

**AGREEMENT**

**BETWEEN**

**THE GOVERNMENT OF UKRAINE**

**AND**

**THE GOVERNMENT OF THE SOCIALIST REPUBLIC OF VIETNAM**

**FOR**

**THE AVOIDANCE OF DOUBLE TAXATION**

**AND**

**THE PREVENTION OF FISCAL EVASION**

**WITH RESPECT TO TAXES**

**ON INCOME AND ON CAPITAL**



**The Government of Ukraine and the Government of the Socialist Republic of Vietnam,**

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Have agreed as follows:

## **ARTICLE 1**

### **Personal Scope**

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

## **ARTICLE 2**

### **Taxes Covered**

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital, all taxes imposed on total income and on capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Agreement shall apply are in particular:
  - (a) in Ukraine:
    - (i) the individual income tax;
    - (ii) the tax on profit (income);

(hereinafter referred to as "Ukrainian tax");



(b) in Vietnam:

- (i) the personal income tax;
- (ii) the profit tax; and
- (iii) the profit remittance tax;

( hereinafter referred to as "Vietnamese tax").

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

### ARTICLE 3

#### General Definitions

1. For the purposes of this Agreement, unless the context otherwise requires:
  - (a) the term "Ukraine" when used in a geographical sense means the territory of Ukraine, its continental shelf and its exclusive economic (marine) zone, including any territory outside the territorial sea of Ukraine which, according to international law, is specified or may be specified, in line with Ukrainian law, as the territory within which the right of Ukraine relating to sea bed and natural resources are effective;
  - (b) the term "Vietnam" means the Socialist Republic of Vietnam; when used in a geographical sense, it means all its national territory, including its territorial sea and any area beyond its territorial sea, within which Vietnam by Vietnamese legislation and in accordance with international law, has sovereign rights of exploration for and exploitation of natural resources of the sea bed and its subsoil and superjacent water mass;
  - (c) the terms "a Contracting State" and "the other Contracting State" mean Ukraine or Vietnam as the context requires;
  - (d) the term "person" includes an individual, a company and any other body of persons;



- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
  - (f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
  - (g) the term "national" means:
    - (i) in the case of Ukraine, any individual possessing the citizenship of Ukraine, or any legal person, partnership and association deriving their status as such from the laws in force in Ukraine;
    - (ii) in the case of Vietnam, any individual possessing the nationality of Vietnam, or any legal person, partnership and association deriving their status as such from the laws in force in Vietnam;
  - (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State; and
  - (i) the term "competent authority" means:
    - (i) in the case of Ukraine, the Ministry of Finance or its authorized representative; and
    - (ii) in the case of Vietnam, the Minister of Finance or his authorized representative.
2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.



## ARTICLE 4

### Resident

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of registration or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
  - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
  - (b) if the State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
  - (c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
  - (d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then his status shall be determined as follows:
  - a) it shall be deemed to be a resident of the State in which its place of registration is situated;
  - b) if it has the place of registration in both State, it shall be deemed to be a resident of the State in which its place of effective management is situated.



## ARTICLE 5

### Permanent Establishment

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
  - (a) a place of management;
  - (b) a branch;
  - (c) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
  - (g) a warehouse or premises used as a sales outlet; and
  - (h) installation or structure for the exploration of natural resources.
3. The term "permanent establishment" likewise encompasses:
  - (a) a building site, construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;
  - (b) the furnishing of services, including consultancy services, by an enterprise through employees in the other Contracting State, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any 12-month period.



4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
  - (a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
  - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
  - (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the enterprise;
  - (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
  - (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such person:
  - (a) has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
  - (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.



6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## ARTICLE 6

### Income from Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.



## ARTICLE 7

### Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.



4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude such Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.
6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.
7. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

## ARTICLE 8

### Shipping and Air Transport

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.
2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:
  - (a) income from the rental on a bare boat basis of ships or aircraft; and
  - (b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.



3. Where profits, according to the provisions of paragraph 1 of this Article, derived by resident of the Contracting State from the participation in a pool, a joint business or an international operating agency, profits attributed to such resident shall be taxable in that Contracting State.

## ARTICLE 9

### Associated Enterprises

#### 1. Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by the reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.
3. Nothing in this Article shall effect the application of any law of a Contracting State relating to the determination of the tax liability of a person, including determinations in cases where the information available to the competent authority of that State is inadequate to determine the income to be attributed to an enterprise, provided that the law shall be applied, so far as it is practicable to do so, consistently with the principles of this Article.



## ARTICLE 10

### Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares or other rights not being 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 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, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, 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 Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.



**ARTICLE 11****Interest**

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.
3. Notwithstanding the provisions of the paragraph 2:
  - a) interest arising in Ukraine shall be taxable only in Vietnam if the interest is paid to:
    - (i) the Government of Vietnam, political subdivision, local authority or a statutory body thereof;
    - (ii) the State Bank of Vietnam;
    - (iii) institutions wholly owned by the Government of the Socialist Republic of Vietnam or any local authorities as may be agreed from time to time between the competent authorities of the two Contracting States;
  - b) interest arising in Vietnam shall be taxable only in Ukraine if the interest is paid to :
    - (i) the Government of Ukraine, political subdivision, local authority or a statutory body thereof;
    - (ii) the National Bank of Ukraine;
    - (iii) institutions wholly owned by the Government of Ukraine or any local authorities as may be agreed from time to time between the competent authorities of the two Contracting States;



4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.
8. The provisions of this Article shall not apply if it is the main purpose or one of the main purposes of any persons concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.



## ARTICLE 12

### Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.
2. However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of such royalties.
3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, or a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.



6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.
7. The provisions of this Article shall not apply if it is the main purpose or one of the main purposes of a person concerned with the creation or transfer of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

## ARTICLE 13

### Capital Gains

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
2. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests in a company, the assets of which consist wholly or principally of immovable property situated in the other Contracting State, may be taxed in that other State.
3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
4. Gains from the alienation of ships or aircraft operated in international traffic boats engaged in inland waterways transport or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the enterprise is situated.



5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, shall be taxable only in the Contracting State of which the alienator is a resident.

## ARTICLE 14

### Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

## ARTICLE 15

### Dependent Personal Services

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
  - (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and



- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
- 3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

## **ARTICLE 16**

### **Directors' Fees**

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

## **ARTICLE 17**

### **Artistes and Sportsmen**

- 1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
- 2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
- 3. Notwithstanding the provisions of paragraphs 1 and 2, the income, mentioned in this Article, will be exempt from taxation in the State in which the activity of entertainer or sportsman is wholly financed from the public funds of this and the other State, or if such an activity is carried out according to the agreement on cultural cooperation concluded between the Contracting States.



## ARTICLE 18

### Pensions

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration including any annuities paid to a resident of a Contracting State in consideration of past employment shall be taxable only in the State from which these payments are remitted.
2. The term "annuity" means the fixed sum, payable to a physical person periodically at stated time during the life of this person or during the specified or ascertainable period of time under the obligation to return amount for adequate or full compensation in the form of money or money's worth.

## ARTICLE 19

### Government Service

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.  
 (b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
  - (i) is a national of that State; or
  - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.  
 (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.



## **ARTICLE 20**

### **Students and Apprentices**

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.
2. Notwithstanding the provisions of Articles 14 and 15, remuneration for services rendered by a student or a business apprentice in a Contracting State shall not be taxed in that State, provided that such services are in close connection with his studies or training. -

## **ARTICLE 21**

### **Other Income**

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to the income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and derived from the other Contracting State may also be taxed in that other State.



## ARTICLE 22

### Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital represented by ships and aircraft operated by an enterprise of a Contracting State in international traffic, and by movable property pertaining to operation of such ships, aircraft and boats, shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

## ARTICLE 23

### Methods for Elimination of Double Taxation

1. Where a resident of a Contracting State derives income or owns capital which in accordance with the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned Contracting State shall, according to its legislation, allow as a deduction from tax on the income of that resident an amount equal to the income tax paid in that other State and as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in that other State.



2. For the purpose of this Article the term " income tax paid in that other State " shall be deemed to include the amount of Ukrainian or Vietnamese tax which, under the laws of a Contracting State and in accordance with this Agreement would have been paid had the Ukrainian or Vietnamese tax not been exempted or reduced in accordance with temporally incentive measures provided in the laws of a Contracting State to promote economic development and foreign investment.
3. Where in accordance with any provision of the Agreement income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

## ARTICLE 24

### Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States but they bear the nationality of either Contracting State.
2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the State concerned in the same circumstances are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.



4. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
6. The provision of paragraphs 3 and 5 of this Article shall not apply to the Vietnamese profit remittance tax provided that Vietnam also levies withholding tax on dividends remitted abroad, and to Vietnamese taxation in respect of agricultural production activities.
7. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.
8. The provisions of this Article shall apply only to the taxes covered by this Agreement.
9. Notwithstanding of the provisions of this Article, for so long as Vietnam continues to grant to investors licenses under the Law of Foreign Investment in Vietnam, which specify the taxation to which the investor shall be subjected, the imposition of such taxation shall not be regarded as breaching the terms of paragraphs 3 and 5 of this Article.



## ARTICLE 25

### Mutual Agreement Procedure

1. Where a person who is a resident of a Contracting State considers that the actions of the competent authority of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which that person is a resident. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavour to resolve any difficulties or doubts arising as to the application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

## ARTICLE 26

### Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. 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. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.

2. In no case shall the provisions of paragraph 1 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.

## **ARTICLE 27**

### **Diplomatic Agents and Consular Officers**

Nothing in this Agreement shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

## **ARTICLE 28**

### **Entry into Force**

Each of the Contracting State shall notify to the other in writing through the diplomatic channel the completion of the procedures required by its legislation for the entry into force of this Agreement. This Agreement shall enter into force on the date of the later of these notifications and shall thereupon have effect:



(a) in Ukraine:

- (i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the Agreement enters into force;
- (ii) in respect of tax on profits (income) of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force;
- (iii) in respect of individual income tax for any payments made on or after the sixtieth day following that day on which the Agreement enters into force;
- (iv) in respect of taxes on capital charged on elements of capital existing on 1 January in any year next following the calendar year in which the Agreement enters into force, and in any subsequent calendar year;

(b) in Vietnam:

- (i) in respect of taxes withheld at source, in relation to taxable amounts paid on or after 1 January following the calendar year in which the Agreement enters into force;
- (ii) in respect of other income taxes, in relation to income, profits or gains arising in the calendar year following the calendar year in which the Agreement enters into force;
- (iii) in respect of taxes on capital charged on elements of capital existing on 1 January in any year next following the calendar year in which the Agreement enters into force, and in any subsequent calendar year.

## ARTICLE 29

### Termination

This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving to the other Contracting State, written notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of the Agreement.



In such event, the Agreement shall cease to have effect:

(a) in Ukraine:

- (i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the notice is given;
- (ii) in respect of tax on profits (income) of enterprises for any taxation period beginning on or after January 1 in the calendar year next following that in which the notice is given;
- (iii) in respect of individual income tax for any payments made on or after the sixtieth day following that day on which the notice is given;
- (iv) in respect of taxes on capital charged on elements of capital existing on 1 January of the year next following the calendar year in which the notice of termination is given;

(b) in Vietnam:

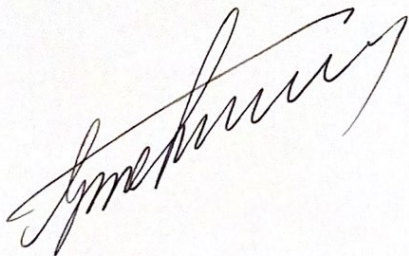
- (i) in respect of taxes withheld at source, in relation to taxable amounts paid on or after 1 January following the calendar year in which the notice of termination is given;
- (ii) in respect of other Vietnamese taxes, in relation to income, profits or gains arising in the calendar year following the calendar year in which the notice of termination is given, and in subsequent calendar years;
- (iii) in respect of taxes on capital charged on elements of capital existing on 1 January of the year next following the calendar year in which the notice of termination is given.



IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Agreement.

DONE in duplicate at *Hanoi* this *08* day of *April* of the year one thousand nine hundred and ninety-~~51~~*X* in the Ukrainian, Vietnamese and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

FOR THE GOVERNMENT OF  
UKRAINE



FOR THE GOVERNMENT OF  
THE SOCIALIST REPUBLIC OF  
VIETNAM

