AGREEMENT

between the European Community and the Principality of Monaco providing for measures equivalent to those laid down in Council Directive 2003/48/EC

THE EUROPEAN COMMUNITY

and

THE PRINCIPALITY OF MONACO.

hereinafter referred to as 'Contracting Party' or 'Contracting Parties', where applicable,

with a view to introducing measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, hereinafter referred to as 'the Directive',

HAVE DECIDED TO CONCLUDE THIS AGREEMENT:

Article 1

Aim

- 1. To enable savings income in the form of interest payments made in territory of the Principality of Monaco to beneficial owners within the meaning of Article 2 who are individuals resident in a Member State of the European Community to be taken into account for being made subject to effective taxation in accordance with the laws of the latter Member State, a withholding tax shall be levied by paying agents established on the territory of the Principality of Monaco on the amount of such interest payments under the conditions laid down in Articles 7 and 8 of this Agreement, subject to the voluntary disclosure measures provided for in Article 9 of this Agreement.
- 2. The Principality of Monaco shall take the measures required to ensure that the tasks necessary for the implementation of this Agreement are carried out by paying agents established within its territory, irrespective of the place of establishment of the debtor of the debt-claim producing the interest.

Article 2

Definition of beneficial owner

- 1. For the purposes of this Agreement, 'beneficial owner' means any individual who receives an interest payment or any individual for whom an interest payment is secured, unless he provides evidence that it was not received or secured for his own benefit, that is to say that:
- (a) he acts as a paying agent within the meaning of Article 4;
- (b) he acts on behalf of a legal person, an entity which is taxed on its profits under Ordonnance Souveraine No 3162 of 19 March 1964, an undertaking for collective investment in transferable securities (UCITS) or a body equivalent to a

UCITS established on the territory of the Principality of Monaco for the purpose of investing savings;

- (c) he acts on behalf of another individual who is the beneficial owner and discloses to the paying agent the identity of that beneficial owner in accordance with Article 3(2).
- 2. Where a paying agent has information suggesting that the individual who receives an interest payment or for whom an interest payment is secured may not be the beneficial owner, and where neither paragraph 1(a) nor 1(b) applies to that individual, that paying agent shall take reasonable steps to establish the identity of the beneficial owner in accordance with Article 3(2). If the paying agent is unable to identify the beneficial owner, it shall treat the individual who receives the interest payment or for whom the interest payment is secured as the beneficial owner.

Article 3

Identity and place of residence of beneficial owners

- 1. The Principality of Monaco shall adopt and ensure the application of the procedures necessary to allow the paying agent to identify the beneficial owners and their residence for the purposes of this Agreement.
- 2. Such procedures shall include the following requirements:
- (a) in the case of contractual relations established before 1 January 2004, the paying agent shall establish the identity of the beneficial owner within the meaning of Article 2 and his place of residence on the basis of the information available to it, as obtained from the official identity document or any other documentary proof of identity presented by the beneficial owner, namely an official document bearing a photograph of the beneficial owner;

(b) in the case of contractual relations established after 1 January 2004 or transactions conducted on a noncontractual basis, the identity of the beneficial owner within the meaning of Article 2 and his place of residence shall be established on the basis of the passport, the official identity card or any other documentary proof of identity presented by the beneficial owner. For individuals presenting a passport or official identity card issued by a Member State of the European Community who declare themselves to be resident in a State outside the European Community and the Principality of Monaco, residence shall be established by means of a tax residence certificate issued by the competent authority of the State in which the individual claims to be resident. Failing the presentation of such a certificate, the State of residence shall be considered to be the Member State of the European Community which issued the passport or other relevant official identity document.

Article 4

Definition of paying agent

For the purposes of this Agreement, 'paying agent' means any bank, individual, legal person, partnership or subsidiary of an international company in the Principality of Monaco which, in the course of its business, accepts, holds, invests or transfers assets belonging to third parties and, even occasionally, pays interest to, or secures the payment of, interest for the immediate benefit of the beneficial owner.

Article 5

Definition of competent authority

For the purposes of this Agreement, the Contracting Parties' 'competent authorities' are those listed in Annex 1.

For third States, the 'competent authority' is the authority competent to issue certificates of residence for tax purposes.

Article 6

Definition of interest payment

- 1. For the purposes of this Agreement, 'interest payment' means:
- (a) interest paid or credited to an account, relating to debt claims or client deposits, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest payments. Interest from loans between private individuals not acting in the course of their business shall, however, be excluded;

- (b) interest accrued or capitalised at the sale, refund or redemption of the debt-claims referred to in (a);
- (c) income deriving from interest payments either directly or through an entity referred to in Article 4(2) of the Directive established in a Member State of the European Community, distributed by:
 - (i) an undertaking for collective investment established in a Member State of the European Community or the Principality of Monaco;
 - (ii) entities established in a Member State of the European Community which avail themselves of the option under Article 4(3) of the Directive and notify the paying agent thereof, and
 - (iii) undertakings for collective investment established outside the territory referred to in Article 19;
- (d) income realised upon the sale, refund or redemption of shares or units in the following undertakings and entities, if they invest directly or indirectly, via other undertakings for collective investment or entities referred to below, more than 40% of their assets in debt claims as referred to in (a):
 - (i) an undertaking for collective investment established in a Member State of the European Community or the Principality of Monaco;
 - (ii) entities established in a Member State of the European Community which avail themselves of the option under Article 4(3) of the Directive and notify the paying agent thereof, and
 - (iii) undertakings for collective investment established outside the territory referred to in Article 19.
- 2. As regards paragraph 1(c), when a paying agent has no information concerning the proportion of the income deriving from interest payments, the total amount of the income shall be considered to be an interest payment.
- 3. As regards paragraph 1(d), when a paying agent has no information concerning the percentage of the assets invested in debt claims or in shares or units as defined in that paragraph, that percentage shall be considered to be above 40%.

Where the paying agent cannot determine the amount of income realised by the beneficial owner, the income shall be deemed to correspond to the proceeds of the sale, refund or redemption of the shares or units.

- 4. Income from undertakings or entities that have invested no more than 15% of their assets in the debt claims referred to in paragraph 1(a) shall not be considered an interest payment within the meaning of paragraph 1(c) and (d).
- 5. After 31 December 2010 the percentage referred to in paragraph 1(d) and paragraph 3 shall be 25%.
- 6. The percentage referred to in paragraph 1(d) and in paragraph 5 shall be determined by reference to the investment policy laid down in the fund rules or instruments of incorporation of the undertakings or entities concerned or, failing that, by reference to the actual composition of the assets of the undertakings or entities concerned.

Article 7

Withholding tax

- 1. Where the beneficial owner is resident in a Member State of the European Community, the Principality of Monaco shall levy a withholding tax at a rate of 15% for the first three years from the date specified in Article 17, subject to the application of Article 14(2), a rate of 20% for the subsequent three years and a rate of 35% thereafter.
- 2. The paying agent shall levy withholding tax as follows:
- (a) in the case of an interest payment within the meaning of Article 6(1)(a): on the amount of interest paid or credited;
- (b) in the case of an interest payment within the meaning of Article 6(1)(b) or (d): on the amount of interest or income referred to in those paragraphs or by a levy of equivalent effect to be borne by the beneficial owner on the full amount of the proceeds of the sale, redemption or refund;
- (c) in the case of an interest payment within the meaning of Article 6(1)(c): on the amount of income referred to in that paragraph.
- 3. For the purposes of points (a), (b) and (c) of paragraph 2, withholding tax shall be levied pro rata for the period during which the beneficial owner held the debt claim, shares or units that generated the income. When the paying agent is unable to determine the period of holding on the basis of information in its possession, it shall treat the beneficial owner as having held the debt claim, shares or units throughout their period of existence unless the beneficial owner provides evidence of the date of acquisition.
- 4. Taxes and retentions levied on an interest payment, other than the withholding tax provided for under this Agreement, shall be deducted from the withholding tax calculated on that interest payment in accordance with this Article.

5. The levying of withholding tax by a paying agent established in the Principality of Monaco shall not preclude the Member State of the European Community where the beneficial owner is resident for tax purposes from taxing the income in accordance with its national law. Where a taxpayer declares income from interest paid by a paying agent established in the Principality of Monaco to the tax authorities of the Member State of the European Community where he resides, this income shall be taxed at the same rate and under the same general conditions as interest earned within that Member State.

Article 8

Sharing withholding tax

- 1. The Principality of Monaco shall retain 25% of the revenue generated by the withholding tax levied in accordance with Article 7 and transfer 75% to the Member State of the European Community in which the beneficial owner of the interest is resident in accordance with Article 3(2)(b).
- 2. Such transfers shall take place for each year in one instalment per Member State at the latest within six months of the end of the tax year of the Principality of Monaco.
- 3. The Principality of Monaco shall take the measures necessary to ensure the proper functioning of the revenue-sharing system.

To that end, the Principality of Monaco shall transfer revenue accruing to the Member State of the European Community concerned to the competent authority designated in Annex 1 to this Agreement.

Article 9

Voluntary disclosure

- 1. The Principality of Monaco shall lay down a procedure allowing a beneficial owner within the meaning of Article 2 to avoid the withholding tax provided for in Article 7 by expressly authorising his paying agent established in the Principality of Monaco to disclose interest payments to the competent authority of the Principality of Monaco. The authorisation shall cover all interest payments made to the beneficial owner by that paying agent.
- 2. The information to be disclosed by the paying agent in the event of express authorisation from the beneficial owner shall include at least:
- (a) the identity and residence of the beneficial owner, established in accordance with Article 3:
- (b) the name and address of the paying agent;

- (c) the account number of the beneficial owner or the identification of the debt claim giving rise to the payment of interest:
- (d) the amount of the interest payment, established in accordance with Article 6.
- 3. The competent authority of the Principality of Monaco shall forward the information referred to in paragraph 2 to the competent authority of the Member State of the European Community where the beneficial owner is resident. This information shall be provided at least once a year, within six months of the end of the tax year of the Principality of Monaco, in respect of all interest payments made in the year in question.

Article 10

Elimination of double taxation and/or repayment of withholding tax

- 1. The Member State of the European Community where the beneficial owner is resident for tax purposes shall ensure the elimination of any double taxation which might result from the levying of the withholding tax referred to in Article 7, in accordance with the provisions of paragraphs 2 and 3.
- 2. If a paying agent in the Principality of Monaco has levied the withholding tax referred to in Article 7 on interest received by a beneficial owner, the Member State of the European Community where the beneficial owner is resident for tax purposes shall grant him a tax credit equal to the amount of that withholding tax. Where this amount exceeds the amount of tax due in accordance with its national law on the total amount of interest subject to withholding tax, the Member State of the European Community in which the beneficial owner is resident for tax purposes shall, regardless of any of its standard tax-credit mechanisms or divergent administrative practices, repay the excess amount of tax withheld to the beneficial owner.
- 3. If, in addition to the withholding tax referred to in Article 7, interest payments received by a beneficial owner have been subject to any other type of withholding tax and the Member State of the European Community of residence for tax purposes grants or would grant a tax credit for such withholding tax in accordance with its national law or double taxation conventions, such other withholding tax shall be credited before the procedure in paragraph 2 is applied.
- 4. The Member State of the European Community where the beneficial owner is resident for tax purposes may replace the tax-credit mechanism referred to in paragraphs 2 and 3 by direct and full repayment of the withholding tax referred to in Article 7.

Article 11

Negotiable debt securities

1. From the date specified in Article 17, subject to Article 14(2) and for as long as the Principality of Monaco levies the withholding tax referred to in Article 7 and at least one Member State of the European Community applies similar provisions, until 31 December 2010 at the latest, domestic and international bonds and other negotiable debt securities first issued before 1 March 2001, or for which the original issuing prospectuses were approved before that date by the authorities competent to do so, shall not be considered debt claims within the meaning of Article 6(1)(a), provided no further issues of such negotiable debt securities are made on or after 1 March 2002.

However, as long as at least one of the Member States of the European Community also applies similar measures, the provisions of this Article shall continue to apply beyond 31 December 2010 in respect of such negotiable debt securities:

- which contain gross-up and early redemption clauses, and
- where the paying agent defined in Article 4 is established in the Principality of Monaco, and
- where the paying agent pays interest to, or secures the payment of interest for the immediate benefit of, a beneficial owner resident in a Member State of the European Community.

If and when all Member States of the European Community cease to apply provisions similar to those of Article 7, the provisions of this Article shall continue to apply solely in respect of negotiable debt securities:

- which contain gross-up and early redemption clauses, and
- where the paying agent of the issuer is established in the Principality of Monaco, and
- where that paying agent pays interest to, or secures the payment of interest for the immediate benefit of, a beneficial owner resident in a Member State of the European Community.

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by a government or a related entity acting as a public authority or whose role is recognised by an international treaty, as defined in Annex 2, the entire issue of such security, consisting of the original issue and any further issue, shall be considered a debt claim within the meaning of Article 6(1)(a).

If a further issue is made on or after 1 March 2002 of an aforementioned negotiable debt security issued by any other issuer not covered by the previous subparagraph, such further issue shall be considered a debt claim within the meaning of Article 6(1)(a).

2. Nothing in this Article shall prevent Member States of the European Community from taxing the income from the negotiable debt securities referred to in paragraph 1 in accordance with their national law.

Article 12

Transmission of information on request

1. The competent authorities of the Principality of Monaco and the Member States of the European Community shall exchange information on acts which constitute, under the national laws of the requested State, an offence of tax fraud with regard to the taxation of savings income in the form of interest payments.

When the requested State is the Principality of Monaco, the following acts shall be considered as constituting tax fraud with regard to the taxation of savings income in the form of interest payments:

- the use of a false or falsified document or one which contains inaccurate information with the intention of avoiding or attempting to avoid payment of some or all of the tax due on savings income in the form of interest payments, punishable by the fine provided for in Article 26(4) of the Monaco Criminal Code, the amount of which may be up to four times the amount of tax evaded, and/or a period of imprisonment from eight days to two years,
- fraudulent obtention of a refund of some or all of the tax due on savings income, punishable by the fine provided for in Article 26(4) of the Monaco Criminal Code, the amount of which may be up to four times the amount of tax evaded, and/or a period of imprisonment from eight days to two months,
- the act by anyone bound to collect tax on savings income, deliberately failing to collect some or all of the tax due, punishable by a fine of the amount provided for in Article 26(4) of the Monaco Criminal Code,
- the act by anyone bound to collect tax on savings income, deliberately misappropriating the amounts collected for his own benefit or that of a third party, punishable by a fine of the amount provided for in Article 26(4) of the Monaco Criminal Code.

Once the conditions laid down in Article 13(3) have been effectively established, the principles for the exchange of information laid down in this Article shall apply to equivalent offences under the legislation of the requested State, comparable in gravity to the tax fraud defined above.

In response to a duly substantiated request in accordance with paragraph 3, the requested State shall provide information on cases in which the requesting State has initiated administrative, civil or criminal proceedings in respect of the above acts, confining that information to savings income taxable in the requesting State.

The information that may be forwarded is that referred to in Article 9(2).

- 2. In order to determine whether information may be provided in response to a request, the requested State shall use the provisions concerning time-barring under the law of the requesting State, not those of the requested State. No information whatsoever will be provided on offences committed before 1 July 2005.
- 3. For the purposes of establishing the relevance of the request, the competent authority of the requesting Contracting Party shall provide the following information, which must be drafted in the official language of the requested State:
- (a) the name of the authority submitting the request;
- (b) the identity of the individual concerned by the request for information, evidence of that person's status as a tax resident of the requesting State and any document, statement by the individual concerned or other substantiated proof underpinning the request;
- (c) the grounds for believing that the information requested is held by the requested Contracting Party or is in the possession or control of a person within its jurisdiction;
- (d) a statement that the request is in conformity with the law of the requesting Contracting Party, and in particular that it is not time barred:
- (e) a statement that the requesting Contracting Party has pursued all means available in its own territory, and/or provided for by its legislation or regulations, to obtain the information, except those that would give rise to difficulties;
- (f) a statement that the facts already known to the requesting Contracting Party constitute, under its law, consistent circumstantial evidence that tax fraud or an equivalent offence defined in paragraph 1 has been committed.

4. The requested Contracting Party may refuse to provide the information requested if the request does not comply with the provisions of this Agreement.

Any information exchanged in this way must be treated as confidential and may be revealed only to persons or competent authorities of the other Contracting Party which are responsible for the taxation of the interest payments referred to in Article 1. These persons or authorities may reveal the information received, in the requesting State only, in public hearings or judgments relating to such taxation.

Information may be communicated to another person or authority only with the prior written agreement of the competent authority of the Contracting Party providing the information.

Article 13

Consultation and review

1. In the event of disagreement between the competent authority of the Principality of Monaco and one or more competent authorities of the Member States of the European Community within the meaning of Article 5 on the interpretation or application of this Agreement, they shall endeavour to resolve their differences amicably. They shall immediately notify the European Commission and the competent authorities of the other Member States of the European Community of the results of their consultations.

The European Commission may take part in consultations on issues of interpretation at the request of any competent authority.

2. Notwithstanding the provisions of paragraph 1, the Contracting Parties shall consult each other at least once every three years or at the request of either Contracting Party with a view to examining and — if they consider it necessary — improving the technical functioning of the Agreement.

At any rate the Contracting Parties recognise the importance of international developments in the area covered by this Agreement and shall consult each other as necessary at the consultations provided for in this paragraph in order to examine whether changes to the Agreement are necessary in the light of international developments.

3. In view of the conclusion of bilateral agreements between the Member States and the third countries subject to the same obligations as the Principality of Monaco in the matter of the taxation of savings income in the form of interest payments, the Principality of Monaco will examine the scope and conditions for the implementation of the principles laid down in Article 12 in the event of equivalent offences comparable in gravity to the

tax fraud defined in that Article. The Principality of Monaco will initiate consultations with the European Commission to that end.

- 4. Consultations shall be held within one month of the request or as soon as possible in urgent cases.
- 5. For the purposes of the consultations referred to above, the Contracting Parties shall inform each other of any developments which could affect the proper functioning of this Agreement. This shall also include any relevant agreement between one of the Contracting Parties and a third country.

Article 14

Application and suspension of application

- 1. Application of this Agreement is conditional on the adoption and implementation by the dependent or associated territories of the Member States listed in the Report of the Council (Economic and Financial Affairs) to the European Council of Santa Maria de Feira of 19 and 20 June 2000 and by the United States of America, Andorra, Liechtenstein, Switzerland and San Marino, respectively, of measures identical or equivalent to those contained in Council Directive 2003/48/EC or in this Agreement, and providing for the same application dates.
- 2. The Contracting Parties shall decide, by common accord, at least six months before the date referred to in Article 17, whether the conditions set out in paragraph 1 are met with regard to the dates of entry into force of the relevant measures in the Member States of the European Community, the third countries and dependent or associated territories concerned. If the Contracting Parties do not decide that the conditions are met, they shall, by common accord, adopt a new date for the purposes of Article 17. To that end, the European Community shall notify the Principality of Monaco of the implementation by the Member States of the European Community, the dependent or associated territories and the third countries concerned of identical or equivalent measures.
- 3. Notwithstanding its institutional arrangements and subject to the above provisions, the Principality of Monaco shall implement this Agreement on the date referred to in Article 17 and notify this measure to the European Community.
- 4. Implementation of this Agreement or parts thereof may be suspended by either Contracting Party with immediate effect by means of notification to the other Contracting Party where Council Directive 2003/48/EC or a corresponding part thereof ceases to be applicable either temporarily or permanently in accordance with European Community law, or where one of the Member States of the European Community suspends the application of its implementing legislation.

5. Either Contracting Party may also suspend implementation of this Agreement by notifying the other if one of the five third countries referred to above (United States of America, Monaco, Liechtenstein, Switzerland or San Marino) or one of the dependent or associated territories of the Member States of the European Union referred to in paragraph 2 subsequently ceases applying measures which are respectively equivalent or identical to those of Council Directive 2003/48/EC. Suspension of implementation shall not come into effect until two months after notification. Application of the Agreement shall resume as soon as the measures are reinstated.

Article 15

Other centres/Asian centres

During the transitional period provided for in Council Directive 2003/48/EC, the European Community shall initiate discussions with other major financial centres with a view to the adoption and application by the relevant jurisdictions of measures equivalent to those to be applied in the Community.

Article 16

Signing, entry into force and termination

- 1. This Agreement is concluded subject to its ratification or approval by the Contracting Parties in accordance with their internal procedures. The Contracting Parties shall notify each other of the completion of these procedures. The present Agreement shall enter into force on the first day of the second month following the last notification.
- 2. This Agreement shall remain in force until terminated by a Contracting Party.
- 3. Either Contracting Party may terminate this Agreement by giving notice to the other. In that event, the Agreement shall cease to have effect twelve months after the serving of notice.

Article 17

Implementing rules

Without prejudice to the provisions of Article 14, the Contracting Parties shall implement the laws, regulations and administrative provisions necessary to allow the application of this Agreement from 1 July 2005.

Article 18

Claims and final provisions

- 1. Termination or the total or partial suspension of this Agreement shall not affect claims by third parties in accordance with Article 10.
- 2. In such a case, the Principality of Monaco shall draw up a final account before this Agreement ceases to apply and make a final payment to each of the Member States of the European Community.

Article 19

Territorial application

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Community applies and under the conditions laid down in that Treaty and, on the other hand, to the territory of the Principality of Monaco.

Article 20

Annexes

- 1. The two Annexes shall form part of this Agreement.
- 2. The list of the competent authorities in Annex 1 may be modified by a simple notification to the other Contracting Party by the Principality of Monaco as regards the authority mentioned in point (a) of the said Annex and by the European Community as regards the other authorities.

The list of entities in Annex 2 may be modified by common accord.

Article 21

Languages

- 1. This Agreement is drafted in duplicate in the following languages: Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish, the texts in each language being equally authentic.
- 2. The Maltese language version shall be authenticated by the Contracting Parties on the basis of an Exchange of Letters. It shall also be authentic, in the same way as for the languages referred to in paragraph 1.

EN FE DE LO CUAL, los plenipotenciarios abajo firmantes suscriben el presente Acuerdo.

NA DŮKAZ ČEHOŽ připojili níže podepsaní zplnomocnění zástupci k této smlouvě své podpisy.

TIL BEKRÆFTELSE HERAF har undertegnede befuldmægtigede underskrevet denne aftale.

ZU URKUND DESSEN haben die unterzeichneten Bevollmächtigten ihre Unterschriften unter dieses Abkommen gesetzt.

SELLE KINNITUSEKS on täievolilised esindajad käesolevale lepingule alla kirjutanud.

ΣΕ ΠΙΣΤΩΣΗ ΤΩΝ ΑΝΩΤΕΡΩ, οι υπογράφοντες πληρεξούσιοι έθεσαν την υπογραφή τους κάτω από την παρούσα συμφωνία.

IN WITNESS WHEREOF, the undersigned Plenipotentiaries have signed the present Agreement.

EN FOI DE QUOI, les plénipotentiaires soussignés ont apposé leurs signatures au bas du présent accord.

IN FEDE DI CHE, i plenipotenziari sottoscritti hanno apposto la propria firma in calce al presente accordo.

TO APLIECINOT, attiecīgi pilnvarotas personas ir parakstījušas šo nolīgumu.

TAI PALIUDYDAMI, šį Susitarimą pasirašė toliau nurodyti įgaliotieji atstovai.

A FENTIEK HITELÉÜL az alulírott meghatalmazottak e megállapodást alább kézjegyükkel látták el.

B'XIEHDA TA' DAN, il-Plenipotenzjari hawn taht iffirmati ffirmaw dan il-Ftehim.

TEN BLIJKE WAARVAN de ondergetekende gevolmachtigden hun handtekening onder deze overeenkomst hebben geplaatst.

NA DOWÓD CZEGO niżej podpisani pełnomocnicy podpisali niniejszą Umowę.

EM FÉ DO QUE, os plenipotenciários abaixo assinados apuserem as suas assinaturas no final do presente Acordo.

NA DÔKAZ ČOHO dolupodpísaní splnomocnení zástupcovia podpísali túto dohodu.

V POTRDITEV TEGA so spodaj podpisani pooblaščenci podpisali ta sporazum.

TÄMÄN VAKUUDEKSI allamainitut täysivaltaiset edustajat ovat allekirjoittaneet tämän sopimuksen.

TILL BEVIS HÄRPÅ har undertecknade befullmäktigade undertecknat detta avtal.

Hecho en Bruselas, el siete de diciembre del dos mil cuatro.

V Bruselu dne sedmého prosince dva tisíce čtyři.

Udfærdiget i Bruxelles, den syvende december to tusind og fire.

Geschehen zu Brüssel am siebten Dezember zweitausendundvier.

Kahe tuhande neljanda aasta detsembrikuu seitsmendal päeval Brüsselis.

Έγινε στις Βρυξέλλες, στις εφτά Δεκεμβρίου δύο χιλιάδες τέσσερα.

Done at Brussels on the seventh day of December in the year two thousand and four.

Fait à Bruxelles, le sept décembre deux mille quatre.

Fatto a Bruxelles, addì sette dicembre duemilaquattro.

Briselē, divi tūkstoši ceturtā gada septītajā decembrī.

Pasirašyta du tūkstančiai ketvirtų metų gruodžio septintą dieną Briuselyje.

Kelt Brüsszelben, a kettőezer negyedik év december hetedik napján.

Maghmul fi Brussel fis-seba' jum ta' Dičembru tas-sena elfejn u erbgha.

Gedaan te Brussel, de zevende december tweeduizendvier.

Sporządzono w Brukseli dnia siódmego grudnia roku dwutysięcznego czwartego.

Feito em Bruxelas, em sete de Dezembro de dois mil e quatro.

V Bruseli siedmeho decembra dvetisícštyri.

Podpisano v Bruslju, dne sedmega decembra leta dva tisoč štiri.

Tehty Brysselissä seitsemäntenä päivänä joulukuuta vuonna kaksituhattaneljä.

Som skedde i Bryssel den sjunde december tjugohundrafyra.

Por la Comunidad Europea Za Evropské společenství For Det Europæiske Fællesskab Für die Europäische Gemeinschaft Euroopa Ühenduse nimel Για την Ευρωπαϊκή Κοινότητα For the European Community Pour la Communauté européenne Per la Comunità europea Eiropas Kopienas vārdā Europos bendrijos vardu az Európai Közösség részéről Ghall-Komunità Ewropea Voor de Europese Gemeenschap W imieniu Wspólnoty Europejskiej Pela Comunidade Europeia Za Európske spoločenstvo za Evropsko skupnost Euroopan yhteisön puolesta På Europeiska gemenskapens vägnar

Warden!

Pour la Principauté de Monaco

ANNEX I

LIST OF COMPETENT AUTHORITIES OF THE CONTRACTING PARTIES

The Contracting Parties' competent authorities for the purposes of this Agreement are:

- (a) in the Principality of Monaco: le Conseiller de Gouvernement pour les Finances et l'Economie or an authorised representative,
- (b) in the Kingdom of Belgium: De Minister van Financiën/Le Ministre des Finances or an authorised representative,
- (c) in the Czech Republic: Ministr financí or an authorised representative,
- (d) in the Kingdom of Denmark: Skatteministeren or an authorised representative,
- (e) in the Federal Republic of Germany: Der Bundesminister der Finanzen or an authorised representative,
- (f) in the Republic of Estonia: Rahandusminister or an authorised representative,
- (g) in the Hellenic Republic: Ο Υπουργός Οικονομίας και Οικονομικών or an authorised representative,
- (h) in the Kingdom of Spain: El Ministro de Economía y Hacienda or an authorised representative,
- (i) in the French Republic: Le Ministre chargé du budget or an authorised representative,
- (j) in Ireland: The Revenue Commissioners or their authorised representative,
- (k) in the Italian Republic: Il Capo del Dipartimento per le Politiche Fiscali or an authorised representative,
- (l) in the Republic of Cyprus: Υπουργός Οικονομικών or an authorised representative,
- (m) in the Republic of Latvia: Finanšu ministrs or an authorised representative,
- (n) in the Republic of Lithuania: Finansy ministras or an authorised representative,
- (o) in the Grand Duchy of Luxembourg: Le Ministre des Finances or an authorised representative; however, for the purposes of Article 12, the competent authority shall be le Procureur Général d'Etat luxemburgeois,
- (p) in the Republic of Hungary: A pénzügyminiszter or an authorised representative,
- (q) in the Republic of Malta: Il-Ministru responsabbli ghall-Finanzi or an authorised representative,
- (r) in the Kingdom of the Netherlands: De Minister van Financiën or an authorised representative,
- (s) in the Republic of Austria: Der Bundesminister für Finanzen or an authorised representative,
- (t) in the Republic of Poland: Minister Finansów or an authorised representative,
- (u) in the Portuguese Republic: O Ministro das Finanças or an authorised representative,
- (v) in the Republic of Slovenia: Minister za financií or an authorised representative,
- (w) in the Slovak Republic: Minister financií or an authorised representative,
- (x) in the Republic of Finland: Valtiovarainministeriö/Finansministeriet or an authorised representative,
- (y) in the Kingdom of Sweden: Chefen för Finansdepartementet or an authorised representative,
- (z) in the United Kingdom of Great Britain and Northern Ireland and in the European territories for whose external relations the United Kingdom is responsible: the Commissioners of Inland Revenue or their authorised representative and the competent authority in Gibraltar, which the United Kingdom will designate in accordance with the Agreed Arrangements relating to Gibraltar authorities in the context of European Union and European Community instruments and related Treaties notified to the Member States and institutions of the European Union of 19 April 2000, a copy of which shall be notified to the Principality of Monaco by the Secretary-General of the Council of the European Union, and which shall apply to this Agreement.

ANNEX II

LIST OF RELATED ENTITIES

For the purposes of Article 11 of this Agreement, the following entities shall be considered to be 'a related entity acting as a public authority or whose role is recognised by an international treaty':

ENTITIES WITHIN THE EUROPEAN UNION:

Belgium
— Vlaams Gewest
— Région wallonne
— Région de Bruxelles-Capitale (Brussels Hoofdstedelijk Gewest)
— Communauté française
— Vlaamse Gemeenschap
— Deutschsprachige Gemeinschaft
Spain
— Xunta de Galicia
— Junta de Andalucía
— Junta de Extremadura
— Junta de Castilla-La Mancha
— Junta de Castilla y León
— Gobierno Foral de Navarra
— Govern de les Illes Balears
— Generalitat de Catalunya
— Generalitat de València
— Diputación General de Aragón
— Gobierno de las Islas Canarias
— Gobierno de Murcia
— Gobierno de Madrid
— Gobierno de la Comunidad Autónoma del País Vasco/Euzkadi
— Diputación Foral de Guipúzcoa
— Diputación Foral de Vizcaya/Bizkaia
— Diputación Foral de Alava
— Ayuntamiento de Madrid
— Ayuntamiento de Barcelona

— Cabildo Insular de Gran Canaria

— Cabildo Insular de Tenerife

— Instituto de Crédito Oficial
— Instituto Catalán de Finanzas
— Instituto Valenciano de Finanzas
Greece
— Οργανισμός Τηλεπικοινωνιών Ελλάδος (Greek Telecommunications Organisation)
— Οργανισμός Σιδηροδρόμων Ελλάδος (Greek Railways Organisation)
— Δημόσια Επιχείρηση Ηλεκτρισμού (Public Power Corporation)
France
— La Caisse d'amortissement de la dette sociale (CADES)
— L'Agence française de développement (AFD)
— Réseau Ferré de France (RFF)
— Caisse Nationale des Autoroutes (CNA)
— Assistance publique Hôpitaux de Paris (APHP)
— Charbonnages de France (CDF)
— Entreprise minière et chimique (EMC)
Italy
— Regions
— Provinces
— Municipalities
— Cassa Depositi e Prestiti
Latvia
— Pašvaldības (local governments)
Poland
— gminy (communes)
— powiaty (districts)
— województwa (provinces)
— związki gmin (associations of communes)
— związki powiatów (associations of districts)
— związki województw (associations of provinces)
— miasto stołeczne Warszawa (capital city of Warsaw)

— Agencja Nieruchomości Rolnych (Agricultural Property Agency)

Portugal

- Região Autónoma da Madeira (Autonomous Region of Madeira)
- Região Autónoma dos Açores (Autonomous Region of the Azores)
- Communes

Slovakia

- mestá a obce (municipalities)
- Železnice Slovenskej republiky (Slovak Railway Company)
- Štátny fond cestného hospodárstva (State Road Management Fund))
- Slovenské elektrárne (Slovak Power Plants)
- Vodohospodárska výstavba (Water Economy Building Company)

INTERNATIONAL ENTITIES AND UNDERTAKINGS:

- European Bank for Reconstruction and Development
- European Investment Bank
- Asian Development Bank
- African Development Bank
- World Bank/IBRD/IMF
- International Finance Corporation
- Interamerican Development Bank
- Council of Europe Social Development Fund
- Euratom
- European Community
- Andean Development Corporation (CAF)
- Eurofima

The provisions of Article 11 of the Agreement are without prejudice to any international obligations that the Contracting Parties may have entered into in respect of the abovementioned international entities.

THIRD-COUNTRY ENTITIES:

Entities satisfying the following criteria:

- 1. the entity is considered to be a public entity according to national criteria;
- this public entity is a non-market producer which administers and finances a group of activities, principally providing non-market goods or services intended for the benefit of the community and which are effectively controlled by public administration;
- 3. this public entity is a large and regular issuer of debt securities;
- 4. the State concerned is able to guarantee that this public entity will not exercise early redemption in the event of gross-up clauses.

MEMORANDUM OF UNDERSTANDING

between the European Community and the Principality of Monaco

When an Agreement providing for measures equivalent to those laid down in Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments, hereinafter referred to as 'the Directive', was concluded, the European Community and the Principality of Monaco signed this Memorandum of Understanding supplementing the Agreement.

If either Contracting Party finds that significant differences in the implementation of exchanges of information mean that the Agreement would not be applied in an evidently equitable manner, the Contracting Parties shall immediately hold consultations with a view to determining the arrangements necessary to establish equal treatment. The European Commission shall immediately report to the Council on these consultations and propose the measures necessary to restore equal treatment. In the interim, any new request for information under Article 12 of this Agreement which is of the same kind as that which gave rise to the application of this paragraph will be examined during the consultations.

Should a significant difference be detected between the scope of Council Directive 2003/48/EC and that of this Agreement, in particular with regard to Articles 4 and 6 of the Agreement, the Contracting Parties shall immediately consult each other in accordance with Article 13(1) of the Agreement with a view to ensuring that the measures laid down by the Agreement remain equivalent.

The signatories of this Memorandum of Understanding declare that they consider the Agreement referred to in the first paragraph and this Memorandum of Understanding to provide an acceptable and balanced arrangement that can be considered as safeguarding the interests of the Parties. They will therefore implement the agreed measures in good faith and will not act unilaterally in such a way as to undermine this arrangement without due cause.

Once it has been established that the prudential rules and supervisory measures applicable to the Monegasque operators concerned are such as to guarantee the smooth operation of the Internal Market in the sectors in question, the European Community is prepared to examine with the Government of the Principality of Monaco conditions conducive to the development of trade between Monaco and the Community in certain financial instruments and insurance services. Thus, and in accordance with the foreign policy position adopted by the Community with regard to similar requests in the past, any possible agreement would have to be based on the adoption and application by the Principality of Monaco of the present and future Community acquis in the sectors concerned. It is also likely that other rules, both present and future, relevant to the smooth operation of the Internal Market in the sectors in question, for instance competition and tax rules, would have to be applied by the Principality of Monaco.

The signatories of this Memorandum of Understanding note that the definition of tax fraud, under the Agreement between the European Community and the Principality of Monaco providing for measures equivalent to those laid down in the Directive, is solely for the relevant purposes of taxation of savings.

Drawn up at Brussels on 7 December 2004 in duplicate in the Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each of these languages being equally authentic.

The Maltese language version shall be authenticated by the signatories on the basis of an Exchange of Letters. It shall also be authentic, in the same way as for the languages referred to in the preceding paragraph.

Por la Comunidad Europea Za Evropské společenství For Det Europæiske Fællesskab Für die Europäische Gemeinschaft Euroopa Ühenduse nimel Για την Ευρωπαϊκή Κοινότητα For the European Community Pour la Communauté européenne Per la Comunità europea Eiropas Kopienas vārdā Europos bendrijos vardu az Európai Közösség részéről Ghall-Komunità Ewropea Voor de Europese Gemeenschap W imieniu Wspólnoty Europejskiej Pela Comunidade Europeia Za Európske spoločenstvo za Evropsko skupnost Euroopan yhteisön puolesta På Europeiska gemenskapens vägnar

Kouti

Pour la Principauté de Monaco