

Convention between the Kingdom of Belgium and the Czech Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital

The Kingdom of Belgium, and the Czech Republic, Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows :

Article 1 Personal scope

The Kingdom of Belgium, and the Czech Republic Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, have agreed as follows: (...)

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 imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

a) in the case of the Czech Republic:

- (i) the tax on income of individuals;
- (ii) the tax on income of legal persons;
- (iii) the tax on immovable property,

(hereinafter referred to as "Czech tax");

b) in the case of Belgium:

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

(vi) the supplementary crisis contribution,

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

(hereinafter referred to as "Belgian tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of 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 which have been made in their respective taxation laws.

Article 3 General definitions

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

- a) the term "Czech Republic" means the territory of the Czech Republic over which, under Czech legislation and in accordance with international law, the sovereign rights of the Czech Republic are exercised;
- b) the term "Belgium", when used in a geographical sense, means the territory of the Kingdom of Belgium, including the territorial sea and any other area in the sea within which the Kingdom of Belgium, in accordance with international law, exercises sovereign rights or its jurisdiction;
- c) the terms "a Contracting State" and "the other Contracting State" mean the Czech Republic or Belgium 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, aircraft, railway or road vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft, railway or road vehicle is operated solely between places in the other Contracting State;
- h) the term "competent authority" means, in each Contracting State, the Minister of Finance or his authorised representative;
- i) the term "national" means:
 - (i) any individual possessing the nationality of a Contracting State;
 - (ii) 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 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 whose income or capital, 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. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - b) if the State in which he has his centre of vital interests cannot be determined, or if he 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 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 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. The term "permanent establishment" likewise encompasses:

- a) a building site, or 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;
- b) the furnishing of services, including consultancy or managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue in the territory of the other Contracting State for a period or periods aggregating more than nine months within any fifteen-month period.

A permanent establishment shall not exist in any calendar year in which the activity described in subparagraph (a) or (b) of this paragraph, respectively, continues for a period or periods aggregating less than 30 days in that calendar year.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;
- 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 shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6 Income from immovable property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, 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 International transport

1. Profits from the operation of ships, aircraft, railway or road vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. For the purposes of this Article, profits from the operation in international traffic of ships or aircraft shall include in particular:
 - a) profits derived from the rental on a full basis of ships or aircraft and profits derived from the incidental rental on a bareboat basis of ships or aircraft used in international traffic;
 - b) profits derived from the use or rental of containers, if such profits are supplementary or incidental to profits to which the provisions of paragraph 1 apply.
3. 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.
4. 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

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.

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) 5 per cent of the gross amount of the dividends if the beneficial owner is a company, including a partnership, which holds directly or indirectly at least 25 per cent of the capital of the company paying the dividends;
 - b) 15 per cent of the gross amount of the dividends in all other cases.

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

3. The term "dividends" as used in this Article means income from shares, "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 treated as income from shares by the internal 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 or a credit made, guaranteed or insured by public entities the objective of which is to promote the export.
 - c) interest on loans of any nature - not represented by bearer instruments - granted by a banking enterprise;
 - d) interest on deposits - not represented by bearer instruments - with a banking enterprise;
 - e) interest paid to the other Contracting State or a political subdivision or local authority thereof.
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 that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable in the Contracting State in which the interest arises according to the laws of that State.

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:
 - a) 5 per cent of the gross amount of royalties paid for the use of, or the right to use, any industrial, commercial or scientific equipment;
 - b) 10 per cent of the gross amount of royalties paid 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 television or radio broadcasting, any software, patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
3. 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.
4. 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.
5. 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 in the Contracting State in which the royalties arise, according to the laws of that State.

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, aircraft, railway or road vehicles operated in international traffic or movable property pertaining to the operation of such ships, aircraft, railway or road vehicles shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
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.

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 except in the following circumstances, when such income may also be taxed in the other Contracting State:
 - a) if that resident has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or
 - b) if he stays in the other State for a period or periods exceeding in the aggregate 183 days within any twelve-month period; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.
2. In the computation of the periods mentioned in paragraph 1, b), the provisions of paragraph 3 of Article 15 shall apply.
3. 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 an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if all the following conditions are met:
 - a) the recipient is employed in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period, 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. In the computation of the periods mentioned in paragraph 2, a), the following days shall be included:
 - a) all days of physical presence including days of arrivals and departures, and
 - b) days spent outside the State of activity such as Saturdays and Sundays, national holidays, holidays and business trips directly connected with the employment of the recipient in that State, after which the activity was resumed on the territory of that State.
4. The term "employer" mentioned in paragraph 2, b) means the person having right on the work produced and bearing the responsibility and risk connected with the performance of the work.
5. Notwithstanding the provisions of the preceding paragraphs, remuneration derived in respect of an employment exercised aboard a ship, aircraft, railway or road vehicle 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.
2. Remuneration derived by a person referred to in paragraph 1 from the company in respect of the discharge of day-to-day functions of a managerial or technical nature and remuneration received by a resident of a Contracting State in respect of his personal activity as a partner of a company, other than a company with share capital, which is a resident of the other Contracting State, may be taxed in accordance with the provisions of Article 15, 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. However, pensions and other allowances, periodic or non periodic, paid under the social security legislation of a Contracting State or under a public scheme organised by that Contracting State in order to supplement the benefits of that legislation may be taxed in that State.

Article 19 Government service

1.

- a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.

2.

- a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that 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

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 21 Other income

Items of income arising in a Contracting State and derived by a resident of the other Contracting State, which are not dealt with in the foregoing Articles of this Convention, may be taxed in the first-mentioned State.

Article 22 Capital

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

Article 23 Methods for elimination of double taxation

1. In the Czech Republic, double taxation shall be eliminated as follows:

- a) The Czech Republic, when imposing taxes on its residents, may include in the tax base upon which such taxes are imposed the items of income or capital which, according to the provisions of this Convention, may also be taxed in Belgium, but shall allow as a deduction from the amount of tax computed on such a base an amount equal to the tax paid in Belgium on the items of income or capital, as the case may be. Such deduction shall not, however, exceed that part of the Czech tax, as computed before the deduction is given, which is appropriate to the income or capital which, in accordance with the provisions of the Convention, may be taxed in Belgium.
- b) Where, in accordance with any provision of the Convention, income derived or capital owned by a resident of the Czech Republic is exempt from tax therein, the Czech Republic may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

2. In Belgium, double taxation shall be eliminated as follows:

- a) Where a resident of Belgium derives income or owns items of capital which are taxed in the Czech Republic in accordance with the provisions of the Convention, other than those of paragraph 2 of Article 10, of paragraphs 2 and 7 of Article 11 and of paragraphs 2 and 5 of Article 12, Belgium shall exempt such income or such items of capital from tax but may, in calculating the amount of tax on the remaining income or capital of that resident, apply the rate of tax which would have been applicable if such income or items of capital had not been exempted.
- b) Subject to the provisions of Belgian law regarding the deduction from Belgian tax of taxes paid abroad, where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are dividends taxable in accordance with paragraph 2 of Article 10, and not exempt from Belgian tax according to subparagraph c) hereinafter, interest taxable in accordance with paragraphs 2 or 7 of Article 11, or royalties taxable in accordance with paragraphs 2 or 5 of Article 12, the

Czech tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.

- c) Dividends within the meaning of paragraph 3 of Article 10, derived by a company which is a resident of Belgium from a company which is a resident of the Czech Republic, shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.
- d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in the Czech Republic, 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 the Czech Republic by reason of compensation for the said losses.

Article 24 Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. 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.
3. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 5 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.
4. 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.
5. Nothing contained in this Article shall be construed as preventing Belgium:
 - a) from taxing the profits attributable to a permanent establishment in Belgium of a company which is a resident of the Czech Republic at the rate of tax provided by the

Belgian law, provided that this rate does not exceed the maximum rate applicable to the profits of companies which are residents of Belgium;

b) from imposing the movable property prepayment on dividends derived from a holding which is effectively connected with a permanent establishment maintained in Belgium by a company which is a resident of the Czech Republic.

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

Article 25 Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident, or if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

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 in 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 26 Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is relevant for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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 27 Members of diplomatic missions and consular posts

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.

Article 28 Entry into force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at as soon as possible.
2. The Convention shall enter into force on the date of the exchange of instruments of ratification and its provision shall have effect:
 - a) with respect to taxes due at source on income credited or paid on or after January 1 of the year next following the year in which the Convention entered into force;
 - b) with respect to other taxes charged 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;
 - c) with respect to taxes on capital, to capital existing in any taxable period beginning on or after January 1 of the year next following that in which the Convention entered into force.
3. On the entry into effect of this Convention, the application of the Convention between the Czechoslovak Socialist Republic and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed at Prague on June 19, 1975, shall terminate in relations between the Czech Republic and Belgium.

Article 29 Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State, written notice of termination at least six months before the end of any calendar year following after the period of five years from the date on which the Convention entered into force. In such event, the Convention shall cease to have effect:

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

- b) with respect to other taxes charged 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;
- c) with respect to taxes on capital, to capital existing in any taxable period beginning on or after January 1 of the year next following that in which the notice of termination is given.

In Witness Whereof the undersigned, being duly authorised thereto, have signed this Protocol.

Done in duplicate at Brussels, this 16th day of December 1996, in the English language.

APPENDIX PROTOCOL

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

In Witness Whereof the undersigned, being duly authorised thereto, have signed this Protocol. Done in duplicate at Brussels, this 16th day of december 1996, in the English language.

1. Ad Article 12

If in the event that, after the signing of this Convention, the Czech Republic signs with a third State an Agreement which limits the taxation of royalties arising in the Czech Republic to a rate lower, including exemption, than the rate provided for in subparagraph a) or b) of paragraph 2 of Article 12 of the Convention, as the case may be, that lower rate or exemption will automatically be applicable for the purposes of this Convention from the date of which the Agreement between the Czech Republic and that third State will have effect.

2. Ad Article 23

If in the event that, after the signing of this Convention, the Czech Republic signs with a third State an Agreement providing:

- that, for dividends paid by a company which is a resident of that third State to a company which is a resident of the Czech Republic, the deduction provided for in subparagraph a) of paragraph 1 of Article 23 of the Convention, shall take into account, the tax paid by the company in respect of the profits out of which such dividend is paid or,
- that the dividends, paid by a company which is a resident of that third State to a company which is a resident of the Czech Republic, shall be exempt from the tax on income of legal persons in the Czech Republic,
- that provision will automatically be applicable for the purposes of the Convention, for dividends paid by a company which is a resident of Belgium to a company which is a resident of the Czech Republic and which holds directly or indirectly at least 25 per cent of the capital of the company of Belgium, from the date of which the Agreement between the Czech Republic and that third State will have effect.

3. Aid in recovery

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

- a) Each of the Contracting States tries on account of the other Contracting State to collect the taxes of that other Contracting State insofar as it is necessary so that the tax exemptions or tax reductions provided for in that State by this Convention are not granted to persons who are not entitled to it.
- b) In no case shall the provisions of this Article be construed so as to impose on the

requested State the obligation to apply any means of enforcement which are not authorised by the legal provisions or regulations of one or the other Contracting State or to take measures which would be contrary to public policy (ordre public).