

**PROTOCOL TO AMEND THE AGREEMENT
BETWEEN
THE REPUBLIC OF TURKEY
AND
THE GRAND DUCHY OF LUXEMBOURG
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 Republic of Turkey and the Government of the Grand Duchy of Luxembourg desiring to conclude a Protocol to amend the Agreement between the Republic of Turkey and the Grand Duchy of Luxembourg for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, signed at Ankara on 09 June 2003 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

ARTICLE 1

Article 26 (Exchange of Information) of the Agreement shall be deleted and replaced by the following:

**"ARTICLE 26
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 Agreement 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 Agreement. 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, 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 2

1. This Protocol shall be subjected to ratification in accordance with the applicable procedures in Luxembourg and Turkey. The Contracting States shall notify each other in writing, through diplomatic channels, when their respective applicable procedures have been satisfied.

2. The Protocol shall enter into force on the date of the latter of the notifications referred to in paragraph 1. The provisions of this Protocol shall have effect with regard to tax years beginning on or after 1 January of the calendar year next following the year of the entry into force of this Protocol.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Luxembourg this 30th day of September 2009, in the English language.

**FOR THE GOVERNMENT
OF THE REPUBLIC OF
TURKEY**

**FOR THE GOVERNMENT
OF THE GRAND DUCHY
OF LUXEMBOURG**

Mehmet ŞİMŞEK
Minister of Finance

Luc FRIEDEN
Minister of Finance

Excellency,

I have the honour to refer to the Agreement between the Grand Duchy of Luxembourg and the Republic of Turkey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, signed at Ankara on 9th June 2003 (the "Agreement") and to propose on behalf of the Government of the Grand Duchy of Luxembourg the following understandings:

1. It is understood that the competent authority of the requested State shall provide upon request by the competent authority of the requesting State information for the purposes referred to in paragraph 5 of Article 26.
2. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:
 - (a) the identity of the person under examination or investigation;
 - (b) a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;
 - (c) the tax purpose for which the information is sought;
 - (d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
 - (e) to the extent known, the name and address of any person believed to be in possession of the requested information;
 - (f) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

If the foregoing understandings meet with the approval of the Government of the Republic of Turkey, I have the further honour to propose that this Note and your affirmative Note in reply shall constitute an agreement between our Governments which shall become an integral part of the Agreement on the date of entry into force of the Protocol.

Accept, Your Excellency, the expression of my highest considerations.

Luc FRIEDEN

His Excellency
Mehmet ŞİMŞEK
Minister of Finance of
the Republic of Turkey

Excellency,

I have the honour to acknowledge the receipt of Your Excellency's Note of the 30th day of September, 2009 which reads as follows:

"I have the honour to refer to the Agreement between the Grand Duchy of Luxembourg and the Republic of Turkey for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to taxes on Income and on Capital, signed at Ankara on 9th June 2003 (the "Agreement") and to propose on behalf of the Government of the Grand Duchy of Luxembourg the following understandings:

1. It is understood that the competent authority of the requested State shall provide upon request by the competent authority of the requesting State information for the purposes referred to in paragraph 5 of Article 26.
2. The competent authority of the applicant State shall provide the following information to the competent authority of the requested State when making a request for information under the Agreement to demonstrate the foreseeable relevance of the information to the request:
 - (a) the identity of the person under examination or investigation;
 - (b) a statement of the information sought including its nature and the form in which the applicant State wishes to receive the information from the requested State;
 - (c) the tax purpose for which the information is sought;
 - (d) grounds for believing that the information requested is held in the requested State or is in the possession or control of a person within the jurisdiction of the requested State;
 - (e) to the extent known, the name and address of any person believed to be in possession of the requested information;
 - (f) a statement that the applicant State has pursued all means available in its own territory to obtain the information, except those that would give rise to disproportionate difficulties.

If the foregoing understandings meet with the approval of the Government of the Republic of Turkey, I have the further honour to propose that this Note and your affirmative Note in reply shall constitute an agreement between our Governments which shall become an integral part of the Agreement on the date of entry into force of the Protocol."

I have further the honour to accept the understandings contained in Your Excellency's Note, on behalf of the Government of the Republic of Turkey. Therefore Your Excellency's Note and this Note shall constitute an agreement between our Governments which shall become an integral part of the Agreement on the date of entry into force of the Protocol.

Accept, Your Excellency, the expression of my highest considerations.

Mehmet ŞİMŞEK
Minister of Finance of
the Republic of Turkey

His Excellency
Luc FRIEDEN
Minister of Finance of
the Grand Duchy of Luxembourg