

**No. 42518. Austria and Georgia**

AGREEMENT BETWEEN THE REPUBLIC OF AUSTRIA AND GEORGIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL. VIENNA, 11 APRIL 2005 [*United Nations, Treaty Series, vol. 2363, I-42518.*]

PROTOCOL BETWEEN THE REPUBLIC OF AUSTRIA AND GEORGIA AND ADDITIONAL PROTOCOL AMENDING THE AGREEMENT FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL SIGNED AT VIENNA ON 11 APRIL 2005 (WITH ANNEX). VIENNA, 4 JUNE 2012\*

**Entry into force:** 1 March 2013, in accordance with article 3

**Authentic texts:** English, Georgian and German

**Registration with the Secretariat of the United Nations:** Austria, 29 June 2018

\*No UNTS volume number has yet been determined for this record. The Text(s) reproduced below, if attached, are the authentic texts of the agreement /action attachment as submitted for registration and publication to the Secretariat. For ease of reference they were sequentially paginated. Translations, if attached, are not final and are provided for information only.

**N° 42518. Autriche et Géorgie**

ACCORD ENTRE LA RÉPUBLIQUE D'AUTRICHE ET LA GÉORGIE TENDANT À ÉVITER LA DOUBLE IMPOSITION EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LE CAPITAL. VIENNE, 11 AVRIL 2005 [*Nations Unies, Recueil des Traités, vol. 2363, I-42518.*]

PROTOCOLE ENTRE LA RÉPUBLIQUE D'AUTRICHE ET LA GÉORGIE ET PROTOCOLE ADDITIONNEL MODIFIANT L'ACCORD TENDANT À ÉVITER LES DOUBLES IMPOSITIONS EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LE CAPITAL SIGNÉ À VIENNE LE 11 AVRIL 2005 (AVEC ANNEXE). VIENNE, 4 JUIN 2012\*

**Entrée en vigueur :** 1<sup>er</sup> mars 2013, conformément à l'article 3

**Textes authentiques :** anglais, géorgien et allemand

**Enregistrement auprès du Secrétariat de l'Organisation des Nations Unies :** Autriche, 29 juin 2018

\*Aucun numéro de volume n'a encore été attribué à ce dossier. Les textes disponibles qui sont reproduits ci-dessous sont les textes originaux de l'accord ou de l'action tels que soumis pour enregistrement. Par souci de clarté, leurs pages ont été numérotées. Les traductions qui accompagnent ces textes ne sont pas définitives et sont fournies uniquement à titre d'information.

PROTOCOL

BETWEEN

THE REPUBLIC OF AUSTRIA

AND

GEORGIA

AND ADDITIONAL PROTOCOL

AMENDING THE AGREEMENT FOR THE AVOIDANCE OF DOUBLE TAXATION  
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL SIGNED AT VIENNA  
ON 11 APRIL 2005

The Republic of Austria and Georgia desiring to conclude a Protocol and an Additional Protocol amending the Agreement for the avoidance of double taxation with respect to taxes on income and on capital, signed at Vienna on 11 April 2005 (hereinafter referred to as "the Agreement"),

Have agreed as follows:

Article 1

Article 10 of the Agreement shall be replaced by the following:

“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) a) 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 10 per cent of the gross amount of the dividends.

b) If the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends, such dividends shall be taxable only in the Contracting State of which the beneficial owner of 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, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights, not being debt-claims, 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 of this Article 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 2

Article 26 of the Agreement shall be 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. Even in such cases the confidentiality of person-related data may be waived only insofar as this is

necessary to safeguard predominantly legitimate interests of another person or predominantly public interests. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

(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*) or to the fundamental rights granted by a State, in particular in the area of data protection.

(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.”