

CONVENTION BETWEEN UKRAINE AND SWEDEN FOR THE
AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF
FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

Ukraine and Sweden, desiring to conclude a Convention
for the Avoidance of Double Taxation and the
Prevention of Fiscal Evasion with respect to Taxes on
Income, 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 capital gains 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 all taxes imposed on total income or on elements of income including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

(3) The taxes to which this Convention shall apply are:

(a) In Ukraine:

(i) the tax on profit (income) of enterprises (podatok na pributok (dokhody) pidpriemstv);

(ii) the income tax on citizens (pributkovy podatok z gromadyan);
(hereinafter referred to as "Ukrainian tax");

(b) in Sweden:

(i) the State income tax (den statliga inkomstskatten), including the sailors' tax (sjömansskatten) and the coupon tax (kupongskatten);

(ii) the special income tax for non-residents;

(iii) the special income tax for non-resident artistes and;

(iv) the communal income tax (den kommunala inkomstskatten);

(hereinafter referred to as "Swedish tax").

(4) Where a new tax on income or on capital is introduced in a Contracting State after the date of signature of the Convention, the Convention shall apply also to such tax. The competent authorities of the Contracting States shall by mutual agreement determine whether a tax which is introduced in either Contracting State is one to which the Convention shall apply according to the preceding sentence.

(5) The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition

to, or in place of, the taxes referred to in paragraph (3). The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

(6) The provisions of the Convention do not cover penalties paid for violation of taxation legislation of a Contracting State.

Article 3

General definitions

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

(a) the term "Ukraine", when used in a geographical sense, includes the territorial sea, and any area outside the territorial sea which in accordance with international law has been or may hereafter be designated an area in which Ukraine may exercise rights with respect to the seabed and subsoil and their natural resources;

(b) the term "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas over which Sweden in accordance with international law exercises sovereign rights or jurisdiction;

(c) the terms "a Contracting State" and "the other Contracting State" mean Ukraine or Sweden, as the context requires;

(d) the term "person" includes an individual, a company and any other body of persons;

(e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) the term "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;

(h) the term "citizen" means:

(i) any individual possessing the citizenship of a Contracting State;

(ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;

(i) the term "competent authority" means:

(i) in Ukraine, the Minister of Finance of

Ukraine or his authorized representative;

(ii) in Sweden, the Minister of Finance, his authorized representative or the authority which is designated as a competent authority for the purpose of this Convention.

(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, provided, however, that

(a) 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; and

(b) in the case of a partnership or estate this term applies only to the extent that the income derived by such partnership or estate is subject to tax in that State as the income of a resident, either in its hands or in the hands of its partners.

(2) Where by reason of the provision of paragraph (1) an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a citizen;

(d) if he is a citizen of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provision of paragraph

(1) a person other than an individual is a resident of

both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5

Permanent establishment

(1) For the purposes of this 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) a store or premises used as a sales outlet;
- (g) a fixed installation or structure for the exploration of natural resources; and
- (h) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

(3) The term "permanent establishment" likewise encompasses a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than 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), where a person - other than an agent of an independent status to whom paragraph (6) applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

(6) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other 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, buildings, 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, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

(4) The provisions of paragraphs (1) and (3) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business profits

(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on or has carried on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

(2) Subject to the provisions of paragraph (3), where an enterprise of a Contracting State carries on or has carried 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for

management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment.

(4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) shall preclude 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 or capital gains 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

Shipping and air transport

(1) Profits of an enterprise 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) income 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; were 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) The provisions of paragraphs (1) and (2) shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

(4) Whenever companies from different countries have agreed to carry on an air transportation business together in the form of a consortium, the provisions of paragraphs (1), (2) and (3) shall apply only to such part of the profits of the consortium as relates to the participation held in that consortium by a company that is a resident of a Contracting State.

Article 9

Associated enterprises

(1) Where:

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State,
or

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

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

(2) Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. 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 (other than a partnership) which holds directly at least 20 per cent of the capital of the company paying the dividends;

(b) 10 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) Notwithstanding the provisions of paragraph (2) such dividends shall be taxable only in the Contracting State of which the beneficial owner is a resident if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the voting power of the company paying the dividends and at least 50 per cent of the voting power of the company, which is the beneficial owner of the dividends, is held by residents of that Contracting State.

(4) The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

(5) The provisions of paragraphs (1), (2) and (3) shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on or has carried 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 or has performed in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the

provisions of Article 7 or Article 14, as the case may be, shall apply.

(6) 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.

(2) However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(3) (a) Notwithstanding the provisions of paragraph (2) of this Article, interest arising in a Contracting State where the beneficial owner of such interest is, or the loan for which the interest is paid is guaranteed or insured by, the Government of the other Contracting State or its political subdivisions or local authorities or any agencies thereof, shall be exempt from tax in the first-mentioned Contracting State.

(b) Notwithstanding the provisions of Article 7 of this Convention and paragraph (2) of this Article interest arising in a Contracting State where the beneficial owner of such interest is a resident of the other Contracting State shall be exempt from tax in the first-mentioned State, provided that the interest is paid in respect of a loan made, guaranteed or insured on behalf of the other Contracting State by an authority thereof so entrusted.

(4) Notwithstanding the provisions of paragraph (2) interest arising in a Contracting State shall be taxable only in the other Contracting State if the

recipient is an enterprise of that other State which is the beneficial owner of the interest, and the interest is paid with respect to indebtedness arising on the sale on credit, by that enterprise, of any merchandise or industrial, commercial or scientific equipment to an enterprise of the first-mentioned State, except where the sale or indebtedness is between related persons.

(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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

(6) The provisions of paragraphs (1), (2), (3) (a) and (4) shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on or has carried on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs or has performed in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(7) 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.

(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 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, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. Notwithstanding the preceding sentence, if the royalties are paid with respect to any patent concerning industrial and manufacturing know-how or process as well as agriculture, pharmaceutical, computers, software and building constructions, secret formula or process, or for information concerning industrial, commercial or scientific experience, such royalties shall be exempt from tax in the Contracting State in which they arise.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

(4) The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the royalties, being a resident of Contracting State, carries on or has carried on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs or has performed in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, 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.

(6) Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(7) The provisions 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.

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 and situated in the other Contracting State, or from the alienation of shares in a company or shares in a partnership the assets of which consist principally of such property, may be taxed in that other State.

(2) 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.

(3) Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

With respect to gains derived by an air transport consortium formed by companies from different countries, the provisions of this paragraph shall apply only to such part of the gains as relate to the participation held in that consortium by a company that is a resident of a Contracting State.

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

(5) Notwithstanding the provisions of paragraph (4), gains from the alienation of any property derived by an individual who has been a resident of a Contracting State and who has become a resident of the other Contracting State, may be taxed in the first-mentioned State if the alienation of the property occur at any time during the five years following the date on which the individual has ceased to be a resident of the first-mentioned State.

Article 14

Independent personal services

(1) Income derived by an individual who is 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 thereof 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 and 19, salaries, wages and other similar remuneration

derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of a Contracting State in respect of 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 within any period of 12 months; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State. Where a resident of a Contracting State derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by an air transport consortium formed by companies from different countries including a company that is a resident of that State, such remuneration shall be taxable only in that State.

Article 16

Directors' fees

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

Article 17

Entertainers and sportsmen

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as 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, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

Article 18

Pensions, annuities and similar payments

(1) Subject to the provisions of paragraph (2) of Article 19, pensions and other similar remuneration, disbursements under the Social Security legislation and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned Contracting State.

(2) The term "annuity" means a stated sum payable to an individual periodically at stated times during 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 19

Government service

(1) (a) Remuneration, other than a pension, paid by a Contracting State or political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:

- (i) is a citizen of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

(2) (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a citizen of, that State.

(3) The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

Students

(1) Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

(2) In respect of grants, scholarships or income from any kind of activity not covered by paragraph (1), a student or business apprentice referred to in paragraph (1) shall be entitled to the same exemptions, reliefs or reductions in respect of taxes available to residents of the Contracting State he is visiting. This paragraph shall only apply if the student or apprentice stays for more than six months in that 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 shall be taxable only in that State.

(2) The provisions of paragraph (1) shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 22

Elimination of double taxation

(1) In the case of Ukraine, double taxation shall be avoided as follows:

As regards the application of the provisions of Ukraine legislation concerning the tax exemption in respect of tax paid outside the territory of Ukraine, (which shall not be contrary to the main principles of this paragraph) Swedish tax which is paid under Swedish legislation in accordance with this Convention directly or by way of deductions from profit, income or property from Swedish sources, the reduction shall be done by way of a credit against any Ukrainian tax computed in respect of such profit, income or property in respect of which this Ukrainian tax is computed.

(2) In the case of Sweden, double taxation shall be avoided as follows:

(a) Where a resident of Sweden derives income which under the laws of Ukraine and in accordance with the provisions of this Convention may be taxed in Ukraine, Sweden shall allow - subject to the provisions of the law of Sweden concerning credit for foreign tax (as it may be amended from time to time without changing the general principle hereof) - as a deduction from the tax on such income, an amount equal to the Ukrainian tax paid in respect of such income.

(b) Where a resident of Sweden derives income which, in accordance with the provisions of this Convention, shall be taxable only in Ukraine, Sweden may, when determining the graduated rate of Swedish tax, take solely for determining that rate of tax into account the income which shall be taxable only in Ukraine.

(c) Notwithstanding the provisions of sub-paragraph (a), dividends paid by a company which is a resident of Ukraine to a company which is a resident of Sweden shall be exempt from Swedish tax to the extent that the dividends would have been exempt under Swedish law if both companies had been Swedish companies. This exemption shall not apply unless:

(i) the profits out of which the dividends are paid have been subjected to the normal corporated tax in Ukraine or an income tax comparable thereto, or

(ii) the dividends paid by the company which is a resident of Ukraine consist wholly or almost wholly of dividends which that company has received, in the year or previous years, in respect of shares held by it in a company which is a resident of a third State and which would have been exempt from Swedish tax if the shares in respect of which they are paid had been held directly by the company which is a resident of Sweden.

(d) For the purposes of paragraphs 2 (a) and (c) of

this Article the terms "the Ukrainian tax paid" and "the normal corporate tax in Ukraine or an income tax comparable thereto" shall be deemed to include Ukrainian income tax which would have been paid but for the exemption or reduction of tax granted under time-limited incentive provisions contained in Ukrainian laws designed to promote economic development.

(e) The provisions of paragraph 2 (d) shall apply for a period of five years from the date of the entry into force of this Convention. The competent authorities shall consult each other in order to determine whether the provisions of these paragraphs shall be applicable after that period.

(3) Notwithstanding any other provision of this Convention, where

(a) a company that is a resident of a Contracting State derives its income primarily from other States

(i) from activities such as banking, shipping, financing or insurance or

(ii) from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business primarily in other States; and

(b) except for the application of the method of elimination of double taxation normally applied by that State, such income would bear a significantly lower tax under the laws of that State than income from similar activities carried out within that State or from being the headquarters, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business in that State, as the case may be, subparagraph (2) (d) of this Article and any other provisions of this Convention conferring an exemption or a reduction of tax shall not apply to the income of such company and to the dividends paid by such company.

Article 23

Non-discrimination

(1) Citizens 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 citizens of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

(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 citizens 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 (8) of Article 11, or paragraph (6) of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

(5) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(6) The provisions of this Article shall apply to the taxes which are the subject of this Convention.

(7) Nothing in this Convention shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes which are given to a person who is a resident, according to criterias other than the criterias of the general tax legislation or on account of civil status or family responsibilities which it grants to its own residents.

Article 24

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) or Article 23, to that of the Contracting State of which he is a citizen. 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. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25

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 this Conventions, insofar as the taxation thereunder is not contrary to this Convention, in particular, to prevent fraud and to facilitate the administration of Statutory provisions against legal avoidance. Any information received by a Contracting State shall be treated as secret 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 this 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.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to normal practice.

Article 26

Diplomatic agents and consular officers

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

Article 27

Entry into force

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 Sweden:
in respect of income derived on or after the first day of January of the year next following that of the entry into force of the Convention;

(b) in Ukraine:

(i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the

Convention enters into force;

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

(iii) in respect of income tax on citizens of Ukraine, foreign citizens and stateless persons for any payments made on or after the sixtieth day following that day on which the Convention enters into force.

Article 28

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through the 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 Sweden:
in respect of income derived on or after the first day of January of the year next following that in which the notice of termination is given;

(b) in Ukraine:

(i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the notice is given;

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

(iii) in respect of income tax on citizens of Ukraine, foreign citizens and stateless persons for any payments made on or after the sixtieth day following that day on which the notice is given.

In witness whereof the undersigned being duly authorized thereto have signed the present Convention.

Done at *Kiev*....., this *fifteenth*..... day of *August, 1995*..., in the English, Ukrainian and Swedish languages. In case of divergency the English text shall prevail.

For Ukraine



For Sweden



PROTOCOL

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

I. Ad Article 2

It is agreed that social security fees are not covered by this Convention even though they may be calculated on the total amounts of wages or salaries paid by enterprises.

II. Ad Article 11

It is further agreed that interest received by or on loans guaranteed by the Swedish Government authority "SwedeCorp" shall be exempt from tax in Ukraine.

III. Ad Article 13

It is understood that the second sentence of paragraph (3) of Article 13 deals with capital gains from the alienation of property belonging to a consortium. If a partner of a consortium realises a capital gain from the alienation of property that belongs to that partner, the other provisions of Article 13 (including the first sentence of paragraph 3) will apply.

In witness whereof the undersigned being fully authorized thereto have signed the present Protocol.

Done at *Kiev*....., this *fifteenth* day of *August, 1995*., in the English, Ukrainian and Swedish languages. In case of divergency the English text shall prevail.

For Ukraine



For Sweden

