

CONVENTION BETWEEN THE REPUBLIC OF BULGARIA AND THE GRAND DUCHY OF LUXEMBOURG FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

Prom. SG. 91/4 Nov 1994

The Republic of Bulgaria and the Grand Duchy of Luxembourg,
Desiring to develop and foster their economic relationship and enter into a Convention for the avoidance of double taxation with respect to taxes on income and on capital,
Have agreed as follows:

Personal Scope

Art. 1

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

Taxes Covered

Art. 2

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 amount 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 Luxembourg:

- (i) l'impôt sur le revenu des personnes physiques (income tax on individuals);
 - (ii) l'impôt sur le revenu des collectivités (corporation tax)
 - (iii) l'impôt special sur les tantièmes (special tax on directors' fees);
 - (iv) l'impôt sur la fortune (capital tax);
 - (v) l'impôt commercial communal (communal trade tax);
- (which shall be referred to hereinafter as "Luxembourg tax");

b) in Bulgaria:

- (i) l'impôt sur le revenu global (tax on total income);
 - (ii) l'impôt sur les bénéfices (tax on profits);
 - (iii) l'impôt sur les immeubles (property tax);
- (which shall be referred to hereinafter as "Bulgarian 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 changes which have been made in their respective taxation laws.

General Definitions

Art. 3

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) The term "Luxembourg" means the territory of the Grand Duchy of Luxembourg;
 - b) The term "Bulgaria" means the Republic of Bulgaria and, when used in a geographical sense, it means the territory over which Bulgaria exercises its sovereign rights, as well as the continental plateau and the exclusive economic area over which Bulgaria exercises its sovereign rights in accordance with international law;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Luxembourg or Bulgaria, depending on the context;
 - d) the term "person" includes an individual and:
 - (i) in Luxembourg, a company and any other body of persons;
 - (ii) in Bulgaria, any body corporate including a company and any other body of persons;
 - e) the term "company" means any entity with legal status or any entity which is treated as a body corporate for tax purposes;
 - f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State.
 - g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which 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;
 - h) the term "competent authority" means:
 - (i) in Luxembourg, the Minister of Finance or his authorized representative;
 - (ii) in Bulgaria, the Minister of Finance or his authorized representative.
2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Resident

Art. 4

1. For the purposes of this Convention, the terms "resident of one of the Contracting States" and "resident of the other Contracting State" mean:
 - a) with regard to Luxembourg, any person who, under the laws of Luxembourg, is liable to tax in Luxembourg by reason of his domicile, residence, place of management or any other criterion of a similar nature. However, this term does not include persons who are liable to taxation in Luxembourg solely for income from sources in Luxembourg or capital situated therein.
 - b) with regard to Bulgaria, any person who, under the laws of Bulgaria, is liable to tax in Bulgaria for his income earned worldwide and who is not a resident of a third State, as well as any body corporate which has its place of management in Bulgaria or which is registered therein. However, this term does not include persons who are liable to taxation in Bulgaria solely on income from Bulgarian sources or capital situated therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then the matter shall be determined as follows:
 - a) such person shall be deemed a resident of the State in which his personal and economic ties are the closest (center of vital interests);
 - b) if the State in which such person has his center of vital interests cannot be determined, then the competent authorities of the Contracting States shall settle the matter 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.

Permanent Establishment

Art. 5

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, a quarry, an oil or gas well or any other place of extraction of natural resources.

3. A building or construction or installation project shall constitute a permanent establishment only if it lasts longer than six months.

4. Notwithstanding the preceding provisions of this Art., 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; the sale of objects presented during an exposition or a fair shall not be deemed a permanent establishment;

c) the maintenance of a stock of goods or merchandise belonging to an 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 creation of a building or construction site as part of a contract for the delivery of industrial or technological equipment;

g) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to f) 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 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.

Income From Immovable Property

Art. 6

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture and 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, sharecropping 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.

Business Profits

Art. 7

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 with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. 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.

5. 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.

6. Where profits include items of income which are dealt with separately in other Art.s of this Convention, then the provisions of those Art.s shall not be affected by the provisions of this Art..

Shipping and Air Transport

Art. 8

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. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Associated Enterprises

Art. 9

1. Where

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

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

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

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of the Convention and the competent authorities of the Contracting States shall, if necessary, consult each other.

Dividends

Art. 10

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 person receiving the dividends is the beneficial owner thereof, the tax so charged shall not exceed:

a) five percent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which owns at least twenty-five percent of the capital in the company paying the dividends,

b) fifteen percent 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 Art. means income from shares, or from rights to the distribution of profits, not being debt-claims, as well as other income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 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 Art. 7 or Art. 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.

Interest

Art. 11

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed ten percent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, the interest mentioned in paragraph 1 may be taxed solely in the Contracting State of which the person receiving the interest is a resident, if such person is the beneficial owner of the interest and if such interest is paid:

- a) in connection with the sale on credit of industrial, commercial or scientific equipment,
- b) in connection with the sale on credit of goods or merchandise delivered by an enterprise to another enterprise, or
- c) on a loan of any kind, not represented by bearer shares, granted by a financial institution or by a Contracting State.

4. The term "interest" as used in this Art. 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. For the purposes of this Art., penalties for late payment shall not be deemed as interest.

5. The provisions of paragraphs 1 through 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 Art. 7 or Art. 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 Art. 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.

Royalties

Art. 12

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable in that other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the laws of that State, but the tax so charged may not exceed five percent of the gross amount of the royalties.

3. The term "royalties" as used in this Art. means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, 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 this Art. shall also apply to payments made for technical services rendered, where such payments pertain to the use or the granting of the use of rights or property described in paragraph 3.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that Contracting 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 Contracting State in which the permanent establishment or fixed base is situated.

6. The provisions of paragraphs 1 and 2 shall not apply where 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 Art. 7 or Art. 14, as the case may be, shall apply.

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 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 Art. 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.

Capital Gains

Art. 13

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Art. 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 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.

Independent Personal Services

Art. 14

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 such resident 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, only so much of the income as is attributable to that fixed base may be taxed in that other State.

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.

Dependent Personal Services

Art. 15

1. Subject to the provisions of Arts 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:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and

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

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 Art., 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.

Director's Fees

Art. 16

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 the supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

Entertainers and Athletes

Art. 17

1. Notwithstanding the provisions of Art.s 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as an athlete, 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 athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Art.s 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised. The provisions of this paragraph shall not apply if it is determined that neither the entertainer nor the athlete nor the persons associated with them participate directly or indirectly in the profits of the person mentioned in this paragraph.

3. The provisions of paragraphs 1 and 2 shall not apply to income in respect of activities carried out by entertainers which are substantially subsidized, either directly or indirectly, by grants from public funds or where such activities are exercised in the other State as part of an official cultural exchange program between the two States.

Pensions

Art. 18

1. Subject to the provisions of paragraph 2 of Art. 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. Notwithstanding the provisions of paragraph 1, pensions paid and other payments made under a the social security laws of a Contracting State shall be taxable only in that State.

Government Service

Art. 19

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 Art.s 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.

4. Notwithstanding the provisions of paragraph 3, the provisions of paragraph 1 shall apply to payments made to employees of the national public air transport enterprise of a Contracting State exercising international traffic activities in the other Contracting State.

Students

Art. 20

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall be exempt from taxation in that other State.

2. An individual who is or was formerly a resident of one of the Contracting States and who is a resident in the other Contracting State for the purpose of studying, conducting research or acquiring technical, professional or commercial training or experience and who performs in that other Contracting State a paid employment for one or more periods not to exceed a total of twelve months shall be exempted from taxation in that other State in respect of compensation for such employment if said employment is directly related to his studies, research or training or to the acquiring of experience if said payments constitute the income required to cover his maintenance costs.

Other Income

Art. 21

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Art.s 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 Art. 6, if the recipient of such income, being a resident of a Contracting State, carries on a trade or 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 Art. 7 or Art. 14, as the case may be, shall apply.

Capital

Art. 22

1. Capital represented by immovable property referred to in Art. 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 and aircraft operated in international traffic, and by movable property pertaining to the operation thereof, 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.

Methods for Elimination of Double Taxation

Art. 23

1. With regard to Luxembourg, double taxation shall be avoided in the following manner:

a) Where a resident of Luxembourg derives income or owns capital which may be taxed in Bulgaria, in accordance with the provisions of this Convention, Luxembourg shall, subject to the provisions of sub-paragraphs b) and c), exempt such income or such capital from taxation, but it may, in calculating the amount of tax on the remaining income or capital of such resident, apply the same rate as if the income or items of capital in question had not been exempted.

b) Where a resident of Luxembourg derives items of income which, in accordance with the provisions of Art.s 10, 11 and 12, may be taxed in Bulgaria, then Luxembourg shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Bulgaria. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction, which is attributable to such items of income derived from Bulgaria.

c) Where a company which is a resident of Luxembourg receives dividends from Bulgarian sources, then Luxembourg shall exempt such dividends from taxation, provided that such company which is a resident of Luxembourg has owned directly since the beginning of the operating period at least twenty-five percent of the capital in the company paying the dividends. The foregoing shares or rights in the Bulgarian company shall be exempted from the Luxembourg tax on capital under the same conditions.

2. With regard to Bulgaria, double taxation shall be avoided in the following manner:

a) Where a resident of Bulgaria derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Luxembourg, Bulgaria shall, subject to the provisions of sub-paragraphs b) and c), exempt such income or capital from tax.

b) Where a resident of Bulgaria derives items of income which, in accordance with the provisions of Art.s 10, 11 and 12 of this Convention, may be taxed in Luxembourg, Bulgaria shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Luxembourg. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Luxembourg.

3. Where in accordance with any provision of this Convention income derived or capital owned by a resident of Bulgaria is exempt from tax in Bulgaria, Bulgaria 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.

Non-Discrimination

Art. 24

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 are or may be subjected. This provision shall, notwithstanding the provisions of Art. 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The term "nationals" means:

a) all individuals possessing the nationality of a Contracting State;

b) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

4. Except where the provisions of Art. 9, paragraph 7 of Art. 11, or paragraph 7 of Art. 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

6. No provision of this Art. shall be construed as preventing Bulgaria from taxing, at the rate provided for under Bulgarian law, the total amount of profits of any Bulgarian permanent establishment, individual or body of persons residing in Luxembourg, provided that the foregoing rate does not exceed the rate generally applicable to the profits of a permanent establishment of a third State.

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

Mutual Agreement Procedure

Art. 25

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 Art. 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 endeavor, 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 endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. If an oral exchange of opinion appears necessary to facilitate this agreement, such exchange of views may take place within a Commission made up of representatives of the competent authorities of the Contracting States.

Exchange of Information

Art. 26

1. The competent authorities of the Contracting States shall exchange such information (as the

tax laws in the two States allow to be disclosed in the course of ordinary administrative practice) as is necessary for carrying out the provisions of this Convention. Any information exchanged in this manner shall be treated as secret and may be disclosed only to persons involved in the assessment or collection of, the enforcement or prosecution in respect of the taxes which are the subject of the Convention. There shall not be exchanged any information which would disclose any trade, banking, industrial or business secret or trade process.

2. In no case shall the provisions of this paragraph be construed so as to impose on a Contracting State the obligation to carry out administrative measures at variance with its own laws and administrative practice or its sovereignty, its security or its general interest or with public order (ordre public), or to transmit information which may not be obtained under its own laws and those of the State requesting such information.

Diplomats

Art. 27

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

Entry Into Force

Art. 28

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Sofia as soon as possible.

2. The Convention shall enter into force on the day following the date of exchange of the instruments of ratification, and it shall apply:

a) to withholding tax on income attributed or paid out on or after January 1 of the year in which the instruments of ratification are exchanged;

b) to the other taxes for the fiscal years starting on or after January 1 of the year in which the instruments of ratification are exchanged.

Termination

Art. 29

This Convention shall remain in force indefinitely. However, each of the Contracting States may, through June 30 of any calendar year starting in the third year from the date of exchange of the instruments of ratification, terminate it, in writing through diplomatic channels. In the event of termination before July 1 of such year, the Convention shall apply for the last time:

a) to withholding taxes owed on income attributed or paid out no later than December 31 of the year of termination;

b) to the other taxes on income and capital pertaining to the tax periods ending no later than December 31 of the year of termination.

In witness whereof, the Representatives of both States have signed this Convention.

Done in duplicate at Luxembourg, this 27th day of January 1992, in the French and Bulgarian languages, each version being equally authentic.

FOR THE REPUBLIC OF BULGARIA:

FOR THE GRAND DUCHY OF LUXEMBOURG:

PROTOCOL

The Republic of Bulgaria and the Grand Duchy of Luxembourg,

Have agreed at the time of signature of the Convention between the Republic of Bulgaria and the Grand Duchy of Luxembourg for the avoidance of double taxation with respect to taxes on income and on capital, on January 27, 1992 at Luxembourg to the following provisions which form an integral part of the Convention:

1. This Convention shall not apply to holding companies in the sense of specific laws in Luxembourg currently governed by the law of July 31, 1929 and the grand-ducal order of December 17, 1938, nor to companies which are subject in Luxembourg to similar tax laws. Nor shall it apply to income, other than the salaries and directors' fees mentioned in Art.s 15 and 16, which a resident of Bulgaria derives from such companies, nor to the shares or other capital securities owned by such person in such companies.

2. The provisions of this Convention shall not infringe upon the tax provisions of Agreements concluded between the two Contracting States in the area of international transportation.

3. Ad Art. 3, paragraph 1, sub-paragraph f)

With regard to Bulgaria, shall also be deemed enterprises the individual and collective firms of individuals, as well as the economic activities of such persons registered with the municipalities under Bulgarian law.

4. Ad Art. 12, paragraph 4.

The provisions of paragraph 4 of Art. 12 shall not apply to income from technical services rendered when complete facilities or technological, scientific, production or commercial equipment are supplied.

In witness whereof, the Representatives of the two States have signed this protocol.

Done in duplicate at Luxembourg, this 27th day of January 1992, in the Bulgarian and French languages, each version being equally authentic.