

BILLS SUPPLEMENT

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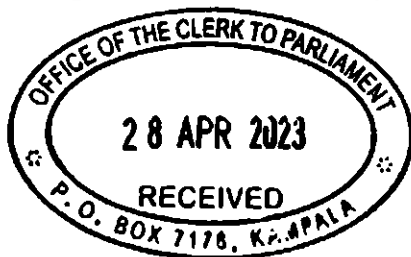
Convention on Mutual Administrative
Bill No. 11 Assistance in Tax Matters (Implementation) Bill **2023**

**THE CONVENTION ON MUTUAL ADMINISTRATIVE
ASSISTANCE IN TAX MATTERS (IMPLEMENTATION) BILL,
2023**

MEMORANDUM

The object of this Bill is to give the force of law in Uganda, to the Convention on Mutual Administrative Assistance in Tax Matters; and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information; to provide for the Standard for Automatic Exchange of Financial Account Information in Tax Matters; and for related matters.

MATIA KASAIJA (MP)
Minister of Finance, Planning and Economic Development.



**THE CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE
IN TAX MATTERS (IMPLEMENTATION) BILL, 2023**

ARRANGEMENT OF CLAUSES

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A Bill for an Act

ENTITLED

THE CONVENTION ON MUTUAL ADMINISTRATIVE ASSISTANCE IN TAX MATTERS (IMPLEMENTATION) ACT, 2023

An Act to give the force of law in Uganda to the Convention on Mutual Administrative Assistance in Tax Matters and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information; the Standard for Automatic Exchange of Financial Account Information in Tax Matters; and for related matters.

WHEREAS the Convention on Mutual Administrative Assistance in Tax Matters which is set out in Schedule 2 to this Act was adopted in Strasbourg, France on 25th January, 1988 by the Organisation for Economic Cooperation and Development (OECD) and the Council of Europe as the signatories and amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters that was adopted in Paris, France on 27th May, 2010 to open up the signatories to other jurisdictions that are not members of the OECD and the G20 formerly the Council of Europe.

AND WHEREAS the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information which is set out in Schedule 3 to this Act was adopted by the OECD Committee on Fiscal Affairs working with the G20 and opened for signature on 29th October, 2014 in Berlin, Germany providing for a standardised and efficient mechanism to facilitate the automatic exchange of information in accordance with the Standard for Automatic Exchange of Financial Account Information in Tax Matters.

AND WHEREAS the Cabinet of the Republic of Uganda ratified the Convention on Mutual Administrative Assistance in Tax Matters on 6th May, 2016 and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information was ratified on 18th November, 2021 in accordance with article 123 of the Constitution and section 2(a) of the Ratification of Treaties Act;

WHEREFORE it is expedient to give the force of law to the Convention on Mutual Administrative Assistance in Tax Matters and the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information in Uganda;

BE IT ENACTED by Parliament as follows:

1. Commencement

This Act shall come into force on 1st July, 2023.

2. Interpretation

In this Act, unless the context otherwise requires—

“Agreement” means the Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information;

“beneficial owner” means a natural person who ultimately owns or controls a customer or the natural person on whose

behalf a transaction is conducted and includes any natural person who exercises ultimate control over a legal person or arrangement and—

(a) in relation to a legal person, includes—

- (i) the natural person who either directly or indirectly, alone or jointly, holds at least ten percent of shares or voting rights of the legal person;
- (ii) the natural person who exercises control of the legal person through other means, including personal or financial superiority or relationship; and
- (iii) the natural person who has power to make or influence decisions of a legal person;
- (iv) where exceptionally, no natural person is identified in subparagraphs (i), (ii) or (iii), the natural person who holds the position of senior managing official;

(b) in relation to trusts includes—

- (i) the settlor;
- (ii) the trustee;
- (iii) the protector;
- (iv) the beneficiary or the individual benefitting from the trust who is yet to be determined; and
- (v) any other natural person exercising ultimate control of the trust; and

- (c) in relation to other legal arrangements similar to trusts, the natural person who holds positions equivalent to the positions referred to in subparagraph (b);

“Common Reporting Standard” means the standard for automatic exchange for financial accounts, information in tax matters, developed by the Organisation for Economic Co-operation and Development as specified in Schedule 4;

“Competent Authority” means the Commissioner General, Uganda Revenue Authority;

“Convention” means the Convention on Mutual Administrative Assistance in Tax Matters as amended by the Protocol amending the Convention on Mutual Administrative Assistance in Tax Matters;

“currency point” has the value assigned to it in Schedule 1 to this Act;

“Minister” means the Minister responsible for finance;

“reportable jurisdiction” means—

- (a) for the purposes of applying the due diligence procedures required by section II to VII of the Common Reporting Standard specified in Schedule 4 for a resident for tax purposes, of a jurisdiction other than Uganda; and
- (b) for the purposes of reporting the information required by section 1 of the of the Common Reporting Standard specified in Schedule 4, for a resident for tax purposes of a jurisdiction other than Uganda.

3. Convention to have force of law in Uganda

(1) The Convention on Mutual Administrative Assistance in Tax Matters specified in Schedule 2, except for article 2 (1) (b), (i), (ii), (iii) (E) and (iv), shall have the force of law in Uganda.

(2) Without prejudice to the general effect of subsection (1), all rights, liabilities, obligations and restrictions created or arising by or under the Convention and all remedies and procedures provided for by or under the Convention shall be recognised and available in law and shall be enforceable and allowed in Uganda.

(3) The Competent Authority may in the implementation of this Act apply the commentaries to the Convention in the implementation of this Act.

4. Agreement to have force of law in Uganda

(1) The Multilateral Competent Authority Agreement on Automatic Exchange of Financial Account Information specified in Schedule 3 to this Act shall have the force of law in Uganda.

(2) Without prejudice to the general effect of subsection (1), all rights, liabilities, powers, obligations and restrictions created or arising by or under the Agreement and all remedies and procedures provided for by or under the Agreement shall be recognised and available in law and shall be enforceable and allowed in Uganda.

(3) The Competent Authority may in implementing the provisions of the Agreement apply the commentaries to the Agreement.

5. Common Reporting Standard to have force of law in Uganda

(1) The Common Reporting Standard specified in Schedule 4 shall have the force of law in Uganda.

(2) Without prejudice to the general effect of subsection (1), all rights, liabilities, powers, obligations and restrictions created or arising

by or under the Common Reporting Standard and all remedies and procedures provided for by or under the Common Reporting Standard shall be recognised and available in law and shall be enforceable and allowed in Uganda.

(3) The Competent Authority may apply the commentaries to the Common Reporting Standard to implement the provisions of the Common Reporting Standard.

6. Due diligence

(1) A reporting financial institution shall, with effect from 1st January, 2024, apply the due diligence, described in sections II to VII of the Common Reporting Standard as specified in Schedule 4 to this Act.

(2) An account holder or a controlling person shall notify the reporting financial institution when there is a change in circumstances, including a change in the residence of the account holder or controlling person for tax purposes, within thirty days from the occurrence of the change.

(3) A reporting financial institution shall maintain the information obtained in the process of conducting due diligence under this Act, for the period during which the account is active and for at least five years from the date when the account is closed.

7. Reporting obligations

(1) A reporting financial institution shall submit a return to the Competent Authority providing the information on the account held by a non-resident person or on a reportable account for the year ending 31st December in every calendar year and by the 31st day of May of the following year.

(2) Where a reporting financial institution applies the procedures of due diligence described in sections II to VII of the Common Reporting Standard as specified in Schedule 4 to this Act for a calendar year and no financial account is identified as a reportable

account, the reporting financial institution shall file a return, which shall provide that the reporting financial institution maintains no such reportable accounts in respect of the calendar year.

(3) The Competent Authority shall, by notice in the Gazette and in a newspaper of wide circulation, prescribe the format of the return for obtaining the information referred to in subsection (1).

8. Offences relating to automatic exchange of information

A person who—

- (a) fails to file a return on the due date for purposes of the automatic exchange of information, is liable to a civil penalty of two hundred and fifty currency points for each day of default;
- (b) fails to maintain information obtained in the process of conducting the due diligence required under this Act, is liable to a penalty of five hundred currency points and an additional penalty of twenty currency point for each day of default in case of a continuous violation;
- (c) makes a false or misleading statement in a return for purposes of the automatic exchange of information commits an offence and is liable, on conviction, to a fine not exceeding two thousand and five hundred currency points or imprisonment for a term not exceeding ten years, or both;
- (d) submits a false or misleading self-certification to a reporting financial institution commits an offence and is liable, on conviction to a fine not exceeding two thousand five hundred currency points or imprisonment for a term not exceeding ten years, or both; or
- (e) omits from a statement made in a return for purposes of the automatic exchange of information, commits an offence and is liable, on conviction, to a fine not exceeding two

thousand five hundred currency points or imprisonment for a term not exceeding ten years, or both.

9. Anti- avoidance provision

Where a person enters into any arrangement or engages in a practice, the main purpose or one of the purposes of the Agreement or practice may reasonably be considered to be circumventing or avoiding an obligation imposed under this Act, the Competent Authority may re-characterise the transaction or an element of the transaction as part of the anti- avoidance scheme and shall require the person to comply with the obligations under this Act.

10. Amendment of Convention or agreement

(1) Where, after the commencement of this Act, the Convention or Agreement is amended in accordance with the provisions of article 24 of the Convention or section 6 of the Agreement, and ratified under article 123 of the Constitution, the Minister shall cause a copy of the amendment to be laid before Parliament; and the amendment shall, for the purposes of this Act, come into operation or be deemed to have come into operation on the date it is laid before Parliament.

(2) The Minister shall publish the amendment to the Convention or agreement in the Gazette.

11. Regulations

(1) The Minister may make regulations to give effect to the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Minister shall make regulations for—

- (a) the inspection of records and information held by reporting financial institutions;
- (b) the procedure for conducting due-diligence; and

- (c) any other matter incidental to the better carrying out of the purposes of this Act and the prescription of anything required or authorised under this Act.

- (3) Regulations made under this Act may, in respect of any contravention of any of the regulations—
 - (a) prescribe a penalty not exceeding a fine of five thousand currency points or imprisonment not exceeding ten years or both;
 - (b) in the case of a continuing offence, prescribe an additional penalty not exceeding a fine of five hundred currency points in respect of each day on which the offence continues;
 - (c) prescribe a penalty not exceeding a fine of five thousand five hundred currency points or imprisonment not exceeding ten years, or both in respect of a second or subsequent offence; and
 - (d) provide for the forfeiture of anything used in the commission of the offence.

SCHEDULES

SCHEDULE 1

Section 2

CURRENCY POINT

A currency point is equivalent to twenty thousand shillings.

SCHEDULE 2

Section 3

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

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

Preamble

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

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

Welcoming the various efforts made in recent years to combat tax avoidance and tax evasion on an international level, whether bilaterally or multilaterally; Considering that a co-ordinated effort between States is necessary in order to foster all forms of administrative assistance in matters concerning taxes of any kind whilst at the same time ensuring adequate protection of the rights of taxpayers;

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

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

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

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

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

Have agreed as follows:

Chapter I – Scope of the Convention

Article 1 – Object of the Convention and persons covered

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

Article 2 – Taxes covered

- 1 This Convention shall apply:

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

- 3 The Parties shall notify the Secretary General of the Council of Europe or the Secretary General of OECD (hereinafter referred to as the “Depositaries”) of any change to be made to Annex A as a result of a modification of the list mentioned in paragraph 2. Such change shall take effect on the first day of the month following the expiration of a period of three months after the date of receipt of such notification by the Depositary.

- 4 The Convention shall also apply, as from their adoption, to any identical or substantially similar taxes which are imposed in a Contracting State after the entry into force of the Convention in respect of that Party in addition to or in place of the existing taxes listed in Annex A and, in that event, the Party concerned shall notify one of the Depositaries of the adoption of the tax in question.

Chapter II – General definitions

Article 3 – Definitions

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

- ii. all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in that Party.

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

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

Chapter III – Forms of assistance

Section I – Exchange of information

Article 4 – General provision

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

Article 5 – Exchange of information on request

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

Article 6 – Automatic exchange of information

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

Article 7 – Spontaneous exchange of information

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

Article 8 – Simultaneous tax examinations

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

Article 9 – Tax examinations abroad

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

Article 10 – Conflicting information

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

Section II – Assistance in recovery

Article 11 – Recovery of tax claims

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

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

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

Article 12 – Measures of conservancy

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

Article 13 – Documents accompanying the request

- 1 The request for administrative assistance under this section shall be accompanied by:
 - a a declaration that the tax claim concerns a tax covered by the Convention and, in the case of recovery that, subject to paragraph 2 of Article 11, the tax claim is not or may not be contested,

- b an official copy of the instrument permitting enforcement in the applicant State, and
 - c any other document required for recovery or measures of conservancy.
- 2 The instrument permitting enforcement in the applicant State shall, where appropriate and in accordance with the provisions in force in the requested State, be accepted, recognized, supplemented or replaced as soon as possible after the date of the receipt of the request for assistance, by an instrument permitting enforcement in the latter State.

Article 14 – Time limits

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

Article 15 – Priority

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

Article 16 – Deferral of payment

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

Section III – Service of documents

Article 17 – Service of documents

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

Chapter IV – Provisions relating to all forms of assistance

Article 18 – Information to be provided by the applicant State

- 1 A request for assistance shall indicate where appropriate:
 - a the authority or agency which initiated the request made by the competent authority;

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

Article 19 – Deleted

Article 20 – Response to the request for assistance

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

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

- 1 Nothing in this Convention shall affect the rights and safeguards secured to persons by the laws or administrative practice of the requested State.

- 2 Except in the case of Article 14, the provisions of this Convention shall not be construed so as to impose on the requested State the obligation:
 - a to carry out measures at variance with its own laws or administrative practice or the laws or administrative practice of the applicant State;
 - b to carry out measures which would be contrary to public policy (ordre public);
 - c to supply information which is not obtainable under its own laws or its administrative practice or under the laws of the applicant State or its administrative practice;
 - d to supply information which would disclose any trade, business, industrial, commercial or professional secret, or trade process, or information the disclosure of which would be contrary to public policy (ordre public);
 - e to provide administrative assistance if and insofar as it considers the taxation in the applicant State to be contrary to generally accepted taxation principles or to the provisions of a convention for the avoidance of double taxation, or of any other convention which the requested State has concluded with the applicant State;
 - f to provide administrative assistance for the purpose of administering or enforcing a provision of the tax law of the applicant State, or any requirement connected therewith, which discriminates against a national of the requested State as compared with a national of the applicant State in the same circumstances;
 - g to provide administrative assistance if the applicant State has not pursued all reasonable measures available under its laws or

administrative practice, except where recourse to such measures would give rise to disproportionate difficulty;

- h to provide assistance in recovery in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the applicant State.
- 3 If information is requested by the applicant State in accordance with this Convention, the requested State shall use its information gathering measures to obtain the requested information, even though the requested State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations contained in this Convention, but in no case shall such limitations, including in particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because it has no domestic interest in such information.
- 4 In no case shall the provisions of this Convention, including in particular those of paragraphs 1 and 2, be construed to permit a requested State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

Article 22 – Secrecy

- 1 Any information obtained by a Party under this Convention shall be treated as secret and protected in the same manner as information obtained under the domestic law of that Party and, to the extent needed to ensure the necessary level of protection of personal data, in accordance with the safeguards which may be specified by the supplying Party as required under its domestic law.
- 2 Such information shall in any case be disclosed only to persons or authorities (including courts and administrative or supervisory bodies) concerned with the assessment, collection or recovery of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, taxes of that Party, or the oversight of

the above. Only the persons or authorities mentioned above may use the information and then only for such purposes. They may, notwithstanding the provisions of paragraph 1, disclose it in public court proceedings or in judicial decisions relating to such taxes.

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

Article 23 – Proceedings

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

However, the requested State shall, if asked by the applicant State, take measures of conservancy to safeguard recovery. The requested State can also be informed of such proceedings by any interested person. Upon receipt of such information the requested State shall consult on the matter, if necessary, with the applicant State.

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

Chapter V – Special provisions

Article 24 – Implementation of the Convention

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

competent authorities of those Parties shall endeavor to resolve the matter by mutual agreement. The agreement shall be communicated to the coordinating body.

- 6 The Secretary General of OECD shall inform the Parties, and the Signatory States which have not yet ratified, accepted or approved the Convention, of opinions furnished by the coordinating body according to the provisions of paragraph 4 above and of mutual agreements reached under paragraph 5 above.

Article 25 – Language

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

Article 26 – Costs

Unless otherwise agreed bilaterally by the Parties concerned:

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

Chapter VI – Final provisions

Article 27 – Other international agreements or arrangements

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