

# Act (2012:638) on tax treaties between Sweden and Mauritius

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## Contents

- [Transitional provisions](#)

**1 §** The agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital as Sweden and Mauritius signed December 1, 2011, together with the Protocol annexed thereto and forming part thereof, apply the law in this country.

The contents of the Agreement and the Protocol annexed to the Agreement is annexed to this Act.

**2 §** Agreement taxation rules apply only to the extent that they present a barrier to the charge in Sweden that would otherwise exist.

## Transitional provisions

2012:638

1. This Act comes into force on the day the Government.

2nd This Act shall apply in respect of

a) taxes withheld at source, for amounts paid or credited on 1 January of the year next following the date on which the Act comes into force or later, and

b) other taxes on income, and taxes on capital, to taxes chargeable for any tax year beginning January 1 of the year immediately following the date on which the Act comes into force.

third The Act repeals the Act (1992:1195) on the double taxation treaty between Sweden and Mauritius.

**The repealed Constitution shall still be applied in the case of**

- a) taxes withheld at source, for amounts paid or credited on or before 1 January of the year next following the date on which the Act comes into force, and
- b) other taxes on income, to taxes chargeable for any tax year beginning before January 1 of the year immediately following the date on which the Act comes into force.

**Annex**

**Convention between the Kingdom of Sweden and the Republic of Mauritius for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital**

The Government of the Kingdom of Sweden and the Government of the Republic of Mauritius, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

**Article 1**

Persons covered

1. This Convention shall apply to persons who are residents of one or both of the Contracting States. 2. In the case of an item of income derived by or through a person that is fiscally transparent under the laws of either Contracting State, such item shall be considered to be derived by a resident of a State to the extent that the item is treated for the purposes of the taxation law of such State as the income of a resident.

**Article 2**

Taxes covered

- 1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political 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, as well as taxes on capital appreciation.
- 3. The taxes to which this Convention shall apply are:
  - (a) In Mauritius: the income tax (hereinafter referred to as "Mauritius tax");
  - (b) in Sweden:
    - (I) the national income tax (state income tax);

- (ii) the withholding tax on dividends (kupongskatten);
- (Iii) the income tax on non-residents (the income tax on non-residents);
- (Iv) the income tax on non-resident artistes and athletes (the income tax on non-resident artists and others);
- (V) the municipal income tax (the municipal income tax); and
- (Vi) the net wealth tax (the State capital tax) (hereinafter referred to as "Swedish tax").

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the taxes referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

### Article 3

#### General definitions

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

(a) the term "Mauritius" means all the territories, including all the islands, which, in accordance with the laws of Mauritius, constitute the State of Mauritius and includes:

(i) the territorial sea of Mauritius; and (ii) any area outside the territorial sea of Mauritius which in accordance with international law has been or may hereafter be designated, under the laws of Mauritius relating to the Continental Shelf as an area within which the rights of Mauritius with respect to the sea, the sea bed and sub-soil and their natural resources may be exercised;

(b) the term "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas over which Sweden in accordance with international law exercises sovereign rights or jurisdiction;

(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 that is treated as a body corporate for tax purposes;

(e) the term "enterprise" applies to the carrying on of any business;

(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 of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(h) the term "national" means:

(i) any individual possessing the nationality or citizenship 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;

(i) the term "competent authority" means: (i) in Mauritius, the Minister to whom the responsibility for the subject of finance is assigned, his authorized representative or the authority which is designated as a competent authority for the purposes of this Convention;

(ii) in Sweden, the Minister of Finance, his authorized representative or the authority which is designated as a competent authority for the purposes of this Convention;

(j) the term "business" includes the performance of professional services and of other activities of an independent character.

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

#### **Article 4**

##### **Resident**

1. For the purposes of this Convention, 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, any governmental body or agency, political subdivision or local authority thereof. The term "resident of a Contracting State" 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 only 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 (centre of vital interests);

(b) if the State in which he has his centre 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 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, the competent authorities of the Contracting States shall endeavour to settle the question by mutual agreement.

## Article 5

### Permanent establishment

1. For the purposes of this Convention, 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 a construction, assembly or installation project or supervisory activities in connection therewith constitutes a permanent establishment only if it lasts for more than twelve 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) an installation project carried on by an enterprise of a Contracting State in the other Contracting State in connection with delivery of machinery or equipment by that enterprise;
  - (g) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (f), 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. 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, buildings, 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, boats 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.

## **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 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 business 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, 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 Convention, then the provisions of those Articles shall not be affected by the provisions of this Article. Article 8

#### Shipping and air transport

1. Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. For the purposes of this Article the expression "operation of ships or aircraft" by an enterprise, also includes:

(i) the charter or rental on a bare boat basis of ships and aircraft, and (ii) the rental of containers and related equipment;

if that charter or rental is incidental to the operation by the enterprise of ships or aircraft in international traffic.

3. With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS) the provisions of paragraph 1 shall apply only to such part of the profits as corresponds to the participation held in that consortium by SAS Sverige AB, the Swedish partner of SAS.

4. 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 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 Convention 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 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 15 per cent of the gross amount of the dividends. However, if the beneficial owner is a company (other than a partnership) which holds at least 10 per cent of the voting power of the company paying the dividends, the dividends shall be exempt from tax in the Contracting State of which the company paying the dividends is a resident.

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 "dividends" as used in this Article means income from shares or other rights, not being debtclaims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 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.

## **Article 11**

### **Interest**

1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. 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 Convention.

## **Article 12**

### **Royalties**

1. Royalties arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

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 and films or tapes for radio or television broadcasting, 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

4. 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 Convention.

### **Article 13**

#### **Capital gains**

1. 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, or from the alienation of shares in a company the assets of which consist principally of such property, may be taxed in that other State.

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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

3. Gains derived by a resident of a Contracting State 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 that State. With respect to gains derived by the air transport consortium Scandinavian Airlines System (SAS), the provisions of this paragraph shall apply only to such part of the gains as corresponds to the participation held in that consortium by SAS Sverige AB, the Swedish partner of SAS.

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.

5. Notwithstanding the provisions of paragraph 4, gains from the alienation of any property derived by an individual who has been a resident of a Contracting State and who has become a resident of the other Contracting State, may be taxed in the first-mentioned State if the alienation of the property occurs at any time during the ten years next following the date on which the individual has ceased to be a resident of the first-mentioned State.

#### **Article 14**

##### Income from employment

1. Subject to the provisions of Articles 15, 17 and 18, 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 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 by an enterprise of a Contracting State may be taxed in that State. Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

#### **Article 15**

##### Directors' fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as 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 16**

### Artistes and sportsmen

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State as an artiste, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, 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 artiste or a sportsman in his capacity as such accrues not to the artiste or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 14, be taxed in the Contracting State in which the activities of the artiste or sportsman are exercised.
3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities exercised in a Contracting State by an artiste or a sportsman if the visit to that State is wholly supported by public funds of the other Contracting State. In such case, the income shall be taxable only in the Contracting State in which the artiste or sportsman is a resident.

### Article 17

#### Pensions, annuities and similar payments

1. Pensions and other similar remuneration, disbursements under the Social Security legislation and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned Contracting State.
2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

### Article 18

#### Government service

- 1.(a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.  
(b) However, such 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:
  - (i) is a national of that State; or
  - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. The provisions of Articles 14, 15 and 16 shall apply to remuneration in respect of

services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

## **Article 19**

### **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 20**

### **Other income**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
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 recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

## **Article 21**

### **Capital**

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
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 ships and aircraft operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.  
With respect to capital owned by the air transport consortium Scandinavian Airlines System (SAS), the provisions of this paragraph shall apply only to such part of the capital as corresponds to the participation held in that consortium by SAS Sverige AB, the Swedish partner of SAS.
4. All other elements of capital of a resident of a Contracting State shall be taxable

only in that State.

5. If, pursuant to paragraph 4 of this Article, the right to tax capital held by an individual who is resident of a Contracting State, is vested only in that State, such capital may be taxed in the other Contracting State, where the net capital is not subject to a general tax on net capital according to the laws of the first-mentioned State.

## Article 22

### Elimination of double taxation

1. In the case of Mauritius, double taxation shall be eliminated as follows:

(a) Where a resident of Mauritius derives income from Sweden the amount of tax on that income payable in Sweden in accordance with the provisions of this Agreement may be credited against the Mauritius tax imposed on that resident.

(b) Where a company which is a resident of Sweden pays a dividend to a resident of Mauritius who controls, directly or indirectly, at least

5 per cent of the capital of the company paying the dividend, the credit shall take into account (in addition to any Swedish tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Swedish tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid.

Provided that any credit allowed under subparagraphs (a) and (b) shall not exceed the Mauritius tax (as computed before allowing any such credit), which is appropriate to the profits or income derived from sources within Sweden.

2. In the case of Sweden, double taxation shall be avoided as follows:

(a) Where a resident of Sweden derives income which under the laws of Mauritius and in accordance with the provisions of this Convention may be taxed in Mauritius, Sweden shall allow – subject to the provisions of the laws of Sweden concerning credit for foreign tax (as it may be amended from time to time without changing the general principle hereof) – as a deduction from the tax on such income, an amount equal to the Mauritius tax paid in respect of such income.

(b) Where a resident of Sweden derives income which, in accordance with the provisions of this Convention, shall be taxable only in Mauritius, Sweden may, when determining the graduated rate of Swedish tax, take into account the income which shall be taxable only in Mauritius.

(c) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, dividends paid by a company which is a resident of Mauritius to a company which is a resident of Sweden shall be exempt from Swedish tax according to the provisions of Swedish law governing the exemption of tax on dividends paid to Swedish companies by companies abroad. (d) Where a resident of Sweden owns capital which, in accordance with the provisions of this Convention, may be taxed in Mauritius, Sweden shall allow as a deduction from the tax on the capital of that resident an amount equal to the capital tax paid in Mauritius. Such deduction shall not, however, exceed that part of the Swedish capital

tax, as computed before the deduction is given, which is attributable to the capital which may be taxed in Mauritius.

### **Article 23**

#### Non-discrimination

1. 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 nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises 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 or 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 4 of Article 11, or paragraph 4 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, for the purpose of determining the taxable profits of such enterprise, be deductible 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 such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the firstmentioned 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 subject in the firstmentioned 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 provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

### **Article 24**

#### Mutual agreement procedure

1. 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

Convention, 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 23, to that of the Contracting State of which he is a national. 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 Convention.

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 Convention. 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 application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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.

## **Article 25**

### **Exchange of information**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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 referred to in paragraph 1, or the oversight of the above. 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.

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

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

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of 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).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

## **Article 26**

### **Limitations of benefits**

Notwithstanding any other provisions of this Convention, where

(a) a company that is a resident of a Contracting State derives its income primarily from other States

(i) from activities such as financial services or shipping; or

(ii) from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business primarily in other States; and (b) such income would bear a significantly lower tax under the laws of that State than income from similar activities carried out within that State or from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business in that State, as the case may be, any provisions of this Convention conferring an exemption or a reduction of tax shall not apply to the income of such company and to the dividends paid by such company.

## **Article 27**

### **Members of diplomatic missions and consular posts**

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

## **Article 28**

### **Entry into force**

1. Each of the Contracting States shall notify the other in writing of the completion of the procedures required by its law for the entry into force of this Convention.
2. The Convention shall enter into force on the thirtieth day after the receipt of the later of these notifications and shall thereupon have effect
  - (i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the date on which the Convention enters into force;
  - (ii) in respect of other taxes on income, and taxes on capital, on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the date on which the Convention enters into force.
3. The Convention between the Government of Sweden and the Government of Mauritius for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital gains signed on 23 April 1992 (the 1992 Convention) shall terminate upon the entry into force of this Convention. However, the provisions of the 1992 Convention shall remain effective until the provisions of this Convention, in accordance with the provisions of paragraph 2 of this Article, shall have effect.

## **Article 29**

### **Termination**

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year. In such case, the Convention shall cease to have effect

- (i) in respect of taxes withheld at source, for amounts paid or credited on or after the first day of January of the year next following the end of the six month period;
- (ii) in respect of other taxes on income, and taxes on capital, on taxes chargeable for any tax year beginning on or after the first day of January of the year next following the end of the six month period.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done at Paris, this 1st day of December 2011, in duplicate in the English language.

**For the Government of the Kingdom of Sweden**

**Gunnar Lund**

**For the Government of the Republic of Mauritius**

**Jacques Chasteau of Balyon**

**Protocol**

At the signing of the Convention between the Kingdom of Sweden and the Republic of Mauritius for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the Contracting States have agreed upon the following provisions, which shall form an integral part of the Convention:

With respect to Article 26, it is understood that (a) the provisions of that Article shall apply to the income of, and to the dividends paid by, a company

(i) entitled to the preferential treatment as regards credit for foreign tax under regulation 8(3) of the Mauritius Income Tax (Foreign Tax Credit) Regulations 1996, or (ii) referred to in section 73A of the Mauritius Income Tax Act 1995, or (iii) covered by any law substantially similar to the laws mentioned in (i) or (ii), enacted after the date of signature of this Convention; and

(b) the term "financial services" shall include banking, financing, insurance, assets management, custodian services, distribution of financial products, brokerage, pension scheme management, retirement benefits scheme management and treasury management.

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

Done at Paris, this 1st day of December 2011, in duplicate in the English language.

**For the Government of the Kingdom of Sweden**

**Gunnar Lund**

**For the Government of the Republic of Mauritius**

**Jacques Chasteau of Balyon**

(Translation)

**Agreement between the Kingdom of Sweden and the Republic of Mauritius for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital**

Government of Sweden and the Republic of Mauritius, desiring to conclude an Agreement for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows:

**Article 1**

Persons to whom this Agreement applies

1. This Agreement shall apply to persons who are residents of a Contracting State or of both Contracting States.

Second income derived by or through a person whose income under the laws of either Contracting State is subject to delägarbeskattning, shall be considered to be derived by a resident of a State to the extent that income, the taxation law of that State, be treated as income of a resident of the state in question.

## Article 2

Taxes covered by the Agreement

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

2nd With taxes on income and on capital all taxes imposed on total income or on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

3 . The taxes to which this Convention shall apply are:

a) in Mauritius: the income tax,  
(Hereinafter called "Mauritian tax"),

b) in Sweden:

1) the national income,

2) withholding tax,

3) the income tax on non-residents,

4) the income tax on non-resident artists and others,

5) the tax, and

6) the State capital tax, (hereinafter referred to as "Swedish tax").

4th The Agreement shall also apply to any identical or substantially similar taxes imposed after the date of signature of the Convention in addition to, or in place of, the taxes referred to in paragraph 3. Competent authorities of the Contracting States shall notify each other of any significant changes made to their respective taxation laws.

## Article 3

General Definitions

1. Unless the context otherwise requires, the purposes of this Agreement, the following terms as defined below:

a) "Mauritius" means all territory, infattande all islands, in accordance with the laws of Mauritius constitutes the State of Mauritius and includes:

1) Mauritius territorialvatten, och

- 2) any area outside Mauritius territorial waters in accordance with international law designated or later will be designated, under Mauritius laws on the Continental Shelf, as an area in which Mauritius may exercise rights with respect to the sea, seabed and subsoil and their natural resources,
- b) "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, means the territory of Sweden, the Swedish territorial sea and other maritime areas over which Sweden - in compliance with international law - has sovereignty or jurisdiction,
- c) the term "person" includes an individual, corporation and any other body,
- d) "company" means any body corporate or any entity which is treated as a legal person,
- e) the term "enterprise" applies to the carrying on of any business,
- f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean 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 of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State,
- h) the term "national" means:
- 1) any individual possessing the nationality of a Contracting State
  - 2) any legal person, partnership or other entity established under the laws in force in a Contracting State,
- in) "competent authority" means:
- 1) in Mauritius, the Mauritius Finance Minister in charge, his authorized representative or the authority which is designated as a competent authority for the purposes of this Agreement,
  - 2) in Sweden, the Minister of Finance, his authorized representative or the authority which is designated as a competent authority for the purposes of this Agreement,
- j) the term "business" includes the performance of professional and other independent activities.

2nd Where a Contracting State applies the Agreement at any time shall, unless the context otherwise requires, any term not defined therein shall have the meaning which it has at that time under the state's laws concerning the taxes to which the Convention applies, any meaning that under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### **Article 4**

##### **Resident**

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who under the law of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other similar nature, and also

includes that State, any governmental body or institutions, political subdivisions or local authorities. The term "resident of a Contracting State" 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.

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

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him. If he has a permanent home available 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) it can not be determined State in which he has his center of vital interests or if he is not in either State has a permanent home available to him, he is deemed to be a resident only of the State where he usually resides,
- c) if he has an habitual abode in both States or if he does not reside permanently in any of them, considered to be a resident only of the State in which he is a national,
- d) if he is a national of both States or if he is not a citizen of any of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

third Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities shall endeavor to settle the question by mutual agreement.

## **Article 5**

### **Permanent establishment**

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

2nd The term "permanent establishment" includes especially:

- a) a place of management,
- b) branch,
- c) an office,
- d) a factory,
- e) a workshop;
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

third A building site, a construction, assembly or installation project or activity which consists of monitoring in connection therewith constitutes a permanent establishment only if it lasts longer than twelve months.

4th Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall not include:

- a) the use of facilities solely for the storage, display or delivery of goods or merchandise belonging,

- b) the maintenance of a company belonging inventories purpose of storage, display or delivery,
- c) the maintenance of a company belonging to the inventory exclusively for purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purchase of goods or of collecting information, for the enterprise,
- e) the maintenance of a fixed place of business solely for the enterprise, any other activity of a preparatory or auxiliary character,
- f) an installation project and an enterprise of a Contracting State carries on in the other Contracting State if the project is carried out in conjunction with the company's delivery of machinery or equipment,
- g) the maintenance of a fixed place of business solely for any combination of activities mentioned in a) to f) above, provided that all the activities of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
- 5th If a person - other than an agent of an independent status to whom paragraph 6 applies - is acting for a company and of a Contracting State has, and habitually exercises an authority to conclude contracts in the name, is considered now - notwithstanding the provisions of paragraphs 1 and 2 - have a permanent establishment in that State in respect of any activities which the person undertakes for the enterprise. This does not apply, 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. Companies are considered 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 independent status, provided that such persons are acting in the ordinary course of business.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company resident in 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.

2nd The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property is located. The term includes accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property

apply, buildings, 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, boats and aircraft shall not be immovable property.

third The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or other use of real property.

4th The provisions of paragraphs 1 and 3 shall also apply to income from immovable property of an enterprise.

## **Article 7**

### **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 company carries on business as aforesaid, the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2nd An enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein assigned, unless the provisions of paragraph 3 to the contrary, in each Contracting State to that permanent establishment the profits which it can be assumed that the establishment would have acquired 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.

third In determining the permanent establishment shall be allowed as deductions expenses which are incurred for the permanent establishment, including costs for executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere.

4th Profits shall be attributed to a permanent establishment by reason of the goods purchase by that permanent establishment or merchandise for the enterprise.

5th For the purposes of the preceding paragraphs, the profits attributable to the permanent establishment by the same method year by year unless there is good and sufficient reason to the contrary.

6. Included in capital operating income which are dealt with separately in other Articles of this Convention, then the provisions of those articles of the regulations of this article.

## **Article 8**

### **Sea and air transport**

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2nd For the purposes of this Article, the term "operation of ships or aircraft" of a business:

1) the charter or rental of ships or aircraft on a bareboat basis, and

2) the rental of containers and related equipment,

provided that such charter or rental is incidental in relation to the company's use of ships or aircraft in international traffic.

third The provisions of paragraph 1 shall apply to income derived by the air transport consortium Scandinavian Airlines System (SAS), but only in respect of the portion of income that corresponds to the participation held in that consortium by SAS Sweden AB, the Swedish partner of SAS.

4th 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 or control of an enterprise of the other Contracting State, or takes part in this company's capital, 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, or takes part in both their capital, observed the following. Between the two enterprises in their commercial or financial relations made or imposed conditions, 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 that enterprise and taxed accordingly.

2nd Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State to tax in that other State and the profits so included are profits which would have accrued to the enterprises of the first-mentioned State if the conditions made between the enterprises had been those which would be made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of tax imposed on the income there. In determining such adjustment, due 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 resident in a Contracting State to a resident of the other Contracting State may

taxed in that other State. Second dividend may 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 15 per cent of the gross amount. Such dividends shall, however, be exempt from tax in the state where the company paying the dividends is a resident if the beneficial owner is a company (other than a partnership) holding at least 10 percent of the distributing company's voting rights. The provisions of this paragraph shall not affect the company's taxation of the profits out of which dividends are paid.

third The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights in a company under the laws of the State in which the distributing company is resident for tax purposes is treated in the same way as income from shares.

4th The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends is 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, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7.

5th Where a company which is a resident of a Contracting State derives income from the other Contracting State, that other State may not tax 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 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 income arising in that other State.

## Article 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 the individual is entitled to the interest.

2nd The term "interest" as used in this Article means income from any kind of claim, whether secured by mortgage on immovable property or not, and either carrying a right to participate in the debtor or not. In particular, income from securities issued by state and income from bonds or debentures, including premiums and prizes attaching

to such securities, bonds or debentures. Penalty charges for late payment is not considered as interest for the purposes of this article.

3rd 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, and the debt for which the interest is paid is effectively connected with the permanent establishment. In such case the provisions of Article 7.

4th Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, with respect to the claim for which it is paid, exceeds the amount which would have been agreed between the payer and the beneficial owner if such relationship existed, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess amount under the laws of each Contracting State, due to the other provisions of this Agreement.

## **Article 12**

### **Royalty**

1. Royalties arising in a Contracting State and paid to a person who is a resident of the other Contracting State shall be taxable only in that other State if the individual is entitled to royalties.

2nd The term "royalties" 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 and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. 3rd Paragraph 1 shall not apply if the beneficial owner of the royalties is 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, and the right or property in respect of which royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7.

4th Where by reason of a special relationship between the payer and the beneficial owner of the royalties, or between both of them and some other person, with respect 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 person entitled to royalties if such relationship existed, the provisions of this Article shall apply only to the last mentioned amount. In such case, the excess amount under the laws of each Contracting State, due to the other provisions of this Agreement.

## **Article 13**

## Capital gains

1. 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, or from the alienation of shares in a company whose assets consist principally of such property may be taxed in that other State.

2nd 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 may be taxed in that other State. The same applies to profits from the alienation of such a permanent establishment (alone or with the whole enterprise).

third Gains derived by a resident of a Contracting State 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 that State. The provisions of this paragraph apply to gains derived by the air transport consortium Scandinavian Airlines System (SAS), but only in respect of the portion of the gain equal to the share held in that consortium by SAS Sweden AB, the Swedish partner of SAS.

4th 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.

5th Gains from the alienation of an asset that is acquired by an individual who was resident in a Contracting State and received a resident of the other Contracting State may - notwithstanding the provisions of paragraph 4 - taxed in the first-mentioned State if the alienation of the property occurs at any time during the ten years immediately following the date on which the person ceased to be a resident of the first-mentioned State.

## Article 14

### Income from employment

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of employment, only in that State unless the employment is exercised in the other Contracting State. If services are rendered in that other State, such remuneration as is derived therefrom may be taxed there.

2nd Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of work in the other Contracting State, only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods 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 the employer who is not a resident of the other State or on behalf of, and

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

third Notwithstanding the preceding provisions of this Article, remuneration for work performed aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State. Where a resident of Sweden derives remuneration for work done aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

## **Article 15**

### **Directors' fees**

Directors' fees and other similar remuneration derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company resident in the other Contracting State may be taxed in that other State.

## **Article 16**

### **Artistes and sportsmen**

1. Notwithstanding the provisions of Articles 7 and 14, income derived by a resident of a Contracting State from his personal activities in the other Contracting State as an entertainer, such as theater, motion picture, radio or television artiste, or a musician, or capacity may be taxed in that other State.

2nd Where income in respect of staff activities Exercised by an artiste or a sportsman in his capacity As such accrues not to the artiste or sportsman himself but to another person, That income may, notwithstanding the provisions of Articles 7 and 14, be Taxed in the Contracting State In which the activities of the artiste or sportsman are Exercised.

third The provisions of Paragraphs 1 and 2 Shall not apply to income derived from activities Exercised in a Contracting State by an artiste or a sportsman if the visit to That State is Wholly supported by public funds of the other Contracting State. In Such cases, the income Shall be taxable only in the Contracting State in Which the artiste or sportsman is a resident.

## **Article 17**

### **Pensions, annuities and similar payments**

1. Pensions and other similar remuneration, disbursements under the Social Security legislation and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned Contracting State.

2. The term "annuity" means a stated sum payable periodically at stated times during

life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

## **Article 18**

### **Government service**

1.(a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such 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:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of Articles 14, 15 and 16 shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

## **Article 19**

### **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 20**

### **Other income**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

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 recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

## **Article 21**

### **Capital**

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
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 ships and aircraft operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.

With respect to capital owned by the air transport consortium Scandinavian Airlines System (SAS), the provisions of this paragraph shall apply only to such part of the capital as corresponds to the participation held in that consortium by SAS Sverige AB, the Swedish partner of SAS.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.
5. If, pursuant to paragraph 4 of this Article, the right to tax capital held by an individual who is resident of a Contracting State, is vested only in that State, such capital may be taxed in the other Contracting State, where the net capital is not subject to a general tax on net capital according to the laws of the first-mentioned State.

## **Article 22**

### **Elimination of double taxation**

1. In the case of Mauritius, double taxation shall be eliminated as follows:
  - (a) Where a resident of Mauritius derives income from Sweden the amount of tax on that income payable in Sweden in accordance with the provisions of this Agreement may be credited against the Mauritius tax imposed on that resident.
  - (b) Where a company which is a resident of Sweden pays a dividend to a resident of Mauritius who controls, directly or indirectly, at least 5 per cent of the capital of the company paying the dividend, the credit shall take into account (in addition to any Swedish tax for which credit may be allowed under the provisions of subparagraph (a) of this paragraph) the Swedish tax payable by the first-mentioned company in respect of the profits out of which such dividend is paid. Provided that any credit allowed under subparagraphs (a) and (b) shall not exceed the Mauritius tax (as computed before allowing any such credit), which is appropriate to the profits or income derived from sources within Sweden.
2. In the case of Sweden, double taxation shall be avoided as follows:
  - (a) Where a resident of Sweden derives income which under the laws of Mauritius and in accordance with the provisions of this Convention may be taxed in Mauritius,

Sweden shall allow – subject to the provisions of the laws of Sweden concerning credit for foreign tax (as it may be amended from time to time without changing the general principle hereof) – as a deduction from the tax on such income, an amount equal to the Mauritius tax paid in respect of such income.

(b) Where a resident of Sweden derives income which, in accordance with the provisions of this Convention, shall be taxable only in Mauritius, Sweden may, when determining the graduated rate of Swedish tax, take into account the income which shall be taxable only in Mauritius.

(c) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, dividends paid by a company which is a resident of Mauritius to a company which is a resident of Sweden shall be exempt from Swedish tax according to the provisions of Swedish law governing the exemption of tax on dividends paid to Swedish companies by companies abroad.

(d) Where a resident of Sweden owns capital which, in accordance with the provisions of this Convention, may be taxed in Mauritius, Sweden shall allow as a deduction from the tax on the capital of that resident an amount equal to the capital tax paid in Mauritius. Such deduction shall not, however, exceed that part of the Swedish capital tax, as computed before the deduction is given, which is attributable to the capital which may be taxed in Mauritius.

2. I fall då inkomst genom personlig verksamhet som artist eller sportutövare bedriver i denna egenskap inte tillfaller artisten eller sportutövaren själv utan annan person, får denna inkomst, utan hinder av bestämmelserna i artiklarna 7 och 14, beskattas i den avtalsslutande stat där artisten eller sportutövaren bedriver verksamheten.

3. Bestämmelserna i punkterna 1 och 2 tillämpas inte på inkomst, som en artist eller sportutövare förvärvar genom sin personliga verksamhet i en avtalsslutande stat, om artistens eller sportutövarens besök i denna stat i sin helhet finansieras av allmänna medel från den andra avtalsslutande staten. I sådant fall beskattas inkomsten endast i den avtalsslutande stat där artisten eller sportutövaren har hemvist.

## **Article 17**

### **Pensions, annuities and similar payments**

1. Pensions and other similar remuneration, disbursements under the social security legislation and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned Contracting State.

2nd The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time and paid on the basis of obligation to make the payments in return for adequate and full consideration in money or money's worth.

## **Article 18**

## Government service

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:

- 1) is a citizen of this State, or
- 2) is not a resident of that State solely for the work.

2nd The provisions of Articles 14, 15 and 16 shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or local authority.

## Article 19

### Students

A student or trainee 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 education or training shall not be taxed in that State for the amount he receives for his maintenance, education or practice, if such payments arise from sources outside that State.

## Article 20

### Other income

1. Income derived by a resident of a Contracting State not dealt with in the foregoing Articles of this Convention shall be taxable only in that State, regardless of where the income arises.

2nd The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in Article 6, paragraph 2, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7.

## Article 21

### Fortune

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State may be taxed in that other State. 2nd Wealth

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.

third Capital represented by ships and aircraft operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in that State.

The provisions of this paragraph shall apply in respect of assets owned by the air transport consortium Scandinavian Airlines System (SAS), but only in respect of part of the capital corresponding to the share held in that consortium by SAS Sweden AB, the Swedish partner of SAS.

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

5th If, in accordance with paragraph 4 of this Article, the right to tax capital owned by a resident of a Contracting State accrues only this State, this may wealth taxed in the other Contracting State if the assets are not subject to a general property tax The legislation of the first State.

## **Article 22**

### Elimination of double taxation

1. Regarding Mauritius will double avoided as follows:

a) Where a resident of Mauritius derives income from Sweden, it may tax the income which, in accordance with this Agreement levied in Sweden, offset against the tax that the person paid in Mauritius.

b) Where a company resident in Sweden pays dividends to a resident of Mauritius which controls, directly or indirectly, at least 5 percent of the distributing company's capital, shall upon settlement consideration (excluding that Swedish taxes for the settlement to be given under paragraph a) above) the Swedish tax it paid on the profits out of which dividends are paid.

Settlement Amount under items a) and b) above shall not exceed the Mauritian tax (as computed before the deduction) attributable to the income derived from Sweden.

2nd As to Sweden to avoid double taxation as follows:

a) Where a resident of Sweden derives income which under Mauritian law and in accordance with the provisions of this Agreement may be taxed in Mauritius, should Sweden - having regard to the provisions of Swedish legislation concerning credit for foreign tax (as amended or supplemented henceforth be get through to change without changing the general principle hereof) - from the Swedish tax on such income, an amount equal to the Mauritian tax paid on the income.

b) Where a resident of Sweden receives income which, in accordance with this Agreement shall be taxable only in Mauritius, Sweden may, in determining the rate of Swedish tax into account the income to be taxed only in Mauritius.

c) Notwithstanding the provisions of paragraph a) above, dividends paid by a company resident in Mauritius to a company resident in Sweden exempt from Swedish tax under the provisions of Swedish law on tax exemption for dividends paid to a Swedish company from companies abroad.

d) Where a resident of Sweden owns capital which, under the provisions of this Agreement may be taxed in Mauritius, Sweden is from the tax on the capital of that resident an amount equal to the capital tax paid in Mauritius. Such deduction shall not, however, exceed that part of the Swedish capital tax as computed before the deduction is given, which is attributable to the capital which may be taxed in Mauritius.

## **Article 23**

### Prohibition of discrimination

1. Nationals of a Contracting State shall not 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 nationals of that other State in the same circumstances are or may be subjected. Notwithstanding the provisions of Article 1 shall apply this provision also apply to persons who are not domiciled in a Contracting State or of both Contracting States.

2nd Taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, in that other State may not be less favorable than the taxation levied on enterprises 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 residents of their own state.

third Except where the provisions of Article 9, paragraph 1, Article 11, paragraph 4 of Article 12, paragraph 4, 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 in determining the taxable profits of such enterprise on the same basis as 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 deductible in determining the taxable capital of such an undertaking on the same terms as contracted to a resident of the first-mentioned State.

4th Enterprises of a Contracting State, the capital wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be 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.

5th Notwithstanding the provisions of Article 2, the provisions of this Article to taxes of every kind and description.

## **Article 24**

### **Mutual Agreement Procedure**

1. If a person believes that a Contracting State or both Contracting States made arrangements for him in result or will result in taxation not in accordance with the provisions of this Agreement, he may, without prejudice to his right to avail themselves of the remedies provided in these States' legal orders, present his case to the competent authority of the Contracting State of which he is a resident or, if the question is whether application of Article 23, paragraph 1, of the Contracting State of which he is a national. The case must be presented within three years from the time the person first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.

2nd If the competent authority finds the complaint justified and if it is not itself able to arrive at a satisfactory solution, the Authority shall endeavor to resolve by mutual agreement with the competent authority of the other Contracting State for the purpose of avoiding taxation not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws of the Contracting States.

third The competent authorities of the Contracting States shall by mutual agreement any difficulties or doubts arising as to the interpretation or application of the agreement. They may also consult together for the elimination of double taxation in cases not covered by this Agreement.

4th The competent authorities of the Contracting States may communicate directly with each other in order to reach an agreement in the sense of the preceding paragraphs.

## **Article 25**

### **Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant to the administration of the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

2nd Information received by a Contracting State received under paragraph 1 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) involved the assessment, collection or in power the taxes referred to in paragraph 1 or prosecution or appeal in respect of those taxes, or the oversight of the above. 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.

third The provisions of paragraphs 1 and 2 shall not impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that Contracting State or of the other Contracting State,
- b) to supply information which is not obtainable under the laws or in the normal administrative practice of that Contracting State or of the other Contracting State,
- c) leave 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).

4th Where a Contracting State requesting information under this Article, the other Contracting State shall use the resources of this State may use to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation in the preceding sentence is limited by the provisions of paragraph 3, but this does not permit a Contracting State to decline to supply information solely because the State has no domestic interest in such information.

5th The provisions of paragraph 3 does not permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, agent, representative or fiduciary capacity or because it relates to ownership interests in a person.

## **Article 26**

### **Limitation on benefits**

Notwithstanding the other provisions of this Agreement, if

a) a company resident in a Contracting State derives its revenue mainly from other states

- 1) from activities such as financial services or shipping, or
  - 2) by being ordination center or similar entity providing administrative and other support to a group of companies that conduct business primarily in other states, and
- b) such income is taxed significantly lower under the law of this State other than income from similar activities undertaken in this State or from being ordination center or similar entity providing administrative and other services to a

group of companies that conduct business in this State shall be

provisions of this Agreement which an exemption from or reduction of tax does not apply to the income of such company and to the dividends paid by such company.

## **Article 27**

### **Diplomatic agents and consular officers**

The provisions of this Agreement shall affect the fiscal privileges which, under international law or under the provisions of special agreements of members of diplomatic missions and consular posts.

## **Article 28**

### **Entry into force**

1. The Contracting States shall notify in writing each other when the actions taken by its law required that this Agreement enters into force.

2nd The Agreement shall enter into force on the thirtieth day following the later of these notifications have been received and will then apply

- 1) in respect of taxes withheld at source, for amounts paid or credited on 1 January of the year next following the date on which the Agreement enters into force or,
- 2) in respect of other taxes on income, and taxes on capital, to taxes charges for taxable years beginning January 1 of the year immediately following the date on which

Agreement enters into force. 3rd Agreement between

Government of Sweden and the Government of Mauritius to avoid double taxation and prevent fiscal evasion with respect to taxes on income and capital gains that were signed on 23 April 1992 (the 1992 Agreement) is repealed by the entry into force of this Agreement. The provisions of the 1992 Agreement shall continue to apply until the provisions of this Agreement, in accordance with the provisions of paragraph 2 of this article applies.

## **Article 29**

### **Cessation**

This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention in writing terminate this Agreement by giving notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to have effect

- 1) in respect of withholding tax on amounts paid or credited on 1 January of the year immediately following the expiry of the six month period,
- 2) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any tax year beginning January 1 of the year immediately following the end of six month period.

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

Done in Paris on 1 December 2011 in duplicate in the English language.

**For the Government of Sweden**

**Gunnar Lund**

**For the Republic of Mauritius Government**

**Jacques Chasteau of Balyon**

**Protocol**

At the signing of the Agreement between the Kingdom of Sweden and the Republic of Mauritius for the avoidance of double taxation and prevention of fiscal evasion with respect to taxes on income and on capital, the Contracting States agree to the following provisions, which shall be an integral part of the Agreement: With respect to Article 26 it is agreed a) the provisions of the said Article shall apply to income at and dividends, a company

1) is entitled to leniency in respect of the foreign tax credit under the provisions of paragraph 8 (3) of the Mauritius Income Tax (Foreign Tax Credit) Regulations 1996, or

2) avses and Sektion 73A and Mauritius Income Tax Act 1995 eller

3) subject to any law that is substantially similar to the laws mentioned in 1) or 2) above, which were established after the date of signature of this Agreement, and b) that the term "financial services" includes banking, finance and insurance , asset management, depository services, distribution of financial products, brokerage, management of pensions and retirement benefits and liquidity management.

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

Done in Paris on 1 December 2011 in duplicate in the English language.

**For the Government of Sweden**

**Gunnar Lund**

**For the Republic of Mauritius Government**

Jacques Chasteau of Balyon