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**Memorandum of Understanding between the European Community, the Kingdom of Belgium, the Czech Republic, the Kingdom of Denmark, the Federal Republic of Germany, the Republic of Estonia, the Hellenic Republic, the Kingdom of Spain, the French Republic, Ireland, the Italian Republic, the Republic of Cyprus, the Republic of Latvia, the Republic of Lithuania, the Grand Duchy of Luxembourg, the Republic of Hungary, the Republic of Malta, the Kingdom of the Netherlands, the Republic of Austria, the Republic of Poland, the Portuguese Republic, the Republic of Slovenia, the Slovak Republic, the Republic of Finland, the Kingdom of Sweden, the United Kingdom of Great Britain and Northern Ireland and the Principality of Andorra**

**Done at Brussels on 15 November 2004**

**Entered into force on 15 November 2004**

Presented to Dáil Éireann by the Minister for Foreign Affairs

**MEMORANDUM OF UNDERSTANDING BETWEEN THE EUROPEAN COMMUNITY, THE KINGDOM OF BELGIUM, THE CZECH REPUBLIC, THE KINGDOM OF DENMARK, THE FEDERAL REPUBLIC OF GERMANY, THE REPUBLIC OF ESTONIA, THE HELLENIC REPUBLIC, THE KINGDOM OF SPAIN, THE FRENCH REPUBLIC, IRELAND, THE ITALIAN REPUBLIC, THE REPUBLIC OF CYPRUS, THE REPUBLIC OF LATVIA, THE REPUBLIC OF LITHUANIA, THE GRAND DUCHY OF LUXEMBOURG, THE REPUBLIC OF HUNGARY, THE REPUBLIC OF MALTA, THE KINGDOM OF THE NETHERLANDS, THE REPUBLIC OF AUSTRIA, THE REPUBLIC OF POLAND, THE PORTUGUESE REPUBLIC, THE REPUBLIC OF SLOVENIA, THE SLOVAK REPUBLIC, THE REPUBLIC OF FINLAND, THE KINGDOM OF SWEDEN, THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE PRINCIPALITY OF ANDORRA**

THE EUROPEAN COMMUNITY,  
THE KINGDOM OF BELGIUM,  
THE CZECH REPUBLIC,  
THE KINGDOM OF DENMARK,  
THE FEDERAL REPUBLIC OF GERMANY,  
THE REPUBLIC OF ESTONIA,  
THE HELLENIC REPUBLIC,  
THE KINGDOM OF SPAIN,  
THE FRENCH REPUBLIC,  
IRELAND,  
THE ITALIAN REPUBLIC,  
THE REPUBLIC OF CYPRUS,  
THE REPUBLIC OF LATVIA,  
THE REPUBLIC OF LITHUANIA,  
THE GRAND DUCHY OF LUXEMBOURG,  
THE REPUBLIC OF HUNGARY,  
THE REPUBLIC OF MALTA,  
THE KINGDOM OF THE NETHERLANDS,

THE REPUBLIC OF AUSTRIA,

THE REPUBLIC OF POLAND,

THE PORTUGUESE REPUBLIC,

THE REPUBLIC OF SLOVENIA,

THE SLOVAK REPUBLIC,

THE REPUBLIC OF FINLAND,

THE KINGDOM OF SWEDEN,

THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

And

THE PRINCIPALITY OF ANDORRA

**HAVE AGREED** as follows:

When an Agreement providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of income from interest payments (hereinafter referred to as the Directive) was concluded, the European Community, its Member States and the Principality of Andorra signed this Memorandum of Understanding supplementing this Agreement.

1. The signatories to this Memorandum of Understanding consider that the said Agreement between the European Community and the Principality of Andorra and this Memorandum of Understanding are an acceptable agreement protecting the legitimate interests of the Parties. Consequently, they shall apply in good faith the measures agreed and shall refrain from taking any unilateral action which might jeopardise this Agreement without reasonable cause. If a serious discrepancy is discovered between the scope of the Directive adopted on 3 June 2003 and that of the Agreement, in particular as concerns Articles 4 and 6 of the latter, the Contracting Parties shall consult each other forthwith in accordance with Article 13(4) of the Agreement to ensure that the equivalent nature of the measures provided for by the Agreement is safeguarded.

2. The European Community undertakes to enter into, within the transitional period provided for in the abovementioned Directive, discussions with other major financial centres to ensure that measures equivalent to those of the Directive are applied by these jurisdictions.

3. With a view to applying Article 12 of the said Agreement, the Principality of Andorra undertakes to introduce into its legislation during the first year of the application of the Agreement, the concept of the crime of tax fraud, consisting at least of the use of documents which are false, falsified, or recognised as being incorrect in

terms of their content, with intent to deceive the tax authorities in the field of taxation of savings income. The signatories to this Memorandum of Understanding note that this definition of tax fraud concerns only needs relating to the taxation of savings, within the framework of the Agreement, and is without prejudice to developments and/or decisions relating to tax fraud under other circumstances and in other forums.

4. The Principality of Andorra and each Member State of the European Community wishing to do so shall enter into bilateral negotiations to define the administrative procedure for the exchange of information.

5. The signatories to this Memorandum of Understanding solemnly declare that the signing of the Agreement on the taxation of savings, together with the opening of negotiations for a monetary agreement, constitute a significant step in the deepening of cooperation between the Principality and the European Union. In this context of deepening relations, in parallel with the bilateral negotiations provided under point 4, the Principality of Andorra and each Member State of the European Community shall enter into consultations with a view to defining a wider field of application for economic and fiscal cooperation. These consultations will take place in a spirit of cooperation that takes account of the efforts for alignment in the fiscal area achieved by the Principality of Andorra and solidified by the signature of this Agreement. In particular, these consultations might lead to the implementation:

- of bilateral programmes for economic cooperation in order to promote the integration of the Andorran economy into the European economy,
- of bilateral cooperation in the area of taxation aimed at examining the conditions in which withholding taxes levied by the Member States on receipts from the provision of services and financial products, might be eliminated or reduced.

Drawn up at Brussels, 15 November 2004 in duplicate in the Catalan, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Polish, Portuguese, Slovak, Slovenian, Spanish and Swedish languages, each of these languages being equally authentic.

The Maltese language version shall be authenticated by the signatories on the basis of an Exchange of Letters. It shall also be authentic, in the same way as for the languages referred to in the preceding paragraph.