



**COUNCIL OF
THE EUROPEAN UNION**

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LEGISLATIVE ACTS AND OTHER INSTRUMENTS

Subject: COUNCIL DECISION concerning the accession of Bulgaria and Romania to the Convention of 23 July 1990 on the elimination of double taxation in connection with the adjustment of profits of associated enterprises

COUNCIL DECISION

of

**concerning the accession of Bulgaria and Romania to
the Convention of 23 July 1990 on the elimination of
double taxation in connection with the adjustment of
profits of associated enterprises**

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the 2005 Act of Accession, and in particular Article 3(4) thereof,

Having regard to the recommendation from the Commission,

Having regard to the opinion of the European Parliament¹,

¹ Opinion of ... (not yet published in the Official Journal).

Whereas:

- (1) Convention 90/436/EEC of 23 July 1990, on the elimination of double taxation in connection with the adjustment of profits of associated enterprises¹ ("the Arbitration Convention") was signed at Brussels on 23 July 1990 and entered into force on 1 January 1995.
- (2) The Arbitration Convention was amended by a Protocol² signed on 25 May 1999 and which entered into force on 1 November 2004, the Convention of 21 December 1995³ signed on 21 December 1995, and the Convention of 8 December 2004⁴ signed on 8 December 2004.
- (3) Article 3(3) of the 2005 Act of Accession provides that Bulgaria and Romania accede to the conventions and protocols concluded between the Member States listed in Annex I to the 2005 Act of Accession. That Annex, as supplemented by Council Decision ...^{*} of ...^{*5} amending Annex I to the Act of Accession of Bulgaria and Romania, includes the Arbitration Convention, the Protocol signed on 25 May 1999, the Convention of 21 December 1995 and the Convention of 8 December 2004. They are to enter into force in relation to Bulgaria and Romania on the date determined by the Council.
- (4) In accordance with Article 3(4) of the 2005 Act of Accession the Council is to make all adjustments required by reason of accession to those Conventions and Protocol,

¹ OJ L 225, 20.8.1990, p. 10.

² OJ C 202, 16.7.1999, p. 1.

³ OJ C 26, 31.1.1996, p. 1.

⁴ OJ C 160, 30.6.2005, p. 1.

^{*} OJ please insert number and date for 10061/08.

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⁵ OJ please insert OJ reference for 10061/08.

HAS DECIDED AS FOLLOWS:

Article 1

The Arbitration Convention is hereby amended as follows:

(1) In Article 2(2), points (a) to (y) shall be replaced by the following:

"(i) in Belgium:

- (a) impôt des personnes physiques/personenbelasting
- (b) impôt des sociétés/vennootschapsbelasting
- (c) impôt des personnes morales/rechtspersonenbelasting
- (d) impôt des non-résidents/belasting der niet-verblijfhouders
- (e) taxe communale et la taxe d'agglomération additionnelles à l'impôt des personnes physiques/aanvullende gemeentebelasting en agglomeratiebelasting op de personenbelasting

(ii) in Bulgaria:

- (a) данък върху доходите на физическите лица
- (b) корпоративен данък

- (iii) in the Czech Republic:
 - (a) daň z příjmů fyzických osob
 - (b) daň z příjmů právnických osob
- (iv) in Denmark:
 - (a) indkomstskat til staten
 - (b) den kommunale indkomstskat
 - (c) den amtskommunale indkomstskat
- (v) in Germany:
 - (a) Einkommensteuer
 - (b) Koerperschaftsteuer
 - (c) Gewerbesteuer, insofar as this tax is based on trading profits
- (vi) in Estonia:
 - (a) tulumaks

(vii) in Ireland:

- (a) Income Tax
- (b) Corporation Tax

(viii) in Greece:

- (a) foros eisodimatos fysikon prosopon
- (b) foros eisodimatos nomikon prosopon
- (c) eisfora yper ton epicheiriseon ydrefsis kai apochetefsis

(ix) in Spain:

- (a) Impuesto sobre la Renta de las Personas Físicas
- (b) Impuesto sobre Sociedades
- (c) Impuesto sobre la Renta de no Residentes

(x) in France:

- (a) impôt sur le revenu
- (b) impôt sur les sociétés

(xi) in Italy:

- (a) imposta sul reddito delle persone fisiche
- (b) imposta sul reddito delle società
- (c) imposta regionale sulle attività produttive

(xii) in Cyprus:

- (a) Φόρος Εισοδήματος
- (b) Έκτακτη Εισφορά για την Άμυνα της Δημοκρατίας

(xiii) in Latvia:

- (a) uzņēmumu ienākuma nodoklis
- (b) iedzīvotāju ienākuma nodoklis

(xiv) in Lithuania:

- (a) Gyventojų pajamų mokestis
- (b) Pelno mokestis

(xv) in Luxembourg:

- (a) impôt sur le revenu des personnes physiques
- (b) impôt sur le revenu des collectivités
- (c) impôt commercial, insofar as this tax is based on trading profits

(xvi) in Hungary:

- (a) személyi jövedelemadó
- (b) társasági adó
- (c) osztalékadó

(xvii) in Malta:

- (a) taxxa fuq l-income

(xviii) in the Netherlands:

- (a) inkomstenbelasting
- (b) vennootschapsbelasting

(xix) in Austria:

- (a) Einkommensteuer
- (b) Körperschaftsteuer

(xx) in Poland:

- (a) podatek dochodowy od osób fizycznych
- (b) podatek dochodowy od osób prawnych

(xxi) in Portugal:

- (a) imposto sobre o rendimento das pessoas singulares
- (b) imposto sobre o rendimento das pessoas colectivas
- (c) derrama para os municípios sobre o imposto sobre o rendimento das pessoas colectivas

(xxii) in Romania:

- (a) impozitul pe venit
- (b) impozitul pe profit
- (c) impozitul pe veniturile obținute din România de nerezidenți

(xxiii) in Slovenia:

- (a) dohodnina
- (b) davek od dobička pravnih oseb

(xxiv) in Slovakia:

- (a) daň z príjmov právnických osôb
- (b) daň z príjmov fyzických osôb

(xxv) in Finland:

- (a) valtion tuloverot/de statliga inkomstskatterna
- (b) yhteisöjen tulovero/inkomstskatten för samfund
- (c) kunnallisvero/kommunalskatten
- (d) kirkollisvero/kyrkoskatten
- (e) korkotulon lähdevero/källskatten å ränteinkomst
- (f) rajoitetusti verovelvollisen lähdevero/källskatten för begränsat skattskyldig

(xxvi) in Sweden:

- (a) statlig inkomstskatt
- (b) kupongskatt
- (c) kommunal inkomstskatt

(xxvii) in the United Kingdom:

- (a) Income Tax
- (b) Corporation Tax."

(2) The following indent shall be added to Article 3(1):

– in Bulgaria:

Министъра на финансите или негов упълномощен представител,

– in Romania:

Preşedintele Agenţiei Naţionale de Administrare Fiscală sau un reprezentant autorizat.

Article 2

The texts of the Arbitration Convention and the Protocol of 25 May 1999, together with the Conventions of 21 December 1995 and of 8 December 2004, drawn up in the Bulgarian and Romanian languages¹ shall be authentic under the same conditions as the other language versions of these Conventions and Protocol.

Article 3

The Arbitration Convention and the Protocol of 25 May 1999, together with the Conventions of 21 December 1995 and of 8 December 2004, shall enter into force in relation to Bulgaria and Romania on 1 July 2008.

Article 4

This Decision shall take effect on 1 July 2008.

Done at Brussels,

For the Council

The President

¹ The Bulgarian and Romanian texts of the Conventions and Protocol shall be published in a special edition of the OJ at a later date.