

CONVENTION BETWEEN THE REPUBLIC OF SAN MARINO AND THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF TAX FRAUD WITH RESPECT TO TAXES ON INCOME

The Government of the republic of San Marino and the Government of the Kingdom of Belgium, desiring to conclude a Convention for the avoidance of double taxation and the prevention of tax fraud with respect to taxes on income, and to strengthen the disciplined development of economic relations between the two States in the framework of greater cooperation, have agreed as follows:

Article 1 PERSONS COVERED

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 imposed on behalf of a Contracting State or of its political or administrative 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 existing taxes to which the Convention shall apply are in particular :

a) in the case of San Marino:

the general income tax which is levied:

1 ° on individuals;

2 ° on bodies corporate and proprietorships;

even if collected through a withholding tax,
(hereinafter referred to as "San Marino tax");

b) in the case of Belgium :

- 1° the individual income tax;
- 2° the corporate income tax;
- 3° the income tax on legal entities;
- 4° the income tax on non-residents;
- 5° the supplementary crisis contribution,

including the prepayments and the surcharges on these taxes and prepayments,
(hereinafter referred to as "Belgian tax").

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

Article 3 GENERAL DEFINITIONS

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

a) 1° the term "San Marino" means the Republic of San Marino; used in a geographical sense, it means the territory of the Republic of San Marino, including any other area within which the Republic of San Marino, in accordance with international law, exercises sovereign rights or its jurisdiction;

2° the term "Belgium" means the Kingdom of Belgium; used in a geographical sense, it means the territory of the Kingdom of Belgium, including the territorial sea and any other 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;

b) the terms "a Contracting State" and "the other Contracting State" mean Belgium or San Marino as the context requires;

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

d) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;

e) 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;

f) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

g) the term "competent authority" means :

1 ° in the case of San Marino, the Ministry of Finance, and

2 ° in the case of Belgium, the Minister of Finance or his authorised representative;

h) the term "national" means :

1 ° any individual possessing the nationality of a Contracting State;

2 ° any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

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 or any other criterion of a similar nature, and also includes that State and any political or administrative subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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

a) he shall be deemed to be a resident only 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 only 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 only 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 only of the State of which he is a national;

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only 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, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 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 on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts 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 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 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 private 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, 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 business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently.
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.
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 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 from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

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 such an adjustment as it considers appropriate 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 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed :

a) 0 per cent of the gross amount of the dividends if the beneficial owner is a company which, at the moment when the dividends are paid, holds directly at least 25 per cent of the capital of the company paying the dividends for an uninterrupted period of at least twelve months;

b) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which, at the moment when the dividends are paid, holds directly at least 10 per cent but less than 25 per cent of the capital of the company paying the dividends for an uninterrupted period of at least twelve months;

c) 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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income -even paid in the form of interest- which is subjected to the same taxation treatment as income from shares by the tax legislation of the State of which the paying company is a resident.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid

by the company, except insofar as such dividends are paid to a resident of that other 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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest shall be exempted from tax in the Contracting State in which it arises if it is :

a) interest on commercial debt-claims -including debt-claims represented by commercial paper- resulting from deferred payments for goods, merchandise or services supplied by an enterprise;

b) interest paid in respect of a loan granted, guaranteed or insured or a credit extended, guaranteed or insured under a scheme organised by a Contracting State or one of its political or administrative subdivisions or local authorities in order to promote the export;

c) interest on debt-claims or loans of any nature -not represented by bearer instruments- paid to banking enterprises;

d) interest on deposits made with a banking enterprise;

e) interest paid to the other Contracting State or one of its political or administrative subdivisions or local authorities.

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 penalty charges for late payment or interest regarded as dividends under paragraph 3 of Article 10.

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

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

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 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 royalties.

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

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

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

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 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 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 the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains derived by a resident of a Contracting State from the alienation of shares of a company more than 50 per cent of the value of which is derived directly or indirectly from immovable property situated in the other Contracting State, may be taxed in that other State.

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

Article 14 INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15 DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if :

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the taxable period concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 COMPANY MANAGERS

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.

The preceding provision shall also apply to payments derived in respect of the discharge of functions which, under the laws of the Contracting State of which the company is a resident, are regarded as functions of a similar nature as those exercised by a person referred to in the said provision.

2. Remuneration derived by a person referred to in paragraph 1 from a company which is a resident of a Contracting State in respect of the discharge of day-to-day functions of a managerial or technical, commercial or financial nature, may be taxed in accordance with the provisions of Article 15, 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, 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, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

Article 18 PENSIONS

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

2. The provisions of paragraph 1 shall not apply if the recipient is not taxed in respect of such income in the State of which he is a resident and according to the laws of that State. In such case such income may be taxed in the State in which it arises.

3. Notwithstanding the provisions in paragraph 1 of this Article, pensions and other similar payments made by a Contracting State under provisions of the social security legislation or under a public scheme organised by that State in order to supplement the benefits of its social security legislation shall be taxable only in that State.

Article 19 GOVERNMENT SERVICE

1. a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political or administrative 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 salaries, wages and other similar 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 :

c)

1° is a national of that State; or

2° 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 or administrative subdivision or a local authority thereof, to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

3. The provisions of Articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration and to pensions in respect of services rendered in connection with a trade or business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

Article 20 PROFESSORS, TEACHERS AND RESEARCHERS

1. A professor, teacher or researcher who makes a temporary visit to a Contracting State for a period not exceeding 2 years for the purpose of teaching or conducting research at an officially recognized university, college, school, or other similar educational institution, and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of remuneration from such teaching or research.

2. The provisions of paragraph 1 shall not apply to remuneration received in consideration for research carried on not in the public interest, but primarily for the private benefit of a specific person or persons.

Article 21 STUDENTS AND BUSINESS APPRENTICES

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 22 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.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing articles of the Convention and arising in the other Contracting State may also be taxed in that other State if these items are not taxed in the first-mentioned State.

Article 23 MISCELLANEOUS

A person that is a resident of a Contracting State and derives income from the other Contracting State shall not be entitled to relief from taxation otherwise provided for in this Convention if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of such item of income to take advantage of the provisions of this Convention.

Article 24 METHODS FOR ELIMINATION OF DOUBLE TAXATION

1. In the case of San Marino, double taxation shall be avoided as follows :

a) Where a resident of San Marino derives income which, in accordance with the provisions of this Convention, may be taxed in Belgium, San Marino shall, subject to

the provisions of sub-paragraphs b) and c) exempt such income from tax but may, nevertheless, in calculating the amount of tax on the remaining income of such resident, apply the same tax rate which would apply if the income in question were not exempt.

b) Where a resident of San Marino derives income which, in accordance with the provisions of Articles 10 and 11, may be taxed in Belgium, San Marino shall allow as a deduction from the tax on the income of that resident, an amount equal to the tax paid in Belgium. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income arising in Belgium.

c) Notwithstanding the provisions of sub-paragraph b), where a company which is a resident of San Marino has held at least 25 percent of the capital of a company which is a resident of Belgium paying dividends for at least 12 months prior to the decision to distribute the dividends, San Marino shall exempt from tax the dividends paid to the company which is a resident of San Marino by the company which is a resident of Belgium.

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

a) Where a resident of Belgium derives income, not being dividends, interest or royalties, which may be taxed in San Marino in accordance with the provisions of this Convention, and which are taxed there, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.

However, in the case of a company which is a resident of Belgium, where the San Marino tax is less than 15 per cent of the net amount of the income referred to in this provision, Belgium shall not exempt that income, but reduce to a third the Belgian tax which is proportionally relating to that income, calculated as if that income were income from Belgian sources.

b) Notwithstanding the provisions of sub-paragraph a) of this paragraph and any other provision of this Convention, Belgium shall, for the determination of the additional taxes established by Belgian municipalities and conurbations, take into account the earned income (revenus professionnels - beroepsinkomsten) that is exempted from tax in Belgium in accordance with sub-paragraph a) of this paragraph. These additional taxes shall be calculated on the tax which would be payable in Belgium if the earned income in question had been derived from Belgian sources.

c) Dividends derived by a company which is a resident of Belgium from a company which is a resident of San Marino shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.

d) 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 interest or royalties, the San Marino tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.

e) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in San Marino 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 other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in San Marino by reason of compensation for the said losses.

Article 25 NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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, in particular with respect to residence, are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 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.

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, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26 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 25, to that of the Contracting State of which he is a national. The case must be presented within two 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. The mutual agreement procedure shall expire by the end of the third year following that in which the case was presented. If an agreement is reached, it 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 administrative 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 of tax provided for in the Convention.

5. The competent authorities of the Contracting States shall communicate directly with each other for the application of the Convention.

Article 27 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 Convention, insofar as the taxation thereunder is not contrary to the Convention, in particular to prevent tax fraud. 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) concerned with 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 public policy (ordre public).

Article 28 AID IN RECOVERY

1. The Contracting States shall provide aid and assistance to each other in order to notify and recover the taxes referred to in this Convention as well as surcharges, additions,

interest, costs and fines of a non penal nature relating to these taxes, when such tax claims are due and are no longer open to appeal in accordance with the legal provisions or regulations of the State applying for assistance.

2. At the request of the applicant State the requested State shall proceed to the notification and recovery of the tax claims of that State in accordance with the laws and administrative practice applying to the notification and recovery of its own tax claims, unless otherwise provided by the Convention.

3. The requested State shall not be obliged to accede to the request of the applicant State if that State has not exhausted all remedies in its own territory for the recovery of its tax claim.

4. The request for assistance in the recovery of a tax claim shall be accompanied :

a) by an official copy of the instrument permitting enforcement in the applicant State;

b) by an official copy of any other document required for recovery in the applicant State; and

c) where appropriate, by a certified copy of any final decision of an administrative body or of a court of law.

5. The instrument permitting the enforcement in the applicant State shall have the same effect in the requested State.

6. Questions concerning any period of limitation of a tax claim shall be governed solely by the laws of the applicant State.

7. Acts of recovery performed by the requested State in pursuance of the request for assistance which, according to the laws of that State, would have the effect of suspending or interrupting the period of limitation, shall have this effect too under the laws of the applicant State. The requested State shall inform the applicant State about measures taken to this end.

8. Tax claims for the recovery of which assistance is requested shall not have any priority in the requested State.

9. The requested 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.

10. With regard to tax claims of a Contracting State which are the subject of or which are still open to appeal, the competent authority of that 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 State. The provisions of the preceding paragraphs shall apply mutatis mutandis to such measures.

11. The competent authorities of the Contracting States shall consult together in order to settle the mode of transfer of the amounts recovered by the requested State on behalf of the applicant State.

Article 29 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

2. For the purposes of the Convention, persons who are members of diplomatic missions or consular posts of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State, shall be deemed to be residents of the sending State if they are subjected therein to the same obligations in respect of taxes on income as are residents of that State.

3. The Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of diplomatic missions or consular posts of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income.

Article 30 REFUNDS

1. Taxes collected in a Contracting State through a withholding tax shall be refunded upon request of the interested party where the right to levy such taxes is limited by the provisions of this Convention.

2. Refund claims to be submitted within the time limits set forth in the laws of the Contracting State which has to make the refund, shall be accompanied by an official declaration of the Contracting State of which the taxpayer is a resident stating that such taxpayer meets the requirements to be entitled to the benefits of this Convention.

3. The competent authorities of the Contracting State shall decide by mutual agreement, in accordance with the provisions of Article 26 of this Convention, the mode of application of this Article.

Article 31 ENTRY INTO FORCE

1. Each Contracting State shall notify the other Contracting State of the completion of the procedures required by its laws for the bringing into force of this Convention. The Convention shall enter into force from the date on which the later of these notifications is received.

2. The provisions of the Convention shall have effect :

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

b) with respect to taxes other than taxes due at source on income of taxable periods beginning on or after January 1 of the year next following the year in which the Convention entered into force.

Article 32 TERMINATION

This Convention shall remain in force until terminated by a Contracting State but either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the Convention entered into force. In the event of termination before July 1 of such year, the Convention shall cease to have effect:

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

b) with respect to taxes other than taxes due at source on income of taxable periods beginning on or after January 1 of the year next following the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention.

DONE in duplicate at San Marino, this 21 December 2005, in the Italian, French, Dutch and English languages, all four texts being equally authentic. In case of divergence between the texts the English text shall prevail.

PROTOCOL

At the moment of signing the Convention between the Republic of San Marino and the Kingdom of Belgium for the avoidance of double taxation and the prevention of tax fraud with respect to taxes on income, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention.

It is understood that:

1. The provisions of the Convention shall not prevent the application of the Agreement between the European Community and the Republic of San Marino providing for measures equivalent to those laid down in Council Directive 2003/48/EC on taxation of savings income in the form of interest payments signed at Brussels on 7 December 2004.

2. Ad Article 3, paragraph 1, d) :

In San Marino a trust shall be treated as a body corporate for tax purposes where and only to the extent in which such trust is subject to San Marino income tax.

3. Ad Article 4 :

The term "resident of a Contracting State" also means an institution or an organisation, established in accordance with the legislation of a Contracting State, which solely aims at awarding old-age pensions, even if the concerned institution or organisation is exempted from tax in the State in which it is established.

4. Ad Article 5 :

Nothing in Article 5 shall prevent an insurance enterprise of a Contracting State from being deemed to have a permanent establishment in the other Contracting State when it collects premiums in that other State, or insures risks situated therein, through an intermediary or agent established there - but not including any such agent as is mentioned in paragraph 6 of this Article unless he has, and habitually exercises, an authority to conclude contracts in the name of the enterprise.

5. Ad Article 15, paragraph 1 :

An employment is exercised in a Contracting State where the activity in respect of which the salaries, wages and other similar remuneration are paid, is effectively carried on in that

State, this means where the employee is physically present in that State for the exercise of that activity.

6. Ad Article 16, paragraph 2 :

In the case of Belgium, remuneration received by a resident of a Contracting State in respect of his day-to-day activity as a partner of a company, other than a company with share capital, which is a resident of Belgium, may be taxed in accordance with the provisions of Article 15, 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.

7. Ad Article 18, paragraph 2, Article 22, paragraph 3 and Article 24, paragraph 2, a) :

For the purposes of the application by Belgium of paragraph 2 of Article 18, paragraph 3 of Article 22 and paragraph 2, a) of Article 24 of the Convention, income is taxed in San Marino when it is effectively included in the taxable base by reference to which the San Marino tax is computed. Income is therefore not taxed in San Marino when, being subjected to the tax treatment normally applicable to such income under San Marino law, it is either not taxable or exempted from tax in San Marino.

8. In no case shall the provisions of the Convention be construed so as to prevent a Contracting State from applying the provisions of its national law relating to the prevention of tax fraud.

9. The provisions of the Convention which are drafted according to the corresponding provisions of the OECD Model Convention on Income and on Capital shall generally be expected to have the same meaning as expressed in the OECD Commentary thereon. The understanding in the preceding sentence will not apply with respect to the following:

a) any reservations or observations to the OECD Model or its Commentary by either Contracting State;

b) any contrary interpretations in this Protocol;

c) any contrary interpretation in a published explanation by one of the Contracting States that has been provided to the competent authority of the other Contracting State prior to the entry into force of the Convention;

d) any contrary interpretation agreed on by the competent authorities after the entry into force of the Convention.

The OECD Commentary - as it may be revised from time to time - constitutes a means of interpretation in the sense of the Vienna Convention of 23 May 1969 on the Law of Treaties.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol

DONE in duplicate at San Marino, this 21 December 2005, in the Italian, French, Dutch and English languages, all four texts being equally authentic. In case of divergence between the texts the English text shall prevail.