

## ARTICLE 21

### *Coordination of social security systems*

In order to provide freedom of movement of persons, the Member States shall make provision, in accordance with Appendix 2 of Annex K and with the Protocol to Annex K on the free movement of persons between Liechtenstein and Switzerland, for the coordination of social security systems with the aim in particular of:

- (a) securing equality of treatment;
- (b) determining the legislation applicable;
- (c) aggregating, for the purpose of acquiring and retaining the right to benefit and of calculating the amount of benefit, of all periods taken into consideration by the national legislation of the States concerned;
- (d) paying benefits to persons resident in the territories of the Member States;
- (e) fostering mutual administrative assistance and cooperation between authorities and institutions.

## ARTICLE 22

### *Mutual recognition of professional qualifications*

In order to make it easier for nationals of the Member States to take up and pursue activities as workers and self-employed persons, the Member States shall take the necessary measures, as contained in Appendix 3 to Annex K and in the Protocol to Annex K on the free movement of persons between Liechtenstein and Switzerland, concerning the mutual recognition of diplomas, certificates and other evidence of formal qualifications, and the coordination of the provisions laid down by law, regulation or administrative action in the Member States concerning the taking up and pursuit of activities by workers and self-employed persons.

## **CHAPTER IX: INVESTMENT**

### **Section I: Establishment**

## ARTICLE 23

### *Principles and scope*

1. Within the framework of, and subject to, the provisions of this Convention, there shall be no restrictions on the right of establishment of companies or firms, formed in accordance with the law of a Member State and having their registered office, central

administration or principal place of business in the territory of the Member States. This shall also apply to the setting up of agencies, branches or subsidiaries by companies or firms of any Member State established in the territory of any other Member State.

The right of establishment shall include the right to set up, acquire and manage undertakings, in particular companies or firms within the meaning of paragraph 2, under the conditions laid down for its own undertakings by the law of the Member State where such establishment is effected, subject to the provisions set out hereafter.

2. For the purposes of this Chapter:

- (a) “subsidiary” of a company shall mean a company which is effectively controlled by the first company;
- (b) “companies or firms” shall mean companies or firms constituted under civil or commercial law, including cooperative societies, and other legal persons governed by public or private law, save for those which are non-profit-making; in order to be considered as a company or firm of a Member State, the company or firm shall have a real and continuous link with the economy in that Member State.

3. Annexes L to O contain specific provisions and exemptions regarding the right of establishment. The Member States shall endeavour to eliminate gradually remaining discriminations, which they may maintain in accordance with Annexes L to O. The Member States agree to review the present provision, including its Annexes, within two years after the entry into force of the Agreement amending the Convention establishing the European Free Trade Association of 21 June 2001 with a view to reducing, and ultimately eliminating, the remaining restrictions.

4. From the date of entry into force of the Agreement amending the Convention establishing the European Free Trade Association of 21 June 2001, neither Member State shall adopt new, or more, discriminatory measures as regards the establishment and operation of companies or firms of another Member State, in comparison with the treatment accorded to its own companies or firms.

5. In sectors covered by an exemption as contained in Annexes L to O, each Member State shall accord to companies or firms of another Member State treatment no less favourable than that accorded to companies or firms of third parties other than the European Community. As regards any new agreements concluded between any Member State and the European Community, the Member States further undertake to extend to each other, on the basis of reciprocity, the benefits of such agreements, subject to a decision by the Council.

6. The right of establishment in the field of road, rail and air transport shall be governed by the provisions of Article 35 and Annexes P and Q, subject to the specific provisions and exemptions set out in Annexes L and M.

7. The right of establishment of natural persons shall be governed by the provisions of Article 20, Annexes K and the Protocol to Annex K on movement of persons between Liechtenstein and Switzerland.

## ARTICLE 24

### *National treatment*

1. Within the scope of application of this Chapter, and without prejudice to any special provisions contained herein:

- (a) Member States shall grant treatment no less favourable than that accorded to their own companies or firms;
- (b) each Member State may regulate the establishment and operation of companies or firms on its territory, in so far as these regulations do not discriminate against companies or firms of the other Member States in comparison to its own companies or firms.

2. The provisions of this Article do not preclude the application by a Member State of particular rules concerning the establishment and operation in its territory of branches and agencies of companies of another Member State not incorporated in the territory of the first Member State, which are justified by legal or technical differences between such branches and agencies as compared to branches and agencies of companies incorporated in its territory. The difference in treatment shall not go beyond what is strictly necessary as a result of such legal or technical differences.

## ARTICLE 25

### *Financial market regulation*

1. In respect of financial services, this Chapter does not prejudice the right of the Member States to adopt measures necessary for prudential grounds in order to ensure the protection of investors, depositors, policy holders, or persons to whom a fiduciary duty is owed, or to ensure the integrity and stability of the financial system. These measures shall not discriminate against companies or firms of the other Member States in comparison to its own companies or firms.

2. Nothing in this Chapter shall be construed to require a Member State to disclose information relating to the affairs and accounts of individual customers or any confidential or proprietary information in the possession of public entities.

## ARTICLE 26

### *Recognition*

1. A Member State may enter into an agreement or arrangement with a particular State providing for the recognition of standards, criteria for authorization, licensing or certification of service suppliers, in which case it shall offer adequate opportunity for

any other Member State to negotiate its accession to such an agreement or arrangement or to negotiate comparable ones with it.

2. Where a Member State accords recognition as provided for in paragraph 1 autonomously, it shall afford adequate opportunity for any other Member State to demonstrate that experience, licences or certifications obtained or requirements met in that other Member State's territory should be recognised.

3. A Member State shall not accord recognition in a manner which would constitute a means of discrimination between countries in the application of its standards or criteria for the authorisation, licensing or certification of service suppliers, or a disguised restriction to establishment in the services sector.

## ARTICLE 27

### *Exceptions*

1. The provisions of this Chapter shall not apply, so far as any given Member State is concerned, to activities which in that Member State are connected, even occasionally, with the exercise of official authority.

2. The provisions of this Chapter and measures taken in pursuance thereof shall not prejudice the applicability of provisions laid down by law, regulation or administrative action providing for special treatment for foreign companies or firms on grounds of public policy, public security, public health or the environment.

3. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between States where like conditions prevail, or a disguised restriction on trade in services, nothing in this Convention shall be construed to prevent the adoption or enforcement by any Member State of measures:

- (a) inconsistent with Article 24, provided that the difference in treatment is aimed at ensuring the equitable or effective<sup>4</sup> imposition or collection of

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<sup>4</sup> Measures that are aimed at ensuring the equitable or effective imposition or collection of direct taxes include measures taken by a Member under its taxation system which:

- (i) apply to non-resident service suppliers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable items sourced or located in the Member State's territory; or
- (ii) apply to non-residents in order to ensure the imposition or collection of taxes in the Member State's territory; or
- (iii) apply to non-residents or residents in order to prevent the avoidance or evasion of taxes, including compliance measures; or
- (iv) apply to consumers of services supplied in or from the territory of another Member State in order to ensure the imposition or collection of taxes of such consumers derived from sources in the Member State's territory; or
- (v) distinguish service suppliers subject to tax on worldwide taxable items from other service suppliers, in recognition of the difference in the nature of the tax base between them; or

direct taxes in respect of services or service suppliers of other Member States;

- (b) inconsistent with paragraph 5 of Article 23, provided that the difference in treatment is the result of an agreement on the avoidance of double taxation or provisions on the avoidance of double taxation in any other international agreement or arrangement by which the Member State is bound.

## **Section II: Capital movement**

### ARTICLE 28

1. Within the framework of this Chapter, there shall be no restrictions between the Member States on the movement of capital relating to the establishment in another Member State's territory of a company or firm of that Member State.
2. The movement of capital not relating to establishment between the Member States shall be ensured in accordance with the international agreements to which they are parties.
3. The Member States agree to review the present provision within two years after the entry into force of the Agreement amending the Convention establishing the European Free Trade Association of 21 June 2001 in order to broaden the scope of, and ultimately eliminate the remaining restrictions to, the movement of capital.

## **CHAPTER X: TRADE IN SERVICES**

### ARTICLE 29

#### *Principles and scope*

1. Within the framework of, and subject to, the provisions of this Convention, there shall be no restrictions on the right to supply services within the territory of the Member States in respect of natural persons, companies or firms of Member States who are established in a Member State other than that of the natural person, company or firm for whom the services are intended.
2. For the purposes of this Chapter, services shall be considered to be "services" within the meaning of this Convention where they are normally supplied for remuneration
  - (a) from the territory of one Member State into the territory of another Member State;

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- (vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Member State's tax base.

Tax terms or concepts in paragraph 3(a) of Article 27 and in this footnote are determined according to tax definitions and concepts, or equivalent or similar definitions and concepts, under the domestic law of the Member State taking the measure.