

connexion

luxembourg amcham report



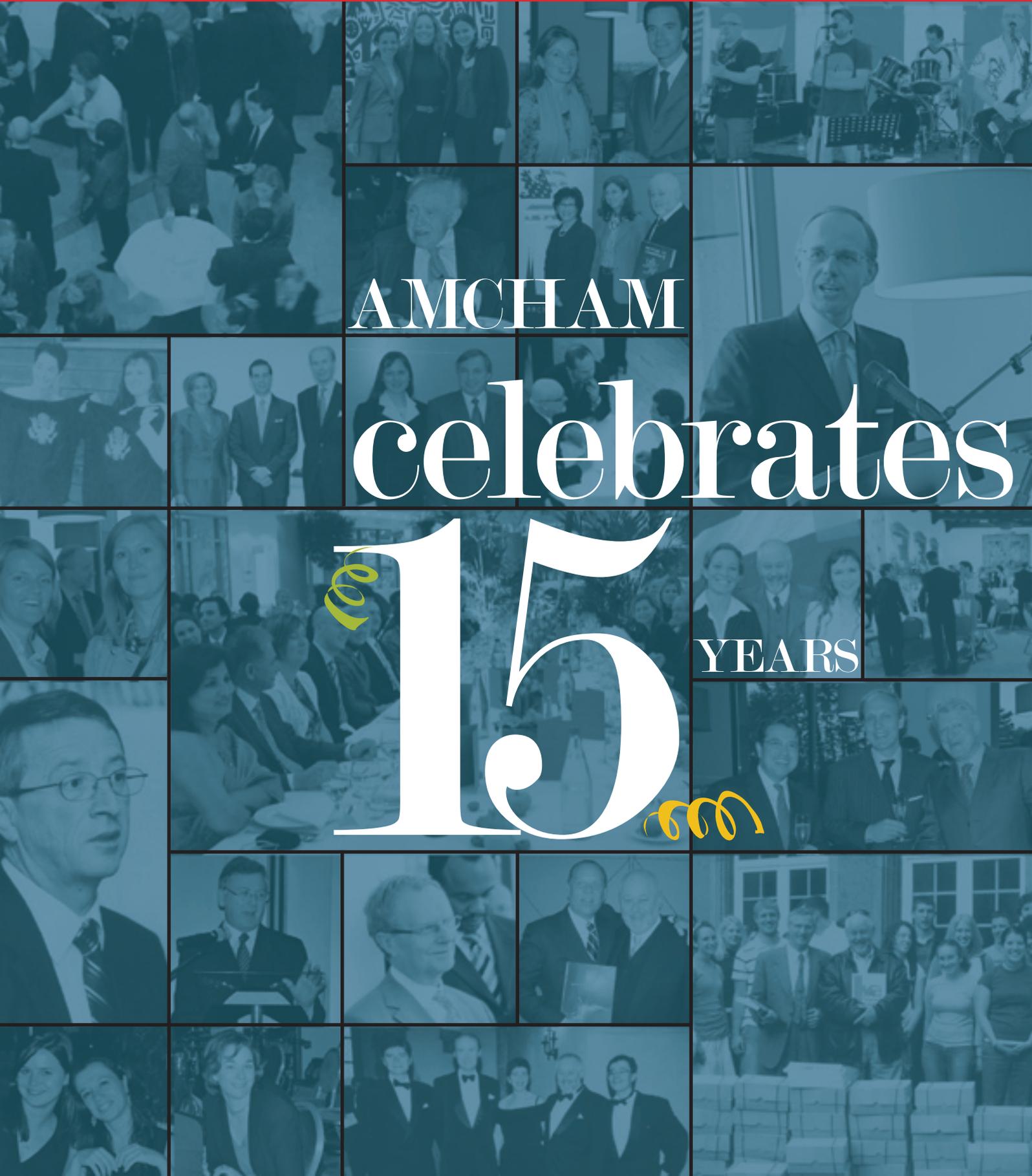
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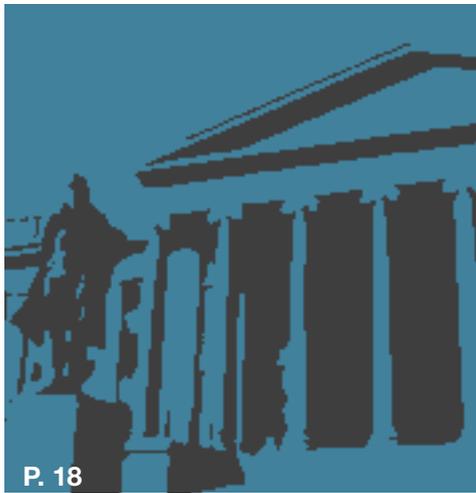


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A WORD From the Chairman



Dear Members and Friends,

Welcome to the Spring edition of *Connexion*, the AMCHAM news magazine!

With this issue, we start our year-long celebration of the 15th Anniversary of AMCHAM in Luxembourg. And what an exciting period this is for us!

Over these past fifteen years, we have grown to become an organization of almost 300 diverse member companies covering the full range of the Luxembourg economy from manufacturing to services, banking to tires, domestic companies and international firms, new companies and long established firms, small startups and the biggest players in Luxembourg.

What we all have in common is that we are working together to build a better and stronger Luxembourg, a great place to work and live.

AMCHAM started out as a group of eighty-five American companies working together to promote understanding and cooperation between the U.S. and Luxembourg and to encourage the growth and prosperity of the transatlantic alliance, the largest trading bloc in the world. But over the years, we have become much more...

Over this period of growth, we have worked hard to be able to provide (1) a full range of social and business events for our members and friends, (2) a wide range of information resources in English as needed by the expat community of companies, (3) networking activities both between our members themselves and with the government and broader local community and (4) lobbying to explain issues to the government and promoting solutions which address the needs of the expat business community and their families.

Our strategy has been to run a lean, low-cost organization which gives high value to our members. We are open and welcome to your feedback and ideas...tell us how we can better meet your needs and what else we can do for you.

I hope you will enjoy getting to know us better by reading about our past and future plans and by attending the many great events we have planned for this year. (See www.amcham.lu for further details.)

If you belong to an AMCHAM member company, thank you for your support! If you are not yet a member, think about joining us...anyone sharing our values is most welcome.

Sincerely,

A handwritten signature in black ink, which appears to read "Paul Michael Schonenberg". The signature is stylized and cursive.

Paul Michael Schonenberg
Chairman and CEO

AMCHAM Welcomes:



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AllGreen Group consists of two operating divisions with AllGreen International, founded in 1984, providing customs brokerage services, ocean and air freight transportation. Founded in 2009, AllGreen Supply Chain focuses on small parcel, less than truckload (LTL) and full truckload (FTL) contract management and invoice auditing services. The AllGreen family has established strategic partnerships with the largest transportation companies in the world to provide the specific solutions that our customers need, ranging from family owned businesses, non-profit organizations and Fortune 500 companies. We continue our legacy to be pioneers in the industry, continuing to develop new products and services to meet ever-changing landscape of logistics.



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Boto International is focused on the import, marketing and distribution of food, beverages and lifestyle items. The company holds and develops a portfolio of mostly American brands, many of which are icons of the American way of life. With its warehouse located in Contern, the company acts as both a wholesaler and retailer. Its retail flagship is Americana.lu, Luxembourg's first and only online shop for all things American. Boto International strives to establish itself as a reference when it comes to bringing American grocery and consumer goods to Luxembourg and its neighboring countries.



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European Data Hub (EDH) is Luxembourg's largest fully underground Tier IV data center and provides premium carrier-neutral data center facilities as well as advanced managed services. Together with its partner, one of the worldwide leading companies in data center operation and outsourcing business, EDH provides a large range of customized solutions ranging from white rooms, consultancy, room design and optimization, connectivity, monitoring services, hands-on equipment installation and supervision, network and telecommunication management and complete business process outsourcing. EDH works in a unique configuration where the entire operating staff, work and expertise are covered by its partner which has long-term experience in implementing and applying proven policies and procedures with a large range of certifications.



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Fiduciaire Socofisc is a small tax consulting company founded in 1995 and located in the Grand Duchy, near the German border. With a staff of eight people, Fiduciaire Socofisc is known for its excellence and flexibility. Fiduciaire Socofisc's activities include accounting, balance sheets, wages and salaries, tax consulting, financial consulting, statutory auditors, intrastate and tax returns; its clients are mainly SMEs in nearly every commercial domain.



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Happy Snacks started in 1968 as a restaurant company specializing in the franchise business. Over the years, Happy Snacks has had many franchises such as Wimpy (1968-1984), Mister Grill (1984-1992), Carvery (1984-1993), Quick Hamburger Restaurants (1984-2007) and other non-franchised restaurants such as Patin D'Or, Kofferpaan, Marmite, Rendez-Vous, Le Cellier, Monopol Cafeterias, the Pub on Top and Pub 13. Happy Snacks is still a franchisee for:

Pizza Hut: Three restaurants at Place d'Armes, Strassen and Beggen.
CHI-CHI'S Mexican Restaurante: Place d'Armes.

EXKI: Three restaurants at Grand-Rue (Luxembourg City), Rue Joseph Hackin (Luxembourg Kirchberg) and Rue Bourbon (Luxembourg Gare).

Happy Snacks has yearly sales of EUR 12 million.



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Maison Moderne

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Orco Property Group is a leading investor, developer and asset manager in the Central European real estate and luxury hospitality market, currently managing assets of EUR 2.2 billion. Operating in Central Europe since 1991, Orco Property Group is a public company based in Luxembourg and listed on the Euronext in Paris and on the Prague, Warsaw and Budapest Stock Exchange. Orco Property Group, which owns properties on prime locations in the main capital cities of Central and Eastern Europe, is one of the first office space providers. Orco Property Group manages some of the leading hotels of the world, from Moscow to Hvar (Croatia), Prague, Budapest and more. Orco Property Group is a sponsor of The Endurance Real Estate Fund, a Luxembourg-regulated fund, and is one of the first logistics and distribution leaders on the Russian market through Molcom.



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Rita Knott – Coaching Mentoring Consulting is an executive and business development corporation, constituted in Luxembourg in 2005. The Founder and Managing Partner, Rita Knott, a senior level executive in the Luxembourg Financial Sector for over twenty-five years, focuses on professional executive development through mentoring and coaching in various sectors. The company has been running international cross-mentoring programs and works in close cooperation with HR Services S.A. Luxembourg for executive and team coaching and with the NGO Maison du Coaching, Mentoring et Consulting in the field of corporate governance, entrepreneurship and gender diversity. Working languages are English, French, Luxembourgish and German.



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Sandstone S.A. is a Luxembourg-based corporate intelligence and security boutique founded in 2008. The three founding partners have diverse backgrounds in government intelligence, international security and finance. Sandstone offers due diligence, KYC, AML and CFT verification solutions, financial intelligence services, fraud investigations, litigation support and training using open source intelligence methods and tradecraft. The company plans and manages international projects, drawing on the support of a trusted network of sources and partners throughout the world. Sandstone is also a member of SCIP (Society of Competitive Intelligence Professionals), the Eurosint Forum and ALCO.

AMCHAM Welcomes:



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SPECIAL FEATURE



AMCHAM celebrates

15 YEARS



AMCHAM'S BEGINNINGS

AMCHAM Luxembourg was founded in 1996 with the support of H.E. former U.S. Ambassador to Luxembourg, Clay Constantinou.

"During the 1980s and 1990s, Luxembourg experienced rapid growth, especially in the financial services sector," said Ian Whitecourt, AMCHAM Executive Committee Vice Chairman and Associate at Fiduciaire Whitecourt-Kornerup. "It became apparent there was a need for an AMCHAM."

During its early years, AMCHAM grew to eighty-five American companies (out of an estimated 100 American companies in Luxembourg at that time) and focused primarily on developing and promoting transatlantic business bridges, with various missions to cities like San Francisco and New York in the U.S.

But after five years, members decided it was becoming more

important to focus on the local needs of the international, English-speaking community of Luxembourg; to lobby with the government on expat-related issues and to promote Luxembourg as the ideal place for European business operations.

"Since our members wanted AMCHAM to lobby with the government, we quickly realized that we needed to grow in size and change our structure to be taken seriously when we asked for an appointment with a Minister," said Paul Schonenberg, AMCHAM Chairman and CEO. "So we decided to reinvent ourselves and become an English-speaking, international Chamber of Commerce, open to all nationalities. We realized that all international companies in Luxembourg have the same problems as American ones, the same needs for networking and information and that they all likely use English as one of their principle business languages."





AMCHAM: A Look Back

A letter by Doug Southerland, AMCHAM Chairman at its founding and current Chairman at Regus

Periodic discussions about establishing an AMCHAM in Luxembourg preceded my arrival here in 1986. Certain issues could manifest enough concerns to offset any momentum towards creating an AMCHAM in Luxembourg, thus assuring things remained in the blissful, balanced state of inaction.

When Clay Constantinou arrived as the U.S. Ambassador with a personal mission to establish AMCHAM Luxembourg, this balanced state was irrevocably disrupted, resulting in a new path of least resistance—to simply get on with establishing AMCHAM. The Ambassador was a charming but persistent champion of his cause. Whenever things bogged down, there would be the irresistible invitation for the usual suspects to come around to the residence for a gathering, which would inevitably end (after a few digestives to lower resistance and some lively piano playing by Clay to enhance the mood) with commitments in place for the next steps.

During this early stage we looked forward to when the initial AMCHAM Chairman, the CEO of the Luxembourg operations of a U.S. group (who had “volunteered”), would be responsible to keep everything moving. However, he had to drop out at a late stage due to a reorganization of his group, and I found myself assuming the position of Chairman. Success has many fathers, and this was true for AMCHAM. Apologies for unintended oversights, but a few names come quickly to mind for recognition: Ian Whitecourt for everything, Guy Harles for legal, Gibb McNeil for daily operations, Bob Kneip for publicity, Ekke Stiller for ABAL and many others.

We also received considerable support from the Luxembourg Chamber of Commerce and the American Embassy Staff, whose enthusiasm was at least equal to that of their boss. Of course, the largest credit goes to the initial Charter Members, whose generous sponsorship, with both funds and the time of their personnel, made everything possible.

Michael Armstrong, CEO of Hughes Electronics (a company selling satellites) at the time of our launch, was interested in visiting Luxembourg, and we were able to secure him to speak for our launch event. Although Michael later faced difficulties at AT&T, he was at that moment basking in the full glory of extensive media coverage as one of the top CEO’s in America. Michael was an entertaining guest providing a definite American flavor to the launch evening—and we were off and running.

We had a few teething issues after the launch, but it was mainly good fun. We kept active, organizing committees and events around relevant matters, forming a mutually beneficial relationship with ABAL, engaging in promotional activities in the U.S. and seeking appropriate venues where it was useful to provide additional American input and support into the wonderful international community that is Luxembourg.

When we were able to engage Paul Schonenberg to take over as Chairman, AMCHAM had the right person to take things to the next level. I have been very impressed watching the positive evolution of every aspect of AMCHAM, reflecting the efforts of Paul, the AMCHAM staff and active members. Congratulations on fifteen years!

This change of approach has been very popular and provided the impetus for the sustained expansion of AMCHAM during the past ten years.

AMCHAM TODAY

AMCHAM’s accomplishments are many: it has empowered Special Purpose Committees (Tax, Human Resources, Financial Services, IT and more) which have the expertise to write research papers to lobby on issues affecting the English-speaking community on the subjects of tax issues, work permits and other business issues. AMCHAM also organizes approximately forty information and networking events per year, covering a full range of issues affecting its members. Some networking highlights have included the annual Fall Networking with H.E. Minister of the Economy and Foreign Trade, Jeannot Krecké; Spring Networking with H.E. Minister of Finance, Luc Frieden; Winter Networking with H.E. Minister

for Communications and the Media, François Biltgen; an annual Winter Networking event with H.E. Minister of Labor, Employment and Immigration, Nicolas Schmit; and an International Chambers Lunch with H.E. Prime Minister Jean-Claude Juncker.

AMCHAM has also helped enhance relationships within the Greater Region and develop a communication infrastructure through its news magazine and interactive Web site to provide timely and relevant business information to its members.

PUBLICATIONS

In 2001, the first edition of the *Working in Luxembourg (WIL)* book was published. Written by a team of twelve legal and human resources experts, this book was published as a public service to promote investment in the Grand Duchy and to help Luxembourg-based expatriate companies.



From 1996...

Clay Constantinou served as the U.S. Ambassador to Luxembourg from 1994-1999

I am delighted to offer my congratulations to the American Chamber of Commerce (AMCHAM) on its 15th Anniversary. Over the years, I have followed with a sense of personal pride the Chamber's remarkable growth and achievements under the outstanding leadership of Paul Schonenberg and his colleagues.

While preparing to assume my post in Luxembourg, I became aware of the exceptional business environment in the Grand Duchy. I also became aware that unlike many other European states, there was not an AMCHAM in Luxembourg.

I arrived in Luxembourg in the summer of 1994, the eve of the World War II 50th Anniversary commemorations. It was a great introduction as, over the course of just a few short weeks, I attended dozens of public events marking the end of World War II and the liberation of Luxembourg. This "baptism by fire" gave me the opportunity to become familiar with almost every constituency and facet of Luxembourg. Within a few months, I felt quite comfortable with the political landscape, the players and the business community. It was soon obvious that business and diplomacy had much in common.

Luxembourg's strong record of a friendly business environment and

supportive government helped attract some of the most noteworthy business labels from around the world and especially from the U.S. I was therefore surprised of the reluctance I sensed when I floated the idea of establishing an AMCHAM to the business leaders. Former U.S. President Bill Clinton had directed all his Ambassadors to actively support the business community, and I was convinced that AMCHAM would be an excellent vehicle to achieve that.

With the support of my economic counselor, Rob Faucher, we began to meet with key business leaders and were able to allay their concerns, pointing out that the Embassy's objective was to support the business community and, where appropriate, to partner on projects of mutual interest.

I was amazed how quickly we were able to move forward. With the leadership of so many, including Henri Werner, Ian Whitecourt, Jean Ries, Tom Seale, John Lulan, Guy Harles, Stefan Chorus and so many others, the Chamber was soon on solid ground. As time went on, the Chamber became a consistent source of support and a reliable partner.

I can say without reservation that my tenure in Luxembourg was enriched by my association and friendships with the members of AMCHAM—friendships that continue today.

"We realized that English-speaking expats and their companies were having difficulty finding out who they needed to see and what they needed to do in order to solve many of their day-to-day business problems," said Schonenberg. "CFOs, who were making investment decisions in other countries, needed detailed information in English to decide if Luxembourg was the right place for their investment as a European headquarters location, but this comprehensive information was simply not readily available. AMCHAM decided to write a book answering all these questions because we had the expertise to fill this gap and the motivation to promote Luxembourg as the ideal European business location."

Whitecourt agrees that the *WIL* project was a success. "Getting subject-matter experts together was unique and established further credibility for AMCHAM," he said. "We have talked to the best in Luxembourg for each particular topic."

The second edition of *WIL*, published in 2006 and offered in book and CD-ROM formats, had expanded and updated material. In February 2010, the third and current edition

was launched with the presence of H.E. Minister Krecké; H.E. former U.S. Ambassador to Luxembourg, Cynthia Stroum; and Lydia Mutsch, Mayor of Esch-sur-Alzette. In addition to being a valuable resource for companies in integrating employees into Luxembourg, *WIL* has also been particularly helpful for companies and governmental bodies going on trade missions to promote Luxembourg.

AMCHAM is honored that all three editions of *WIL* have been published under the patronage of the Grand Duke of Luxembourg.

In addition to the *WIL* book and CD-ROM, AMCHAM's book, *Playing her Part: Perle Mesta in Luxembourg*, was published in celebration of the U.S. Embassy's 50th Anniversary on November 7, 2001. This book, by Luxembourg author Paul Lesch, tells the story of the first American Minister to Luxembourg after World War II, who was known for her unique diplomatic style. AMCHAM also publishes a "Why Luxembourg?" presentation which has been translated into Chinese, Japanese, Russian and Turkish to further encourage business in Luxembourg.

...to 2011

Cynthia Stroum served as the U.S. Ambassador to Luxembourg from 2009-2011



Happy Fifteenth Anniversary, AMCHAM!

The American Chamber of Commerce in Luxembourg will always be near and dear to my heart as my first and primary connection to the vast community of American companies and international commercial partners of the United States of America in the Grand Duchy since my arrival as the U.S. Ambassador in December 2009.

*AMCHAM Luxembourg is truly an amazing story of growth and accomplishment in such a short lifespan—I so appreciated my introductory outing with CEO and Chairman Paul Schonenberg to help launch the third edition—already!—of the world-renowned *Working in Luxembourg* publication, the ultimate guide to doing business in the Grand Duchy, used not only in the private sector but also by the government of Luxembourg in its promotional endeavors abroad—the best compliment ever! I also have fond memories of addressing the American Business Association (ABAL), a dynamic core of AMCHAM members, and sharing my vision on key sectors of activity important to both U.S. and Luxembourg development—biomedical research, in particular cancer research, technology and e-commerce and the arts. And what a pleasure to host the beloved annual Welcome Back Reception at the Embassy Residence, bringing*

together key players of the AMCHAM community with Luxembourg government officials, notably the dynamic Minister of the Economy and Foreign Trade, Jeannot Krecké.

These most unique resources of AMCHAM, coupled with the myriad networking events held regularly on a wide range of subjects vital to American business and trade with Luxembourg—from tax policy and fiscal issues to intellectual property management to the future of broadcasting and electronic connectivity—have firmly established AMCHAM Luxembourg at the forefront of U.S.-Luxembourg bilateral business relations—all in a convivial spirit, always!

With much appreciation to the American Chamber of Commerce in Luxembourg for all the years of close and productive collaboration and my very best wishes for another successful fifteen years and more! Happy Birthday!



Finally, the first issue of *Connexion* was released in 1999. “As with our other publications, we have tried to do our part to fill the need for English speakers,” said Schonenberg. “We try to inform and promote the integration of the English-speaking community with the rest of Luxembourg society, and vice-versa.”

MEMBERSHIP AT A GLANCE

There are three types of membership available through AMCHAM—Chartered, Corporate and Small Business. As early as 2001, there were almost 100 member companies. Membership has increased to approximately 280 member organizations in 2010, with a 2011 goal to increase membership to 400 companies.

Although there are approximately 100 U.S. companies operating in Luxembourg, approximately seventy percent of AMCHAM’s membership is comprised of non-U.S. companies.

“We are very proud that AMCHAM has become a ‘melting pot’ organization with such a rich mix of nationalities all sharing



Congratulations from Two of AMCHAM's Longest Standing Members



Arendt & Medernach

It is not without a certain pride that Arendt & Medernach is looking back to its involvement with the American Chamber of Commerce in Luxembourg, right from the beginning in 1996. The first contacts were with former U.S. Ambassador Clay Constantinou and Ian Whitecourt, who were the driving forces in the launch of AMCHAM. Legal work was ours, and so we were led to draft the articles of association which were discussed at numerous meetings and eventually adopted. At incorporation, Guy Harles was elected as a member of the Executive Committee, serving as its first Secretary. Afterward, this task was continued by Arendt & Medernach partner François Kremer from 2001-2010, and since then by H eloise Bock. We have hence been proud to support and advise the Chamber from its inception on all legal aspects occurring over time, including the amendments of the articles of association in 2002, 2004 and 2008, where the corporate governance of the Chamber has been modernized.

Reinforcing links between the U.S. and Luxembourg was, and continues to be, an extremely important task, reinvigorating the friendship between the two nations, creating cultural ties and reinforcing economic interests on both sides of the Atlantic. AMCHAM was originally conceived as an instrument of friendship but also of mutual economic interest, a forum to bring issues of interest to business people and to lobby them with politicians in the U.S. and in Luxembourg. Over time, AMCHAM has developed and grown to become the premier chamber in Luxembourg to encompass all of the English-speaking community. All the members of the international community have found their place in the Chamber, in one way or in another. AMCHAM is active not only on a business, political and educational level but also on a more personal level, in

particular for the expat community, and this has helped Luxembourg to become a better place for everybody to live.

AMCHAM has now been in existence for fifteen years, but we are sure that this has only just been the beginning of an extraordinary venture.

DuPont de Nemours Luxembourg

When former U.S. Ambassador Clay Constantinou announced the creation of the Luxembourg AMCHAM in 1996, it was quite natural for DuPont to participate as a founding member. Transatlantic trade is important to our company and so is the exchange of technological and business know-how between Luxembourg and the U.S.

AMCHAM held its promise in enabling personal contacts and networking opportunities that now give a special note to our business community in Luxembourg. It is amazing to see the number of diverse enterprises that have meanwhile joined AMCHAM. The association has high visibility in public life and is a privileged speaker whenever the shared interests of its members are at stake.



common business objectives and values," said Schonenberg. "The diversity of our members—based on gender, age and national origin—is an enormous source of strength for us and makes our events both more intellectually stimulating and more interesting as well. We are all stronger because of this diversity."

CELEBRATING FIFTEEN YEARS

In 2011, AMCHAM enters into its fifteenth year with the belief that the organization has the right strategy and mix. Dedicated to serving the needs of the international English-speaking community of companies within Luxembourg, AMCHAM strives to meet the needs of its members with a full range of networking and information programs, research and lobbying on behalf of international company issues.

"We will celebrate our anniversary by dedicating 2011 to further strengthening our performance for our current members and bringing our services and message to a wider audience," said Schonenberg. "We are honored that Viviane Reding, Vice President of the European Commission, will join us in March

for a special event in honor and recognition of International Women's Day, and we are honored that Prime Minister Juncker has agreed to be our special guest for Thanksgiving in November of this year. We plan to launch four new committees: Diversity, Logistics, Corporate Social Responsibility and Marketing. We are very proud of what we have done and what we have become—but there is much more still to do, so we will try even harder to take AMCHAM to an even stronger and higher level."

If you are not a current AMCHAM member, join us! Visit www.amcham.lu or call (+352) 43 17 56 for more details.





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Comments on FATCA

This letter sets out the AMCHAM Tax Committee's initial view on the Foreign Account Tax Compliance (FATCA) legislation, recognizing that much of the detail is still to be worked out by the Department of the Treasury and the Internal Revenue Service (IRS).

By AMCHAM Tax Committee – Chairman Louis Thomas, KPMG

We would like to take the opportunity to provide you with our comments in connection with the HIRE Act, passed in March 2010, which contains the FATCA provisions.

First, we should stress that tackling tax evasion is and always has been a priority of the Luxembourg government. Luxembourg and the U.S. have enhanced their cooperation in tackling tax evasion, primarily through the Double Tax Treaty (which, as you may know, has been recently amended to incorporate the OECD tax treaty standard on exchange of information for tax purposes).

However, we have some concerns relating to the provisions of FATCA, particularly the proportionality of the measures relative to the expected benefit.

As we understand the legislation, FATCA will create significant burdens for Luxembourg businesses. Financial institutions will have to make costly adjustments to their systems and processes for identifying their customers. We are concerned that, unless carefully targeted, the cost to firms and their customers will by far outweigh the benefit to the IRS.

FUND INDUSTRY

Luxembourg is the largest fund domicile in Europe and a worldwide leader in cross-border distribution of funds. An administrable implementation of FATCA for the investment management industry is therefore crucial. The FATCA provisions have been thoroughly reviewed and debated by the Luxembourg investment management industry which has, as a result, expressed the following concerns (with the following list not being exhaustive):

- Under FATCA, Luxembourg funds will need to identify and report the identity of the U.S. investors. Since fund distribution channels are heavily intermediated, this task may prove to be extremely difficult and in most cases not workable at all. Indeed, unlike those in the U.S., Luxembourg funds are very often sold through various intermediaries (banks, insurance companies and other distributors) that act as nominees on behalf of investors. In such cases, funds are simply not in possession of the information relating to the investors. The use of multiple layers of intermediaries makes it even more difficult for funds to identify the ultimate investors.
- It is highly unlikely that exchange-traded funds, the investor base of which changes in a way similar to the shareholder base of a quoted company, will be able to track each and every ownership change of their shares. Given the extreme difficulty that this category of funds faces in identifying the investors, it is likely that exchange-traded funds will simply exit the U.S. market and restrict future investments in U.S. securities.
- Given the complexity and relative novelty of the FATCA provisions for the fund industry (it is the first time that investment funds are confronted with such an extended scope of obligations), it can reasonably be expected that costs associated with updating the IT systems (or implementing new systems) will be extremely high.

Continued on page 20.

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On this basis, we believe that funds whose units are not intended for distribution in the U.S. or to U.S. persons and for which subsequent transfers of units in or into the U.S. or to U.S. persons are prohibited should be considered as presenting a low risk of tax evasion for U.S. tax purposes and should therefore qualify as deemed compliant FFI.

We also kindly ask you to consider the comments submitted by the Association of the Luxembourg Fund Industry (ALFI) through the European Fund and Asset Management Association (EFAMA).

BANKING INDUSTRY

For the banking industry, already subject to the "qualified intermediary" regime (a similar but somewhat less burdensome U.S. withholding and tax reporting regime), the following issues are of importance:

- The provisions of FATCA require that in any case in which any foreign law would prevent the reporting of required information (in this instance, the fact that a particular account held at a Luxembourg bank is U.S.-owned), a bank must attempt to obtain a waiver. If a waiver is not obtained, FATCA requires the bank to close the account. Accordingly, in order to comply with the disclosure requirements under FATCA, a Luxembourg bank would be required to seek consent from all customers believed to have U.S.-owned accounts in order to report this fact to the IRS. If Luxembourg banks failed to obtain such consent, they would be required under FATCA to deny those customers account facilities (i.e., they would be required to close the accounts).

However, having accepted the customer's mandate on the basis of whatever information, undertakings or documentation was provided at the time, the bank has a fiduciary duty to hold the customer's deposit and provide banking facilities and services as set out in the contract between the parties. This leaves the Luxembourg banks in an impossible position to the extent that Luxembourg law will prevent them from complying with the requirements of FATCA (by denying them account facilities) unless they can obtain consent to disclose personal data. The corollary is that Luxembourg banks may have no alternative but to disinvest in U.S. securities and disassociate themselves from relevant counterparties.

- It is unfortunate that the documentation requirements for purposes of Chapter 4 of the U.S. Tax Code (i.e., FATCA) do not always comport with the current requirements for purposes of Chapter 3 (i.e., qualified intermediary) documentation. For example, where an account is documented with documentary evidence for purposes of Chapter 3 withholding and the account has a U.S. address, the Chapter 3 cure would require the withholding agent to obtain an additional piece of documentary evidence (that does not contain a U.S. address) and a reasonable explanation in writing supporting the account holder's non-U.S. status. In addition, where there is a U.S. birthplace on a non-U.S. passport, the withholding agent would obtain a copy of the account holder's Oath of Renunciation (which is the document issued by the U.S. State Department establishing that the individual has renounced his/her U.S. citizenship).

Under Chapter 4, the same withholding agent (that now has documentary evidence and a reasonable explanation from the account holder supporting his/her non-U.S. status)

must also go back to the account holder to obtain a Form W-8BEN. This seems to place an unreasonable burden on the foreign financial institution that already has obtained sufficient documentation to establish the individual as non-U.S. for purposes of Chapter 3 withholding.

- The treatment of any pass-through payments made to non-participating foreign financial institutions or recalcitrant account holders needs to be further clarified to ensure that U.S. withholding tax is not applied on non-U.S. source income payments.

We also kindly ask you to consider the comments submitted by the Luxembourg Bankers' Association (ABBL) through the European Banking Federation (EBF) and the Institute of International Bankers.

FINANCIAL SECTOR PROFESSIONALS

(PROFESSIONNELS DU SECTEUR FINANCIER - PSF)

The definition of PSF covers a broad range of investment professionals, such as investment advisers, brokers in financial instruments, wealth managers, professionals acting for their own account, market makers, underwriters of financial instruments, financial intermediation firms, registrar agents, professional custodians of financial instruments, etc. Most of these entities will qualify as foreign financial institutions under FATCA and will therefore be subject to the provisions of the new law. Specifically, they would be required to identify the account holders and to withhold tax.

Generally speaking, Luxembourg PSFs should be confronted to the same problems as Luxembourg banks, especially as concerns the conflicting obligations under Luxembourg law and FATCA. The additional difficulty for PSFs derives from the fact that they are generally limited in size and they might not have the technical capacity to conform to FATCA.

We would appreciate that the IRS details the options under which these entities could provide assurance that their products are not sold to U.S. persons and would therefore qualify as deemed compliant FFIs.

INSURANCE COMPANIES

Life insurance contracts (other than term life insurance contracts without cash value) sold in Luxembourg typically combine insurance protection with an investment component. As a result, according to Notice 2010-60, these contracts do pose a risk of U.S. tax evasion with respect to which the FATCA provisions were enacted. Insurance companies that market such products will qualify as foreign financial institutions under FATCA and will therefore be subject to the provisions of the new law.

The additional difficulty for insurance companies derives from the fact that they are generally limited in size and might not have the technical capacity to conform to FATCA. We would welcome a possibility for insurance companies to opt for a deemed compliant FFI status if they provide sufficient assurance that their products are not sold to U.S. persons.

We hope that these comments will be of assistance and will result in the implementation of FATCA in the best conditions possible for the financial industry.

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ICT for Blue in the CSR 2.0 Era

Pol Goetzinger, Partner at Sustain, recently spoke at an AMCHAM ComIT event. Here he discusses the impact of ICT in the era of Corporate Social Responsibility (CSR) 2.0.

Interview by Natalie Gerhardtstein

How has Luxembourg's carbon footprint changed over the past few years?

Luxembourg's carbon emissions were at approximately 24.4 metric tons a few years ago and have actually decreased to approximately 22. Although Luxembourg is ranked among the highest in terms of carbon emissions per capita, it has shown good trends compared to, for example, China or the U.S. Instruments and regulations to reduce these emissions have seemed to work relatively well.

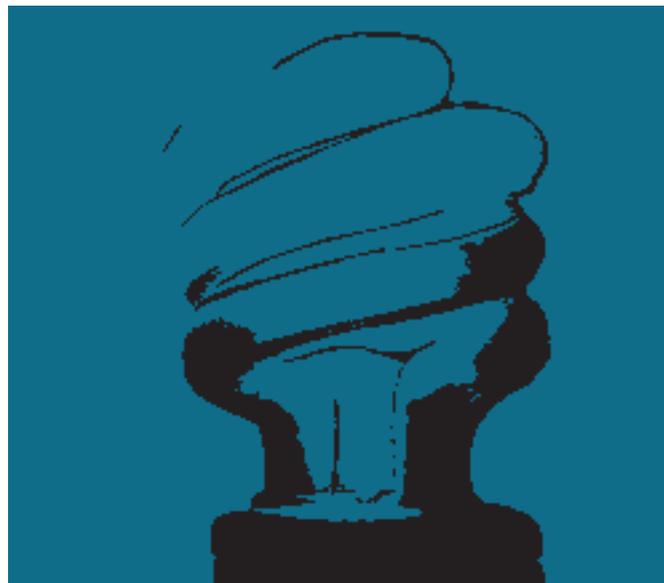
What are the main contributors to this footprint?

If you look at the ecological footprint with the carbon footprint integrated, more or less 20% of Luxembourg's footprint is an impact of commuters and 20% is an impact of fuel tourism. If you take those aspects out, the building sector is responsible for approximately 40% of total emissions.

ICT is actually a very small part of total emissions, accounting for approximately 2.5% to 4%, depending on the source. We no longer talk only about "green" (which focuses on only one of the three pillars of sustainability, the environment). Rather, we talk about "ICT for blue", which also addresses the social and economic pillars and takes the CSR 2.0 phenomena into account: this means a better design of products and processes along the entire value chain.

You've mentioned that we are entering the era of CSR 2.0. How are perceptions about CSR changing in Luxembourg?

More than 75% of entrepreneurs in Luxembourg are realizing not only that CSR is important, but applying it can also help them competitively. This is a change from mere awareness—many businesses want to implement CSR programs, but they don't know where to begin. Are we talking about climate change? Social inclusion? There are so many topics CSR can cover, but companies don't always have the right tools to address those topics in a holistic manner. The ISO 26000 framework and Global Reporting Initiative (GRI) have been very helpful with these issues and will be a big step in maturity for decision-makers and legislative efforts. Luxembourg will also have a second sustainability plan soon, which will further serve as a yardstick for companies in Luxembourg.



How have you personally seen perceptions change since the start of the Sustain platform?

In 2005 when we started, only the first movers had interest. Now there are three factors to move companies. First, new regulations will hit a variety of sectors. Second, people are starting to see the direct links between financial performance and CSR—there are often associated cost reductions and productivity improvements, for example. Finally, there is the immaterial capitalization in terms of brand image. Improving this image goes beyond merely reporting once per year—it means transparency and ethics in reporting on a regular basis, with the integration of stakeholders in the processes of companies. This pays off because there is a good possibility of retaining customers and growing market share.

EU Commissioner Viviane Reding has called on the ICT industry to reduce its carbon footprint by 20% as early as 2015, personally recommending this sector to pave the way for the rest of the economy. Is this feasible?

ICT can be an excellent driver for all sectors. Modern ICT routines and methodologies can help create different patterns of behaviors of users in buildings, ranging from less energy consumption through cloud phenomena to the possibilities of shutting down devices that are not in use. There's even the possibility of an automatic recognition system—once you enter a building, the program would start and conserve energy with devices that aren't in use.

We talk about a "3D perspective": demobilization, dematerialization and decarbonization. Demobilization refers to working differently and changing processes and patterns; dematerialization refers to digitalization, paperless offices and virtualization; and decarbonization can refer to having teleconferences as opposed to traveling, using smart grids and so on.

The critical concept is that if you want to succeed in CSR 2.0 or ICT for blue strategy, you need to have a holistic view.

THE POWER OF GRIDONOMICS™

Sandrine Perino, Business Development Manager of Utilities & Smart Grid at Cisco, spoke at a recent ComIT event about smart grids. Here, CISCO explains the concept of “Gridonomics™”.

There is a transformation taking place in the energy arena today that will result in a connected energy superstructure for the 21st century and beyond. The smart grid, a key foundation of this transformation, will depend on three intersecting components: policy, technology and economics. Cisco refers to this confluence as “Gridonomics™”.

POLICY

Policy makers globally recognize that a smart grid will improve the efficiency and sustainability of the electrical infrastructure, helping reduce carbon emissions as well as creating economic opportunity. Policymakers and key stakeholders need to educate customers on these benefits as well as the changes in behavior that must take place when implementing a thorough climate change policy. Government and industry must work together to make smart grid a reality for consumers.

TECHNOLOGY

While the smart grid is often associated with just ICT, it is the integration of both energy technology and ICT that actually results in a smarter grid. Key technology trends include distributed generation of energy from renewable sources, widespread deployment of various sensor technologies (including smart meters) across the electrical grid, inclusion of cyber and physical security solutions from the ground up and distributed intelligence to enable flexible grid automation and facilitate renewable energy integration. Additionally, we will see plug-in electric vehicles coming to the mass market over the next twelve months, creating even more demand for a smarter, more flexible grid. And all of these technologies will rely on a network architecture that uses robust data analytics to gather and utilize information about energy use, as well as

energy storage technologies to make sure the grid is as reliable as possible.

ECONOMIES

Globally, trillions of dollars will be invested over the next twenty years in the smart grid rollout, so current and future benefits need to be clearly communicated. The societal value of the smart grid refers to the importance of climate and energy independence as well as the economic value from increased reliability and customer benefits. This was recently estimated by McKinsey as USD 130 billion annually in the U.S. by 2019. The Climate Group also recently estimated that smart grid technology can enable reductions up to 2.03 GtCO₂e by 2020. This, along with the value to customers and the opportunities for utilities, are central to smart grid investments. As the electric system in most developed countries was largely built forty to fifty years ago, much of the core infrastructure needs replacement. New business models will now emerge on top of traditional ones, and new business opportunities will appear for utilities, existing competitive energy services providers and new entrants to create customer value.

CONCLUSION

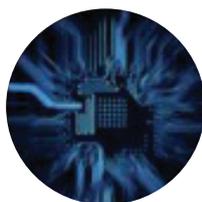
The development of the smart grid will likely take twenty years or more, with key milestones along the way. These “Gridonomics™” issues must be explicitly considered because reasonable cost and reliability of electric service are essential to the modern economy.

The net result of these activities will be the transformation of the electric grid and utility operations for a sustainable, reliable and stable twenty-first century energy infrastructure.

WHAT IS THE SMART GRID?

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deep situational awareness

CONTROLLABLE



Ability to carry out necessary
actions across the grid

AUTOMATED



Rapidly adapt to changing
conditions with minimal
human supervision

INTEGRATED



Connecting siloed utility
systems & processes—full
realization of business benefits

LAUGHING WITHOUT REASON:

An Interview with Paul Flasse



photo: AMCHAM

Marie-Brigitte Bissen (ECA/EMCC), Paul Flasse (TQ16)

Paul Flasse, Laughter Facilitator at TroisQuatorze16 (TQ16), recently led The Benefits of Laughter Workshop, co-organized by the European Mentoring & Coaching Council (ECA/EMCC Luxembourg) and AMCHAM. Approximately eighty people attended the event and "laughed without reason".

Interview by Natalie Gerhardstein

How did your career path lead you to laughter yoga?

I started out studying statistics and mathematics, as I really liked numbers. After working in the economic sector for over fifteen years, I realized the field was interesting but not the right goal for my life. My wife was studying psychology at the time, researching the burnout principle. In her research, she found laughter was important. We ended up getting in touch with the Dr. Kataria School of Laughter in Belgium. I clicked instantly with the school and its principles—one year after training to become a Laughter Facilitator, I went on to become a Trainer. I already had my company (TQ16) and was doing things with well-being at work, so laughter coincided with our objectives

Please briefly explain the concept of laughter yoga.

Our brain doesn't make any difference between a real and forced laugh—for the brain, it's the same business of producing endorphin, our body's natural morphine. If you laugh without reason, endorphin is created: you allow your body to let go and find your "child laugh"—your real laugh.

After a short warm-up, participants do breathing exercises, laughing exercises, a laugh meditation and finally a relaxation.

What are some general health benefits created by laughing?

Laughing together and without reason brings improved quality to any relationship when we laugh with—not at—each other. Furthermore, laughter reduces anxiety, fights stress, balances blood pressure and reduces cardiovascular risk. It helps to reinforce your immune system, improve your sleep and put your problems into perspective.

How specifically can laughter help improve one's working life? Are there any particular laughter exercises that are ideal for the workplace?

I always say that if meetings began all over the world with "Hi, hi, hi!" and "Ha, ha, ha!", the world would be a very different place.

Laughter is a way of life—for example, if I were stuck in a traffic

jam on the way from work, I could decide to laugh or not. And I decide to laugh! I laugh first to myself and then to the drivers in the cars around me—a laugh to the car to the left, another to the car to the right. Sometimes a driver will see me and laugh right back—not fully sure why he or she is laughing! Laughter is not always easy to do, but it's a way of feeling that I try to implement in my daily life.

You use a lot of visualization in your workshop, such as the concept of "laughing in centimeters". What effect have you found this to have?

With all the exercises we do, the idea is to get back to a childhood state. This visualization helps meet two objectives: one, to do the actual exercise; two, to find this state again.

What is your favorite aspect of leading laughter yoga sessions?

When I see people get a real laugh at the end of the session—for me, that's a wonderful moment.

I was once working with a seventy-year-old man whose laugh had disappeared. It took seven months for him to find his real laugh again. That was a very emotional experience for us—and quite an exceptional example.

In a classical laughter session, when I see people laughing for real and when several hundreds of people are relaxed by my voice and music, it's wonderful. It's the positive end to everything I do.

Is laughter contagious?

Absolutely! That's why we always ask for at least ten to twelve people per session. With a very big group, like the one we had with AMCHAM, everyone was enthusiastic about laughing and so the energy was very positive! The day after, I led another workshop and the energy was completely different because it had been a surprise session. Sometimes it just takes more time for others to let go!

For more photos from the event, see page 31.

Luxembourg: Your European Hub for Online Business and E-Commerce

At last season's final AMCHAM ABAL luncheon, guest speaker Micaël Weber from P&T Luxembourg spoke about the role Luxembourg plays in online business and e-commerce.

By Natalie Gerhardstein

Ebay, Skype, Rakuten, iTunes and Amazon are just some examples of e-commerce companies that have set up in Luxembourg. At a recent AMCHAM ABAL, Micaël Weber, International Sales Manager at P&T Luxembourg, explained the difference between e-commerce and online business, clarifying that although both activities occur online and include B2C transactions, online business goes a step further than just selling goods by providing key after-sale, value-added services.

Weber then posed two key questions about such e-commerce companies setting up business in the Grand Duchy. First, why have these companies decided to set up their activities in Luxembourg? Second, what can be done to make Luxembourg more attractive to other companies?

"The first thing companies tell us is that they want a fast decision track and rate reactivity," Weber explained. "Furthermore, these companies want a good telecom infrastructure and data centers with short Internet routes to main business centers in Europe—in places like London, Paris and Frankfurt."

In addition, the favorable tax environment and stable political

environment Luxembourg offers make it an ideal place to set up business in Europe. "The government has received feedback from e-commerce companies," Weber added, "and Luxembourg has invested quite a lot to further develop its telecom and hosting infrastructure."

P&T has served as the "telecom glue" of Luxembourg, according to Weber. P&T Luxembourg has already developed a lot for startups, such as hosting email servers, providing international audioconferencing services and outsourcing PBX.

However, Weber sees the potential to attract more business, particularly from the U.S., China and Israel. In the case of the U.S., for example, the market is quite saturated at the moment and Luxembourg could be an attractive place for companies to set up business in Europe. Israel also has one of the largest number of startups—companies which could see the Grand Duchy as an ideal place to develop their European activities.

Looking forward, P&T Luxembourg now has eight people working in its international division. Weber stated that Luxembourg should continue encouraging collaboration among key IT companies, tax advisers, governmental institutions and more.



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UCITS IV: Opportunities & Challenges Ahead

On July 13, 2009, the UCITS IV Directive (coming into effect on July 1, 2011) was adopted. Implementing Level 2 Directives and Regulations (adopted on July 1, 2010 and effective July 1, 2011), as well as two CESR guidelines on the Key Investor Information Document (KIID), have supplemented the European legal framework.

By Josiane Schroeder and Hermann Beythan, Linklaters LLP, Luxembourg

UCITS IV will innovate in six key areas, namely by:

1. introducing a simplified, regulator-to-regulator notification procedure for new registrations and new sub-fund launches;
2. enhancing regulatory cooperation;
3. introducing a true management company passport albeit obliging management companies (and self-managed Sicavs) to upgrade their existing substance;
4. harmonizing fund merger procedures, thereby facilitating cross-border fund consolidation;
5. permitting more efficient asset pooling by allowing the set up of UCITS master/feeder structures; and, the subject of this article,
6. replacing the existing simplified prospectus by the KIID.

On December 17, 2010, Luxembourg implemented the UCITS IV Directive into national legislation, confirming its UCITS pioneer and leadership position.

In addition to implementing UCITS IV into national law, Luxembourg has enhanced the legal framework for investment funds generally by a number of efficiency measures including:

1. authorizing cross-investments between sub-funds of the same umbrella fund;
2. exempting Sicavs from certain corporate law provisions, notably from having to send financial reports to their investors prior to the annual meeting and from having to translate English language articles of incorporation into French or German;
3. exempting ETFs and multi-employer pension funds from the subscription tax (*taxe d'abonnement*), microfinance funds having been exempted earlier in 2010;
4. exempting foreign investors (including feeder funds) from Luxembourg capital gains tax; and

5. confirming that foreign funds managed by a Luxembourg management company or having their central administration in Luxembourg are not considered themselves to be taxable in Luxembourg.

THE KIID: MAKING A LONG STORY SHORT

Following initiatives of consumer testing, it was found that the simplified prospectus, although well-intentioned at the beginning, did not match expectations of a simple, easy-to-understand document permitting a (retail) investor to understand the product that was offered.

Different layouts and information content further made it impossible for investors to compare different products, sometimes within the same umbrella structure, but certainly among different promoters. Many of the simplified prospectuses are a simple copy/paste of the full prospectus and are not substantially shorter than the full prospectus.

Copying and pasting, of course, minimizes the risk of inconsistencies between full and simplified prospectuses and is a quick and easy exercise. As Blaise Pascal once said, "I did not have the time to write a short letter, so I wrote a long one instead."

These times are over.

KIIDs will replace simplified prospectuses as of July 1, 2011 (or, if so permitted by a UCITS home member state, as of July 1, 2012), and must:

1. be fair, clear and not misleading or inconsistent with the prospectus;
2. contain key information, in plain language, allowing investors to make an informed investment decision;
3. be limited to a size of two A4 pages (three for structured UCITS), with the understanding that the document remains readable. (If you thought about using a size 6 font, forget about it.)

TWO TOPICAL CHALLENGES: CONTENT AND MANAGEMENT

Prescribed Content

The content of the KIID is prescribed by a regulation in order to avoid leaving member states implementing flexibilities and to harmonize the content as much as possible.

The different chapters must be implemented in the order dictated by the regulation and must only contain the information allowed by it. Mandatory statements contained in the regulation must be copied text without any alteration. No doubt, this has some advantages and is useful for the translation exercise, given the regulation is published in all official EU languages.

Inside of the prescribed wording, practitioners must use plain language (i.e., understandable by the layman), avoid any jargon and the use of words that may have a different meaning in everyday life (such as “liquidity”, “equity”, etc.) in describing notably the investment policy and the risks attached to the product. Given the sometimes complex investment policies and the pages of risks in the full prospectuses, this is considered the biggest challenge and, absent a “European” glossary of terms or further practical guidance, leaves practitioners alone to face it.

Fund managers and legal and compliance teams will be forced to rethink their products to be able to describe them and their risks in a plain manner.

Management

It is true that the sheer number of KIIDs that must be prepared is impressive: one per share class, translation into the various languages and at least one update a year.

Contrary to what many people believe, however, the KIID is not a document that you work on once a year in time for the mandatory annual update. The KIID needs constant review and monitoring, notably the synthetic risk reward indicator (SRRI) needs to be calculated on an ongoing basis. In a nutshell, KIID revisions are necessary in case of a voluntary change to the fund product (e.g., change of investment policy, change of benchmark, etc.), but also in case of involuntary changes (changes to the SRRI number, material variations of ongoing charges figure and so on).

Fund practitioners should make sure to have available resources for the KIID management process, ensuring that an updated KIID is available at all times on the fund’s Web site.

IN CONCLUSION

As you have noticed, a two-page article is not able to attempt tackling the issues concerning a two-page A4 document. Start preparing for the KIID now, and view this as an opportunity to make your investors’ lives easier and to think about your products with a new eye. We are sure the KIID will be beneficial to everyone, including manufacturers and consumers, in the long run.



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Intended Increased Shareholders' Rights in Listed Companies

By Marie-Béatrice Noble and Stéphanie Antoine, Noble & Scheidecker (MNKS)

On April 22, 2010, Parliamentary Bill No. 6128 (the "Bill") was presented to the Luxembourg Parliament in order to implement the provisions of Directive 2007/36/EC on the exercise of certain rights of shareholders in listed companies (the "Directive").

The Luxembourg Council of State (Conseil d'Etat) and Chamber of Commerce issued their comments on the Bill in November 2010 (the "Additional Comments"), bringing an opportunity to highlight the main provisions of the Bill below.

Further to the communication of the European Commission to the Council and the EU Parliament called "Modernizing company law and enhancing corporate governance in the EU", the Directive was enacted to introduce minimum standards with a view to protecting investors, improving the flexibility and efficiency of the rights of shareholders residing worldwide and ensuring effective control of listed companies by their shareholders (e.g., through the use of the new technologies and the facilitation of cross-border voting).

The provisions of the Bill only apply to Luxembourg companies listed on an EU-regulated market as defined by the EU directive 2004/39/CE (some exceptions are provided, e.g., undertakings for collective investment in transferable securities [UCITS]).

These provisions should not be integrated into current Luxembourg company law ("1915 Law"), but constitute a separate law. The 1915 Law shall continue to apply when a matter not regulated by the Bill arises (this approach may raise some difficulties of interpretation in practice).

1. INFORMATION PRIOR TO THE GENERAL MEETING

The convening notice should be published in a form of media which can effectively disseminate information to the public throughout the European Economic Area, as well as in the traditional form of media currently required (i.e., the Luxembourg official gazette [*Le Mémorial*] and a Luxembourg newspaper, as stated by the comments to the Bill).

Regarding registered shareholders, the notice period in which the company should send the convening notice to a general meeting (GM) (at least twenty-four days in advance of the GM or seventeen days for a reconvened GM with the same agenda) is greater than that provided under the 1915 law. Interestingly, in the Additional Comments the Council of State and the Chamber of Commerce are of differing opinions regarding the notice period; this is therefore a point to follow carefully going forward. The notice may be sent by another means of communication rather than by mail if registered shareholders have previously agreed to this (e.g., electronically).

Information and documentation regarding the GM should be published on the company's website twenty-four days in advance (e.g., draft resolutions).

2. RIGHTS RELATING TO THE AGENDA OF THE GENERAL MEETING

Shareholders (acting alone or collectively) having a minimum

of a 5% shareholding in the share capital of the company may add items to the agenda or table draft resolutions. The Chamber of Commerce recommends in particular that (i) the 5% threshold be decreased and (ii) some clarifications regarding the process of the exercise of these rights be provided.

To note, the rules relating to the possibility of convening a GM with a 10% shareholding under the 1915 law should remain applicable.

In addition, each shareholder should have the right to ask questions relating to the agenda during a GM and, if provided for by the Articles, they may also ask questions (electronically or otherwise) prior to the GM.

3. RECORD DATE AND PROHIBITION OF SHARE BLOCKING

Share blocking and any other limitations to the transferability of the shares prior to the GM is prohibited.

Shareholders therefore should inform the company of their desire to participate in the GM five days before the meeting is held in order to be able to exercise their shareholders' rights at the GM. The Chamber of Commerce has recommended that the five-day period be increased, as it considers it too short a period in practice, which could raise an issue in practice (the Directive allowed for a maximum of thirty days).

4. REMOTE VOTING / PARTICIPATION IN THE GENERAL MEETING VIA ELECTRONIC MEANS

The Bill regulates remote voting, allowing shareholders to vote prior to the GM. In addition, shareholders can participate and vote before or during GMs via electronic means (under the 1915 law, shareholders are currently already permitted to participate at GMs via video conference and other telecommunication means).

5. VOTING BY PROXY

The principle whereby a shareholder has the option of being represented by a proxy is reaffirmed in the Bill, and situations whereby a potential conflict of interest may arise are now provided for (e.g., specific voting instructions from the shareholder are required when a proxy is granted to a majority shareholder or a member of the management body of the company).

The evolution of the Bill will need to be followed as the Additional Comments have highlighted that more flexibility is required on certain points regarding representation provisions.

6. VOTING RESULTS

Voting results and related information should be published on a company's Web site within fifteen days of the GM.

CONCLUSION

The finalization of the Bill will be interesting to follow, as it will have an impact in practice on the organization of GMs of the listed companies concerned and may require some amendments to their articles of association.

The Bill should therefore not have an impact on non-listed companies or those listed only outside of the EU.

Member Spotlight: RBC Dexia Investor Services

By David Dibben, Global Fund Products, RBC Dexia Investor Services

Since RBC Dexia was established five years ago, the needs of the global investor have become increasingly complex. The financial crisis of 2008 has fundamentally altered the landscape of the financial services sector and created several challenges.

The asset management industry is adapting to regulatory changes and reacting to greater investor demand for enhanced tools and support. However, there are new opportunities this year with UCITS IV, which has the potential to recast the mold of fund management.

In this new environment, global financial institutions confront a wide range of challenges to their business models and profitability. Governance and compliance obligations are now at the forefront of business life as governments worldwide prepare legislation to protect investors and prevent market abuse. This has led asset managers to seek more efficient ways to meet their compliance obligations while sustaining their bottom line. The mitigation of operational, investment and reputational risks are also top priorities. In this atmosphere, RBC Dexia has taken a prudent approach backed by a strong track record in providing asset managers with thought-leadership and strategic advice on regulatory changes as well as a wide range of product solutions and risk analysis tools.

The scale of the technological revolution that has taken place in the asset management industry during this period should not be underestimated. Increasing globalization and automation has compelled financial institutions to expect consistent world-class operational support from their service providers.

Within evolving global markets, maintaining high levels of operational efficiency is a constant challenge. This is particularly the case for asset managers with multiple products, specialist investment strategies and the complex reporting requirements of a diverse and international client base. Whether asset managers are focused on regulated or alternative investment, a comprehensive outsourcing service must offer in-depth operational support to all types of product range and service packages. RBC Dexia's aim is to simplify investment operations and manage infrastructure costs in a way that increases efficiency.

With operations in fifteen countries across four continents, RBC Dexia provides in-depth global investor servicing support to help businesses grow with tailored domestic and cross-border advice. Its global operating model and comprehensive shareholder service capabilities afford it significant global distribution support across multiple geographies with local

knowledge of a wide range of jurisdictions.

Despite the market turbulence of the last three years, the financial services sector can look ahead with renewed optimism. This year a key focus for RBC Dexia is the implementation of the UCITS IV directive, which governs the operation of European-based funds. This is the most recent modernization of the initial UCITS directive originally published by the European Commission in 1985, which set up a framework that harmonized fund regulation and allowed cross-border distribution throughout the EU.

UCITS IV provides fund promoters with a toolbox to create larger and more cost-efficient funds, improves collaboration between supervisory authorities, and sets down what information should be given to investors. Member States must transpose the directive into their national law by July 1. Now that the UCITS brand is broadly considered as a gold standard around the world and a trusted distribution product, the impact of UCITS IV will be felt far beyond the borders of the EU.

The new legislation gives fund promoters flexibility in where they choose to manage, administer and market their funds through the introduction of measures such as the Management Company Passport, cross-border mergers and master-feeder structures.

One of the most pressing issues for investment managers and fund promoters is the requirement to provide investors with a Key Investor Information Document (KIID). This is limited to two pages of precisely defined content and must be updated at least once each year. The challenge in this area is to ensure the information contained in the KIID is timely and accurate, ensuring it is available to the fund distributors and that is translated into the appropriate languages.

RBC Dexia was at the forefront of consultation on UCITS IV and has been preparing clients for its implementation by publishing a series of thought-leadership reports that analyze its impact. We are actively involved in advising our clients on how to embrace and address the complexities of the new regime and to develop products and support services that will address the challenge of KIID preparation.



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Out-of-the-Box Thinking: When Art and Business Collide

By Natalie Gerhardstein

Deloitte Luxembourg has recently partnered with the Contemporary Art Society (CAS) of London to curate "Perceptions", an exhibition of three separate themes, on its premises. The themes—"Outer Worlds", "Urban Worlds" and "Inner Worlds"—were designed to allow viewers to see the rapidly changing world in new and innovative ways.

Founded in 1910, CAS is the UK's leading art advisory team, bringing expertise in outstanding creative talent to clients internationally. It draws on over 100 years of expertise to develop public collections of contemporary art.

"These artists demonstrate how versatile and innovative we, as humans, can be, and display the potential of viewing and combining each contrasting standpoint," said Thierry Hoeltgen, Partner at Deloitte Luxembourg and Innovation Leader. "We feel that creativity and thinking out of the box are important aspects to life and encourage our environment to open up to new ideas."

The concept of "Outer Worlds" involves stretching the imagination, sometimes in a playful way. The exhibition was designed to stimulate new ideas about our relationship to the environment through creative responses; works for this theme were selected from an international group of artists.



Paul Fryer, *Telstar Splendour*, 2008, mixed exotic woods
Image courtesy of All Visual Arts, London

"This exhibition perfectly represents how much our approach to distance has developed through globalization," said Beatriz Baena Jiménez, Senior Manager at Deloitte Luxembourg responsible for Marketing and Communications. "Dynamic artists from around Europe have given us the opportunity to refresh our perceptions and enrich our horizons in and outside the workplace."

Helen Nisbet, Consultancy Project Manager at CAS, was equally excited about the partnership. "This series of exhibitions shows Deloitte Luxembourg's commitment to contemporary art, supporting emerging and mid-career artists, and reflects the company's forward-thinking ethos," she said.

And what effect does art in the workplace have on employees?

"At first, employees' reactions to 'Outer Worlds' are quite surprising," said Baena Jiménez. "But when they take the time

to ask questions, they are able to look forward, outside their normal comfort zone. People see there are different ways of apprehending the world, and they are quite happy once they take the time to look at art in this way."

Nisbet agreed. "Hopefully the series is equally exciting for employees and clients of Deloitte Luxembourg and will offer a new way of thinking about their workspace and the world around them," she said.



Walker & Bromwich, *Limbo Land*, 2002, inflatable, video 10 min.
Image courtesy of Pippy Houldsworth Gallery, London

Representatives from both Deloitte Luxembourg and CAS are excited about the partnership. According to Baena Jiménez, CAS offered open dialogue and was highly interested in the message Deloitte Luxembourg wanted to convey. Nisbet shared similar thoughts. "I was greatly impressed by the commitment to contemporary art shown by Deloitte Luxembourg and with the galleries, artists and curators I met when I was in Luxembourg," she said. "I think Luxembourg is a very exciting place to be."

In addition to anticipated staff presentations of each theme, the exhibition is open to the general public from Monday through Friday, 8:00 a.m. to 6:00 p.m. "Outer Worlds" ran from November 30, 2010 through January 6, 2011. "Urban Worlds" and "Inner Worlds" are planned to run March 3-30 and May 6-June 1, 2011, respectively.



Genevieve Biver, *Série Bleue No. 2*, 2009, photograph on aluminium
Image courtesy of Nosbaum and Reding, Luxembourg

Laughing the Night Away

with Paul Flasse, Laughter Facilitator at TroisQuatorze16 (TQ16): an event organized by the European Mentoring & Coaching Council (ECA/EMCC Luxembourg) and AMCHAM

Photos: AMCHAM



Paul Flasse (TQ16)



Participants practice laughter exercises



Roeland Pels (European Leadership Forum),
Olger Draijer (Leadership Solutions)



Joanna Hein-Hartmann (Aviva Investors),
Johannes Madsen (Court of Auditors)

"We were running around making laughing sounds, which Paul had us associate with some of our daily rituals such as waking up, taking a shower, getting to work and so on. It worked really well; most of us were in absolute stitches! It was a pleasure to have joined the workshop."

–Joanna Hein-Hartmann (Aviva Investors)



Paul Schonenberg (AMCHAM),
Marie-Brigitte Bissen (ECA/EMCC),
Paul Flasse (TQ16)



Annual Networking Event

with H.E. Minister of Labor, Employment and Immigration
Nicolas Schmit

Photos: Anita Dore



Linda Wintringer, Fanny Lallouette, Marie Komorek, Guillaume Lapoirie (Randstad)



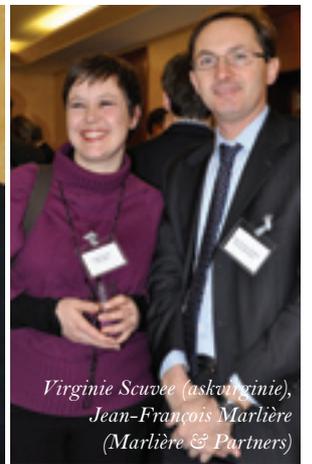
Attendees listening to Minister Schmit's speech



Stan Beeks, Catriona McDermott (The Ark)



Minister Schmit, Jean Pierre Mullenders (Randstad), Paul Schonenberg (AMCHAM)



Virginie Scuvee (askurginie), Jean-François Marlière (Marlière & Partners)



Sharon Moran (Marsh Senior Consult), Gerd Herrmann (BDO), Marie-Brigitte Bissen (Evolution Plus), Ursula Schinzel (AIMS)



Jean Pierre Mullenders (Randstad), Philippe Florentiny (La Luxembourgeoise), Francis Pedrini (Citibank), Margot Parra (ISL)

New Year's Welcome

An exclusive event to toast the New Year
and enjoy art at Galerie Clairefontaine



Photos: Geeta Rajaraman



Steve Bennett (NAMSA), Ms. Bennett



Georges Lentz (Bofferding)
Monique Diederich (Galerie Clairefontaine)



Clive Griffiths, Kath Griffiths



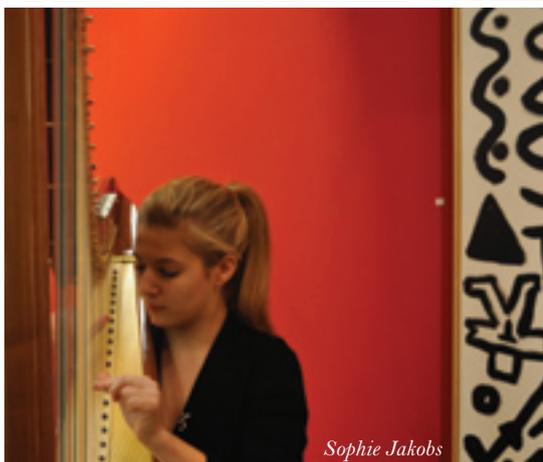
Paul Schonenberg (AMCHAM),
Former U.S. Ambassador Cynthia Stroum



Patrick Thill (Oracle),
Jean-Paul Hengen (Luxinnovation)



Marita Ruiter (Galerie Clairefontaine)



Sophie Jakobs



Frédéric Hauptert (Care)



Iris Ovadiya, Dilek Ayaydin,
Natalie Gerhardstein (AMCHAM)



photo: Berlitz

PROMISING COOPERATION: Sales-Lentz and Berlitz are Joining Forces

By Sabine Framing, Berlitz

Travel specialist Sales-Lentz and training company Berlitz have just started a cooperation which will make it easier for clients to combine their holidays with learning languages. Sales-Lentz is broadening its portfolio with language training. Berlitz will contribute its expertise in providing tailor-made language classes all around the world.

In times of globalization, the idea of exploring a country not only by traveling but also by discovering its language is self-explanatory. So is the cooperation of two of the most important companies in their respective branches. Berlitz operates in more than 550 locations in over seventy countries and has been established as one of the world's premier providers of language training and cross-cultural services. The Sales-Lentz group has sixty years of experience in the travel industry in Luxembourg—it is the biggest tourism company in Luxembourg today.

Expert travel agents will from now on advise customers on the new products in the Sales-Lentz portfolio. In the Sales-Lentz agencies, one can book language discovery trips to vibrant cities such as London, Dublin, Madrid, Barcelona, Munich, Paris, Rome and Lisbon. Of course, many other destinations are offered for the client who wishes to travel even farther. Students can individually plan, splitting their time between lessons and discovery tours. Depending on where the client's focus lies, classes can be taken either for half a day or the whole day.

Not only adults will benefit from the cooperation. The second new product for Sales-Lentz clients are the Berlitz Language Learning Camps for kids ages 10 to 17. These camps take place in youth hostels in Luxembourg and combine communicative language learning with a variety of stimulating spare-time activities. As the native-fluent instructors encourage the students to learn by speaking, the foreign language is used not only during the morning training lessons, but also during afternoon activities, which include climbing with professional instruction; kayak trails courses; excursions; and sports like football, volleyball and basketball. The variety of activities at the camp will make sure that the pupils have fun and make new friends along the way.

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