

CONVENTION
BETWEEN
THE GOVERNMENT OF UKRAINE
AND
THE GOVERNMENT OF THE KINGDOM OF BELGIUM
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND PROPERTY

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The Government of Ukraine and the Government of the Kingdom of Belgium,

desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property

and confirming their endeavour to the development and deepening of mutual economic relations,

have agreed as follows:

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. This Convention shall apply to taxes on income and on property 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 property all taxes imposed on total income, on total value of property, or on elements of income or of property 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 property appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

a) in the case of Ukraine:

- (i) the tax on profit of enterprises; and
- (ii) the income tax on citizens;
(hereinafter referred to as "Ukrainian tax");

b) in the case of Belgium:

- (i) the individual income tax;
- (ii) the corporate income tax;
- (iii) the income tax on legal entities;
- (iv) the income tax on non-residents;
- (v) the special levy on movable property income;
- (vi) the supplementary crisis contribution,

including the prepayments, the surcharges on these taxes and prepayments, and supplements to the individual income tax;

(hereinafter referred to as "Belgian tax").

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

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

- a) the term "Ukraine" when used in geographical sense, means the territory of Ukraine, its Continental Shelf and its exclusive (maritime) economic zone, including any area outside the territorial sea of Ukraine which in accordance with international law has been or may hereafter be designated as an area within which the rights of Ukraine with respect to the sea bed and sub-soil and their natural resources may be exercised;
- b) the term "Belgium", used in geographical sense, means the territory of the Kingdom of Belgium, including the territorial sea and any area in the sea and in the air within which the Kingdom of Belgium in accordance with international law, exercises sovereign rights or its jurisdiction;
- c) the term "national" means:
 - (i) any individual possessing the citizenship of Ukraine or the Belgian nationality;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- d) the terms "a Contracting State" and "the other Contracting State" mean Ukraine or Belgium, as the context requires;
- e) the term "person" includes an individual, a company and any other body of persons;
- f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- g) 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;
- 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;
- i) the term "competent authority" means, in the case of Ukraine, the Ministry of Finance of Ukraine or its authorised representative, and, in the case of Belgium, the Minister of Finance of Belgium or his authorised representative.

2. As regards the application of the Convention 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 Convention applies.

Article 4

RESIDENT

1. For the purposes of this Convention, 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 property situated therein.

2. Where by reason of the provisions of paragraph 1 of this Article 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 Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- d) if he is a national of both Contracting 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 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an 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) an installation or structure for the exploration of natural resources unless that exploration is an activity referred to in paragraph 4, sub-paragraph e) of this Article;
- g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- h) a store or any premises used as a sales outlet.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

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, display or delivery 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, display or delivery;
- 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 of this Article, where a person other than an agent of an independent status to whom paragraph 6 of this Article applies is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, or maintains a stock of goods or merchandise belonging to the enterprise, from which regular sales of such goods and merchandise is carried on in the name of the enterprise that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 of this Article 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.

6. An enterprise shall not be deemed to have a permanent establishment in a 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.

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 of this Article 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 of this Article 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 of this Article, 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 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 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 money lent to the permanent establishment by the enterprise.

4. Insofar as it has been customary in a Contracting State to determine, according to its law, 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 of this Article shall preclude that 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 Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

INTERNATIONAL TRANSPORT

1. Profits derived by a resident of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:

a) profits from the rental on a bareboat 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 within the meaning of paragraph 1 of this Article are derived by a resident of a Contracting State from the participation in a pool, a joint business or an international operating agency, the profits attributable to that resident shall be taxable only in the Contracting State of which he is a resident.

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 reason of those conditions, have not so accrued, may be included by a Contracting State 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 such an adjustment as it considers appropriate. In determining such 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.

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:

a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 20 per cent of the capital of the company paying the dividends;

b) 15 per cent of the gross amount of the dividends in all other cases.

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 -even paid in the form of interest or with respect to other corporate rights - which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, 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 of this Convention, 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 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 if such resident is the beneficial owner of this interest.
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 :
 - a) 2 per cent of the gross amount of the interest which is paid :
 - (i) in connection with the sale on credit of any industrial, commercial or scientific equipment or in connection with the sale or supply on credit of any merchandise or services by an enterprise to another enterprise;
 - (ii) on loans of any nature - not represented by bearer instruments - granted by a bank or any other financial institution;
 - b) 10 per cent of the gross amount of the interest in all other cases.
3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State shall be exempt from tax in that State if it is :
 - a) interest received and beneficially owned by the other Contracting State itself, one of its political subdivisions, or any agency owned or controlled by that Contracting State or that subdivision;
 - b) interest beneficially owned by a resident of the other Contracting State and paid to him in respect of a loan or any other debt-claim or credit granted, guaranteed or insured by public entities owned or controlled by that other Contracting State the objective of which is to promote the export and which are specified and agreed in letters exchanged between the competent authorities of the 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. However, the term "interest" shall not include for the purpose of this Article interest regarded as dividends under paragraph 3 of Article 10.
5. The provisions of paragraphs 1 and 2 of this Article 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 of this Convention, 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 Convention.

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 State if such resident is the beneficial owner of the royalties.

2. However, such royalties may also be taxed in the Contracting State in which they arise and in accordance with 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 the royalties within the meaning of subparagraph a) of paragraph 4 of this Article.

3. Notwithstanding the provisions of paragraph 2 of this Article, royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxed only in the other Contracting State if such resident is the beneficial owner of the royalties and if the royalties are payments within the meaning of subparagraph b) of paragraph 4 of this Article.

4. The term "royalties" as used in this Article means payments of any kind received as a consideration :

- a) for the use of, or the right to use, any copyright of literary or artistic work including cinematograph films, and films or tapes for radio or television broadcasting; and
- b) for the use of, or the right to use, any copyright of scientific work, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

5. The provisions of paragraph 1 of this Article 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 of this Convention, as the case may be, shall apply.

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, for whatever reason, 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 Convention.

7. The provisions of paragraphs 2 and 3 of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

8. Royalties 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 royalties, 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 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.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 of this Convention and situated in the other Contracting State may be taxed in that other State.

2. Gains derived by a resident of a Contracting State from the alienation of:

a) shares of a company the assets of which consist principally of immovable property situated in the other Contracting State, or

b) an interest in a partnership or a trust the assets of which consist 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 by an enterprise of a Contracting State or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.

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

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 of this Convention, 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 of this Article, 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, boat or aircraft, road or railway vehicle operated in international traffic, may be taxed in the Contracting State of which the enterprise operating the ship, boat or aircraft, road or railway vehicle is a resident.

Article 16

DIRECTORS' FEES

1. 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 or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

2. Remuneration derived by a person referred to in paragraph 1 of this Article from the company in respect of the discharge of day-to-day functions of a managerial or technical nature and remuneration received by a resident of a Contracting State in respect of his personal activity as a partner of a company, other than a company with share capital, which is a resident of the other Contracting State, may be taxed in accordance with the provisions of Article 15 of this Convention, as if such remuneration were remuneration derived by an employee in respect of an employment and as if references to the "employer" were references to the company.

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15 of this Convention, income derived by a resident of a Contracting State as an entertainer, such as a theatre, 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 of this Convention, 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 of this Article, income referred to in this Article shall be exempt from tax in the Contracting State in which the activities of the entertainer or sportsman are exercised, if such activities are substantially financed from the public funds of both States, or are carried on under a cultural cooperation agreement between the Contracting States.

Article 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19 of this Convention, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and any annuity paid to such resident shall be taxable only in that State.

2. The term "annuity" means a stated sum payable to an individual periodically at stated times during his life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

3. Notwithstanding the provisions of paragraph 1 of this Article, pensions and other similar remuneration, and any allowances paid under a State Pension Plan or under the social security legislation of a Contracting State, its political subdivisions or local authorities, shall be taxed only in that State.

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) Notwithstanding the provisions of sub-paragraph a) of this paragraph, 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) Notwithstanding the provisions of sub-paragraph a) of this paragraph, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 of this Convention 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

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 the first-mentioned State, provided that such payments arise from sources outside that State.

2. Income which a student or apprentice referred to in paragraph 1 of this Article receives for his activities performed in the Contracting State in which he is present solely for the purpose of his education or training in connection with the ordinary course of his education or training shall not be taxed in that State for a period of time that is necessary for the completion of his education or training. In no case may the aforesaid period exceed 3 years from the date of his arrival in that other State.

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 Convention and which are taxed in that State shall be taxable only in that State.

2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 of this Convention, 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 of this Convention, as the case may be, shall apply.

Article 22

PROPERTY

1. Property represented by immovable property referred to in Article 6 of this Convention, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Property 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. Property represented by ships or aircraft operated by an enterprise of a Contracting State in international traffic and by movable property pertaining to the operation of such ships or aircraft shall be taxable only in that Contracting State.
4. All other elements of property of a resident of a Contracting State shall be taxable only in that State.

Article 23

ELIMINATION OF DOUBLE TAXATION

1. In the case of Ukraine, double taxation shall be avoided as follows:
 - a) Subject to the provisions of the law of Ukraine regarding the elimination of tax paid in a territory outside Ukraine (which shall not affect the general principle hereof), Belgian tax paid under the laws of Belgium and in accordance with this Convention, whether directly or by deduction, on profits or income from sources within or chargeable property situated in Belgium shall be allowed as a credit against any Ukrainian tax computed by reference to those profits, income or property. The credit so given shall not exceed the Belgian tax computed with respect to profits, income or property taxable under Ukrainian tax law.
 - b) Such deductions in either case shall not exceed that part of income tax or property tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the property which may be taxed in Ukraine.
 - c) Where in accordance with any provision of the Convention income derived or property owned by a resident of Ukraine is exempt from tax in Ukraine, Ukraine may nevertheless, in calculating the amount of tax on the remaining income or property of such resident, take into account the exempted income or property.

d) For the purposes of this paragraph, profits, income and property gains owned by a resident of Ukraine which may be taxed in Belgium in accordance with this Convention shall be deemed to arise from sources in Belgium.

2. In the case of Belgium, double taxation shall be avoided as follows:

a) Where a resident of Belgium derives income or owns elements of property which are taxed in Ukraine in accordance with the provisions of this Convention, other than those of paragraph 2 of Article 10, of paragraphs 2 and 7 of Article 11 and of paragraphs 2 and 6 of Article 12, Belgium shall exempt such income or such elements of property from tax but may, in calculating the amount of tax on the remaining income or property of that resident, apply the rate of tax which would have been applicable if such income or elements of property had not been exempted.

b) Subject to the provisions of Belgian law regarding the deduction from Belgian tax of taxes paid abroad, where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are dividends taxable in accordance with paragraph 2 of Article 10, and not exempt from Belgian tax according to subparagraph c) hereinafter, interest taxable in accordance with paragraph 2 or 7 of Article 11, or royalties taxable in accordance with paragraph 2 or 6 of Article 12, the Ukrainian tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.

c) Dividends within the meaning of paragraph 3 of Article 10, derived by a company which is a resident of Belgium from a company which is a resident of Ukraine, and which are subjected in Ukraine to the regime provided for in paragraph 2 of Article 10, shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.

d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Ukraine, have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in sub-paragraph a) shall not apply in Belgium to the profits of the other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Ukraine by reason of compensation for the said losses.

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 of this Convention, also apply to persons who are not residents of one or both of the Contracting States.

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.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraphs 6 and 7 of Article 12, apply, interest -not being interest regarded as dividends under paragraph 3 of Article 10 of this Convention-, 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 property 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 property 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. 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 on account of their civil status or family responsibilities.

7. Nothing contained in this Article shall be construed as preventing a Contracting State from taxing the profits attributable to a permanent establishment in that Contracting State of a company which is a resident of the other Contracting State at the rate provided by the law of the first Contracting State provided that this rate does not exceed the maximum rate applicable to the profits of companies which are residents of the first Contracting State.

8. The provisions of this Article shall, notwithstanding the provisions of Article 2 of this Convention, apply to taxes of every kind and description.

Article 25

MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, 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 he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. 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 Convention.
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 the Convention. 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 by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.
4. The competent authorities of the Contracting States shall agree on practical measures necessary to carry out the provisions of the Convention and particularly on the proofs to be furnished by residents of either Contracting State in order to benefit in the other State from the exemptions or reductions in tax provided for in the Convention.
5. 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.

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 Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention, in particular, to prevent fraud and to facilitate the administration of statutory provisions against legal avoidance. 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 Convention. 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 endeavour to develop the appropriate conditions, methods and technics regarding cases, in respect of which such exchange of information may be done, including where it is necessary exchange of information regarding tax evasions, by way of consultations.

2. In no case shall the provisions of paragraph 1 of this Article be construed so as to impose on the competent authority of either Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice prevailing in either Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of either 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

MEMBERS OF DIPLOMATIC OR PERMANENT MISSIONS AND CONSULAR POSTS

Nothing in this Convention shall affect the fiscal privileges accorded to members of diplomatic or permanent missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other, through the diplomatic channel the completion of the procedures required by its domestic law for the bringing into force of this Convention. This Convention 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 due at source for any payments made on or after the sixtieth day following that day on which the Convention enters into force;

(ii) in respect of other taxes on income or profits for any taxation period beginning on or after 1 January in the calendar year next following that in which the Convention enters into force;

(iii) in respect of taxes on property charged on elements of property existing on or after 1 January in the calendar year next following that in which the Convention enters into force;

b) in Belgium:

(i) with respect to taxes due at source on income credited or payable on or after 1 January of the year next following the year in which the Convention entered into force;

(ii) with respect to other taxes charged on income of taxable periods beginning on or after 1 January of the calendar year next following the year in which the Convention entered into force;

(iii) in respect of taxes on property charged on elements of property existing on or after 1 January in the calendar year next following that in which the Convention entered into force.

2. The provisions of the Convention between the Government of the Kingdom of Belgium and the Government of the Union of Soviet Socialist Republics for the avoidance of double taxation with respect on income and on capital, signed in Brussels, on 17 December 1987 shall cease to be effective in respect to any Ukrainian or Belgian tax for which this Convention has effect, in accordance with the provisions of paragraph 1 of this Article.

Article 29

TERMINATION

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channel, by giving 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 Convention.

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

a) in Ukraine:

(i) in respect of taxes due at source for any payments made on or after the sixtieth day following that day on which the notice is given;

(ii) in respect of other taxes on income or profits for any taxation period beginning on or after 1 January in the calendar year next following that in which the notice is given;

(iii) in respect of taxes on property charged on elements of property existing on or after 1 January in the calendar year next following that in which the notice is given;

b) in Belgium:

(i) with respect to taxes due at source on income credited or payable on or after 1 January of the year next following the year in which the notice of termination is given;

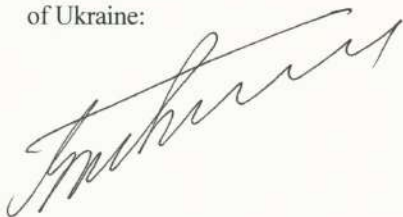
(ii) with respect to other taxes charged on income of taxable periods beginning on or after 1 January of the calendar year next following the year in which the notice of termination is given;

(iii) in respect of taxes on property charged on elements of property existing on or after 1 January in the calendar year next following that in which the notice of termination is given.

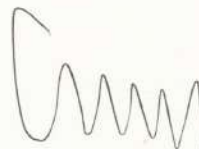
IN WITNESS WHEREOF the undersigned, duly authorised thereto have signed this Convention.

DONE in duplicate at this th day of 19 in the Ukrainian, English, French and Dutch languages, all texts being equally authoritative. In case of divergence between the texts, the English text shall prevail.

For the Government
of Ukraine:



For the Government
of the Kingdom of Belgium :



PROTOCOL

At the moment of signing the Convention between Ukraine and Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on property, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

1. Ad paragraph 2, c) of Article 23

Notwithstanding the condition of tax liability provided for in Belgian law, dividends derived by a company which is a resident of Belgium from a company which is a resident of Ukraine and paid out of profits which are temporarily exempted in Ukraine from the tax on profits of the enterprise under the Decree of Cabinet of Ministers of Ukraine "On foreign investment regime", shall be exempt from the corporate income tax in Belgium during a maximum of two successive taxable periods, the first one beginning during the first calendar year next following the year in which the Convention entered into force.

The preceding paragraph shall not apply if it was the main purpose, or one of the main purposes, of any person concerned with the creation or assignment of the right in respect of which the dividends are paid, to take advantage of those provisions or to avoid income tax by means of that creation or assignment.

2. Aid in recovery

If, after the signing of this Convention, Ukraine signs with a third State an Agreement which provides for an aid in recovery, the following provisions shall apply from the date of which the Agreement between Ukraine and that third State will have effect :

- a) The Contracting States shall lend aid and assistance to each other in order to notify and recover the taxes referred to in Article 2 as well as surcharges, additions, interest, costs and fines of a non penal nature.
- b) At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall secure, in accordance with the legal provisions and regulations applicable to the notification and recovery of the said taxes of the latter State, the notification and recovery of tax claims referred to in subparagraph a) which are due in the first-mentioned state. Such claims shall not have any priority in the requested State and that state shall not be obliged to apply any means of enforcement which are not authorised by the legal provisions or regulations of the applicant State.

c) Requests referred to in subparagraph b) shall be supported by an official copy of the instrument permitting the execution, accompanied where appropriate, by an official copy of any final administrative or judicial decision.

d) With regard to tax claims which are open to appeal, the competent authority of a Contracting State may, in order to safeguard its rights, request the competent authority of the other Contracting State to take the protective measures provided for in the laws of that other State; the provisions of subparagraphs a) to c) shall apply by adopting them to such measures insofar as it is necessary.

e) The provisions of paragraph 1 of Article 26 shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.

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

DONE in duplicate at this th day of 19 in the Ukrainian, English, French and Dutch languages, all texts being equally authoritative. In case of divergence between the texts, the English text shall prevail.

For the Government
of Ukraine:



For the Government
of the Kingdom of Belgium :

