

# **CONVENTION BETWEEN THE REPUBLIC OF UZBEKISTAN 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.**

## **Chapter I: Scope of the Convention**

### ***Article 1 Personal scope***

The Government of the Republic of Uzbekistan and the Government of the Kingdom of Belgium, 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 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 Uzbekistan:
    - 1° the Tax on Income of enterprises, associations and organisations;
    - 2° the Individual Income Tax in regard of the citizens of the Republic of Uzbekistan, foreign citizens and persons without citizenship;
    - 3° the Property Tax,  
(hereinafter referred to as "Uzbekistan tax").
  - b) in the case of Belgium:
    - 1° the individual income tax;
    - 2° the corporate income tax;
    - 3° the income tax on legal entities;
    - 4° the income tax on non-residents;
    - 5° the supplementary crisis contribution,  
including the prepayments, 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 change which has been made in their respective taxation laws.

## **Chapter II: Definitions**

### **Article 3 General definitions**

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

a)

1°the term "Uzbekistan" means the Republic of Uzbekistan; used in a geographical sense, it means the territory of the Republic of Uzbekistan, including the territorial waters and the air space within which the Republic of Uzbekistan may exercise sovereign rights and jurisdiction, including rights to use the subsoil and natural resources, under the laws of the Republic of Uzbekistan and in accordance with international law;

2°the term "Belgium" means the Kingdom of Belgium; used in a geographical sense, it means the territory of the Kingdom of Belgium, including the territorial sea and any other area in the sea and in the air within which the Kingdom of Belgium, in accordance with international law, exercises sovereign rights or its jurisdiction;

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

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

d)the term "company" means any body corporate, joint venture or any other 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 traffic" means any transport by a ship, aircraft or road or railway vehicle operated by an enterprise of a Contracting State, except when the ship, aircraft or road or railway vehicle is operated solely between places in the other Contracting State;

g)the term "competent authority" means:

1°in the case of Uzbekistan, the Chairman of the State Taxation Committee or his authorised representative, and

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

h)the term "national" means:

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

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

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

### **Article 4 Resident**

§ 1 For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature and also includes that State and any local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State 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 only of the State with which his personal and economic relations are closer (centre of vital interests);
  - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
  - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
  - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
- § 3 Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident only of the State in which its place of effective management is situated.

#### **Article 5 Permanent establishment**

- § 1 For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise of a Contracting State is wholly or partly carried on 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 twelve months.
- § 4 Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:
- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
  - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
  - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.
- § 5 Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting 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.

### **Chapter III: Taxation of income**

#### ***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, aircraft and road or railway vehicles 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 derived by an enterprise of a Contracting State from the operation of ships, aircraft or road or railway vehicles in international traffic shall be taxable only in that State.
- § 2 The provisions of paragraph 1 shall also apply to:
- a) occasional profits derived from the rental on a bareboat basis of ships or aircraft used in international traffic;
  - b) profits derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers), if such profits are supplementary or incidental with respect to profits which are covered by paragraph 1.
- § 3 The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

### ***Article 9 Associated enterprises***

- § 1 Where
- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
  - b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.
- § 2 Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make such an adjustment as it considers appropriate to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

## **Article 10 Dividends**

- § 1 Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
- § 2 However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the 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 which holds directly at least 10 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 paid to the other Contracting State or a local authority thereof;
  - b) 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;
  - c) interest paid in respect of a loan made, guaranteed or insured or a credit extended, guaranteed or insured by public entities the objective of which is to promote the export.

- § 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 nor 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 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 according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## **Article 12 Royalties**

- § 1 Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable in that other State.
- § 2 However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.
- § 3 The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes for television or radio broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.
- § 4 The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

§ 5 Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

### ***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 derived by an enterprise of a Contracting State from the alienation of ships, aircraft or road or railway vehicles operated in international traffic or movable property pertaining to the operation of such ships, aircraft or road or railway vehicles, shall be taxable only in that State.

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

### ***Article 14 Independent personal services***

§ 1 Income derived by a resident of a Contracting State in respect of professional services or other similar 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 he 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 his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the calendar year concerned; in that case, only so much of the income as is derived from his activities performed in that other State in the year concerned 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.



### **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:
- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the 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, 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 provisions of paragraphs 1 and 2, remuneration derived in respect of an employment exercised aboard a ship, aircraft or road or railway vehicle operated in international traffic by an enterprise of a Contracting State, may be taxed in that State.

### **Article 16 Directors' fees**

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

### **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.
- § 3 The provisions of paragraphs 1 and 2 shall not apply if the activities exercised by an entertainer or a sportsman in a Contracting State are substantially supported from public funds of one or both of the Contracting States or a local authority thereof. In such case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

### **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 to a resident of a Contracting State in consideration of past employment under the social security legislation of that State may be taxed in that State. This provision also applies to pensions and allowances

paid under a public scheme organised by a Contracting State in order to supplement the benefits of that legislation.

### **Article 19 Government service**

#### § 1

- a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State.
- b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
  - 1° is a national of that State; or
  - 2° did not become a resident of that State solely for the purpose of rendering the services.

§ 2 a) Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that State 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 salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State 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**

§ 1 Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

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

## **Chapter VI: Taxation of capital**

### **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 and road or railway vehicles operated in international traffic by an enterprise of a Contracting State, and by movable property (including containers referred to in paragraph 2 of Article 8) pertaining to the operation of such ships, aircraft or road or railway vehicles, shall be taxable only in that State.
- § 4 All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

## **Chapter V: Methods for elimination of double taxation**

### **Article 23**

- § 1 In the case of Uzbekistan, double taxation shall be avoided as follows:
- a) Where a resident of Uzbekistan derives income or owns capital which, in accordance with the provisions of the Convention, may be taxed in Belgium, Uzbekistan shall allow
- as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Belgium;
  - as a deduction from the property tax of that resident, an amount equal to the capital tax paid in Belgium.
- Such deduction in either case shall not, however, exceed that part of the income tax or property 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 Belgium.
- b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Uzbekistan is exempt from tax in that State, Uzbekistan may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempt income or capital.
- § 2 In the case of Belgium, double taxation shall be avoided as follows:
- a) Where a resident of Belgium derives income or owns elements of capital which are taxed in Uzbekistan in accordance with the provisions of this Convention, other than those of paragraph 2 of Article 10, of paragraphs 2 and 7 of Article 11 and of paragraphs 2 and 6 of Article 12, Belgium shall exempt such income or such elements 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 elements 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 6 of Article 12, the Uzbekistan 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 Uzbekistan, 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 Uzbekistan, 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 if and to the extent that those profits have also been exempted from tax in Uzbekistan by reason of compensation for the said losses.

## **Chapter VI: Special provisions**

### ***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 paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. 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 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. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
- § 3 The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.
- § 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 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 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 Aid in recovery***

- § 1 The Contracting States shall lend aid and assistance to each other in order to notify and recover the taxes referred to in Article 2 as well as surcharges, additions, interest, costs and fines of a non penal nature.
- § 2 At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall secure, in accordance with the legal provisions and regulations applicable to the notification and recovery of the said taxes of the latter State, the notification and the recovery of tax claims referred to in paragraph 1 which are due in the first mentioned State. Such claims shall not have any priority in the requested State and that State shall not be obliged to apply any means of enforcement which are not authorised by the legal provisions or regulations of the applicant State.
- § 3 Requests referred to in paragraph 2 shall be supported by an official copy of the instrument permitting the execution, accompanied where appropriate, by an official copy of any final administrative or judicial decision.
- § 4 With regard to tax claims which are open to appeal, the competent authority of a Contracting State may, in order to safeguard its rights, request the competent authority of the other Contracting State to take the protective measures provided for in the laws of that other State; the provisions of paragraphs 1 to 3 shall apply with the necessary changes to such measures.
- § 5 The provisions of paragraph 1 of Article 26 shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.

### ***Article 28 Diplomatic agents and consular officers***

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.

## **Chapter VII: Final provisions**

### ***Article 29 Entry into force***

- § 1 Each Contracting State shall notify the other Contracting State of the completion of the procedures required by its laws for the bringing into force of this Convention. The Convention shall enter into force on the fifteenth day after the date of the later of these notifications.
- § 2 The provisions of the Convention shall have effect:
- a) in Belgium:
    - (i) with respect to taxes due at source on income credited or payable on or after January 1st, 1997;
    - (ii) with respect to other taxes charged on income of taxable periods beginning on or after January 1st, 1997;
    - (iii) with respect to taxes on capital charged on elements of capital existing on January 1st, 1997;
  - b) in Uzbekistan:
    - (i) with respect to taxes withheld at source on income received on or after January 1st, 1997;
    - (ii) with respect to other taxes on income and property for any taxable year beginning on or after January 1st, 1997.

### **Article 30 Termination**

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

- a) in Uzbekistan:
  - (i)with respect to taxes withheld at source on income received on or after the first day of January of the calendar year next following that in which the notice of termination is given;
  - (ii)with respect to other taxes on income and on capital for any taxable year beginning on or after the first day of January of the calendar year next following that in which the notice of termination is given;
- b) in Belgium:
  - (i)with respect to taxes due at source on income credited or payable on or after January 1 of the year next following the year in which the notice of termination is given;
  - (ii)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;
  - (iii)with respect to taxes on capital charged on elements of capital existing on January 1 of the year next following the year in which the notice of termination is given.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Convention. Done in duplicate at Brussels on 14 November 1996, in the English language.

## Protocol

At the moment of signing the Convention between the the Republic of Uzbekistan 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 that the following provisions shall form an integral part of the Convention.

1. In the case of Belgium, the terms "local authorities" or "local authority", whenever they are used in the Convention, are also deemed to refer to "political subdivisions" or "political subdivision", as the case may be.
2. Ad Article 7:
  - a) In respect of paragraph 1 of Article 7, profits derived from the sale of goods or merchandise of the same kind as those sold, or from other business activities of the same kind as those effected, through a permanent establishment, may be considered attributable to that permanent establishment if this transaction has not been made through the permanent establishment in order to avoid taxation in the State where such permanent establishment is situated.
  - b) In respect of paragraphs 1 and 2 of Article 7, in the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, the profits attributable to a permanent establishment situated in a Contracting State through which an enterprise of the other Contracting State carries on business shall be determined only on the basis of that part of the contract that is effectively carried out by the permanent establishment in the Contracting State where it is situated.
3. Ad Article 10:

It is understood that the term "dividends" used in Article 10 includes income derived from the participation in a joint venture and that the tax levied in the Contracting State of which the joint venture is a resident shall not exceed 5 per cent of the gross amount of the remitted income if the beneficial owner of that income is a resident of the other Contracting State and holds directly at least 10 per cent of the capital of the joint venture.
4. Ad Article 12:

In applying Article 12 of the Convention payments constituting consideration for technical assistance or technical services shall not be considered to be payments for information concerning industrial, commercial or scientific experience, but shall be taxable in accordance with the provisions of Article 7 or Article 14, as the case may be.
5. Ad paragraph 1 of Article 14:

As long as Uzbekistan, in applying a Convention between Uzbekistan and a third State which is a member of the European Union, effectively refers to the only criterion of the fixed base provided for in subparagraph a), the criterion provided for in subparagraph b) shall not be applicable to a resident of Belgium.
6. Ad Article 16:
  - a) Article 16 shall also apply to payments derived in respect of the discharge of functions which, under the laws of the Contracting State of which the company is a resident, are regarded as functions of a similar nature as those exercised by a person referred to in the said provision.
  - b) Remuneration derived by a person referred to in Article 16 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.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol. Done in duplicate at Brussels on 14 November 1996, in the English language.