 12(6) and 21(4)

**Article 8 – Dividend Transfer Transactions**

***Reservation***

Pursuant to Article 8(3)(a) of the Convention, the Republic of Croatia reserves the right for the entirety of Article 8 not to apply to its Covered Tax Agreements.

## Article 9 – Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property

### *Notification of Choice of Optional Provisions*

Pursuant to Article 9(8) of the Convention, the Republic of Croatia hereby chooses to apply Article 9(4).

### *Notification of Existing Provisions in Listed Agreements*

Pursuant to Article 9(7) of the Convention, the Republic of Croatia considers that the following agreement(s) contain(s) a provision described in Article 9(1). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Albania	Article 13(4)
2	Armenia	Article 13(4)
4	Azerbaijan	Article 13(4)
7	Bosnia and Herzegovina	Article 13(4)
9	Canada	Article 13(4)
10	Chile	Article 13(4)
11	China (People's Republic of)	Article 13(4)
13	Denmark	Article 13(4)
16	France	Article 13(1)(b)
17	Georgia	Article 13(4)
18	Germany	Article 13(2)
22	India	Article 13(4)
23	Indonesia	Article 13(4)
24	Iran	Article 13(4)
25	Ireland	Article 13(2)
26	Israel	Article 13(2)
28	Jordan	Article 13(2)
29	Kazakhstan	Article 13(4)
31	Kosovo	Article 13(4)
35	Luxembourg	Article 13(4)
36	North Macedonia	Article 13(4)
38	Malta	Article 13(2)
40	Moldova	Article 13(4)
41	Montenegro	Article 13(4)
42	Morocco	Article 13(4)
46	Poland	Article 13(4)
47	Portugal	Article 13(4)
49	Romania	Article 13(4)
50	Russian Federation	Article 13(4)
52	Serbia	Article 13(4)
56	Spain	Article 13(4)
58	Switzerland	Article 13(4)
61	Turkmenistan	Article 13(4)
62	Ukraine	Article 13(4)
64	United Kingdom	Article 13(2)
65	Viet Nam	Article 14(4)

**Article 10 – Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions**

***Reservation***

Pursuant to Article 10(5)(a) of the Convention, the Republic of Croatia reserves the right for the entirety of Article 10 not to apply to its Covered Tax Agreements.

**Article 12 – Artificial Avoidance of Permanent Establishment Status through Commissionnaire Arrangements and Similar Strategies**

*Notification of Existing Provisions in Listed Agreements*

Pursuant to Article 12(5) of the Convention, the Republic of Croatia considers that the following agreement(s) contain(s) a provision described in Article 12(3)(a). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Albania	Article 5(5)
2	Armenia	Article 5(5)
3	Austria	Article 5(5)
4	Azerbaijan	Article 5(5)
5	Belarus	Article 5(5)
6	Belgium	Article 5(5)
7	Bosnia and Herzegovina	Article 5(5)
8	Bulgaria	Article 5(5)
9	Canada	Article 5(5)
10	Chile	Article 5(5)
11	China (People's Republic of)	Article 5(5)
12	Czech Republic	Article 5(5)
13	Denmark	Article 5(6)
14	Estonia	Article 5(5)
15	Finland	Article 5(5)
16	France	Article 5(5)
17	Georgia	Article 5(5)
18	Germany	Article 5(5)
19	Greece	Article 5(5)
20	Hungary	Article 5(5)
21	Iceland	Article 5(5)
22	India	Article 5(6)
23	Indonesia	Article 5(5)
24	Iran	Article 5(5)
25	Ireland	Article 5(5)
26	Israel	Article 5(5)
27	Italy	Article 5(4)
28	Jordan	Article 5(5)
29	Kazakhstan	Article 5(5)
30	Korea	Article 5(5)
31	Kosovo	Article 5(5)
32	Kuwait	Article 5(8)
33	Latvia	Article 5(5)
34	Lithuania	Article 5(5)
35	Luxembourg	Article 5(5)
36	North Macedonia	Article 5(5)
37	Malaysia	Article 5(5)
38	Malta	Article 5(5)
39	Mauritius	Article 5(5)
40	Moldova	Article 5(5)
41	Montenegro	Article 5(5)
42	Morocco	Article 5(5)
43	Netherlands	Article 5(5)
44	Norway	Article 5(5)
45	Oman	Article 5(5)
46	Poland	Article 5(5)
47	Portugal	Article 5(5)
48	Qatar	Article 5(5)
49	Romania	Article 5(5)

50	Russian Federation	Article 5(5)
51	San Marino	Article 5(5)
52	Serbia	Article 5(5)
53	Slovak Republic	Article 5(5)
54	Slovenia	Article 5(5)
55	South Africa	Article 5(5)
56	Spain	Article 5(5)
57	Sweden	Article 5(4)
58	Switzerland	Article 5(5)
59	Syrian Arab Republic	Article 5(5)
60	Turkey	Article 5(5)
61	Turkmenistan	Article 5(5)
62	Ukraine	Article 5(5)
63	United Arab Emirates	Article 6(5)
64	United Kingdom	Article 5(5)
65	Viet Nam	Article 5(5)(a)

Pursuant to Article 12(6) of the Convention, the Republic of Croatia considers that the following agreement(s) contain(s) a provision described in Article 12(3)(b). The article and paragraph number of each such provision is identified below.



Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Albania	Article 5(6)
2	Armenia	Article 5(6)
3	Austria	Article 5(6)
4	Azerbaijan	Article 5(7)
5	Belarus	Article 5(6)
6	Belgium	Article 5(6)
7	Bosnia and Herzegovina	Article 5(6)
8	Bulgaria	Article 5(6)
9	Canada	Article 5(6)
10	Chile	Article 5(7)
11	China (People's Republic of)	Article 5(6)
12	Czech Republic	Article 5(6)
13	Denmark	Article 5(7)
14	Estonia	Article 5(6)
15	Finland	Article 5(6)
16	France	Article 5(6)
17	Georgia	Article 5(6)
18	Germany	Article 5(6)
19	Greece	Article 5(6)
20	Hungary	Article 5(6)
21	Iceland	Article 5(6)
22	India	Article 5(8)
23	Indonesia	Article 5(6)
24	Iran	Article 5(6)
25	Ireland	Article 5(6)
26	Israel	Article 5(6)
27	Italy	Article 5(5)
28	Jordan	Article 5(7)
29	Kazakhstan	Article 5(6)
30	Korea	Article 5(6)
31	Kosovo	Article 5(6)
32	Kuwait	Article 5(9)
33	Latvia	Article 5(6)
34	Lithuania	Article 5(6)
35	Luxembourg	Article 5(6)
36	North Macedonia	Article 5(6)
37	Malaysia	Article 5(6)
38	Malta	Article 5(6)
39	Mauritius	Article 5(6)
40	Moldova	Article 5(6)
41	Montenegro	Article 5(6)
42	Morocco	Article 5(7)
43	Netherlands	Article 5(6)
44	Norway	Article 5(6)
45	Oman	Article 5(6)
46	Poland	Article 5(6)
47	Portugal	Article 5(6)
48	Qatar	Article 5(7)
49	Romania	Article 5(6)

50	Russian Federation	Article 5(6)
51	San Marino	Article 5(6)
52	Serbia	Article 5(6)
53	Slovak Republic	Article 5(6)
54	Slovenia	Article 5(6)
55	South Africa	Article 5(6)
56	Spain	Article 5(6)
57	Sweden	Article 5(5)
58	Switzerland	Article 5(6)
59	Syrian Arab Republic	Article 5(6)
60	Turkey	Article 5(6)
61	Turkmenistan	Article 5(6)
62	Ukraine	Article 5(6)
63	United Arab Emirates	Article 6(7)
64	United Kingdom	Article 5(6)
65	Viet Nam	Article 5(7)

**Article 13 – Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions**

*Notification of Choice of Optional Provisions*

Pursuant to Article 13(7) of the Convention, the Republic of Croatia hereby chooses to apply Option A under Article 13(1).

*Notification of Existing Provisions in Listed Agreements*

Pursuant to Article 13(7) of the Convention, the Republic of Croatia considers that the following agreement(s) contain(s) a provision described in Article 13(5)(a). The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Albania	Article 5(4)
2	Armenia	Article 5(4)
3	Austria	Article 5(4)
4	Azerbaijan	Article 5(4)
5	Belarus	Article 5(4)
6	Belgium	Article 5(4)
7	Bosnia and Herzegovina	Article 5(4)
8	Bulgaria	Article 5(4)
9	Canada	Article 5(4)
10	Chile	Article 5(4)
11	China (People's Republic of)	Article 5(4)
12	Czech Republic	Article 5(4)
13	Denmark	Article 5(5)
14	Estonia	Article 5(4)
15	Finland	Article 5(4)
16	France	Article 5(4)
17	Georgia	Article 5(4)
18	Germany	Article 5(4)
19	Greece	Article 5(4)
20	Hungary	Article 5(4)
21	Iceland	Article 5(4)
22	India	Article 5(5)
23	Indonesia	Article 5(4)
24	Iran	Article 5(4)
25	Ireland	Article 5(4)
26	Israel	Article 5(4)
27	Italy	Article 5(3)
28	Jordan	Article 5(4)
29	Kazakhstan	Article 5(4)
30	Korea	Article 5(4)
31	Kosovo	Article 5(4)
32	Kuwait	Article 5(7)
33	Latvia	Article 5(4)
34	Lithuania	Article 5(4)
35	Luxembourg	Article 5(4)
36	North Macedonia	Article 5(4)
37	Malaysia	Article 5(4)
38	Malta	Article 5(4)
39	Mauritius	Article 5(4)
40	Moldova	Article 5(4)
41	Montenegro	Article 5(4)
42	Morocco	Article 5(4)
43	Netherlands	Article 5(4)
44	Norway	Article 5(4)
45	Oman	Article 5(4)
46	Poland	Article 5(4)
47	Portugal	Article 5(4)
48	Qatar	Article 5(4)
49	Romania	Article 5(4)

50	Russian Federation	Article 5(4)
51	San Marino	Article 5(4)
52	Serbia	Article 5(4)
53	Slovak Republic	Article 5(4)
54	Slovenia	Article 5(4)
55	South Africa	Article 5(4)
56	Spain	Article 5(4)
57	Sweden	Article 5(3)
58	Switzerland	Article 5(4)
59	Syrian Arab Republic	Article 5(4)
60	Turkey	Article 5(4)
61	Turkmenistan	Article 5(4)
62	Ukraine	Article 5(4)
63	United Arab Emirates	Article 6(4)
64	United Kingdom	Article 5(4)
65	Viet Nam	Article 5(4)

**Article 14 – Splitting-up of Contracts**

***Reservation***

Pursuant to Article 14(3)(a) of the Convention, the Republic of Croatia reserves the right for the entirety of Article 14 not to apply to its Covered Tax Agreements.

## Article 16 – Mutual Agreement Procedure

### *Reservation*

Pursuant to Article 16(5)(a) of the Convention, the Republic of Croatia reserves the right for the first sentence of Article 16(1) not to apply to its Covered Tax Agreements on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS Package by ensuring that under each of its Covered Tax Agreements (other than a Covered Tax Agreement that permits a person to present a case to the competent authority of either Contracting Jurisdiction), where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, that person may present the case to the competent authority of the Contracting Jurisdiction of which the person is a resident or, if the case presented by that person comes under a provision of a Covered Tax Agreement relating to non-discrimination based on nationality, to that of the Contracting Jurisdiction of which that person is a national; and the competent authority of that Contracting Jurisdiction will implement a bilateral notification or consultation process with the competent authority of the other Contracting Jurisdiction for cases in which the competent authority to which the mutual agreement procedure case was presented does not consider the taxpayer's objection to be justified.

### *Notification of Existing Provisions in Listed Agreements*

Pursuant to Article 16(6)(b)(i) of the Convention, the Republic of Croatia considers that the following agreement(s) contain(s) a provision that provides that a case referred to in the first sentence of Article 16(1) must be presented within a specific time period that is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement. The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
9	Canada	Article 25(1), second sentence
27	Italy	Article 25(1), second sentence
45	Oman	Article 25(1), second sentence
48	Qatar	Article 24(1), second sentence
51	San Marino	Article 25(1), second sentence
57	Sweden	Article 24(1)

Pursuant to Article 16(6)(b)(ii) of the Convention, the Republic of Croatia considers that the following agreement(s) contain(s) a provision that provides that a case referred to in the first sentence of Article 16(1) must be presented within a specific time period that is at least three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement. The article and paragraph number of each such provision is identified below.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Albania	Article 25(1), second sentence
2	Armenia	Article 24(1), second sentence
3	Austria	Article 25(1), second sentence
4	Azerbaijan	Article 25(1), second sentence
5	Belarus	Article 25(1), second sentence
6	Belgium	Article 25(1), second sentence
7	Bosnia and Herzegovina	Article 26(1), second sentence
8	Bulgaria	Article 25(1), second sentence
10	Chile	Article 24(1), second sentence
11	China (People's Republic of)	Article 25(1), second sentence
12	Czech Republic	Article 25(1), second sentence
13	Denmark	Article 24(1), second sentence
14	Estonia	Article 24(1), second sentence
15	Finland	Article 24(1), second sentence
16	France	Article 25(1), second sentence
17	Georgia	Article 24(1), second sentence
18	Germany	Article 25(1), second sentence
19	Greece	Article 25(1), second sentence
20	Hungary	Article 25(1), second sentence
21	Iceland	Article 23(1), second sentence
22	India	Article 25(1), second sentence
23	Indonesia	Article 24(1), second sentence
24	Iran	Article 25(1), second sentence
25	Ireland	Article 24(1), second sentence
26	Israel	Article 25(1), second sentence
28	Jordan	Article 25(1), second sentence
29	Kazakhstan	Article 24(1), second sentence
30	Korea	Article 26(1), second sentence
31	Kosovo	Article 24(1), second sentence
32	Kuwait	Article 25(1), second sentence
33	Latvia	Article 25(1), second sentence
34	Lithuania	Article 25(1), second sentence
35	Luxembourg	Article 25(1), second sentence
36	North Macedonia	Article 25(1), second sentence
37	Malaysia	Article 25(1), second sentence
38	Malta	Article 24(1), second sentence
39	Mauritius	Article 25(1), second sentence
40	Moldova	Article 24(1), second sentence
41	Montenegro	Article 25(1), second sentence
42	Morocco	Article 25(1), second sentence
43	Netherlands	Article 26(1), second sentence
44	Norway	Article 25(1), second sentence
46	Poland	Article 25(1), second sentence
47	Portugal	Article 25(1), second sentence
49	Romania	Article 25(1), second sentence
50	Russian Federation	Article 25(1), second sentence
52	Serbia	Article 25(1), second sentence
53	Slovak Republic	Article 25(1), second sentence
54	Slovenia	Article 25(1), second sentence



55	South Africa	Article 24(1), second sentence
56	Spain	Article 24(1), second sentence
58	Switzerland	Article 25(1), second sentence
59	Syrian Arab Republic	Article 25(1), second sentence
60	Turkey	Article 24(1), second sentence
61	Turkmenistan	Article 23(1), second sentence
62	Ukraine	Article 25(1), second sentence
63	United Arab Emirates	Article 26(1), second sentence
64	United Kingdom	Article 24(1), second sentence
65	Viet Nam	Article 24(1), second sentence

***Notification of Listed Agreements Not Containing Existing Provisions***

Pursuant to Article 16(6)(c)(i) of the Convention, the Republic of Croatia considers that the following agreement(s) do(es) not contain a provision described in Article 16(4)(b)(i).

Listed Agreement Number	Other Contracting Jurisdiction
51	San Marino

Pursuant to Article 16(6)(c)(ii) of the Convention, the Republic of Croatia considers that the following agreement(s) do(es) not contain a provision described in Article 16(4)(b)(ii).

Listed Agreement Number	Other Contracting Jurisdiction
9	Canada
10	Chile
23	Indonesia
24	Iran
37	Malaysia
48	Qatar
57	Sweden
58	Switzerland
60	Turkey
64	United Kingdom

Pursuant to Article 16(6)(d)(ii) of the Convention, the Republic of Croatia considers that the following agreement(s) do(es) not contain a provision described in Article 16(4)(c)(ii).

Listed Agreement Number	Other Contracting Jurisdiction
6	Belgium
10	Chile
25	Ireland
45	Oman
47	Portugal
64	United Kingdom

**Article 17 – Corresponding Adjustments*****Reservation***

Pursuant to Article 17(3)(a) of the Convention, the Republic of Croatia reserves the right for the entirety of Article 17 not to apply to its Covered Tax Agreements that already contain a provision described in Article 17(2). The following agreement(s) contain(s) provisions that are within the scope of this reservation.

Listed Agreement Number	Other Contracting Jurisdiction	Provision
1	Albania	Article 9(2)
2	Armenia	Article 9(2)
4	Azerbaijan	Article 9(2)
5	Belarus	Article 9(2)
6	Belgium	Article 9(2)
7	Bosnia and Herzegovina	Article 9(2)
8	Bulgaria	Article 9(2)
10	Chile	Article 9(2)
11	China (People's Republic of)	Article 9(2)
12	Czech Republic	Article 9(2)
13	Denmark	Article 9(2)
14	Estonia	Article 9(2)
16	France	Article 9(2)
17	Georgia	Article 9(2)
18	Germany	Article 9(2)
19	Greece	Article 9(2)
20	Hungary	Article 9(2)
21	Iceland	Article 9(2)
22	India	Article 9(2)
23	Indonesia	Article 9(2)
24	Iran	Article 9(2)
25	Ireland	Article 9(2)
26	Israel	Article 9(2)
27	Italy	Article 9(2)
28	Jordan	Article 9(2)
29	Kazakhstan	Article 9(2)
30	Korea	Article 9(2)
31	Kosovo	Article 9(2)
32	Kuwait	Article 9(2)
33	Latvia	Article 9(2)
34	Lithuania	Article 9(2)
35	Luxembourg	Article 9(2)
36	North Macedonia	Article 9(2)
37	Malaysia	Article 9(2)
38	Malta	Article 9(2)
39	Mauritius	Article 9(2)
40	Moldova	Article 9(2)
41	Montenegro	Article 9(2)
42	Morocco	Article 9(2)
43	Netherlands	Article 9(2)
45	Oman	Article 9(2)
46	Poland	Article 9(2)
47	Portugal	Article 9(2)
48	Qatar	Article 9(2)
49	Romania	Article 9(2)
50	Russian Federation	Article 9(2)
51	San Marino	Article 9(2)
52	Serbia	Article 9(2)
53	Slovak Republic	Article 9(2)

54	Slovenia	Article 9(2)
55	South Africa	Article 9(2)
56	Spain	Article 9(2)
59	Syrian Arab Republic	Article 9(2)
60	Turkey	Article 9(2)
61	Turkmenistan	Article 9(2)
62	Ukraine	Article 9(2)
63	United Arab Emirates	Article 10(2)
64	United Kingdom	Article 9(2)
65	Viet Nam	Article 9(2)

**O B R A Z L O Ž E N J E**

**Člankom 1.** Konačnog prijedloga zakona utvrđuje se da Hrvatski sabor potvrđuje Mnogostranu konvenciju, sukladno odredbi članka 140. stavka 1. Ustava Republike Hrvatske (Narodne novine, br. 85/10 – pročišćeni tekst i 5/14 – Odluka Ustavnog suda Republike Hrvatske), čime se iskazuje formalni pristanak Republike Hrvatske da bude vezana ovom Mnogostranom konvencijom, na temelju čega će ovaj pristanak biti iskazan i na međunarodnoj razini polaganjem isprave o ratifikaciji kod glavnog tajnika OECD-a, kao depozitara Mnogostrane konvencije.

**Članak 2.** sadrži tekst Mnogostrane konvencije u izvorniku na engleskom jeziku i u prijevodu na hrvatski jezik.

**Člankom 3.** utvrđuje se da će Republika Hrvatska prilikom polaganja isprave o ratifikaciji na Mnogostranu konvenciju priopćiti rezerve i izjave koje su sadržane u prilogu koji je sastavni dio Zakona.

**Člankom 4.** utvrđuje se da je provedba Zakona u djelokrugu središnjeg tijela državne uprave nadležnog za poslove financija.

**Člankom 5.** utvrđuje se da na dan stupanja na snagu Zakona, Mnogostrana konvencija nije na snazi u odnosu na Republiku Hrvatsku te da će se podaci o njenom stupanju na snagu objaviti sukladno odredbi članka 30. stavka 3. Zakona o sklapanju i izvršavanju međunarodnih ugovora (Narodne novine, broj 28/96).

**Člankom 6.** uređuje se stupanje na snagu Zakona.

**Prilog** sadrži popis rezervi i izjava.

- PRILOZI**
- **Preslika teksta Mnogostrane konvencije u izvorniku na engleskom jeziku**
  - **Izvješće o provedenom savjetovanju sa zainteresiranom javnošću**

OBRAZAC IZVJEŠĆA O PROVEDENOM SAVJETOVANJU SA ZAINTERESIRANOM JAVNOŠĆU	
Naslov dokumenta	Mnogostrana konvencija o provedbi mjera povezanih s ugovorima o izbjegavanju dvostrukog oporezivanja u svrhu sprječavanja smanjenja porezne osnovice i preusmjeravanja dobiti
Stvaratelj dokumenta, tijelo koje provodi savjetovanje	Ministarstvo financija, Porezna uprava
Svrha dokumenta	Izješćivanje o provedenom javnom savjetovanju sa zainteresiranom javnošću o konačnom prijedlogu Zakona o potvrđivanju Mnogostrane konvencije o provedbi mjera povezanih s ugovorima o izbjegavanju dvostrukog oporezivanja u svrhu sprječavanja smanjenja porezne osnovice i preusmjeravanja dobiti
Datum dokumenta	02. listopada 2020.
Verzija dokumenta	1.
Vrsta dokumenta	Izješće
Naziv nacrt zakona, drugog propisa ili akta	Konačni prijedlog Zakona o potvrđivanju Mnogostrane konvencije o provedbi mjera povezanih s ugovorima o izbjegavanju dvostrukog oporezivanja u svrhu sprječavanja smanjenja porezne osnovice i preusmjeravanja dobiti
Jedinstvena oznaka iz Plana donošenja zakona, drugih propisa i akata objavljenog na internetskim stranicama Vlade	-
Naziv tijela nadležnog za izradu nacrt	Ministarstvo financija, Porezna uprava
Koji su predstavnici zainteresirane javnosti bili uključeni u postupak izrade odnosno u rad stručne radne skupine za izradu nacrt?	-
Je li nacrt bio objavljen na internetskim stranicama ili na drugi odgovarajući način?  Ako jest, kada je nacrt objavljen, na kojoj internetskoj stranici i koliko je vremena ostavljeno za savjetovanje?  Ako nije, zašto?	Konačni prijedlog Zakona bio je objavljen: 1. na internetskim stranicama Ministarstva financija (objavljeno 31. kolovoza 2020.) 2. na portalu eSavjetovanja ( <a href="http://www.savjetovanja.gov.hr">www.savjetovanja.gov.hr</a> ). Savjetovanje sa zainteresiranom javnosti trajalo je od 31. kolovoza do 30. rujna 2020.
Koji su predstavnici zainteresirane javnosti dostavili svoja očitovanja?	Nije bilo očitovanja

ANALIZA DOSTAVLJENIH PRIMJEDBI	Nije bilo primjedbi
Primjedbe koje su prihvaćene	
Primjedbe koje nisu prihvaćene i obrazloženje razloga za neprihvatanje	
Troškovi provedenog savjetovanja	Provedba javnog savjetovanja nije iziskivala dodatne financijske troškove



**MULTILATERAL CONVENTION  
TO IMPLEMENT TAX TREATY RELATED MEASURES  
TO PREVENT BASE EROSION AND PROFIT SHIFTING**

The Parties to this Convention,

Recognising that governments lose substantial corporate tax revenue because of aggressive international tax planning that has the effect of artificially shifting profits to locations where they are subject to non-taxation or reduced taxation;

Mindful that base erosion and profit shifting (hereinafter referred to as “BEPS”) is a pressing issue not only for industrialised countries but also for emerging economies and developing countries;

Recognising the importance of ensuring that profits are taxed where substantive economic activities generating the profits are carried out and where value is created;

Welcoming the package of measures developed under the OECD/G20 BEPS project (hereinafter referred to as the “OECD/G20 BEPS package”);

Noting that the OECD/G20 BEPS package included tax treaty-related measures to address certain hybrid mismatch arrangements, prevent treaty abuse, address artificial avoidance of permanent establishment status, and improve dispute resolution;

Conscious of the need to ensure swift, co-ordinated and consistent implementation of the treaty-related BEPS measures in a multilateral context;

Noting the need to ensure that existing agreements for the avoidance of double taxation on income are interpreted to eliminate double taxation with respect to the taxes covered by those agreements without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in those agreements for the indirect benefit of residents of third jurisdictions);

Recognising the need for an effective mechanism to implement agreed changes in a synchronised and efficient manner across the network of existing agreements for the avoidance of double taxation on income without the need to bilaterally renegotiate each such agreement;

Have agreed as follows:

**PART I.**  
**SCOPE AND INTERPRETATION OF TERMS**

***Article 1 – Scope of the Convention***

This Convention modifies all Covered Tax Agreements as defined in subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms).

***Article 2 – Interpretation of Terms***

1. For the purpose of this Convention, the following definitions apply:

- a) The term “Covered Tax Agreement” means an agreement for the avoidance of double taxation with respect to taxes on income (whether or not other taxes are also covered):
  - i) that is in force between two or more:
    - A) Parties; and/or
    - B) jurisdictions or territories which are parties to an agreement described above and for whose international relations a Party is responsible; and
  - ii) with respect to which each such Party has made a notification to the Depository listing the agreement as well as any amending or accompanying instruments thereto (identified by title, names of the parties, date of signature, and, if applicable at the time of the notification, date of entry into force) as an agreement which it wishes to be covered by this Convention.
- b) The term “Party” means:
  - i) A State for which this Convention is in force pursuant to Article 34 (Entry into Force); or
  - ii) A jurisdiction which has signed this Convention pursuant to subparagraph b) or c) of paragraph 1 of Article 27 (Signature and Ratification, Acceptance or Approval) and for which this Convention is in force pursuant to Article 34 (Entry into Force).
- c) The term “Contracting Jurisdiction” means a party to a Covered Tax Agreement.
- d) The term “Signatory” means a State or jurisdiction which has signed this Convention but for which the Convention is not yet in force.

2. As regards the application of this Convention at any time by a Party, any term not defined herein shall, unless the context otherwise requires, have the meaning that it has at that time under the relevant Covered Tax Agreement.

**PART II.**  
**HYBRID MISMATCHES**

***Article 3 - Transparent Entities***

1. For the purposes of a Covered Tax Agreement, income derived by or through an entity or arrangement that is treated as wholly or partly fiscally transparent under the tax law of either Contracting Jurisdiction shall be considered to be income of a resident of a Contracting Jurisdiction but only to the extent that the income is treated, for purposes of taxation by that Contracting Jurisdiction, as the income of a resident of that Contracting Jurisdiction.

2. Provisions of a Covered Tax Agreement that require a Contracting Jurisdiction to exempt from income tax or provide a deduction or credit equal to the income tax paid with respect to income derived by a resident of that Contracting Jurisdiction which may be taxed in the other Contracting Jurisdiction according to the provisions of the Covered Tax Agreement shall not apply to the extent that such provisions allow taxation by that other Contracting Jurisdiction solely because the income is also income derived by a resident of that other Contracting Jurisdiction.

3. With respect to Covered Tax Agreements for which one or more Parties has made the reservation described in subparagraph a) of paragraph 3 of Article 11 (Application of Tax Agreements to Restrict a Party's Right to Tax its Own Residents), the following sentence will be added at the end of paragraph 1: "In no case shall the provisions of this paragraph be construed to affect a Contracting Jurisdiction's right to tax the residents of that Contracting Jurisdiction."

4. Paragraph 1 (as it may be modified by paragraph 3) shall apply in place of or in the absence of provisions of a Covered Tax Agreement to the extent that they address whether income derived by or through entities or arrangements that are treated as fiscally transparent under the tax law of either Contracting Jurisdiction (whether through a general rule or by identifying in detail the treatment of specific fact patterns and types of entities or arrangements) shall be treated as income of a resident of a Contracting Jurisdiction.

5. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision described in paragraph 4;
- c) for paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision described in paragraph 4 which denies treaty benefits in the case of income derived by or through an entity or arrangement established in a third jurisdiction;
- d) for paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision described in paragraph 4 which identifies in detail the treatment of specific fact patterns and types of entities or arrangements;
- e) for paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision described in paragraph 4 which identifies in detail the treatment of specific fact patterns and types of entities or arrangements and denies treaty benefits in the case of income derived by or through an entity or arrangement established in a third jurisdiction;

- f) for paragraph 2 not to apply to its Covered Tax Agreements;
- g) for paragraph 1 to apply only to its Covered Tax Agreements that already contain a provision described in paragraph 4 which identifies in detail the treatment of specific fact patterns and types of entities or arrangements.

6. Each Party that has not made a reservation described in subparagraph a) or b) of paragraph 5 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 4 that is not subject to a reservation under subparagraphs c) through e) of paragraph 5, and if so, the article and paragraph number of each such provision. In the case of a Party that has made the reservation described in subparagraph g) of paragraph 5, the notification pursuant to the preceding sentence shall be limited to Covered Tax Agreements that are subject to that reservation. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraph 1 (as it may be modified by paragraph 3) to the extent provided in paragraph 4. In other cases, paragraph 1 (as it may be modified by paragraph 3) shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1 (as it may be modified by paragraph 3).

#### ***Article 4 – Dual Resident Entities***

1. Where by reason of the provisions of a Covered Tax Agreement a person other than an individual is a resident of more than one Contracting Jurisdiction, the competent authorities of the Contracting Jurisdictions shall endeavour to determine by mutual agreement the Contracting Jurisdiction of which such person shall be deemed to be a resident for the purposes of the Covered Tax Agreement, having regard to its place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by the Covered Tax Agreement except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting Jurisdictions.

2. Paragraph 1 shall apply in place of or in the absence of provisions of a Covered Tax Agreement that provide rules for determining whether a person other than an individual shall be treated as a resident of one of the Contracting Jurisdictions in cases in which that person would otherwise be treated as a resident of more than one Contracting Jurisdiction. Paragraph 1 shall not apply, however, to provisions of a Covered Tax Agreement specifically addressing the residence of companies participating in dual-listed company arrangements.

3. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for the entirety of this Article not to apply to its Covered Tax Agreements that already address cases where a person other than an individual is a resident of more than one Contracting Jurisdiction by requiring the competent authorities of the Contracting Jurisdictions to endeavour to reach mutual agreement on a single Contracting Jurisdiction of residence;
- c) for the entirety of this Article not to apply to its Covered Tax Agreements that already address cases where a person other than an individual is a resident of more than one Contracting Jurisdiction by denying treaty benefits without requiring the competent authorities of the Contracting Jurisdictions to endeavour to reach mutual agreement on a single Contracting Jurisdiction of residence;

- d) for the entirety of this Article not to apply to its Covered Tax Agreements that already address cases where a person other than an individual is a resident of more than one Contracting Jurisdiction by requiring the competent authorities of the Contracting Jurisdictions to endeavour to reach mutual agreement on a single Contracting Jurisdiction of residence, and that set out the treatment of that person under the Covered Tax Agreement where such an agreement cannot be reached;
- e) to replace the last sentence of paragraph 1 with the following text for the purposes of its Covered Tax Agreements: “In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by the Covered Tax Agreement.”;
- f) for the entirety of this Article not to apply to its Covered Tax Agreements with Parties that have made the reservation described in subparagraph e).

4. Each Party that has not made a reservation described in subparagraph a) of paragraph 3 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 2 that is not subject to a reservation under subparagraphs b) through d) of paragraph 3, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraph 1. In other cases, paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1.

#### ***Article 5 – Application of Methods for Elimination of Double Taxation***

1. A Party may choose to apply either paragraphs 2 and 3 (Option A), paragraphs 4 and 5 (Option B), or paragraphs 6 and 7 (Option C), or may choose to apply none of the Options. Where each Contracting Jurisdiction to a Covered Tax Agreement chooses a different Option (or where one Contracting Jurisdiction chooses to apply an Option and the other chooses to apply none of the Options), the Option chosen by each Contracting Jurisdiction shall apply with respect to its own residents.

##### ***Option A***

2. Provisions of a Covered Tax Agreement that would otherwise exempt income derived or capital owned by a resident of a Contracting Jurisdiction from tax in that Contracting Jurisdiction for the purpose of eliminating double taxation shall not apply where the other Contracting Jurisdiction applies the provisions of the Covered Tax Agreement to exempt such income or capital from tax or to limit the rate at which such income or capital may be taxed. In the latter case, the first-mentioned Contracting Jurisdiction shall allow as a deduction from the tax on the income or capital of that resident an amount equal to the tax paid in that other Contracting Jurisdiction. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income or capital which may be taxed in that other Contracting Jurisdiction.

3. Paragraph 2 shall apply to a Covered Tax Agreement that would otherwise require a Contracting Jurisdiction to exempt income or capital described in that paragraph.

##### ***Option B***

4. Provisions of a Covered Tax Agreement that would otherwise exempt income derived by a resident of a Contracting Jurisdiction from tax in that Contracting Jurisdiction for the purpose of eliminating double taxation because such income is treated as a dividend by that Contracting Jurisdiction shall not apply

where such income gives rise to a deduction for the purpose of determining the taxable profits of a resident of the other Contracting Jurisdiction under the laws of that other Contracting Jurisdiction. In such case, the first-mentioned Contracting Jurisdiction shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in that other Contracting Jurisdiction. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to such income which may be taxed in that other Contracting Jurisdiction.

5. Paragraph 4 shall apply to a Covered Tax Agreement that would otherwise require a Contracting Jurisdiction to exempt income described in that paragraph.

### *Option C*

6. a) Where a resident of a Contracting Jurisdiction derives income or owns capital which may be taxed in the other Contracting Jurisdiction in accordance with the provisions of a Covered Tax Agreement (except to the extent that these provisions allow taxation by that other Contracting Jurisdiction solely because the income is also income derived by a resident of that other Contracting Jurisdiction), the first-mentioned Contracting Jurisdiction shall allow:

i) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in that other Contracting Jurisdiction;

ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other Contracting Jurisdiction.

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

b) Where in accordance with any provision of the Covered Tax Agreement income derived or capital owned by a resident of a Contracting Jurisdiction is exempt from tax in that Contracting Jurisdiction, such Contracting Jurisdiction may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

7. Paragraph 6 shall apply in place of provisions of a Covered Tax Agreement that, for purposes of eliminating double taxation, require a Contracting Jurisdiction to exempt from tax in that Contracting Jurisdiction income derived or capital owned by a resident of that Contracting Jurisdiction which, in accordance with the provisions of the Covered Tax Agreement, may be taxed in the other Contracting Jurisdiction.

8. A Party that does not choose to apply an Option under paragraph 1 may reserve the right for the entirety of this Article not to apply with respect to one or more identified Covered Tax Agreements (or with respect to all of its Covered Tax Agreements).

9. A Party that does not choose to apply Option C may reserve the right, with respect to one or more identified Covered Tax Agreements (or with respect to all of its Covered Tax Agreements), not to permit the other Contracting Jurisdiction(s) to apply Option C.

10. Each Party that chooses to apply an Option under paragraph 1 shall notify the Depository of its choice of Option. Such notification shall also include:

- a) in the case of a Party that chooses to apply Option A, the list of its Covered Tax Agreements which contain a provision described in paragraph 3, as well as the article and paragraph number of each such provision;
- b) in the case of a Party that chooses to apply Option B, the list of its Covered Tax Agreements which contain a provision described in paragraph 5, as well as the article and paragraph number of each such provision;
- c) in the case of a Party that chooses to apply Option C, the list of its Covered Tax Agreements which contain a provision described in paragraph 7, as well as the article and paragraph number of each such provision.

An Option shall apply with respect to a provision of a Covered Tax Agreement only where the Party that has chosen to apply that Option has made such a notification with respect to that provision.



**PART III.**  
**TREATY ABUSE**

***Article 6 – Purpose of a Covered Tax Agreement***

1. A Covered Tax Agreement shall be modified to include the following preamble text:

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

2. The text described in paragraph 1 shall be included in a Covered Tax Agreement in place of or in the absence of preamble language of the Covered Tax Agreement referring to an intent to eliminate double taxation, whether or not that language also refers to the intent not to create opportunities for non-taxation or reduced taxation.

3. A Party may also choose to include the following preamble text with respect to its Covered Tax Agreements that do not contain preamble language referring to a desire to develop an economic relationship or to enhance co-operation in tax matters:

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

4. A Party may reserve the right for paragraph 1 not to apply to its Covered Tax Agreements that already contain preamble language describing the intent of the Contracting Jurisdictions to eliminate double taxation without creating opportunities for non-taxation or reduced taxation, whether that language is limited to cases of tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in the Covered Tax Agreement for the indirect benefit of residents of third jurisdictions) or applies more broadly.

5. Each Party shall notify the Depository of whether each of its Covered Tax Agreements, other than those that are within the scope of a reservation under paragraph 4, contains preamble language described in paragraph 2, and if so, the text of the relevant preambular paragraph. Where all Contracting Jurisdictions have made such a notification with respect to that preamble language, such preamble language shall be replaced by the text described in paragraph 1. In other cases, the text described in paragraph 1 shall be included in addition to the existing preamble language.

6. Each Party that chooses to apply paragraph 3 shall notify the Depository of its choice. Such notification shall also include the list of its Covered Tax Agreements that do not already contain preamble language referring to a desire to develop an economic relationship or to enhance co-operation in tax matters. The text described in paragraph 3 shall be included in a Covered Tax Agreement only where all Contracting Jurisdictions have chosen to apply that paragraph and have made such a notification with respect to the Covered Tax Agreement.

***Article 7 – Prevention of Treaty Abuse***

1. Notwithstanding any provisions of a Covered Tax Agreement, a benefit under the Covered Tax Agreement shall not be granted in respect of an item of income or capital if it is reasonable to conclude,

having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the Covered Tax Agreement.

2. Paragraph 1 shall apply in place of or in the absence of provisions of a Covered Tax Agreement that deny all or part of the benefits that would otherwise be provided under the Covered Tax Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits.

3. A Party that has not made the reservation described in subparagraph a) of paragraph 15 may also choose to apply paragraph 4 with respect to its Covered Tax Agreements.

4. Where a benefit under a Covered Tax Agreement is denied to a person under provisions of the Covered Tax Agreement (as it may be modified by this Convention) that deny all or part of the benefits that would otherwise be provided under the Covered Tax Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits, the competent authority of the Contracting Jurisdiction that would otherwise have granted this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or capital, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted to that person in the absence of the transaction or arrangement. The competent authority of the Contracting Jurisdiction to which a request has been made under this paragraph by a resident of the other Contracting Jurisdiction shall consult with the competent authority of that other Contracting Jurisdiction before rejecting the request.

5. Paragraph 4 shall apply to provisions of a Covered Tax Agreement (as it may be modified by this Convention) that deny all or part of the benefits that would otherwise be provided under the Covered Tax Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits.

6. A Party may also choose to apply the provisions contained in paragraphs 8 through 13 (hereinafter referred to as the "Simplified Limitation on Benefits Provision") to its Covered Tax Agreements by making the notification described in subparagraph c) of paragraph 17. The Simplified Limitation on Benefits Provision shall apply with respect to a Covered Tax Agreement only where all Contracting Jurisdictions have chosen to apply it.

7. In cases where some but not all of the Contracting Jurisdictions to a Covered Tax Agreement choose to apply the Simplified Limitation on Benefits Provision pursuant to paragraph 6, then, notwithstanding the provisions of that paragraph, the Simplified Limitation on Benefits Provision shall apply with respect to the granting of benefits under the Covered Tax Agreement:

- a) by all Contracting Jurisdictions, if all of the Contracting Jurisdictions that do not choose pursuant to paragraph 6 to apply the Simplified Limitation on Benefits Provision agree to such application by choosing to apply this subparagraph and notifying the Depository accordingly; or
- b) only by the Contracting Jurisdictions that choose to apply the Simplified Limitation on Benefits Provision, if all of the Contracting Jurisdictions that do not choose pursuant to paragraph 6 to apply the Simplified Limitation on Benefits Provision agree to such application by choosing to apply this subparagraph and notifying the Depository accordingly.

### *Simplified Limitation on Benefits Provision*

8. Except as otherwise provided in the Simplified Limitation on Benefits Provision, a resident of a Contracting Jurisdiction to a Covered Tax Agreement shall not be entitled to a benefit that would otherwise be accorded by the Covered Tax Agreement, other than a benefit under provisions of the Covered Tax Agreement:

- a) which determine the residence of a person other than an individual which is a resident of more than one Contracting Jurisdiction by reason of provisions of the Covered Tax Agreement that define a resident of a Contracting Jurisdiction;
- b) which provide that a Contracting Jurisdiction will grant to an enterprise of that Contracting Jurisdiction a corresponding adjustment following an initial adjustment made by the other Contracting Jurisdiction, in accordance with the Covered Tax Agreement, to the amount of tax charged in the first-mentioned Contracting Jurisdiction on the profits of an associated enterprise; or
- c) which allow residents of a Contracting Jurisdiction to request that the competent authority of that Contracting Jurisdiction consider cases of taxation not in accordance with the Covered Tax Agreement,

unless such resident is a “qualified person”, as defined in paragraph 9 at the time that the benefit would be accorded.

9. A resident of a Contracting Jurisdiction to a Covered Tax Agreement shall be a qualified person at a time when a benefit would otherwise be accorded by the Covered Tax Agreement if, at that time, the resident is:

- a) an individual;
- b) that Contracting Jurisdiction, or a political subdivision or local authority thereof, or an agency or instrumentality of any such Contracting Jurisdiction, political subdivision or local authority;
- c) a company or other entity, if the principal class of its shares is regularly traded on one or more recognised stock exchanges;
- d) a person, other than an individual, that:
  - i) is a non-profit organisation of a type that is agreed to by the Contracting Jurisdictions through an exchange of diplomatic notes; or
  - ii) is an entity or arrangement established in that Contracting Jurisdiction that is treated as a separate person under the taxation laws of that Contracting Jurisdiction and:
    - A) that is established and operated exclusively or almost exclusively to administer or provide retirement benefits and ancillary or incidental benefits to individuals and that is regulated as such by that Contracting Jurisdiction or one of its political subdivisions or local authorities; or
    - B) that is established and operated exclusively or almost exclusively to invest funds for the benefit of entities or arrangements referred to in subdivision A);

- e) a person other than an individual, if, on at least half the days of a twelve-month period that includes the time when the benefit would otherwise be accorded, persons who are residents of that Contracting Jurisdiction and that are entitled to benefits of the Covered Tax Agreement under subparagraphs a) to d) own, directly or indirectly, at least 50 per cent of the shares of the person.
10. a) A resident of a Contracting Jurisdiction to a Covered Tax Agreement will be entitled to benefits of the Covered Tax Agreement with respect to an item of income derived from the other Contracting Jurisdiction, regardless of whether the resident is a qualified person, if the resident is engaged in the active conduct of a business in the first-mentioned Contracting Jurisdiction, and the income derived from the other Contracting Jurisdiction emanates from, or is incidental to, that business. For purposes of the Simplified Limitation on Benefits Provision, the term “active conduct of a business” shall not include the following activities or any combination thereof:
- i) operating as a holding company;
  - ii) providing overall supervision or administration of a group of companies;
  - iii) providing group financing (including cash pooling); or
  - iv) making or managing investments, unless these activities are carried on by a bank, insurance company or registered securities dealer in the ordinary course of its business as such.
- b) If a resident of a Contracting Jurisdiction to a Covered Tax Agreement derives an item of income from a business activity conducted by that resident in the other Contracting Jurisdiction, or derives an item of income arising in the other Contracting Jurisdiction from a connected person, the conditions described in subparagraph a) shall be considered to be satisfied with respect to such item only if the business activity carried on by the resident in the first-mentioned Contracting Jurisdiction to which the item is related is substantial in relation to the same activity or a complementary business activity carried on by the resident or such connected person in the other Contracting Jurisdiction. Whether a business activity is substantial for the purposes of this subparagraph shall be determined based on all the facts and circumstances.
- c) For purposes of applying this paragraph, activities conducted by connected persons with respect to a resident of a Contracting Jurisdiction to a Covered Tax Agreement shall be deemed to be conducted by such resident.

11. A resident of a Contracting Jurisdiction to a Covered Tax Agreement that is not a qualified person shall also be entitled to a benefit that would otherwise be accorded by the Covered Tax Agreement with respect to an item of income if, on at least half of the days of any twelve-month period that includes the time when the benefit would otherwise be accorded, persons that are equivalent beneficiaries own, directly or indirectly, at least 75 per cent of the beneficial interests of the resident.

12. If a resident of a Contracting Jurisdiction to a Covered Tax Agreement is neither a qualified person pursuant to the provisions of paragraph 9, nor entitled to benefits under paragraph 10 or 11, the competent authority of the other Contracting Jurisdiction may, nevertheless, grant the benefits of the Covered Tax Agreement, or benefits with respect to a specific item of income, taking into account the object and purpose of the Covered Tax Agreement, but only if such resident demonstrates to the satisfaction of such competent authority that neither its establishment, acquisition or maintenance, nor the conduct of its

operations, had as one of its principal purposes the obtaining of benefits under the Covered Tax Agreement. Before either granting or denying a request made under this paragraph by a resident of a Contracting Jurisdiction, the competent authority of the other Contracting Jurisdiction to which the request has been made shall consult with the competent authority of the first-mentioned Contracting Jurisdiction.

13. For the purposes of the Simplified Limitation on Benefits Provision:

- a) the term “recognised stock exchange” means:
  - i) any stock exchange established and regulated as such under the laws of either Contracting Jurisdiction; and
  - ii) any other stock exchange agreed upon by the competent authorities of the Contracting Jurisdictions;
- b) the term “principal class of shares” means the class or classes of shares of a company which represents the majority of the aggregate vote and value of the company or the class or classes of beneficial interests of an entity which represents in the aggregate a majority of the aggregate vote and value of the entity;
- c) the term “equivalent beneficiary” means any person who would be entitled to benefits with respect to an item of income accorded by a Contracting Jurisdiction to a Covered Tax Agreement under the domestic law of that Contracting Jurisdiction, the Covered Tax Agreement or any other international instrument which are equivalent to, or more favourable than, benefits to be accorded to that item of income under the Covered Tax Agreement; for the purposes of determining whether a person is an equivalent beneficiary with respect to dividends, the person shall be deemed to hold the same capital of the company paying the dividends as such capital the company claiming the benefit with respect to the dividends holds;
- d) with respect to entities that are not companies, the term “shares” means interests that are comparable to shares;
- e) two persons shall be “connected persons” if one owns, directly or indirectly, at least 50 per cent of the beneficial interest in the other (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) or another person owns, directly or indirectly, at least 50 per cent of the beneficial interest (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) in each person; in any case, a person shall be connected to another if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same person or persons.

14. The Simplified Limitation on Benefits Provision shall apply in place of or in the absence of provisions of a Covered Tax Agreement that would limit the benefits of the Covered Tax Agreement (or that would limit benefits other than a benefit under the provisions of the Covered Tax Agreement relating to residence, associated enterprises or non-discrimination or a benefit that is not restricted solely to residents of a Contracting Jurisdiction) only to a resident that qualifies for such benefits by meeting one or more categorical tests.

15. A Party may reserve the right:

- a) for paragraph 1 not to apply to its Covered Tax Agreements on the basis that it intends to adopt a combination of a detailed limitation on benefits provision and either rules to address conduit financing structures or a principal purpose test, thereby meeting the minimum standard for preventing treaty abuse under the OECD/G20 BEPS package; in such cases, the Contracting Jurisdictions shall endeavour to reach a mutually satisfactory solution which meets the minimum standard;
- b) for paragraph 1 (and paragraph 4, in the case of a Party that has chosen to apply that paragraph) not to apply to its Covered Tax Agreements that already contain provisions that deny all of the benefits that would otherwise be provided under the Covered Tax Agreement where the principal purpose or one of the principal purposes of any arrangement or transaction, or of any person concerned with an arrangement or transaction, was to obtain those benefits;
- c) for the Simplified Limitation on Benefits Provision not to apply to its Covered Tax Agreements that already contain the provisions described in paragraph 14.

16. Except where the Simplified Limitation on Benefits Provision applies with respect to the granting of benefits under a Covered Tax Agreement by one or more Parties pursuant to paragraph 7, a Party that chooses pursuant to paragraph 6 to apply the Simplified Limitation on Benefits Provision may reserve the right for the entirety of this Article not to apply with respect to its Covered Tax Agreements for which one or more of the other Contracting Jurisdictions has not chosen to apply the Simplified Limitation on Benefits Provision. In such cases, the Contracting Jurisdictions shall endeavour to reach a mutually satisfactory solution which meets the minimum standard for preventing treaty abuse under the OECD/G20 BEPS package.

17. a) Each Party that has not made the reservation described in subparagraph a) of paragraph 15 shall notify the Depository of whether each of its Covered Tax Agreements that is not subject to a reservation described in subparagraph b) of paragraph 15 contains a provision described in paragraph 2, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraph 1 (and where applicable, paragraph 4). In other cases, paragraph 1 (and where applicable, paragraph 4) shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1 (and where applicable, paragraph 4). A Party making a notification under this subparagraph may also include a statement that while such Party accepts the application of paragraph 1 alone as an interim measure, it intends where possible to adopt a limitation on benefits provision, in addition to or in replacement of paragraph 1, through bilateral negotiation.
- b) Each Party that chooses to apply paragraph 4 shall notify the Depository of its choice. Paragraph 4 shall apply to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification.
- c) Each Party that chooses to apply the Simplified Limitation on Benefits Provision pursuant to paragraph 6 shall notify the Depository of its choice. Unless such Party has made the reservation described in subparagraph c) of paragraph 15, such notification shall also include the list of its Covered Tax Agreements which contain a provision described in paragraph 14, as well as the article and paragraph number of each such provision.

- d) Each Party that does not choose to apply the Simplified Limitation on Benefits Provision pursuant to paragraph 6, but chooses to apply either subparagraph a) or b) of paragraph 7 shall notify the Depositary of its choice of subparagraph. Unless such Party has made the reservation described in subparagraph c) of paragraph 15, such notification shall also include the list of its Covered Tax Agreements which contain a provision described in paragraph 14, as well as the article and paragraph number of each such provision.
- e) Where all Contracting Jurisdictions have made a notification under subparagraph c) or d) with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the Simplified Limitation on Benefits Provision. In other cases, the Simplified Limitation on Benefits Provision shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with the Simplified Limitation on Benefits Provision.

### ***Article 8 – Dividend Transfer Transactions***

1. Provisions of a Covered Tax Agreement that exempt dividends paid by a company which is a resident of a Contracting Jurisdiction from tax or that limit the rate at which such dividends may be taxed, provided that the beneficial owner or the recipient is a company which is a resident of the other Contracting Jurisdiction and which owns, holds or controls more than a certain amount of the capital, shares, stock, voting power, voting rights or similar ownership interests of the company paying the dividends, shall apply only if the ownership conditions described in those provisions are met throughout a 365 day period that includes the day of the payment of the dividends (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a corporate reorganisation, such as a merger or divisive reorganisation, of the company that holds the shares or that pays the dividends).

2. The minimum holding period provided in paragraph 1 shall apply in place of or in the absence of a minimum holding period in provisions of a Covered Tax Agreement described in paragraph 1.

3. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for the entirety of this Article not to apply to its Covered Tax Agreements to the extent that the provisions described in paragraph 1 already include:
  - i) a minimum holding period;
  - ii) a minimum holding period shorter than a 365 day period; or
  - iii) a minimum holding period longer than a 365 day period.

4. Each Party that has not made a reservation described in subparagraph a) of paragraph 3 shall notify the Depositary of whether each of its Covered Tax Agreements contains a provision described in paragraph 1 that is not subject to a reservation described in subparagraph b) of paragraph 3, and if so, the article and paragraph number of each such provision. Paragraph 1 shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that provision.

***Article 9 – Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property***

1. Provisions of a Covered Tax Agreement providing that gains derived by a resident of a Contracting Jurisdiction from the alienation of shares or other rights of participation in an entity may be taxed in the other Contracting Jurisdiction provided that these shares or rights derived more than a certain part of their value from immovable property (real property) situated in that other Contracting Jurisdiction (or provided that more than a certain part of the property of the entity consists of such immovable property (real property)):

- a) shall apply if the relevant value threshold is met at any time during the 365 days preceding the alienation; and
- b) shall apply to shares or comparable interests, such as interests in a partnership or trust (to the extent that such shares or interests are not already covered) in addition to any shares or rights already covered by the provisions.

2. The period provided in subparagraph a) of paragraph 1 shall apply in place of or in the absence of a time period for determining whether the relevant value threshold in provisions of a Covered Tax Agreement described in paragraph 1 was met.

3. A Party may also choose to apply paragraph 4 with respect to its Covered Tax Agreements.

4. For purposes of a Covered Tax Agreement, gains derived by a resident of a Contracting Jurisdiction from the alienation of shares or comparable interests, such as interests in a partnership or trust, may be taxed in the other Contracting Jurisdiction if, at any time during the 365 days preceding the alienation, these shares or comparable interests derived more than 50 per cent of their value directly or indirectly from immovable property (real property) situated in that other Contracting Jurisdiction.

5. Paragraph 4 shall apply in place of or in the absence of provisions of a Covered Tax Agreement providing that gains derived by a resident of a Contracting Jurisdiction from the alienation of shares or other rights of participation in an entity may be taxed in the other Contracting Jurisdiction provided that these shares or rights derived more than a certain part of their value from immovable property (real property) situated in that other Contracting Jurisdiction, or provided that more than a certain part of the property of the entity consists of such immovable property (real property).

6. A Party may reserve the right:

- a) for paragraph 1 not to apply to its Covered Tax Agreements;
- b) for subparagraph a) of paragraph 1 not to apply to its Covered Tax Agreements;
- c) for subparagraph b) of paragraph 1 not to apply to its Covered Tax Agreements;
- d) for subparagraph a) of paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision of the type described in paragraph 1 that includes a period for determining whether the relevant value threshold was met;



- e) for subparagraph b) of paragraph 1 not to apply to its Covered Tax Agreements that already contain a provision of the type described in paragraph 1 that applies to the alienation of interests other than shares;
- f) for paragraph 4 not to apply to its Covered Tax Agreements that already contain the provisions described in paragraph 5.

7. Each Party that has not made the reservation described in subparagraph a) of paragraph 6 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 1, and if so, the article and paragraph number of each such provision. Paragraph 1 shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have made a notification with respect to that provision.

8. Each Party that chooses to apply paragraph 4 shall notify the Depository of its choice. Paragraph 4 shall apply to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification. In such case, paragraph 1 shall not apply with respect to that Covered Tax Agreement. In the case of a Party that has not made the reservation described in subparagraph f) of paragraph 6 and has made the reservation described in subparagraph a) of paragraph 6, such notification shall also include the list of its Covered Tax Agreements which contain a provision described in paragraph 5, as well as the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made a notification with respect to a provision of a Covered Tax Agreement under this paragraph or paragraph 7, that provision shall be replaced by the provisions of paragraph 4. In other cases, paragraph 4 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 4.

#### ***Article 10 – Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions***

1. Where:

- a) an enterprise of a Contracting Jurisdiction to a Covered Tax Agreement derives income from the other Contracting Jurisdiction and the first-mentioned Contracting Jurisdiction treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction; and
- b) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned Contracting Jurisdiction,

the benefits of the Covered Tax Agreement shall not apply to any item of income on which the tax in the third jurisdiction is less than 60 per cent of the tax that would be imposed in the first-mentioned Contracting Jurisdiction on that item of income if that permanent establishment were situated in the first-mentioned Contracting Jurisdiction. In such a case, any income to which the provisions of this paragraph apply shall remain taxable according to the domestic law of the other Contracting Jurisdiction, notwithstanding any other provisions of the Covered Tax Agreement.

2. Paragraph 1 shall not apply if the income derived from the other Contracting Jurisdiction described in paragraph 1 is derived in connection with or is incidental to the active conduct of a business carried on through the permanent establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively).

3. If benefits under a Covered Tax Agreement are denied pursuant to paragraph 1 with respect to an item of income derived by a resident of a Contracting Jurisdiction, the competent authority of the other Contracting Jurisdiction may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of paragraphs 1 and 2. The competent authority of the Contracting Jurisdiction to which a request has been made under the preceding sentence by a resident of the other Contracting Jurisdiction shall consult with the competent authority of that other Contracting Jurisdiction before either granting or denying the request.

4. Paragraphs 1 through 3 shall apply in place of or in the absence of provisions of a Covered Tax Agreement that deny or limit benefits that would otherwise be granted to an enterprise of a Contracting Jurisdiction which derives income from the other Contracting Jurisdiction that is attributable to a permanent establishment of the enterprise situated in a third jurisdiction.

5. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for the entirety of this Article not to apply to its Covered Tax Agreements that already contain the provisions described in paragraph 4;
- c) for this Article to apply only to its Covered Tax Agreements that already contain the provisions described in paragraph 4.

6. Each Party that has not made the reservation described in subparagraph a) or b) of paragraph 5 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 4, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraphs 1 through 3. In other cases, paragraphs 1 through 3 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with those paragraphs.

#### ***Article 11 – Application of Tax Agreements to Restrict a Party’s Right to Tax its Own Residents***

1. A Covered Tax Agreement shall not affect the taxation by a Contracting Jurisdiction of its residents, except with respect to the benefits granted under provisions of the Covered Tax Agreement:

- a) which require that Contracting Jurisdiction to grant to an enterprise of that Contracting Jurisdiction a correlative or corresponding adjustment following an initial adjustment made by the other Contracting Jurisdiction, in accordance with the Covered Tax Agreement, to the amount of tax charged in the first-mentioned Contracting Jurisdiction on the profits of a permanent establishment of the enterprise or the profits of an associated enterprise;
- b) which may affect how that Contracting Jurisdiction taxes an individual who is a resident of that Contracting Jurisdiction if that individual derives income in respect of services rendered to the other Contracting Jurisdiction or a political subdivision or local authority or other comparable body thereof;
- c) which may affect how that Contracting Jurisdiction taxes an individual who is a resident of that Contracting Jurisdiction if that individual is also a student, business apprentice or trainee,

or a teacher, professor, lecturer, instructor, researcher or research scholar who meets the conditions of the Covered Tax Agreement;

- d) which require that Contracting Jurisdiction to provide a tax credit or tax exemption to residents of that Contracting Jurisdiction with respect to the income that the other Contracting Jurisdiction may tax in accordance with the Covered Tax Agreement (including profits that are attributable to a permanent establishment situated in that other Contracting Jurisdiction in accordance with the Covered Tax Agreement);
- e) which protect residents of that Contracting Jurisdiction against certain discriminatory taxation practices by that Contracting Jurisdiction;
- f) which allow residents of that Contracting Jurisdiction to request that the competent authority of that or either Contracting Jurisdiction consider cases of taxation not in accordance with the Covered Tax Agreement;
- g) which may affect how that Contracting Jurisdiction taxes an individual who is a resident of that Contracting Jurisdiction when that individual is a member of a diplomatic mission, government mission or consular post of the other Contracting Jurisdiction;
- h) which provide that pensions or other payments made under the social security legislation of the other Contracting Jurisdiction shall be taxable only in that other Contracting Jurisdiction;
- i) which provide that pensions and similar payments, annuities, alimony payments or other maintenance payments arising in the other Contracting Jurisdiction shall be taxable only in that other Contracting Jurisdiction; or
- j) which otherwise expressly limit a Contracting Jurisdiction's right to tax its own residents or provide expressly that the Contracting Jurisdiction in which an item of income arises has the exclusive right to tax that item of income.

2. Paragraph 1 shall apply in place of or in the absence of provisions of a Covered Tax Agreement stating that the Covered Tax Agreement would not affect the taxation by a Contracting Jurisdiction of its residents.

3. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for the entirety of this Article not to apply to its Covered Tax Agreements that already contain the provisions described in paragraph 2.

4. Each Party that has not made the reservation described in subparagraph a) or b) of paragraph 3 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 2, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraph 1. In other cases, paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1.

**PART IV.**  
**AVOIDANCE OF PERMANENT ESTABLISHMENT STATUS**

***Article 12 – Artificial Avoidance of Permanent Establishment Status through Commissionnaire Arrangements and Similar Strategies***

1. Notwithstanding the provisions of a Covered Tax Agreement that define the term “permanent establishment”, but subject to paragraph 2, where a person is acting in a Contracting Jurisdiction to a Covered Tax Agreement on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are:

- a) in the name of the enterprise; or
- b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use; or
- c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that Contracting Jurisdiction in respect of any activities which that person undertakes for the enterprise unless these activities, if they were exercised by the enterprise through a fixed place of business of that enterprise situated in that Contracting Jurisdiction, would not cause that fixed place of business to be deemed to constitute a permanent establishment under the definition of permanent establishment included in the Covered Tax Agreement (as it may be modified by this Convention).

2. Paragraph 1 shall not apply where the person acting in a Contracting Jurisdiction to a Covered Tax Agreement on behalf of an enterprise of the other Contracting Jurisdiction carries on business in the first-mentioned Contracting Jurisdiction as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

3. a) Paragraph 1 shall apply in place of provisions of a Covered Tax Agreement that describe the conditions under which an enterprise shall be deemed to have a permanent establishment in a Contracting Jurisdiction (or a person shall be deemed to be a permanent establishment in a Contracting Jurisdiction) in respect of an activity which a person other than an agent of an independent status undertakes for the enterprise, but only to the extent that such provisions address the situation in which such person has, and habitually exercises, in that Contracting Jurisdiction an authority to conclude contracts in the name of the enterprise.

- b) Paragraph 2 shall apply in place of provisions of a Covered Tax Agreement that provide that an enterprise shall not be deemed to have a permanent establishment in a Contracting Jurisdiction in respect of an activity which an agent of an independent status undertakes for the enterprise.

4. A Party may reserve the right for the entirety of this Article not to apply to its Covered Tax Agreements.

5. Each Party that has not made a reservation described in paragraph 4 shall notify the Depositary of whether each of its Covered Tax Agreements contains a provision described in subparagraph a) of

paragraph 3, as well as the article and paragraph number of each such provision. Paragraph 1 shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have made a notification with respect to that provision.

6. Each Party that has not made a reservation described in paragraph 4 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in subparagraph b) of paragraph 3, as well as the article and paragraph number of each such provision. Paragraph 2 shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that provision.

### ***Article 13 – Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions***

1. A Party may choose to apply paragraph 2 (Option A) or paragraph 3 (Option B) or to apply neither Option.

#### ***Option A***

2. Notwithstanding the provisions of a Covered Tax Agreement that define the term “permanent establishment”, the term “permanent establishment” shall be deemed not to include:

- a) the activities specifically listed in the Covered Tax Agreement (prior to modification by this Convention) as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character;
- b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a);
- c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b),

provided that such activity or, in the case of subparagraph c), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

#### ***Option B***

3. Notwithstanding the provisions of a Covered Tax Agreement that define the term “permanent establishment”, the term “permanent establishment” shall be deemed not to include:

- a) the activities specifically listed in the Covered Tax Agreement (prior to modification by this Convention) as activities deemed not to constitute a permanent establishment, whether or not that exception from permanent establishment status is contingent on the activity being of a preparatory or auxiliary character, except to the extent that the relevant provision of the Covered Tax Agreement provides explicitly that a specific activity shall be deemed not to constitute a permanent establishment provided that the activity is of a preparatory or auxiliary character;

- b) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any activity not described in subparagraph a), provided that this activity is of a preparatory or auxiliary character;
- c) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) and b), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

4. A provision of a Covered Tax Agreement (as it may be modified by paragraph 2 or 3) that lists specific activities deemed not to constitute a permanent establishment shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting Jurisdiction and:

- a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of a Covered Tax Agreement defining a permanent establishment; or
- b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

- 5. a) Paragraph 2 or 3 shall apply in place of the relevant parts of provisions of a Covered Tax Agreement that list specific activities that are deemed not to constitute a permanent establishment even if the activity is carried on through a fixed place of business (or provisions of a Covered Tax Agreement that operate in a comparable manner).
- b) Paragraph 4 shall apply to provisions of a Covered Tax Agreement (as they may be modified by paragraph 2 or 3) that list specific activities that are deemed not to constitute a permanent establishment even if the activity is carried on through a fixed place of business (or provisions of a Covered Tax Agreement that operate in a comparable manner).

6. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for paragraph 2 not to apply to its Covered Tax Agreements that explicitly state that a list of specific activities shall be deemed not to constitute a permanent establishment only if each of the activities is of a preparatory or auxiliary character;
- c) for paragraph 4 not to apply to its Covered Tax Agreements.

7. Each Party that chooses to apply an Option under paragraph 1 shall notify the Depository of its choice of Option. Such notification shall also include the list of its Covered Tax Agreements which contain a provision described in subparagraph a) of paragraph 5, as well as the article and paragraph number of each such provision. An Option shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have chosen to apply the same Option and have made such a notification with respect to that provision.

8. Each Party that has not made a reservation described in subparagraph a) or c) of paragraph 6 and does not choose to apply an Option under paragraph 1 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in subparagraph b) of paragraph 5, as well as the article and paragraph number of each such provision. Paragraph 4 shall apply with respect to a provision of a Covered Tax Agreement only where all Contracting Jurisdictions have made a notification with respect to that provision under this paragraph or paragraph 7.

#### ***Article 14 – Splitting-up of Contracts***

1. For the sole purpose of determining whether the period (or periods) referred to in a provision of a Covered Tax Agreement that stipulates a period (or periods) of time after which specific projects or activities shall constitute a permanent establishment has been exceeded:

- a) where an enterprise of a Contracting Jurisdiction carries on activities in the other Contracting Jurisdiction at a place that constitutes a building site, construction project, installation project or other specific project identified in the relevant provision of the Covered Tax Agreement, or carries on supervisory or consultancy activities in connection with such a place, in the case of a provision of a Covered Tax Agreement that refers to such activities, and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding the period or periods referred to in the relevant provision of the Covered Tax Agreement; and
- b) where connected activities are carried on in that other Contracting Jurisdiction at (or, where the relevant provision of the Covered Tax Agreement applies to supervisory or consultancy activities, in connection with) the same building site, construction or installation project, or other place identified in the relevant provision of the Covered Tax Agreement during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

these different periods of time shall be added to the aggregate period of time during which the first-mentioned enterprise has carried on activities at that building site, construction or installation project, or other place identified in the relevant provision of the Covered Tax Agreement.

2. Paragraph 1 shall apply in place of or in the absence of provisions of a Covered Tax Agreement to the extent that such provisions address the division of contracts into multiple parts to avoid the application of a time period or periods in relation to the existence of a permanent establishment for specific projects or activities described in paragraph 1.

3. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements;
- b) for the entirety of this Article not to apply with respect to provisions of its Covered Tax Agreements relating to the exploration for or exploitation of natural resources.

4. Each Party that has not made a reservation described in subparagraph a) of paragraph 3 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 2 that is not subject to a reservation under subparagraph b) of paragraph 3, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by

the provisions of paragraph 1 to the extent provided in paragraph 2. In other cases, paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1.

***Article 15 – Definition of a Person Closely Related to an Enterprise***

1. For the purposes of the provisions of a Covered Tax Agreement that are modified by paragraph 2 of Article 12 (Artificial Avoidance of Permanent Establishment Status through Commissionnaire Arrangements and Similar Strategies), paragraph 4 of Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions), or paragraph 1 of Article 14 (Splitting-up of Contracts), a person is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise.

2. A Party that has made the reservations described in paragraph 4 of Article 12 (Artificial Avoidance of Permanent Establishment Status through Commissionnaire Arrangements and Similar Strategies), subparagraph a) or c) of paragraph 6 of Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions), and subparagraph a) of paragraph 3 of Article 14 (Splitting-up of Contracts) may reserve the right for the entirety of this Article not to apply to the Covered Tax Agreements to which those reservations apply.



**PART V.**  
**IMPROVING DISPUTE RESOLUTION**

***Article 16 – Mutual Agreement Procedure***

1. Where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, that person may, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, present the case to the competent authority of either Contracting Jurisdiction. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Jurisdiction, with a view to the avoidance of taxation which is not in accordance with the Covered Tax Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Jurisdictions.

3. The competent authorities of the Contracting Jurisdictions shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Covered Tax Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Covered Tax Agreement.

4. a) i) The first sentence of paragraph 1 shall apply in place of or in the absence of provisions of a Covered Tax Agreement (or parts thereof) that provide that where a person considers that the actions of one or both of the Contracting Jurisdiction result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, that person may, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, present the case to the competent authority of the Contracting Jurisdiction of which that person is a resident including provisions under which, if the case presented by that person comes under the provisions of a Covered Tax Agreement relating to non-discrimination based on nationality, the case may be presented to the competent authority of the Contracting Jurisdiction of which that person is a national.
- ii) The second sentence of paragraph 1 shall apply in place of provisions of a Covered Tax Agreement that provide that a case referred to in the first sentence of paragraph 1 must be presented within a specific time period that is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement, or in the absence of a provision of a Covered Tax Agreement describing the time period within which such a case must be presented.
- b) i) The first sentence of paragraph 2 shall apply in the absence of provisions of a Covered Tax Agreement that provide that the competent authority that is presented with the case by the person referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting Jurisdiction, with a view to the avoidance of taxation which is not in accordance with the Covered Tax Agreement.

- ii) The second sentence of paragraph 2 shall apply in the absence of provisions of a Covered Tax Agreement providing that any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Jurisdictions.
- c) i) The first sentence of paragraph 3 shall apply in the absence of provisions of a Covered Tax Agreement that provide that the competent authorities of the Contracting Jurisdictions shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Covered Tax Agreement.
- ii) The second sentence of paragraph 3 shall apply in the absence of provisions of a Covered Tax Agreement that provide that the competent authorities of the Contracting Jurisdictions may also consult together for the elimination of double taxation in cases not provided for in the Covered Tax Agreement.

5. A Party may reserve the right:

- a) for the first sentence of paragraph 1 not to apply to its Covered Tax Agreements on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS Package by ensuring that under each of its Covered Tax Agreements (other than a Covered Tax Agreement that permits a person to present a case to the competent authority of either Contracting Jurisdiction), where a person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement, irrespective of the remedies provided by the domestic law of those Contracting Jurisdictions, that person may present the case to the competent authority of the Contracting Jurisdiction of which the person is a resident or, if the case presented by that person comes under a provision of a Covered Tax Agreement relating to non-discrimination based on nationality, to that of the Contracting Jurisdiction of which that person is a national; and the competent authority of that Contracting Jurisdiction will implement a bilateral notification or consultation process with the competent authority of the other Contracting Jurisdiction for cases in which the competent authority to which the mutual agreement procedure case was presented does not consider the taxpayer's objection to be justified;
- b) for the second sentence of paragraph 1 not to apply to its Covered Tax Agreements that do not provide that the case referred to in the first sentence of paragraph 1 must be presented within a specific time period on the basis that it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS package by ensuring that for the purposes of all such Covered Tax Agreements the taxpayer referred to in paragraph 1 is allowed to present the case within a period of at least three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement;
- c) for the second sentence of paragraph 2 not to apply to its Covered Tax Agreements on the basis that for the purposes of all of its Covered Tax Agreements:
  - i) any agreement reached via the mutual agreement procedure shall be implemented notwithstanding any time limits in the domestic laws of the Contracting Jurisdictions; or
  - ii) it intends to meet the minimum standard for improving dispute resolution under the OECD/G20 BEPS package by accepting, in its bilateral treaty negotiations, a treaty provision providing that:

- A) the Contracting Jurisdictions shall make no adjustment to the profits that are attributable to a permanent establishment of an enterprise of one of the Contracting Jurisdictions after a period that is mutually agreed between both Contracting Jurisdictions from the end of the taxable year in which the profits would have been attributable to the permanent establishment (this provision shall not apply in the case of fraud, gross negligence or wilful default); and
  - B) the Contracting Jurisdictions shall not include in the profits of an enterprise, and tax accordingly, profits that would have accrued to the enterprise but that by reason of the conditions referred to in a provision in the Covered Tax Agreement relating to associated enterprises have not so accrued, after a period that is mutually agreed between both Contracting Jurisdictions from the end of the taxable year in which the profits would have accrued to the enterprise (this provision shall not apply in the case of fraud, gross negligence or wilful default).
6. a) Each Party that has not made a reservation described in subparagraph a) of paragraph 5 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in clause i) of subparagraph a) of paragraph 4, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the first sentence of paragraph 1. In other cases, the first sentence of paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with that sentence.
- b) Each Party that has not made the reservation described in subparagraph b) of paragraph 5 shall notify the Depository of:
- i) the list of its Covered Tax Agreements which contain a provision that provides that a case referred to in the first sentence of paragraph 1 must be presented within a specific time period that is shorter than three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement, as well as the article and paragraph number of each such provision; a provision of a Covered Tax Agreement shall be replaced by the second sentence of paragraph 1 where all Contracting Jurisdictions have made such a notification with respect to that provision; in other cases, subject to clause ii), the second sentence of paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with the second sentence of paragraph 1;
  - ii) the list of its Covered Tax Agreements which contain a provision that provides that a case referred to in the first sentence of paragraph 1 must be presented within a specific time period that is at least three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Covered Tax Agreement, as well as the article and paragraph number of each such provision; the second sentence of paragraph 1 shall not apply to a Covered Tax Agreement where any Contracting Jurisdiction has made such a notification with respect to that Covered Tax Agreement.
- c) Each Party shall notify the Depository of:
- i) the list of its Covered Tax Agreements which do not contain a provision described in clause i) of subparagraph b) of paragraph 4; the first sentence of paragraph 2 shall apply

to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that Covered Tax Agreement;

- ii) in the case of a Party that has not made the reservation described in subparagraph c) of paragraph 5, the list of its Covered Tax Agreements which do not contain a provision described in clause ii) of subparagraph b) of paragraph 4; the second sentence of paragraph 2 shall apply to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that Covered Tax Agreement.
- d) Each Party shall notify the Depositary of:
- i) the list of its Covered Tax Agreements which do not contain a provision described in clause i) of subparagraph c) of paragraph 4; the first sentence of paragraph 3 shall apply to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that Covered Tax Agreement;
  - ii) the list of its Covered Tax Agreements which do not contain a provision described in clause ii) of subparagraph c) of paragraph 4; the second sentence of paragraph 3 shall apply to a Covered Tax Agreement only where all Contracting Jurisdictions have made such a notification with respect to that Covered Tax Agreement.

#### ***Article 17 – Corresponding Adjustments***

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

2. Paragraph 1 shall apply in place of or in the absence of a provision that requires a Contracting Jurisdiction to make an appropriate adjustment to the amount of the tax charged therein on the profits of an enterprise of that Contracting Jurisdiction where the other Contracting Jurisdiction includes those profits in the profits of an enterprise of that other Contracting Jurisdiction and taxes those profits accordingly, and the profits so included are profits which would have accrued to the enterprise of that other Contracting Jurisdiction if the conditions made between the two enterprises had been those which would have been made between independent enterprises.

3. A Party may reserve the right:

- a) for the entirety of this Article not to apply to its Covered Tax Agreements that already contain a provision described in paragraph 2;
- b) for the entirety of this Article not to apply to its Covered Tax Agreements on the basis that in the absence of a provision referred to in paragraph 2 in its Covered Tax Agreement:

- i) it shall make the appropriate adjustment referred to in paragraph 1; or
  - ii) its competent authority shall endeavour to resolve the case under the provisions of a Covered Tax Agreement relating to mutual agreement procedure;
- c) in the case of a Party that has made a reservation under clause ii) of subparagraph c) of paragraph 5 of Article 16 (Mutual Agreement Procedure), for the entirety of this Article not to apply to its Covered Tax Agreements on the basis that in its bilateral treaty negotiations it shall accept a treaty provision of the type contained in paragraph 1, provided that the Contracting Jurisdictions were able to reach agreement on that provision and on the provisions described in clause ii) of subparagraph c) of paragraph 5 of Article 16 (Mutual Agreement Procedure).

4. Each Party that has not made a reservation described in paragraph 3 shall notify the Depository of whether each of its Covered Tax Agreements contains a provision described in paragraph 2, and if so, the article and paragraph number of each such provision. Where all Contracting Jurisdictions have made such a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of paragraph 1. In other cases, paragraph 1 shall supersede the provisions of the Covered Tax Agreement only to the extent that those provisions are incompatible with paragraph 1.

**PART VI.**  
**ARBITRATION**

***Article 18 – Choice to Apply Part VI***

A Party may choose to apply this Part with respect to its Covered Tax Agreements and shall notify the Depository accordingly. This Part shall apply in relation to two Contracting Jurisdictions with respect to a Covered Tax Agreement only where both Contracting Jurisdictions have made such a notification.

***Article 19 – Mandatory Binding Arbitration***

1. Where:

- a) under a provision of a Covered Tax Agreement (as it may be modified by paragraph 1 of Article 16 (Mutual Agreement Procedure)) that provides that a person may present a case to a competent authority of a Contracting Jurisdiction where that person considers that the actions of one or both of the Contracting Jurisdictions result or will result for that person in taxation not in accordance with the provisions of the Covered Tax Agreement (as it may be modified by the Convention), a person has presented a case to the competent authority of a Contracting Jurisdiction on the basis that the actions of one or both of the Contracting Jurisdictions have resulted for that person in taxation not in accordance with the provisions of the Covered Tax Agreement (as it may be modified by the Convention); and
- b) the competent authorities are unable to reach an agreement to resolve that case pursuant to a provision of a Covered Tax Agreement (as it may be modified by paragraph 2 of Article 16 (Mutual Agreement Procedure)) that provides that the competent authority shall endeavour to resolve the case by mutual agreement with the competent authority of the other Contracting Jurisdiction, within a period of two years beginning on the start date referred to in paragraph 8 or 9, as the case may be (unless, prior to the expiration of that period the competent authorities of the Contracting Jurisdictions have agreed to a different time period with respect to that case and have notified the person who presented the case of such agreement),

any unresolved issues arising from the case shall, if the person so requests in writing, be submitted to arbitration in the manner described in this Part, according to any rules or procedures agreed upon by the competent authorities of the Contracting Jurisdictions pursuant to the provisions of paragraph 10.

2. Where a competent authority has suspended the mutual agreement procedure referred to in paragraph 1 because a case with respect to one or more of the same issues is pending before court or administrative tribunal, the period provided in subparagraph b) of paragraph 1 will stop running until either a final decision has been rendered by the court or administrative tribunal or the case has been suspended or withdrawn. In addition, where a person who presented a case and a competent authority have agreed to suspend the mutual agreement procedure, the period provided in subparagraph b) of paragraph 1 will stop running until the suspension has been lifted.

3. Where both competent authorities agree that a person directly affected by the case has failed to provide in a timely manner any additional material information requested by either competent authority after the start of the period provided in subparagraph b) of paragraph 1, the period provided in subparagraph b) of paragraph 1 shall be extended for an amount of time equal to the period beginning on

the date by which the information was requested and ending on the date on which that information was provided.

4. a) The arbitration decision with respect to the issues submitted to arbitration shall be implemented through the mutual agreement concerning the case referred to in paragraph 1. The arbitration decision shall be final.
- b) The arbitration decision shall be binding on both Contracting Jurisdictions except in the following cases:
  - i) if a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision. In such a case, the case shall not be eligible for any further consideration by the competent authorities. The mutual agreement that implements the arbitration decision on the case shall be considered not to be accepted by a person directly affected by the case if any person directly affected by the case does not, within 60 days after the date on which notification of the mutual agreement is sent to the person, withdraw all issues resolved in the mutual agreement implementing the arbitration decision from consideration by any court or administrative tribunal or otherwise terminate any pending court or administrative proceedings with respect to such issues in a manner consistent with that mutual agreement.
  - ii) if a final decision of the courts of one of the Contracting Jurisdictions holds that the arbitration decision is invalid. In such a case, the request for arbitration under paragraph 1 shall be considered not to have been made, and the arbitration process shall be considered not to have taken place (except for the purposes of Articles 21 (Confidentiality of Arbitration Proceedings) and 25 (Costs of Arbitration Proceedings)). In such a case, a new request for arbitration may be made unless the competent authorities agree that such a new request should not be permitted.
  - iii) if a person directly affected by the case pursues litigation on the issues which were resolved in the mutual agreement implementing the arbitration decision in any court or administrative tribunal.

5. The competent authority that received the initial request for a mutual agreement procedure as described in subparagraph a) of paragraph 1 shall, within two calendar months of receiving the request:

- a) send a notification to the person who presented the case that it has received the request; and
- b) send a notification of that request, along with a copy of the request, to the competent authority of the other Contracting Jurisdiction.

6. Within three calendar months after a competent authority receives the request for a mutual agreement procedure (or a copy thereof from the competent authority of the other Contracting Jurisdiction) it shall either:

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

7. Where pursuant to subparagraph b) of paragraph 6, one or both of the competent authorities have requested from the person who presented the case additional information necessary to undertake

substantive consideration of the case, the competent authority that requested the additional information shall, within three calendar months of receiving the additional information from that person, notify that person and the other competent authority either:

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

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

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

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

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

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

10. The competent authorities of the Contracting Jurisdictions shall by mutual agreement (pursuant to the article of the relevant Covered Tax Agreement regarding procedures for mutual agreement) settle the mode of application of the provisions contained in this Part, including the minimum information necessary for each competent authority to undertake substantive consideration of the case. Such an agreement shall be concluded before the date on which unresolved issues in a case are first eligible to be submitted to arbitration and may be modified from time to time thereafter.

11. For purposes of applying this Article to its Covered Tax Agreements, a Party may reserve the right to replace the two-year period set forth in subparagraph b) of paragraph 1 with a three-year period.

12. A Party may reserve the right for the following rules to apply with respect to its Covered Tax Agreements notwithstanding the other provisions of this Article:

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



concerning the issue is rendered by a court or administrative tribunal of one of the Contracting Jurisdictions, the arbitration process shall terminate.

#### ***Article 20 – Appointment of Arbitrators***

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

#### ***Article 21 – Confidentiality of Arbitration Proceedings***

1. Solely for the purposes of the application of the provisions of this Part and of the provisions of the relevant Covered Tax Agreement and of the domestic laws of the Contracting Jurisdictions related to the exchange of information, confidentiality, and administrative assistance, members of the arbitration panel and a maximum of three staff per member (and prospective arbitrators solely to the extent necessary to verify their ability to fulfil the requirements of arbitrators) shall be considered to be persons or authorities to whom information may be disclosed. Information received by the arbitration panel or prospective

arbitrators and information that the competent authorities receive from the arbitration panel shall be considered information that is exchanged under the provisions of the Covered Tax Agreement related to the exchange of information and administrative assistance.

2. The competent authorities of the Contracting Jurisdictions shall ensure that members of the arbitration panel and their staff agree in writing, prior to their acting in an arbitration proceeding, to treat any information relating to the arbitration proceeding consistently with the confidentiality and nondisclosure obligations described in the provisions of the Covered Tax Agreement related to exchange of information and administrative assistance and under the applicable laws of the Contracting Jurisdictions.

### ***Article 22 – Resolution of a Case Prior to the Conclusion of the Arbitration***

For the purposes of this Part and the provisions of the relevant Covered Tax Agreement that provide for resolution of cases through mutual agreement, the mutual agreement procedure, as well as the arbitration proceeding, with respect to a case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting Jurisdictions:

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

### ***Article 23 – Type of Arbitration Process***

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

- a) After a case is submitted to arbitration, the competent authority of each Contracting Jurisdiction shall submit to the arbitration panel, by a date set by agreement, a proposed resolution which addresses all unresolved issue(s) in the case (taking into account all agreements previously reached in that case between the competent authorities of the Contracting Jurisdictions). The proposed resolution shall be limited to a disposition of specific monetary amounts (for example, of income or expense) or, where specified, the maximum rate of tax charged pursuant to the Covered Tax Agreement, for each adjustment or similar issue in the case. In a case in which the competent authorities of the Contracting Jurisdictions have been unable to reach agreement on an issue regarding the conditions for application of a provision of the relevant Covered Tax Agreement (hereinafter referred to as a “threshold question”), such as whether an individual is a resident or whether a permanent establishment exists, the competent authorities may submit alternative proposed resolutions with respect to issues the determination of which is contingent on resolution of such threshold questions.
- b) The competent authority of each Contracting Jurisdiction may also submit a supporting position paper for consideration by the arbitration panel. Each competent authority that submits a proposed resolution or supporting position paper shall provide a copy to the other competent authority by the date on which the proposed resolution and supporting position

paper were due. Each competent authority may also submit to the arbitration panel, by a date set by agreement, a reply submission with respect to the proposed resolution and supporting position paper submitted by the other competent authority. A copy of any reply submission shall be provided to the other competent authority by the date on which the reply submission was due.

- c) The arbitration panel shall select as its decision one of the proposed resolutions for the case submitted by the competent authorities with respect to each issue and any threshold questions, and shall not include a rationale or any other explanation of the decision. The arbitration decision will be adopted by a simple majority of the panel members. The arbitration panel shall deliver its decision in writing to the competent authorities of the Contracting Jurisdictions. The arbitration decision shall have no precedential value.

2. For the purpose of applying this Article with respect to its Covered Tax Agreements, a Party may reserve the right for paragraph 1 not to apply to its Covered Tax Agreements. In such a case, except to the extent that the competent authorities of the Contracting Jurisdictions mutually agree on different rules, the following rules shall apply with respect to an arbitration proceeding:

- a) After a case is submitted to arbitration, the competent authority of each Contracting Jurisdiction shall provide any information that may be necessary for the arbitration decision to all panel members without undue delay. Unless the competent authorities of the Contracting Jurisdictions agree otherwise, any information that was not available to both competent authorities before the request for arbitration was received by both of them shall not be taken into account for purposes of the decision.
- b) The arbitration panel shall decide the issues submitted to arbitration in accordance with the applicable provisions of the Covered Tax Agreement and, subject to these provisions, of those of the domestic laws of the Contracting Jurisdictions. The panel members shall also consider any other sources which the competent authorities of the Contracting Jurisdictions may by mutual agreement expressly identify.
- c) The arbitration decision shall be delivered to the competent authorities of the Contracting Jurisdictions in writing and shall indicate the sources of law relied upon and the reasoning which led to its result. The arbitration decision shall be adopted by a simple majority of the panel members. The arbitration decision shall have no precedential value.

3. A Party that has not made the reservation described in paragraph 2 may reserve the right for the preceding paragraphs of this Article not to apply with respect to its Covered Tax Agreements with Parties that have made such a reservation. In such a case, the competent authorities of the Contracting Jurisdictions of each such Covered Tax Agreement shall endeavour to reach agreement on the type of arbitration process that shall apply with respect to that Covered Tax Agreement. Until such an agreement is reached, Article 19 (Mandatory Binding Arbitration) shall not apply with respect to such a Covered Tax Agreement.

4. A Party may also choose to apply paragraph 5 with respect to its Covered Tax Agreements and shall notify the Depositary accordingly. Paragraph 5 shall apply in relation to two Contracting Jurisdictions with respect to a Covered Tax Agreement where either of the Contracting Jurisdictions has made such a notification.

5. Prior to the beginning of arbitration proceedings, the competent authorities of the Contracting Jurisdictions to a Covered Tax Agreement shall ensure that each person that presented the case and their

advisors agree in writing not to disclose to any other person any information received during the course of the arbitration proceedings from either competent authority or the arbitration panel. The mutual agreement procedure under the Covered Tax Agreement, as well as the arbitration proceeding under this Part, with respect to the case shall terminate if, at any time after a request for arbitration has been made and before the arbitration panel has delivered its decision to the competent authorities of the Contracting Jurisdictions, a person that presented the case or one of that person's advisors materially breaches that agreement.

6. Notwithstanding paragraph 4, a Party that does not choose to apply paragraph 5 may reserve the right for paragraph 5 not to apply with respect to one or more identified Covered Tax Agreements or with respect to all of its Covered Tax Agreements.

7. A Party that chooses to apply paragraph 5 may reserve the right for this Part not to apply with respect to all Covered Tax Agreements for which the other Contracting Jurisdiction makes a reservation pursuant to paragraph 6.

#### ***Article 24 – Agreement on a Different Resolution***

1. For purposes of applying this Part with respect to its Covered Tax Agreements, a Party may choose to apply paragraph 2 and shall notify the Depository accordingly. Paragraph 2 shall apply in relation to two Contracting Jurisdictions with respect to a Covered Tax Agreement only where both Contracting Jurisdictions have made such a notification.

2. Notwithstanding paragraph 4 of Article 19 (Mandatory Binding Arbitration), an arbitration decision pursuant to this Part shall not be binding on the Contracting Jurisdictions to a Covered Tax Agreement and shall not be implemented if the competent authorities of the Contracting Jurisdictions agree on a different resolution of all unresolved issues within three calendar months after the arbitration decision has been delivered to them.

3. A Party that chooses to apply paragraph 2 may reserve the right for paragraph 2 to apply only with respect to its Covered Tax Agreements for which paragraph 2 of Article 23 (Type of Arbitration Process) applies.

#### ***Article 25 – Costs of Arbitration Proceedings***

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

#### ***Article 26 – Compatibility***

1. Subject to Article 18 (Choice to Apply Part VI), the provisions of this Part shall apply in place of or in the absence of provisions of a Covered Tax Agreement that provide for arbitration of unresolved issues

arising from a mutual agreement procedure case. Each Party that chooses to apply this Part shall notify the Depository of whether each of its Covered Tax Agreements, other than those that are within the scope of a reservation under paragraph 4, contains such a provision, and if so, the article and paragraph number of each such provision. Where two Contracting Jurisdictions have made a notification with respect to a provision of a Covered Tax Agreement, that provision shall be replaced by the provisions of this Part as between those Contracting Jurisdictions.

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

3. Subject to paragraph 1, nothing in this Part shall affect the fulfilment of wider obligations with respect to the arbitration of unresolved issues arising in the context of a mutual agreement procedure resulting from other conventions to which the Contracting Jurisdictions are or will become parties.

4. A Party may reserve the right for this Part not to apply with respect to one or more identified Covered Tax Agreements (or to all of its Covered Tax Agreements) that already provide for mandatory binding arbitration of unresolved issues arising from a mutual agreement procedure case.

**PART VII.**  
**FINAL PROVISIONS**

***Article 27 – Signature and Ratification, Acceptance or Approval***

1. As of 31 December 2016, this Convention shall be open for signature by:
  - a) all States;
  - b) Guernsey (the United Kingdom of Great Britain and Northern Ireland); Isle of Man (the United Kingdom of Great Britain and Northern Ireland); Jersey (the United Kingdom of Great Britain and Northern Ireland); and
  - c) any other jurisdiction authorised to become a Party by means of a decision by consensus of the Parties and Signatories.
2. This Convention is subject to ratification, acceptance or approval.

***Article 28 – Reservations***

1. Subject to paragraph 2, no reservations may be made to this Convention except those expressly permitted by:
  - a) Paragraph 5 of Article 3 (Transparent Entities);
  - b) Paragraph 3 of Article 4 (Dual Resident Entities);
  - c) Paragraphs 8 and 9 of Article 5 (Application of Methods for Elimination of Double Taxation);
  - d) Paragraph 4 of Article 6 (Purpose of a Covered Tax Agreement);
  - e) Paragraphs 15 and 16 of Article 7 (Prevention of Treaty Abuse);
  - f) Paragraph 3 of Article 8 (Dividend Transfer Transactions);
  - g) Paragraph 6 of Article 9 (Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property);
  - h) Paragraph 5 of Article 10 (Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions);
  - i) Paragraph 3 of Article 11 (Application of Tax Agreements to Restrict a Party's Right to Tax its Own Residents);
  - j) Paragraph 4 of Article 12 (Artificial Avoidance of Permanent Establishment Status through Commissionnaire Arrangements and Similar Strategies);
  - k) Paragraph 6 of Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions);

- l) Paragraph 3 of Article 14 (Splitting-up of Contracts);
  - m) Paragraph 2 of Article 15 (Definition of a Person Closely Related to an Enterprise);
  - n) Paragraph 5 of Article 16 (Mutual Agreement Procedure);
  - o) Paragraph 3 of Article 17 (Corresponding Adjustments);
  - p) Paragraphs 11 and 12 of Article 19 (Mandatory Binding Arbitration);
  - q) Paragraphs 2, 3, 6, and 7 of Article 23 (Type of Arbitration Process);
  - r) Paragraph 3 of Article 24 (Agreement on a Different Resolution);
  - s) Paragraph 4 of Article 26 (Compatibility);
  - t) Paragraphs 6 and 7 of Article 35 (Entry into Effect); and
  - u) Paragraph 2 of Article 36 (Entry into Effect of Part VI).
2.
    - a) Notwithstanding paragraph 1, a Party that chooses under Article 18 (Choice to Apply Part VI) to apply Part VI (Arbitration) may formulate one or more reservations with respect to the scope of cases that shall be eligible for arbitration under the provisions of Part VI (Arbitration). For a Party which chooses under Article 18 (Choice to Apply Part VI) to apply Part VI (Arbitration) after it has become a Party to this Convention, reservations pursuant to this subparagraph shall be made at the same time as that Party's notification to the Depository pursuant to Article 18 (Choice to Apply Part VI).
    - b) Reservations made under subparagraph a) are subject to acceptance. A reservation made under subparagraph a) shall be considered to have been accepted by a Party if it has not notified the Depository that it objects to the reservation by the end of a period of twelve calendar months beginning on the date of notification of the reservation by the Depository or by the date on which it deposits its instrument of ratification, acceptance, or approval, whichever is later. For a Party which chooses under Article 18 (Choice to Apply Part VI) to apply Part VI (Arbitration) after it has become a Party to this Convention, objections to prior reservations made by other Parties pursuant to subparagraph a) can be made at the time of the first-mentioned Party's notification to the Depository pursuant to Article 18 (Choice to Apply Part VI). Where a Party raises an objection to a reservation made under subparagraph a), the entirety of Part VI (Arbitration) shall not apply as between the objecting Party and the reserving Party.
  3. Unless explicitly provided otherwise in the relevant provisions of this Convention, a reservation made in accordance with paragraph 1 or 2 shall:
    - a) modify for the reserving Party in its relations with another Party the provisions of this Convention to which the reservation relates to the extent of the reservation; and
    - b) modify those provisions to the same extent for the other Party in its relations with the reserving Party.
  4. Reservations applicable to Covered Tax Agreements entered into by or on behalf of a jurisdiction or territory for whose international relations a Party is responsible, where that jurisdiction or territory is not a

Party to the Convention pursuant to subparagraph b) or c) of paragraph 1 of Article 27 (Signature and Ratification, Acceptance or Approval), shall be made by the responsible Party and can be different from the reservations made by that Party for its own Covered Tax Agreements.

5. Reservations shall be made at the time of signature or when depositing the instrument of ratification, acceptance or approval, subject to the provisions of paragraphs 2, 6 and 9 of this Article, and paragraph 5 of Article 29 (Notifications). However, for a Party which chooses under Article 18 (Choice to Apply Part VI) to apply Part VI (Arbitration) after it has become a Party to this Convention, reservations described in subparagraphs p), q), r) and s) of paragraph 1 of this Article shall be made at the same time as that Party's notification to the Depository pursuant to Article 18 (Choice to Apply Part VI).

6. If reservations are made at the time of signature, they shall be confirmed upon deposit of the instrument of ratification, acceptance or approval, unless the document containing the reservations explicitly specifies that it is to be considered definitive, subject to the provisions of paragraphs 2, 5 and 9 of this Article, and paragraph 5 of Article 29 (Notifications).

7. If reservations are not made at the time of signature, a provisional list of expected reservations shall be provided to the Depository at that time.

8. For reservations made pursuant to each of the following provisions, a list of agreements notified pursuant to clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms) that are within the scope of the reservation as defined in the relevant provision (and, in the case of a reservation under any of the following provisions other than those listed in subparagraphs c), d) and n), the article and paragraph number of each relevant provision) must be provided when such reservations are made:

- a) Subparagraphs b), c), d), e) and g) of paragraph 5 of Article 3 (Transparent Entities);
- b) Subparagraphs b), c) and d) of paragraph 3 of Article 4 (Dual Resident Entities);
- c) Paragraphs 8 and 9 of Article 5 (Application of Methods for Elimination of Double Taxation);
- d) Paragraph 4 of Article 6 (Purpose of a Covered Tax Agreement);
- e) Subparagraphs b) and c) of paragraph 15 of Article 7 (Prevention of Treaty Abuse);
- f) Clauses i), ii), and iii) of subparagraph b) of paragraph 3 of Article 8 (Dividend Transfer Transactions);
- g) Subparagraphs d), e) and f) of paragraph 6 of Article 9 (Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property);
- h) Subparagraphs b) and c) of paragraph 5 of Article 10 (Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions);
- i) Subparagraph b) of paragraph 3 of Article 11 (Application of Tax Agreements to Restrict a Party's Right to Tax its Own Residents);
- j) Subparagraph b) of paragraph 6 of Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions);
- k) Subparagraph b) of paragraph 3 of Article 14 (Splitting-up of Contracts);



- l) Subparagraph b) of paragraph 5 of Article 16 (Mutual Agreement Procedure);
- m) Subparagraph a) of paragraph 3 of Article 17 (Corresponding Adjustments);
- n) Paragraph 6 of Article 23 (Type of Arbitration Process); and
- o) Paragraph 4 of Article 26 (Compatibility).

The reservations described in subparagraphs a) through o) above shall not apply to any Covered Tax Agreement that is not included on the list described in this paragraph.

9. Any Party which has made a reservation in accordance with paragraph 1 or 2 may at any time withdraw it or replace it with a more limited reservation by means of a notification addressed to the Depository. Such Party shall make any additional notifications pursuant to paragraph 6 of Article 29 (Notifications) which may be required as a result of the withdrawal or replacement of the reservation. Subject to paragraph 7 of Article 35 (Entry into Effect), the withdrawal or replacement shall take effect:

- a) with respect to a Covered Tax Agreement solely with States or jurisdictions that are Parties to the Convention when the notification of withdrawal or replacement of the reservation is received by the Depository:
  - i) for reservations in respect of provisions relating to taxes withheld at source, where the event giving rise to such taxes occurs on or after 1 January of the year next following the expiration of a period of six calendar months beginning on the date of the communication by the Depository of the notification of withdrawal or replacement of the reservation; and
  - ii) for reservations in respect of all other provisions, for taxes levied with respect to taxable periods beginning on or after 1 January of the year next following the expiration of a period of six calendar months beginning on the date of the communication by the Depository of the notification of withdrawal or replacement of the reservation; and
- b) with respect to a Covered Tax Agreement for which one or more Contracting Jurisdictions becomes a Party to this Convention after the date of receipt by the Depository of the notification of withdrawal or replacement: on the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions.

### ***Article 29 – Notifications***

1. Subject to paragraphs 5 and 6 of this Article, and paragraph 7 of Article 35 (Entry into Effect), notifications pursuant to the following provisions shall be made at the time of signature or when depositing the instrument of ratification, acceptance or approval:

- a) Clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms);
- b) Paragraph 6 of Article 3 (Transparent Entities);
- c) Paragraph 4 of Article 4 (Dual Resident Entities);
- d) Paragraph 10 of Article 5 (Application of Methods for Elimination of Double Taxation);

- e) Paragraphs 5 and 6 of Article 6 (Purpose of a Covered Tax Agreement);
- f) Paragraph 17 of Article 7 (Prevention of Treaty Abuse);
- g) Paragraph 4 of Article 8 (Dividend Transfer Transactions);
- h) Paragraphs 7 and 8 of Article 9 (Capital Gains from Alienation of Shares or Interests of Entities Deriving their Value Principally from Immovable Property);
- i) Paragraph 6 of Article 10 (Anti-abuse Rule for Permanent Establishments Situated in Third Jurisdictions);
- j) Paragraph 4 of Article 11 (Application of Tax Agreements to Restrict a Party's Right to Tax its Own Residents);
- k) Paragraphs 5 and 6 of Article 12 (Artificial Avoidance of Permanent Establishment Status through Commissionaire Arrangements and Similar Strategies);
- l) Paragraphs 7 and 8 of Article 13 (Artificial Avoidance of Permanent Establishment Status through the Specific Activity Exemptions);
- m) Paragraph 4 of Article 14 (Splitting-up of Contracts);
- n) Paragraph 6 of Article 16 (Mutual Agreement Procedure);
- o) Paragraph 4 of Article 17 (Corresponding Adjustments);
- p) Article 18 (Choice to Apply Part VI);
- q) Paragraph 4 of Article 23 (Type of Arbitration Process);
- r) Paragraph 1 of Article 24 (Agreement on a Different Resolution);
- s) Paragraph 1 of Article 26 (Compatibility); and
- t) Paragraphs 1, 2, 3, 5 and 7 of Article 35 (Entry into Effect).

2. Notifications in respect of Covered Tax Agreements entered into by or on behalf of a jurisdiction or territory for whose international relations a Party is responsible, where that jurisdiction or territory is not a Party to the Convention pursuant to subparagraph b) or c) of paragraph 1 of Article 27 (Signature and Ratification, Acceptance or Approval), shall be made by the responsible Party and can be different from the notifications made by that Party for its own Covered Tax Agreements.

3. If notifications are made at the time of signature, they shall be confirmed upon deposit of the instrument of ratification, acceptance or approval, unless the document containing the notifications explicitly specifies that it is to be considered definitive, subject to the provisions of paragraphs 5 and 6 of this Article, and paragraph 7 of Article 35 (Entry into Effect).

4. If notifications are not made at the time of signature, a provisional list of expected notifications shall be provided at that time.

5. A Party may extend at any time the list of agreements notified under clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms) by means of a notification addressed to the Depositary. The Party shall specify in this notification whether the agreement falls within the scope of any of the reservations made by the Party which are listed in paragraph 8 of Article 28 (Reservations). The Party may also make a new reservation described in paragraph 8 of Article 28 (Reservations) if the additional agreement would be the first to fall within the scope of such a reservation. The Party shall also specify any additional notifications that may be required under subparagraphs b) through s) of paragraph 1 to reflect the inclusion of the additional agreements. In addition, if the extension results for the first time in the inclusion of a tax agreement entered into by or on behalf of a jurisdiction or territory for whose international relations a Party is responsible, the Party shall specify any reservations (pursuant to paragraph 4 of Article 28 (Reservations)) or notifications (pursuant to paragraph 2 of this Article) applicable to Covered Tax Agreements entered into by or on behalf of that jurisdiction or territory. On the date on which the added agreement(s) notified under clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms) become Covered Tax Agreements, the provisions of Article 35 (Entry into Effect) shall govern the date on which the modifications to the Covered Tax Agreement shall have effect.

6. A Party may make additional notifications pursuant to subparagraphs b) through s) of paragraph 1 by means of a notification addressed to the Depositary. These notifications shall take effect:

- a) with respect to Covered Tax Agreements solely with States or jurisdictions that are Parties to the Convention when the additional notification is received by the Depositary:
  - i) for notifications in respect of provisions relating to taxes withheld at source, where the event giving rise to such taxes occurs on or after 1 January of the year next following the expiration of a period of six calendar months beginning on the date of the communication by the Depositary of the additional notification; and
  - ii) for notifications in respect of all other provisions, for taxes levied with respect to taxable periods beginning on or after 1 January of the year next following the expiration of a period of six calendar months beginning on the date of the communication by the Depositary of the additional notification; and
- b) with respect to a Covered Tax Agreement for which one or more Contracting Jurisdictions becomes a Party to this Convention after the date of receipt by the Depositary of the additional notification: on the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions.

### ***Article 30 – Subsequent Modifications of Covered Tax Agreements***

The provisions in this Convention are without prejudice to subsequent modifications to a Covered Tax Agreement which may be agreed between the Contracting Jurisdictions of the Covered Tax Agreement.

### ***Article 31 – Conference of the Parties***

1. The Parties may convene a Conference of the Parties for the purposes of taking any decisions or exercising any functions as may be required or appropriate under the provisions of this Convention.
2. The Conference of the Parties shall be served by the Depositary.

3. Any Party may request a Conference of the Parties by communicating a request to the Depository. The Depository shall inform all Parties of any request. Thereafter, the Depository shall convene a Conference of the Parties, provided that the request is supported by one-third of the Parties within six calendar months of the communication by the Depository of the request.

#### ***Article 32 – Interpretation and Implementation***

1. Any question arising as to the interpretation or implementation of provisions of a Covered Tax Agreement as they are modified by this Convention shall be determined in accordance with the provision(s) of the Covered Tax Agreement relating to the resolution by mutual agreement of questions of interpretation or application of the Covered Tax Agreement (as those provisions may be modified by this Convention).

2. Any question arising as to the interpretation or implementation of this Convention may be addressed by a Conference of the Parties convened in accordance with paragraph 3 of Article 31 (Conference of the Parties).

#### ***Article 33 – Amendment***

1. Any Party may propose an amendment to this Convention by submitting the proposed amendment to the Depository.

2. A Conference of the Parties may be convened to consider the proposed amendment in accordance with paragraph 3 of Article 31 (Conference of the Parties).

#### ***Article 34 – Entry into Force***

1. This Convention shall enter into force on the first day of the month following the expiration of a period of three calendar months beginning on the date of deposit of the fifth instrument of ratification, acceptance or approval.

2. For each Signatory ratifying, accepting, or approving this Convention after the deposit of the fifth instrument of ratification, acceptance or approval, the Convention shall enter into force on the first day of the month following the expiration of a period of three calendar months beginning on the date of the deposit by such Signatory of its instrument of ratification, acceptance or approval.

#### ***Article 35 – Entry into Effect***

1. The provisions of this Convention shall have effect in each Contracting Jurisdiction with respect to a Covered Tax Agreement:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after the first day of the next calendar year that

begins on or after the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement; and

- b) with respect to all other taxes levied by that Contracting Jurisdiction, for taxes levied with respect to taxable periods beginning on or after the expiration of a period of six calendar months (or a shorter period, if all Contracting Jurisdictions notify the Depository that they intend to apply such shorter period) from the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement.

2. Solely for the purpose of its own application of subparagraph a) of paragraph 1 and subparagraph a) of paragraph 5, a Party may choose to substitute “taxable period” for “calendar year”, and shall notify the Depository accordingly.

3. Solely for the purpose of its own application of subparagraph b) of paragraph 1 and subparagraph b) of paragraph 5, a Party may choose to replace the reference to “taxable periods beginning on or after the expiration of a period” with a reference to “taxable periods beginning on or after 1 January of the next year beginning on or after the expiration of a period”, and shall notify the Depository accordingly.

4. Notwithstanding the preceding provisions of this Article, Article 16 (Mutual Agreement Procedure) shall have effect with respect to a Covered Tax Agreement for a case presented to the competent authority of a Contracting Jurisdiction on or after the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement, except for cases that were not eligible to be presented as of that date under the Covered Tax Agreement prior to its modification by the Convention, without regard to the taxable period to which the case relates.

5. For a new Covered Tax Agreement resulting from an extension pursuant to paragraph 5 of Article 29 (Notifications) of the list of agreements notified under clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms), the provisions of this Convention shall have effect in each Contracting Jurisdiction:

- a) with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after the first day of the next calendar year that begins on or after 30 days after the date of the communication by the Depository of the notification of the extension of the list of agreements; and
- b) with respect to all other taxes levied by that Contracting Jurisdiction, for taxes levied with respect to taxable periods beginning on or after the expiration of a period of nine calendar months (or a shorter period, if all Contracting Jurisdictions notify the Depository that they intend to apply such shorter period) from the date of the communication by the Depository of the notification of the extension of the list of agreements.

6. A Party may reserve the right for paragraph 4 not to apply with respect to its Covered Tax Agreements.

7. a) A Party may reserve the right to replace:
- i) the references in paragraphs 1 and 4 to “the latest of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement”; and
  - ii) the references in paragraph 5 to “the date of the communication by the Depository of the notification of the extension of the list of agreements”;

with references to “30 days after the date of receipt by the Depositary of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the provisions of this Convention with respect to that specific Covered Tax Agreement”;

- iii) the references in subparagraph a) of paragraph 9 of Article 28 (Reservations) to “on the date of the communication by the Depositary of the notification of withdrawal or replacement of the reservation”; and
- iv) the reference in subparagraph b) of paragraph 9 of Article 28 (Reservations) to “on the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions”;

with references to “30 days after the date of receipt by the Depositary of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the withdrawal or replacement of the reservation with respect to that specific Covered Tax Agreement”;

- v) the references in subparagraph a) of paragraph 6 of Article 29 (Notifications) to “on the date of the communication by the Depositary of the additional notification”; and
- vi) the reference in subparagraph b) of paragraph 6 of Article 29 (Notifications) to “on the latest of the dates on which the Convention enters into force for those Contracting Jurisdictions”;

with references to “30 days after the date of receipt by the Depositary of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the additional notification with respect to that specific Covered Tax Agreement”;

- vii) the references in paragraphs 1 and 2 of Article 36 (Entry into Effect of Part VI) to “the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement”;

with references to “30 days after the date of receipt by the Depositary of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the provisions of this Convention with respect to that specific Covered Tax Agreement”; and

- viii) the reference in paragraph 3 of Article 36 (Entry into Effect of Part VI) to “the date of the communication by the Depositary of the notification of the extension of the list of agreements”;
- ix) the references in paragraph 4 of Article 36 (Entry into Effect of Part VI) to “the date of the communication by the Depositary of the notification of withdrawal of the reservation”, “the date of the communication by the Depositary of the notification of replacement of the reservation” and “the date of the communication by the Depositary of the notification of withdrawal of the objection to the reservation”; and
- x) the reference in paragraph 5 of Article 36 (Entry into Effect of Part VI) to “the date of the communication by the Depositary of the additional notification”;

with references to “30 days after the date of receipt by the Depositary of the latest notification by each Contracting Jurisdiction making the reservation described in paragraph 7 of Article 35 (Entry into Effect) that it has completed its internal procedures for the entry into effect of the provisions of Part VI (Arbitration) with respect to that specific Covered Tax Agreement”.

- b) A Party making a reservation in accordance with subparagraph a) shall notify the confirmation of the completion of its internal procedures simultaneously to the Depositary and the other Contracting Jurisdiction(s).
- c) If one or more Contracting Jurisdictions to a Covered Tax Agreement makes a reservation under this paragraph, the date of entry into effect of the provisions of the Convention, of the withdrawal or replacement of a reservation, of an additional notification with respect to that Covered Tax Agreement, or of Part VI (Arbitration) shall be governed by this paragraph for all Contracting Jurisdictions to the Covered Tax Agreement.

### ***Article 36 – Entry into Effect of Part VI***

1. Notwithstanding paragraph 9 of Article 28 (Reservations), paragraph 6 of Article 29 (Notifications), and paragraphs 1 through 6 of Article 35 (Entry into Effect), with respect to two Contracting Jurisdictions to a Covered Tax Agreement, the provisions of Part VI (Arbitration) shall have effect:

- a) with respect to cases presented to the competent authority of a Contracting Jurisdiction (as described in subparagraph a) of paragraph 1 of Article 19 (Mandatory Binding Arbitration)), on or after the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement; and
- b) with respect to cases presented to the competent authority of a Contracting Jurisdiction prior to the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement, on the date when both Contracting Jurisdictions have notified the Depositary that they have reached mutual agreement pursuant to paragraph 10 of Article 19 (Mandatory Binding Arbitration), along with information regarding the date or dates on which such cases shall be considered to have been presented to the competent authority of a Contracting Jurisdiction (as described in subparagraph a) of paragraph 1 of Article 19 (Mandatory Binding Arbitration)) according to the terms of that mutual agreement.

2. A Party may reserve the right for Part VI (Arbitration) to apply to a case presented to the competent authority of a Contracting Jurisdiction prior to the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement only to the extent that the competent authorities of both Contracting Jurisdictions agree that it will apply to that specific case.

3. In the case of a new Covered Tax Agreement resulting from an extension pursuant to paragraph 5 of Article 29 (Notifications) of the list of agreements notified under clause ii) of subparagraph a) of paragraph 1 of Article 2 (Interpretation of Terms), the references in paragraphs 1 and 2 of this Article to “the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement” shall be replaced with references to “the date of the communication by the Depositary of the notification of the extension of the list of agreements”.

4. A withdrawal or replacement of a reservation made under paragraph 4 of Article 26 (Compatibility) pursuant to paragraph 9 of Article 28 (Reservations), or the withdrawal of an objection to a reservation made under paragraph 2 of Article 28 (Reservations) which results in the application of Part VI

(Arbitration) between two Contracting Jurisdictions to a Covered Tax Agreement, shall have effect according to subparagraphs a) and b) of paragraph 1 of this Article, except that the references to “the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement” shall be replaced with references to “the date of the communication by the Depository of the notification of withdrawal of the reservation”, “the date of the communication by the Depository of the notification of replacement of the reservation” or “the date of the communication by the Depository of the notification of withdrawal of the objection to the reservation”, respectively.

5. An additional notification made pursuant to subparagraph p) of paragraph 1 of Article 29 (Notifications) shall have effect according to subparagraphs a) and b) of paragraph 1, except that the references in paragraphs 1 and 2 of this Article to “the later of the dates on which this Convention enters into force for each of the Contracting Jurisdictions to the Covered Tax Agreement” shall be replaced with references to “the date of the communication by the Depository of the additional notification”.

### ***Article 37 - Withdrawal***

1. Any Party may, at any time, withdraw from this Convention by means of a notification addressed to the Depository.

2. Withdrawal pursuant to paragraph 1 shall become effective on the date of receipt of the notification by the Depository. In cases where this Convention has entered into force with respect to all Contracting Jurisdictions to a Covered Tax Agreement before the date on which a Party’s withdrawal becomes effective, that Covered Tax Agreement shall remain as modified by this Convention.

### ***Article 38 – Relation with Protocols***

1. This Convention may be supplemented by one or more protocols.

2. In order to become a party to a protocol, a State or jurisdiction must also be a Party to this Convention.

3. A Party to this Convention is not bound by a protocol unless it becomes a party to the protocol in accordance with its provisions.

### ***Article 39 – Depository***

1. The Secretary-General of the Organisation for Economic Co-operation and Development shall be the Depository of this Convention and any protocols pursuant to Article 38 (Relation with Protocols).

2. The Depository shall notify the Parties and Signatories within one calendar month of:

- a) any signature pursuant to Article 27 (Signature and Ratification, Acceptance or Approval);
- b) the deposit of any instrument of ratification, acceptance or approval pursuant to Article 27 (Signature and Ratification, Acceptance or Approval);



- c) any reservation or withdrawal or replacement of a reservation pursuant to Article 28 (Reservations);
  - d) any notification or additional notification pursuant to Article 29 (Notifications);
  - e) any proposed amendment to this Convention pursuant to Article 33 (Amendment);
  - f) any withdrawal from this Convention pursuant to Article 37 (Withdrawal); and
  - g) any other communication related to this Convention.
3. The Depositary shall maintain publicly available lists of:
- a) Covered Tax Agreements;
  - b) reservations made by the Parties; and
  - c) notifications made by the Parties.

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

Done at Paris, the 24<sup>th</sup> day of November 2016, in English and French, both texts being equally authentic, in a single copy which shall be deposited in the archives of the Organisation for Economic Co-operation and Development.

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