

**PROTOCOL
AMENDING
THE CONVENTION
BETWEEN
UKRAINE AND THE KINGDOM OF THE NETHERLANDS
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND ON PROPERTY**

Ukraine

and

The Kingdom of the Netherlands,

Desiring to conclude a Protocol to amend the Convention between Ukraine and the Kingdom of the Netherlands for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on property, with Protocol, signed at Kiev on October 24, 1995 (hereinafter referred to as "the Convention" and "the Protocol" respectively),

Have agreed as follows:

ARTICLE I

The Title and Preamble of the Convention shall be deleted and replaced by the following Title and Preamble of the Convention:

**"CONVENTION
BETWEEN
UKRAINE AND THE KINGDOM OF THE NETHERLANDS
FOR THE ELIMINATION OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME AND ON PROPERTY AND THE PREVENTION OF TAX EVASION AND
AVOIDANCE**

Ukraine

and

The Kingdom of the Netherlands,

Desiring to further develop their economic relationship and to enhance their cooperation in tax matters,

Intending to eliminate double taxation with respect to taxes covered by this Convention without creating opportunities for non-taxation or reduced taxation through tax evasion or

avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third jurisdictions),
Have agreed as follows:".

ARTICLE II

1. Paragraph 3 of Article 2 of the Convention shall be deleted and replaced by the following paragraph:

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

a) in the Netherlands:

- the income tax (de inkomstenbelasting);
- the wages tax (de loonbelasting);
- the company tax (de vennootschapsbelasting) including the Government share in the net profits of the exploitation of natural resources levied pursuant to the Mining Act (de Mijnbouwwet); and
- the dividend tax (de dividendbelasting);

(hereinafter referred to as "Netherlands tax");

b) in Ukraine:

- the individual income tax; and
- the tax on income of enterprises;

(hereinafter referred to as "Ukraine tax").".

ARTICLE III

1. In paragraph 1, subparagraph a) of Article 3 of the Convention, the words "(the Netherlands)" shall be deleted and replaced by ", in respect of the Netherlands,".

2. Paragraph 1, subparagraphs b) and c) of Article 3 of the Convention shall be deleted and replaced by the following subparagraphs:

"b) the term "the Netherlands" means the European part of the Kingdom of the Netherlands, including its territorial sea and any area beyond and adjacent to its territorial sea within which the Kingdom of the Netherlands, in accordance with international law, exercises jurisdiction or sovereign rights;

c) 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.".

3. In paragraph 1, subparagraph h) of Article 3 of the Convention, the words "the nationality of the Netherlands" shall be deleted and replaced by "the nationality of the Kingdom of the Netherlands".

4. In paragraph 1, subparagraph i) of Article 3 of the Convention at the end of the sentence the symbol "." shall be replaced by ";".

5. The following subparagraph shall be inserted after paragraph 1, subparagraph i) of Article 3 of the Convention:

"j) the term "pension fund" means any plan, scheme, fund, trust or other arrangement established in a Contracting State which is:

- i) generally exempt from taxes on income in that State; and
- ii) operated principally to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements."

ARTICLE IV

1. Paragraph 1 of Article 4 of the Convention shall be deleted and replaced by the following paragraphs:

"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 or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof.

2. A person, other than an individual, shall be regarded to be liable to tax:

a) in the Netherlands, if the person is a resident of the Netherlands for the purposes of the company tax;

b) in Ukraine, if the person is a resident of Ukraine for the purposes of the tax on income of enterprises;

provided that the income derived by that person is treated under the tax laws of that State as income of that person and not as the income of the person's beneficiaries, members or participants.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, the term "resident of a Contracting State" 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. The existing paragraphs 2 and 3 of Article 4 of the Convention shall be renumbered into paragraphs 4 and 5 respectively.

3. The existing paragraph 4 of Article 4 of the Convention shall be deleted.

ARTICLE V

1. Paragraph 3 of Article 5 of the Convention shall be deleted and replaced by the following paragraph:

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

ARTICLE VI

Paragraphs 2, 3 and 4 of the Article 10 of the Convention shall be deleted and replaced by the following paragraphs:

"2. However, dividends paid by a company which is a resident of a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner is a resident of the other Contracting State, 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 (other than a partnership) 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.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall be taxable only in the other Contracting State, in the case the recipient, being the beneficial owner of the dividends, is:

a) a company (other than a partnership) whose investment in the capital of the company paying the dividends is guaranteed or insured by the other Contracting State, the central bank of the other Contracting State or any agency or instrumentality (including a financial institution) owned or controlled by that State; or

b) a pension fund of the other Contracting State.

4. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of paragraphs 2 and 3 of this Article."

ARTICLE VII

Article 11 of the Convention shall be deleted and replaced by the following Article:

*"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, interest arising in a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 of this Article:

a) interest arising in a Contracting State and paid in respect of a bond, debenture or other similar obligation of that State, the central bank of that State, a political subdivision or local authority thereof shall be exempt from tax in that State;

b) interest arising in a Contracting State and paid in respect of a bond, debenture or other similar obligation to the other Contracting State, the central bank of the other Contracting State, a political subdivision or local authority thereof, or a pension fund of the other Contracting State shall be exempt from tax in the first-mentioned State; and

c) interest arising in a Contracting State and paid in respect of loans guaranteed or insured by the other Contracting State, the central bank of the other Contracting State or any agency or instrumentality (including a financial institution) owned or controlled by that State, shall be exempt from tax in the first-mentioned State;

provided that the recipient of the interest is the beneficial owner thereof.

4. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of paragraphs 2 and 3 of this Article.

5. 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, and including penalty charges for late payment.

6. The provisions of paragraphs 1, 2 and 3 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.

7. Interest shall be deemed to arise in a Contracting State when the payer is 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.

8. 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 VIII

Article 12 of the Convention shall be deleted and replaced by the following Article:

"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.

2. However, royalties arising in a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the payments referred to in paragraph 5, subparagraph a) of this Article.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, royalties arising in a Contracting State may also be taxed in that State according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the payments referred to in paragraph 5, subparagraph b) of this Article.

4. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of paragraphs 2 and 3 of this Article.

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

a) the use of, or the right to use any copyright of literary or artistic work (including cinematograph film and films or tapes for radio or television broadcasting); and

b) 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.

6. The provisions of paragraphs 1, 2 and 3 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.

7. Royalties shall be deemed to arise in a Contracting State when the payer is 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.

8. 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 Convention.”.

ARTICLE IX

In paragraph 3 of Article 15 of the Convention, the words “in connection with a building site or construction or installation project, or an installation or structure used for the exploration of natural resources, and the activities connected with such site, project, installation or structure” shall be deleted and replaced by “in connection with a building site or construction or installation project and the activities connected with such site or project”.

ARTICLE X

Article 18 of the Convention shall be deleted and replaced by the following Article:

"ARTICLE 18

PENSIONS, ANNUITIES AND SOCIAL SECURITY PAYMENTS

1. Subject to the provisions of paragraph 2 of Article 19 of this Convention, pensions and other similar remuneration, as well as annuities, arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned State
2. Pensions paid and other payments made under the provisions of the social security legislation of a Contracting State to a resident of the other Contracting State may be taxed in the first-mentioned State.
3. A pension, other similar remuneration or an annuity shall be deemed to arise in a Contracting State insofar as the contributions or payments associated with that pension or other similar remuneration or annuity, or the entitlements received from that pension or other similar remuneration or annuity qualified for relief from tax in that State. The transfer of a pension, other similar remuneration or an annuity from a pension fund or an insurance company in a Contracting State to a pension fund or insurance company in another State shall not restrict in any way the taxing rights of the first-mentioned State under this Article.
4. The provisions of this Article shall also apply in case a lump sum payment is made in lieu of a pension or another similar remuneration or an annuity before the date on which the pension or other similar remuneration or the annuity commences."

ARTICLE XI

Article 21 of the Convention shall be deleted and be replaced by the following Article:

"ARTICLE 21 STUDENTS

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."

ARTICLE XII

1. In paragraph 1 of Article 24 of the Convention, the words "may be taxed in Ukraine" shall be deleted and replaced by "may be taxed or shall be taxable only in Ukraine".
2. In paragraph 2 of Article 24 of the Convention, the words "may be taxed in Ukraine" shall be deleted and replaced by "may be taxed or shall be taxable only in Ukraine" and the words "paragraph 3 of Article 18" shall be replaced by "paragraphs 1 and 2 of Article 18".

3. In paragraph 3 of Article 24 of the Convention the words "paragraph 2 of Article 12" shall be replaced by "paragraphs 2 and 3 of Article 12" and the words "paragraph 2 of Article 18" shall be replaced by "paragraph 4 of Article 18".

4. The following paragraph shall be inserted after paragraph 3 of Article 24 of the Convention:

"4. Notwithstanding the provisions of paragraph 2, the Netherlands shall allow a reduction from the Netherlands tax for the tax paid in Ukraine on items of income which according to Article 7, paragraph 7 of Article 10, paragraph 6 of Article 11, paragraph 6 of Article 12, paragraph 2 of Article 13 and paragraph 2 of Article 22 of this Convention may be taxed in Ukraine to the extent that these items are included in the basis referred to in paragraph 1, insofar as the Netherlands under the provisions of the Netherlands law for the avoidance of double taxation allows a reduction from the Netherlands tax of the tax levied in another country on such items of income. For the computation of this reduction the provisions of paragraph 3 of this Article shall apply accordingly."

5. The existing paragraph 4, 5, 6 and 7 of Article 24 of the Convention shall be renumbered into paragraph 5, 6, 7 and 8 respectively.

6. In the new paragraph 6 of Article 24 of the Convention, the words "paragraph 4" shall be deleted and replaced by "paragraph 5".

7. In the new paragraph 8 of Article 24 of the Convention, the words "paragraph 4" shall be deleted and replaced by "paragraph 5".

ARTICLE XIII

The following Article shall be inserted after Article 24 of the Convention:

"ARTICLE 24A ENTITLEMENT TO BENEFITS

1. Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income or property if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention.

2. Where a benefit under this Convention is denied to a person under paragraph 1 of this Article, the competent authority of the Contracting State that would otherwise have granted

this benefit shall nevertheless treat that person as being entitled to this benefit, or to different benefits with respect to a specific item of income or property, if such competent authority, upon request from that person and after consideration of the relevant facts and circumstances, determines that such benefits would have been granted in the absence of the transaction or arrangement referred to in paragraph 1 of this Article.

3. The competent authority of the Contracting State shall consult with the competent authority of the other Contracting State before denying a benefit under paragraph 1 or 2 of this Article.”.

ARTICLE XIV

1. Paragraph 1 of Article 27 of the Convention shall be deleted and replaced by the following paragraph:

“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 either Contracting State. 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. Paragraph 5 of Article 27 of the Convention shall be deleted and replaced by the following paragraph:

“5. Where,

a) under paragraph 1 of this Article, a person has presented a case to the competent authority of a Contracting State on the basis that the actions of one or both of the Contracting States have resulted for that person in taxation not in accordance with the provisions of this Convention; and

b) the competent authorities are unable to reach an agreement to resolve that case pursuant to paragraph 2 of this Article within two years from the presentation of the case to the competent authority of the other Contracting State;

any unresolved issue arising from the case shall be submitted to arbitration if the person so requests. Unless a person directly affected by the case does not accept the mutual agreement that implements the arbitration decision, that decision shall be binding on both Contracting States and shall be implemented notwithstanding any time limits in the domestic laws of these States. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this paragraph.”.

ARTICLE XV

Article 28 of the Convention shall be deleted and replaced by the following Article:

"ARTICLE 28
EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2 of this Convention.

2. Any information received under paragraph 1 of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1 of this Article, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. The Contracting States may release to an arbitration board, established under the provisions of paragraph 5 of Article 27 of this Convention, such information as is necessary for carrying out the arbitration procedure. The members of the arbitration board shall be subject to the limitations on disclosure described in paragraph 2 of this Article with respect to any information so released.

4. In no case shall the provisions of the previous paragraphs be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (*ordre public*).

5. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax

purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 4 of this Article but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

6. In no case shall the provisions of paragraph 4 of this Article be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person."

ARTICLE XVI

Article 29 of the Convention shall be deleted and replaced by the following Article:

"ARTICLE 29

ASSISTANCE IN THE COLLECTION OF TAXES

1. The Contracting States shall lend assistance to each other in the collection of revenue claims. This assistance is not restricted by Articles 1 and 2 of this Convention. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this Article.

2. The term "revenue claim" as used in this Article means an amount owed in respect of taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention or any other instrument to which the Contracting States are parties, as well as interest, administrative penalties and costs of collection or conservancy related to such amount.

3. The provisions of this Article shall apply only to a revenue claim that forms the subject of an instrument permitting enforcement in the requesting State and, unless otherwise agreed between the competent authorities, that is not contested. However, where the claim relates to a liability to tax of a person as a non-resident of the requesting State, this Article shall only apply, unless otherwise agreed between the competent authorities, where the claim may no longer be contested. The revenue claim shall be collected by that other State in accordance with the provisions of its laws applicable to the enforcement and collection of its own taxes as if the revenue claim were a revenue claim of that requested State.

4. When a revenue claim of a Contracting State is a claim in respect of which that State may, under its law, take measures of conservancy with a view to ensure its collection, that revenue claim shall, at the request of the competent authority of that State, be accepted for purposes of taking measures of conservancy by the competent authority of the other Contracting State. That other State shall take measures of conservancy in respect of that revenue claim

in accordance with the provisions of its laws as if the revenue claim were a revenue claim of that other State even if, at the time when such measures are applied, the revenue claim is not enforceable in the first-mentioned State or is owed by a person who has a right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4 of this Article, a revenue claim accepted by a Contracting State for purposes of paragraph 3 or 4 of this Article shall not, in that State, be subject to the time limits or accorded any priority applicable to a revenue claim under the laws of that State by reason of its nature as such and, unless otherwise agreed between the competent authorities, cannot be collected by imprisonment for debt of the debtor. In addition, a revenue claim accepted by a Contracting State for the purposes of paragraph 3 or 4 of this Article shall not, in that State, have any priority applicable to that revenue claim under the laws of the other Contracting State.

6. Proceedings with respect to the existence, validity or the amount of a revenue claim of a Contracting State shall not be brought before the courts or administrative bodies of the other Contracting State.

7. Where, at any time after a request has been made by a Contracting State under paragraph 3 or 4 of this Article and before the other Contracting State has collected and remitted the relevant revenue claim to the first-mentioned State, the relevant revenue claim ceases to be

- a) in the case of a request under paragraph 3 of this Article, a revenue claim of the first-mentioned State that is enforceable under the laws of that State and is owed by a person who, at that time, cannot, under the laws of that State, prevent its collection; or
- b) in the case of a request under paragraph 4 of this Article, a revenue claim of the first-mentioned State in respect of which that State may, under its laws, take measures of conservancy with a view to ensure its collection;

the competent authority of the first-mentioned State shall promptly notify the competent authority of the other State of that fact and, at the option of the other State, the first-mentioned State shall either suspend or withdraw its request.

8. In no case shall the provisions of this Article 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 carry out measures which would be contrary to public policy (*ordre public*);
- c) to provide assistance if the other Contracting State has not pursued all reasonable measures of collection or conservancy, as the case may be, available under its laws or administrative practice;
- d) to provide assistance in those cases where the administrative burden for that State is clearly disproportionate to the benefit to be derived by the other Contracting State."

ARTICLE XVII

Article 30 of the Convention shall be deleted.

ARTICLE XVIII

Article 32 of the Convention shall be deleted.

ARTICLE XIX

The Preamble of the Protocol shall be deleted and replaced by the following Preamble of the Protocol:

"With respect to the Convention concluded between Ukraine and the Kingdom of the Netherlands for the elimination of double taxation with respect to taxes on income and on property and the prevention of tax evasion and avoidance the undersigned have agreed that the following provisions shall form an integral part of the Convention."

ARTICLE XX

The existing Article I of the Protocol to the Convention shall be renumbered into Article IA.

ARTICLE XXI

1. The following Article shall be inserted before the new Article IA of the Protocol to the Convention:

"I. Ad Articles 1 and 4

1. The benefits of the Articles 10, 11, 12, 13 and 22 of the Convention shall not apply to a Dutch tax exempt Investment Institution (vrijgestelde beleggingsinstelling).
2. With respect to other special regimes, the competent authorities of the Contracting States shall by mutual agreement decide to which extent a resident of a Contracting State that is subject to such special regime shall not be entitled to the benefits of this Convention."

ARTICLE XXII

Article VI of the Protocol to the Convention shall be deleted.

ARTICLE XXIII

Article VII of the Protocol to the Convention shall be deleted and replaced by the following Article:

"VII. Ad Articles 10 and 13

It is understood that income received in connection with the partial liquidation of a company or a purchase of own shares by a company is treated as income from shares."

ARTICLE XXIV

Article X of the Protocol to the Convention shall be deleted and replaced by the following Article:

"X. Ad Article 18

It is understood that the term "annuity" means:

- a) in the case of an annuity arising in the Netherlands, an annuity as mentioned in the Netherlands Income Tax Act 2001 ("Wet inkomstenbelasting 2001"), or any subsequent identical or substantially similar laws or regulations replacing this act, the benefits of which are part of taxable income from employment and dwellings ("belastbaar inkomen uit werk en woning");
- b) in the case of an annuity arising in Ukraine 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."

ARTICLE XXV

Article XI of the Protocol to the Convention shall be deleted.

ARTICLE XXVI

Article XIV of the Protocol to the Convention shall be deleted and replaced by the following Article:

"XIV. Ad Articles 28 and 29

The provisions of Article 28 and Article 29 shall apply accordingly to the Netherlands' income related regulations."

ARTICLE XXVII

ENTRY INTO FORCE

1. The Contracting States shall notify each other in writing, through diplomatic channels, the completion of the procedures required by the domestic law for the bringing into force of this amending Protocol.
2. This amending Protocol shall form an integral part of the Convention and shall enter into force on the last day of the month following the month in which the later of the notifications referred to in paragraph 1 of this Article has been received. This amending Protocol shall have effect:
 - a) in respect of taxes withheld at source, on amounts paid or credited to non-residents either on or after the first day of January of the year next following the entry into force of this amending Protocol;

b) in respect of other taxes for fiscal years beginning on or after the first day of January of the year next following the entry into force of this amending Protocol.

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

DONE at The Hague this 12th day of March 2018, in duplicate, in the Ukrainian, the Netherlands and the English languages, the texts being equally authentic. In case there is any divergence of interpretation between the Netherlands and the Ukrainian texts, the English text shall prevail.

For Ukraine

For the Kingdom of the Netherlands

