SYNTHESISED TEXT OF THE MLI AND THE AGREEMENT BETWEEN THE GOVERNMENT OF GEORGIA AND THE GOVERNMENT OF THE FRENCH REPUBLIC AND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

General disclaimer on the Synthesised text document

This document presents the synthesised text for the application of the Agreement between the Government of Georgia and the Government of the French Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed on 7 March 2007 (the "Agreement"), as modified by the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting signed by Georgia and by the French Republic on 7 June 2017 (the "MLI").

This document was prepared in consultation with the competent authority of the French Republic and represents a shared understanding of the modifications made to the Agreement by the MLI.

This document was prepared on the basis of the MLI position of Georgia submitted to the Depositary upon ratification on 29 March 2019 and of the MLI position of the French Republic submitted to the Depositary upon ratification on 26 September 2018. These MLI positions are subject to modifications as provided in the MLI. Modifications made to MLI positions could modify the effects of the MLI on the Agreement.

The authentic legal texts of the Agreement and the MLI take precedence and remain the legal texts applicable.

The provisions of the MLI that are applicable with respect to the provisions of the Agreement are included in boxes throughout the text of this document in the context of the relevant provisions of the Agreement. The boxes containing the provisions of the MLI have generally been inserted in accordance with the ordering of the provisions of the 2017 OECD Model Tax Convention.

Changes to the text of the provisions of the MLI have been made to conform the terminology used in the MLI to the terminology used in the Agreement (such as "Covered Tax Agreement" and "Agreement", "Contracting Jurisdictions" and "Contracting States"), to ease the comprehension of the provisions of the MLI. The changes in terminology are intended to increase the readability of the document and are not intended to change the substance of the provisions of the MLI. Similarly, changes have been made to parts of provisions of the MLI that describe existing provisions of the Agreement: descriptive language has been replaced by legal references of the existing provisions to ease the readability.

In all cases, references made to the provisions of the Agreement or to the Agreement must be understood as referring to the Agreement as modified by the provisions of the MLI, provided such provisions of the MLI have taken effect.

References

The copies of the legal texts of the MLI and the Agreement can be found at the following links:

The MLI:

http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-BEPS.pdf

In Georgia:
https://mof.ge/en/5128

The MLI position of Georgia submitted to the Depositary upon ratification on 29 March 2019 and the MLI position of the French Republic submitted to the Depositary upon ratification on 26 September 2018 can be found on the MLI Depositary (OECD) webpage (http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf).

Disclaimer on the entry into effect of the provisions of the MLI

The provisions of the MLI applicable to this Agreement do not take effect on the same dates as the original provisions of the Agreement. Each of provisions of the MLI could take effect on different dates, depending on the types of taxes involved (taxes withheld at source or other taxes levied) and on the choices made by Georgia and the French Republic in their MLI positions.

Dates of the deposit of instruments of ratification, acceptance or approval: 29 March 2019 for Georgia and 26 September 2018 for the French Republic.

Entry into force of the MLI: 1 July 2019 for Georgia and 1 January 2019 for the French Republic.

Unless it is stated otherwise elsewhere in this document, the provisions of the MLI have effect with respect to the Agreement:

- with respect to taxes withheld at source on amounts paid or credited to non-residents, where the event giving rise to such taxes occurs on or after 1 January 2020;

- with respect to all other taxes levied by each Contracting State, for taxes levied with respect to taxable periods beginning on or after 1 January 2020.

AGREEMENT
between the Government of Georgia and the Government of the French Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital

The Government of Georgia and the Government of the French Republic,

desiring to promote and strengthen the economic, cultural, scientific and technical relations between both States

[REPLACED by paragraph 1 of Article 6 of the MLI]

[by concluding an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,]

The following paragraph 1 of Article 6 of the MLI replaces the text referring to an intent to eliminate double taxation in the preamble of the Agreement:

Article 6 of the MLI- Purpose of a Covered Tax Agreement

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

have agreed as follows :

ARTICLE 1

PERSONAL SCOPE

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2

TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political-administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises or employers, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are in particular :

a) in the case of Georgia :
   (i) the tax on profit of enterprises ;
   (ii) the tax on property of enterprises ;
   (iii) the tax on income of individuals ;
   (iv) the tax on property of individuals ;

(hereinafter referred to as "Georgian tax").

b) in the case of France :
   (i) the income tax ("l'impôt sur le revenu") ;
   (ii) the widespread security contributions (CSG) ;
   (iii) the reimbursement of the debt of social security contributions (CRDS) ;
   (iv) the corporation tax ("l'impôt sur les sociétés") ;
   (v) the tax on salaries ("la taxe sur les salaires") ;
   (vi) the wealth tax ("l'impôt de solidarité sur la fortune") ;

   including any withholding tax, prepayment (précompte) or advance payment with respect to the aforesaid taxes ;

   (hereinafter referred to as "French tax") ;

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

ARTICLE 3

GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires:

a) the term "Georgia" means the territory recognised by the international community within the state borders of Georgia, including land territory, internal waters and territorial sea, the air space above them, in respect of which Georgia exercises its sovereignty, as well as the exclusive economic zone and continental shelf adjacent to its territorial sea, in respect of which Georgia may exercice its sovereign rights in accordance with the international law ;

b) the term "France" means the European and overseas departments of the French Republic including the territorial sea, and any area outside the territorial sea within which, in accordance with international law, the French Republic has sovereign rights for the purpose of exploring and exploiting the natural resources of the seabed and its subsoil and the superjacent waters ;

c) the term "person" includes an individual, a company and any other body of persons ;

d) the term "company" means any body corporate, or any entity which is treated as a body corporate for tax purposes;

e) the terms "Contracting State" and "other Contracting State" mean Georgia or France, as the context requires ;

f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State ;

g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State ;

h) the term "competent authority" means :

(i) in the case of France, the Minister in charge of the budget or his authorised representative;

(ii) in the case of Georgia, the Ministry of Finance or its authorised representative ;

i) the term "national" means :

(i) any individual possessing the nationality of a Contracting State ;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of the Agreement at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State for the purposes of the taxes to which the Agreement applies. The meaning of a term under the applicable tax laws of that State shall have priority over a meaning given to the term under other laws of that State.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature and also includes that State and any political-administrative subdivision, or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

a) he shall be deemed to be a resident of the State in which he has a permanent home available to him ; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (center of vital interests) ;

b) if the State in which he has his center of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode ;

c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the Contracting State of which he is a national ;

d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

ARTICLE 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

a) a place of management ;

b) a branch ;

c) an office ;

d) a factory ;

e) a workshop ; and

f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than six months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise ;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery ;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise ;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise ;

e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character ;

f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. For the purposes of this Agreement, the term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources ; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

5. Where shares or other rights in a company, trust or comparable institution entitle to the enjoyment of immovable property situated in a Contracting State and held by that company, trust or comparable institution, income derived from the direct use, letting or use in any other form of that right of enjoyment may be taxed in that State notwithstanding the provisions of Articles 7 and 14.

ARTICLE 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other Contracting State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. For the purposes of the preceding paragraphs of this Article, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

INTERNATIONAL TRAFFIC

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

ARTICLE 9

ASSOCIATED ENTERPRISES

1. Where:

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

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

ARTICLE 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends:

a) shall be exempt from tax in the Contracting State of which the company paying the dividends is a resident if the beneficial owner of the dividends is a company which is a resident of the other Contracting State and holds, directly or indirectly, at least 50 per cent of the capital of the company paying the dividends, and has invested in this company at least 3 (three) million euros or its equivalent in the Georgian currency at the date of payment of the dividends;

b) except as provided for in sub-paragraph (a) of this paragraph, may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed :

(i) 5 per cent of the gross amount of the dividends if the beneficial owner of the dividends is a company which holds, directly or indirectly, at least 10 per cent of the capital of the company paying the dividends and has invested more than 100 000 (one hundred thousand) euros or its equivalent in the Georgian currency, in the capital of the company paying the dividends at the date of payment of the dividends;

(ii) 10 per cent of the gross amount of the dividends in all other cases.

The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividend" means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income treated as a distribution by the taxation laws of the Contracting State of which the company making the distribution is a resident. It is understood that the term "dividend" does not include income mentioned in Article 16.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base

situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

AERTICLE 11

INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the interest.

2. The term "interest" as used in this Article means income from debt-claims of every kind, 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 for the purpose of this Article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State, if such resident is the beneficial owner of the royalties.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base with which the obligation to pay the royalties was incurred and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13

CAPITAL GAINS

1. a) Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 6 and situated in the other Contracting State may be taxed in that other State.

b) Gains from the alienation of shares or other rights in a company, a trust or a comparable institution, the assets or property of which consist for more than 50 per cent of their value of, or derive more than 50 per cent of their value, directly or indirectly through the interposition of one or more other companies, trusts or comparable institutions, from immovable property situated in a Contracting State or of rights connected with such immovable property may be taxed in that State. For the purposes of this provision, immovable property pertaining to the industrial, commercial or agricultural operation of such company or to the performance of its independent personal services shall not be taken into account.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft, operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property, other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless the resident has a fixed base regularly available in the other Contracting State for the purpose of performing the activities. If the resident has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month-period commencing or ending in the fiscal year concerned and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 16

DIRECTOR'S FEES

Director's fees and other similar payments derived by a resident of a Contracting State in the capacity of a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sporstman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, whether a resident of a Contracting State or not, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State as an entertainer or a sportsman from his personal activities as such exercised in the other Contracting State shall be taxable only in the first- mentioned State if those activities in the other State are supported mainly by public funds of the first-mentioned State, or its political-administrative subdivisions, or local authorities or of their statutory bodies.

4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities exercised by a resident of a Contracting State, who is an entertainer or a sportsman, in his capacity as such in the other Contracting State accrues not to the entertainer or sportsman himself but to another person, whether a resident of a Contracting State or not, that income, notwithstanding the provisions of Articles 7, 14 and 15, shall be taxable only in the first-mentioned State, if that other person is supported mainly by public funds of that first-mentioned State, or its political-administrative subdivisions, or local authorities or of their statutory bodies.

ARTICLE 18

PENSIONS

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

ARTICLE 19

PUBLIC REMUNERATION

1. Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State, or a political-administrative subdivision, or a local authority thereof, or by one of their statutory bodies of either to an individual in respect of services rendered to that State, subdivision, authority or body shall be taxable only in that State.

2. However, salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who is a national of that State.

3. a) Any pension paid by, or out of funds created by, a Contracting State or a political-administrative subdivision, or a local authority thereof or by one of their statutory bodies of either to an individual in respect of services rendered to that State, or subdivision or authority or body shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

4. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration, and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political-administrative subdivision or a local authority thereof, or by one of their statutory bodies.

ARTICLE 20

STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

ARTICLE 21

PROFESSORS, TEACHERS AND SCIENTIFIC RESEARCHERS

1. Subject to the provisions of Article 19, and notwithstanding the provisions of paragraphs 1 and 2 of Article 15, remuneration which a teacher or a researcher who is or was immediately before visiting a Contracting State a resident of the other Contracting State, and who is present in the first-mentioned State solely for the purpose of teaching or engaging in research, derives in respect of such activities, shall be taxable only in the other State for a period not exceeding 24 months from the date of the first arrival of the teacher or researcher in the first-mentioned State for the purpose of teaching or engaging in research.

2. The provisions of this Article shall not apply to income from teaching or research if such teaching or research is not undertaken in the public interest but mainly for the private benefit of one or more specific persons.

ARTICLE 22

OTHER INCOME

1. a) Items of income beneficially owned by a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State if such resident is subject to tax in respect of those items of income in that State. If that requirement is not met, those items of income shall remain taxable in the other Contracting State and according to the laws of that other State.

b) The condition of taxation provided for in sub-paragraph a) shall not apply if the beneficial owner of those items of income is a Contracting State, or one of its political- administrative subdivisions, or local authorities.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the beneficial owner of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

ARTICLE 23

CAPITAL

1. a) Capital represented by immovable property referred to in Article 6 may be taxed in the Contracting State in which such immovable property is situated.

   b) Capital represented by shares or other rights in a company, a trust or a comparable institution, the assets or property of which consist for more than 50 per cent of their value of, or derive more than 50 per cent of their value, directly or indirectly through the interposition of one or more other companies, trusts or comparable institutions, from immovable property referred to in Article 6 and situated in a Contracting State or of rights connected with such immovable property may be taxed in that State. For the purposes of this provision, immovable property pertaining to business carried on personnaly by such company shall not be taken into account.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, may be taxed in that other State.

3. Capital represented by property forming part of the business property of an enterprise and consisting of ships and aircraft operated by such enterprise in international traffic and of movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State where the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

ARTICLE 24
ELIMINATION OF DOUBLE TAXATION

1. In the case of Georgia, double taxation shall be avoided in the following manner:

a) Where a resident of Georgia derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in France, Georgia shall allow:

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

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

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

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

2. In the case of France, double taxation shall be avoided in the following manner:

a) Notwithstanding any other provision of this Agreement, income which may be taxed or shall be taxable only in Georgia in accordance with the provisions of the Agreement shall be taken into account for the computation of the French tax where such income is not exempted from corporation tax according to French domestic law. In that case, the Georgian tax shall not be deductible from such income, but the resident of France shall, subject to the conditions and limits provided for in subparagraphs (i) and (ii), be entitled to a tax credit against French tax. Such tax credit shall be equal:

(i) in the case of income other than that mentioned in sub-paragraph (ii), to the amount of French tax attributable to such income provided that the resident of France is subject to Georgian tax in respect of such income ;

(ii) in the case of income subject to the corporation tax referred to in Article 7 and paragraph 2 of article 13 and in the case of income referred to in Article 10, paragraph 1 of Article 13, paragraph 3 of Article 15, Article 16 and paragraphs 1 and 2 of Article 17, to the amount of tax paid in Georgia in accordance with the provisions of those Articles; however, such tax credit shall not exceed the amount of French tax attributable to such income.

b) A resident of France who owns capital which may be taxed in Georgia according to paragraphs 1, 2 or 3 of Article 23 shall also be taxable in France in respect of such capital. The French tax shall be computed by allowing a tax credit equal to the amount of the tax paid in Georgia on such capital. However, such tax credit shall not exceed the amount of French tax attributable to such capital.

c) (i) It is understood that the term "amount of French tax attributable to such income" as used in sub-paragraph a) means :

- where the tax on such income is computed by applying a proportional rate, the amount of the net income concerned multiplied by the rate which actually applies to that income ;
- where the tax on such income is computed by applying a progressive scale, the amount of the net income concerned multiplied by the rate resulting from the ratio of the tax actually payable on the total net income taxable in accordance with French law to the amount of that total net income.

This interpretation shall apply by analogy to the term "amount of French tax attributable to such capital as used in sub-paragraph b).

(ii) It is understood that the term "amount of tax paid in Georgia" as used in sub-paragraphs a) and b) means the amount of Georgian tax effectively and definitively borne in respect of the items of income concerned, in accordance with the provisions of the Agreement, by a resident of France who is taxed on those items of income or capital according to the French law.

ARTICLE 25

NON-DISCRIMINATION

1. Individuals who are nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which individuals who are nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected.
This provision shall, notwithstanding the provisions of Article 1, also apply to individuals who are not residents of one or both of the Contracting States and to stateless persons.

2. The taxation of a permanent establishment that an enterprise of a Contracting State has in the other Contracting State, or of a fixed base that a resident of one Contracting State has available in the other Contracting State for the purpose of performing independent personal services, shall not be less favourably levied in that other State than the taxation levied on enterprises or residents of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11, or paragraph 5 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall be deductible, for the purpose of determining the taxable profits of that enterprise, under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of that enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5. The exemptions and other advantages provided by the tax laws of a Contracting State for the benefit of that State or its political-administrative subdivisions, or local authorities or of their statutory bodies of either which carry on a non-business activity shall apply under the same conditions respectively to the other Contracting State or its political-administrative subdivisions or local authorities or to their statutory bodies which carry on the same or similar activity. Notwithstanding the provisions of paragraph 7, the provisions of this paragraph shall not apply to taxes or duties payable in consideration for services rendered.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

7. If any bilateral treaty or agreement between the Contracting States, other than this Agreement, includes a non-discrimination clause or a most-favoured nation clause, it is understood that such clauses shall not apply in tax matters.

ARTICLE 26

MUTUAL AGREEMENT PROCEDURE

1.**[REPLACED by the first sentence of paragraph 1 of Article 16 of the MLI]** [Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national.]

The following first sentence of paragraph 1 of Article 16 of the MLI replaces paragraph 1 of Article 26 of the Agreement:

Article 16 of the MLI – Mutual Agreement Procedure

Where a person considers that the actions of one or both of the [*Contracting States*] result or will result for that person in taxation not in accordance with the provisions of the [*Agreement*], that person may, irrespective of the remedies provided by the domestic law of those [*Contracting States*], present the case to the competent authority of either [*Contracting State*].

The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or the application of the Agreement. In particular, they may consult together to endeavour to agree to the same allocation of income between associated enterprises mentioned in Article 9. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

ARTICLE 27

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is relevant for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation there under is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws of that or of the other Contracting State ;

b) to supply information which is not obtainable under the laws of that or the other Contracting State ;

c) 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).

ARTICLE 28

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or members of consular posts, and of members of permanent missions to international organizations under the general rules of international law or under the provisions of special agreements.

ARTICLE 29
MODE OF APPLICATION

The competent authorities of the Contracting States may regulate the terms of application of the Agreement, in particular, in respect of the formalities to be completed in order to benefit from the provisions of the Agreement.

ARTICLE 29

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other the completion of the procedures required as far as it is concerned for the bringing into force of this Agreement. The Agreement shall enter into force on the first day of the second month following the day when the later of these notifications has been received.

2. The provisions of the Agreement shall have effect:

a) in respect of taxes on income withheld at source, for amounts taxable after the calendar year in which the Agreement enters into force ;

b) in respect of taxes on income which are not withheld at source, for income relating, as the case may be, to any calendar year or accounting period beginning after the calendar year in which the Agreement enters into force ;

c) in respect of the other taxes, for taxation the taxable event of which will occur after the calendar year in which the Agreement enters into force.

3. The provisions of the Convention signed on October 4, 1985 between the Government of the French Republic and the Government of the Union of Soviet Socialist Republics for the avoidance of double taxation with respect to taxes on income shall cease to have effect between the French Republic and Georgia as from the date on which the corresponding provisions of this Agreement shall have effect for the first time.

ARTICLE 30

TERMINATION

1. This Agreement shall remain in force indefinitely. However, after a period of five calendar years from the date on which the Agreement enters into force, either Contracting State may terminate it by giving notice of termination through diplomatic channels at least six months before the end of any calendar year.

2. In such event the Agreement shall cease to have effect:

a) in respect of taxes on income withheld at source, for amounts taxable after the calendar year in which the notice of termination is given ;

b) in respect of taxes on income which are not withheld at source, for income relating, as the case may be, to any calendar year or accounting period beginning after the calendar year in which the notice of termination is given ;

c) in respect of the other taxes, for taxation the taxable event of which will occur after the calendar year in which the notice of termination is given.

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

Done at..... .., this..... day of ....., 20..., in duplicate, in the Georgian and French languages, both texts being equally authentic.

For the Government of the Georgia **For the Government of Republic French**

PROTOCOL

At the moment of signing the Agreement between the Government of the French Republic and the Government of Georgia for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital the undersigned have agreed on the following provisions which shall form an integral part of the Agreement.

1. In the case of Georgia, it is understood that the term « political-administrative subdivisions » means territorial-administrative subdivisions of Georgia.

2. In respect of subparagraph a) of paragraphs 3 of Article 2, the tax on salaries is regulated by the provisions of the Agreement applicable, as the case may be, to business profits or income from independent personal services.

3. In the case of Georgia, the term "company" means enterprise or any entity which exercise an economic activity.

4. In respect of Article 4, it is understood that the term "resident of a Contracting State" shall include, where that State is France, any partnership or group of persons which has its place of management in France and all the shareholders, associates or other members of which are personally liable to tax therein in respect of their part of the profits according to French domestic law.

5. In respect of paragraph 4 a and b of Article 5, "delivery" made out of a stock of goods or merchandises situated in a Contracting State will constitute a permanent establishment therein if operations other than storage, display, transport or other preparatory or auxiliary operations are carried on in that State out of this stock or facilities.

6. It is understood that the term "immovable property" as defined in paragraph 2 of Article 6 includes options, sales commitments and similar rights in connection with such property.

7. In respect of Article 7:

   a) where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received by the enterprise but only on the basis of the remuneration which is attributable to the actual activity of the permanent establishment for such sales or business;

   b) in the case of contracts, in particular for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, where the enterprise has a permanent establishment the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but only on the basis of that part of the contract which is effectively carried out by the permanent establishment in the Contracting State where it is situated. The profits related to the part of the contract which is carried out in the Contracting State where the place of effective management of the enterprise is situated shall be taxable only in that State.

8. **[REPLACED by paragraph 1 of Article 7 of the MLI]** [The provisions of Articles 10,11,12 and 22 shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of shares or other rights in respect of which the dividend is paid, the creation or assignment of the debt-claim in respect of which the interest is paid, the creation or assignment of rights in respect of which the royalty or the income is paid to take advantage of these Articles by means of that creation or assignment.]

The following paragraph 1 of Article 7 of the MLI replaces Article 8 of the Protocol of this Agreement:

Article 7 of the MLI – Prevention of Treaty Abuse

(Principal purposes test provision)

Notwithstanding any provisions of the [*Agreement*], a benefit under the [*Agreement*] shall not be granted in respect of an item of income or capital if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of the [*Agreement*].

9. In respect of Article 12, payments received as a consideration for technical services, including studies or surveys of a scientific, geological or technical nature, or for engineering contracts including blue prints related thereto, or for consultant or supervisory services shall be deemed not to be payments received as a consideration for information concerning industrial, commercial or scientific experience.

10. a) Contributions borne by an individual who renders dependent personal services in a Contracting State to a pension scheme established and recognised for tax purposes in the other Contracting State shall be deducted, in the first-mentioned State, in determining the individual's taxable income, and treated in that State, in the same way and subject to the same conditions and limitations as contributions made to a pension scheme that is recognised for tax purposes in that first mentioned State, provided that the pension scheme is accepted by the competent authority of that State as generally corresponding to a pension scheme recognised as such for tax purposes by that State.

b) For the purposes of sub-paragraph a):

(i) the term "a pension scheme" means an arrangement in which the individual participates in order to secure retirement benefits payable in respect of the dependent personal services referred to in sub-paragraph a) ; and

(ii) a pension scheme is "recognised for tax purposes" in a State if the contributions to the scheme would qualify for tax relief in that State.

11. The provisions of Article 22 shall not apply to the gains derived by an individual from gambling.

12. The provisions of the Agreement shall in no case prevent France from applying the provisions of Article 212 of its tax code (code général des impôts), or any substantially similar provisions which may amend or replace the provisions of that Article.

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

Done at ....., this ....., day of ....., 20.., in duplicate, in the Georgia and French languages both texts being equally authoritative.

For the Government of the Georgia

For the Government of the Republic French