

# CONVENTION BETWEEN SPAIN AND THE PEOPLE'S REPUBLIC OF BULGARIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

*Prom. SG. 11/8 Feb 1991*

The Kingdom of Spain and the People's Republic of Bulgaria,

Led by the desire to encourage and deepen the economic relations and the economic co-operation between the two countries,

Desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital,

Have agreed as follows:

## **Personal Scope**

Art. 1

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

2. For the purpose of this Convention as residents are considered:

a) in the case of Bulgaria, individuals who are nationals of the People's Republic of Bulgaria and legal persons who have their head offices in Bulgaria or are registered therein;

b) in the case of Spain, persons who under the Spanish law are liable to tax in Spain by reason of their domicile, residence, place of management or any other criterion of similar nature.

3. Where by reason of the provisions of paragraph 2 an individual is a resident of both Contracting States, then he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests).

4. If the State in which he has his centre of vital interests cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

5. Where by reason of the provisions of paragraph 2 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

## **Taxes Covered**

Art. 2

1. This Convention shall apply to taxes on income and capital imposed according to the law of each Contracting State.

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

a) in Spain:

(I) the Income Tax on Individuals (el Impuesto sobre la Renta de las Personas Físicas);

(II) the Corporation Tax (el Impuesto sobre Sociedades);

(III) the Capital Tax (el Impuesto sobre el Patrimonio);

(IV) Local Taxes on income and on capital

(hereinafter referred to as "Spanish tax").

b) in Bulgaria:

(I) the tax on total income;

(II) the tax on income of unmarried, widowed and divorced persons and spouses without children;

- (III) the tax on profits; and
  - (IV) the tax on buildings
- (hereinafter referred to as "Bulgarian tax");

3. This Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in the place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any significant changes which have been made in their respective taxation laws. If the competent authorities of the two Contracting States disagree on the application of the first sentence of this paragraph, discussions shall be initiated on the necessity of amending the Convention, so that the new disputable tax will be included.

## **General Definitions**

### **Art. 3**

In this Convention, unless the context otherwise requires:

a) the term "Spain" means the territory of the Spanish State, as well as any area outside the territorial sea upon which, in accordance with international law and on application of its legislation the Spanish State exercises or could exercise on the future jurisdiction or sovereign rights.

b) the term "Bulgaria" means the territory of the People's Republic of Bulgaria upon which the state sovereignty is spread as well as the continental shelf in respect of which the People's Republic of Bulgaria exercises sovereign rights according to international law.

c) the terms "a Contracting State" and "the other Contracting State" means Bulgaria and Spain as the context requires.

d) the term "person" includes an individual, a body of persons, a legal person, including a Company, or any entity which is treated as a body corporate for tax purposes.

e) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, respectively, an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State.

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

g) the term "competent authority" means

(I) in the case of Spain, the Minister of Economy and Finance, or any other authority to whom the Minister delegates.

(II) in the case of Bulgaria, the Minister of Finance or his authorized representative.

2. In the application of this Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

## **Permanent Establishment**

### **Art. 4**

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place, where a resident of a Contracting State carries on, wholly or partly, business in the other Contracting State.

2. The term "permanent establishment" includes especially:

- a) a place of management;
- b) a branch;
- c) an office;

- d) a factory;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 12 months.

4. The participation of a resident of Spain in a joint venture, founded according to the Bulgarian legislation, will be considered as a permanent establishment, situated in the People's Republic of Bulgaria.

5. 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;

c) the maintenance of a stock of goods exposed by the enterprise on a stock fair or an exhibition which is to be sold after the conclusion;

d) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

f) the maintenance of a fixed place of business solely for the purpose or carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

g) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs 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.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person -other than an agent of an independent status to whom paragraph 7 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 5 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.

7. 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.

8. The fact that a company which is a resident of a Contracting State has a participation in a company which is a resident of the 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. 5**

1. Income derived by a resident of a Contracting State from immovable property 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 laws of the Contracting State in which the property in question is situated.

## **Business Profits**

### **Art. 6**

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. 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..

## **International Transport**

### **Art. 7**

1. Profits from the operation of ships, aircraft or road vehicles in international transport, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

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

## **Dividends**

### **Art. 8**

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 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.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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. 6 or Art. 12, 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. 9**

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

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

3. The provisions of paragraph 1 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. 6 or Art. 12, as the case may be, shall apply.

## **Royalties**

### **Art. 10**

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

2. 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, 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, and includes payments of any kind in respect of motion picture films and works on film or videotape for use in connection with television.

3. The provision of paragraph 1 shall not apply if the recipient 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 professional 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 a case, the provisions of Art. 6 or Art. 12, as the case may be, shall apply.

### **Capital Gains**

#### **Art. 11**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Art. 5 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 or road vehicles operated in international transport, or movable property pertaining to the operation of such ships, aircraft 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.

### **Professional Services**

#### **Art. 12**

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities.

If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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

### **Salaries And Wages**

#### **Art. 13**

1. Subject to the provisions of Art.s 14, 16 and 17, 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 fiscal year concerned, and

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

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

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

4. Notwithstanding the preceding provisions of this Art., 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, during the first three years of the employment in that other State if:

a) the employment is exercised at a non commercial or industrial representation; and

b) the remuneration is paid by an employer who is a resident of the first-mentioned State; and

c) the remuneration is not borne by a permanent establishment which the employer has in that other State.

### **Directors' Fees**

#### **Art. 14**

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

### **Artistes And Athletes**

#### **Art. 15**

1. Notwithstanding the provisions of Art.s 12 and 13, income derived by a resident of a Contracting State as an entertainer, such as theatre, motion picture, radio or television artiste, or a musician, or as 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 an 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 6, 12 and 13, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Income derived by artistes or athletes residents of a Contracting State on occasion of their activities exercised in the other Contracting State as a result of cultural exchange established in the cultural Conventions signed by the two Contracting States or in intergovernmental programmes of cooperation in the cultural or sportive field shall be taxable only in the first Contracting State.

### **Pensions**

#### **Art. 16**

Subject to the provisions of paragraph 2 of Art. 7, 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.

## **Government Service**

### **Art. 17**

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 local authority thereof 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 13, 14 and 16 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.

## **Professors And Students**

### **Art. 18**

1. A professor or a teacher who visits a Contracting State for a period not exceeding two years for the purpose of teaching or conducting a research at a University or other teaching institution officially recognised in that Contracting State and who is, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching or research.

This paragraph shall not apply to income from research if such research is undertaken not in the general interest but primarily for the private benefit of a specific person or persons.

2. Payments which a student or business apprentice visiting a Contracting State who is a resident of the other Contracting State and who is present in the firstmentioned 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.

## **Other Income**

### **Art. 19**

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.

## **Capital**

### **Art. 20**

1. Capital represented by immovable property, referred to in Art. 5, 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 used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Capital represented by ships, aircraft or road vehicles operated in international transport and movable property pertaining to the operation of such ships, aircraft or 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.

### **Elimination Of Double Taxation**

#### **Art. 21**

1. In Spain, double taxation will be avoided in the following manner:

a) Where a resident of Spain derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Bulgaria, Spain shall allow:

(I) as a reduction from the tax on the income of that resident, an amount equal to the income tax paid in Bulgaria.

(II) as a reduction from the tax on the capital of that resident, an amount equal to the capital tax paid in that other State.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Bulgaria.

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Spain is exempt from tax in Spain, Spain 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 Bulgaria, double taxation will 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 Spain such income or capital shall be exempt from tax in Bulgaria.

b) However, such income or capital may nevertheless be taken into account in calculating the amount of tax on the remaining income or capital of such resident.

c) Notwithstanding the provisions of sub-paragraphs (a) and (b), where a resident of Bulgaria derives dividends which, in accordance with the provisions of Art. 8 may be taxed in Spain. Bulgaria shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Spain. 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 that other State.

### **Non-discrimination**

#### **Art. 22**

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirements 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 provision of Art. 1, also apply to persons who are not residents of one or both of the Contracting States. This paragraph shall also apply to legal persons or other entities deriving its status as such from the law in force in a Contracting State.

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 tax purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Enterprises of a Contracting State, in which one or more residents of the other Contracting State participate, shall not be subjected in the first-mentioned Contracting 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 that first-mentioned State are or may be subjected.

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

### **Mutual Agreement Procedure**

#### **Art. 23**

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws 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. 22, 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 an appropriate 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 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. 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

### **Exchange Of Information**

#### **Art. 24**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to

the Convention. The exchange of information is not restricted by Art. 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 jurisdictional authorities, 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.

2. In no case shall the provisions of paragraph 1 be construed as to impose on one of the Contracting States the obligation:

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

b) to supply particulars which are 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).

### **Members Of Diplomatic And Consular Missions**

#### **Art. 25**

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

### **Entry Into Force**

#### **Art. 26**

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

2. The convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect in respect of taxes chargeable for the taxable year beginning on or after 1st January in the calendar year next following that in which the Convention enters into force.

### **Termination**

#### **Art. 27**

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year following after the period of three years from the date on which the Convention enters into force. In such event, the Convention shall cease to have effect in respect of taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following that in which the notice is given.

## **PROTOCOL**

At the moment of signing the Convention between Spain and the People's Republic of Bulgaria 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 be an integral

part of the Convention:

1. The participation of a Spanish resident in a joint venture in the context of paragraph 4 of Art. 4 means participation incorporate forms of business having the status of legal persons and set up in accordance with Decree 535/80 of the State Council of the People's Republic of Bulgaria.

2. Paragraph 2 of Art. 8, shall not be applicable, in the case of Spain, to the income attributable, whether distributed or not, to the shareholder of the corporations and entities referred to in Art. 12.2 of Law 44/1978 of 8 September 1978, and Art. 19 of Law 61/1978 of 27 December 1978, as long as the said income is not subject to the spanish Corporation Tax. Such income may be taxed in Spain according to its internal Law.

3. Aiming at encouraging the economic cooperation between the two Contracting States, the competent authorities of both Contracting States, in cases where a reduced rate in relation with the general rate in force in a Contracting State, is provided for the purpose of encouraging economic development, shall by mutual agreement, notwithstanding the provisions of Art. 21, determine the method of avoiding double taxation that contributes to the said purpose.

4. Each Contracting State shall apply its internal law in matter of transfer pricing. Any dispute arising in connection with this matter shall be settled through the mutual agreement procedure.