

CONVENTION
BETWEEN THE GOVERNMENT OF THE REPUBLIC OF BELARUS AND
THE GOVERNEMENT OF THE KINGDOM OF BELGIUM
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION
WITH RESPECT TO TAXES ON INCOME AND ON PROPERTY

The Government of the Republic of Belarus

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 property, have agreed as follows:

CHAPTER I. SCOPE OF THE CONVENTION
Article 1 PERSONAL SCOPE

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 property 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 property all taxes imposed on total income, on total property, or on items of income or of property, including taxes on gains from the alienation of property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on property appreciation.

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

a) 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 special levy assimilated to the individual income tax;
- 6° 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");

b) in the case of Belarus

- 1° the tax on income and profits of legal persons;
- 2° the income tax on individuals;
- 3° the tax on immovable property;
- 4° the land tax, (hereinafter referred to as "Belarus 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 terra "Belgium" means the Kingdom of Belgium and, when used in a geographical sense, means the territory of the Kingdom of Belgium, including the territorial sea and any other area in the sea and in the air within which the Kingdom of Belgium, in accordance with international law, exercises sovereign rights or its jurisdiction;

2.°the term "Belarus" means the Republic of Belarus and, when used in a geographical sense, means the territory over which the Republic of Belarus exercises under the laws of Belarus and in accordance with international law sovereign rights and jurisdiction;

b) the terms "a Contracting State" and "the other Contracting State" mean Belgium or Belarus 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 legal person or any entity which is treated as a legal person 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 Belgium, the Minister of Finance or his authorized representative, and

2° in the case of Belarus, the Main State Tax Body at the Cabinet of Ministers of the Republic of Belarus or its authorized representative;

h) the term "national" means:

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

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

2. As regards the application of the Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4 RESIDENT

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or property situated therein.

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

- a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his Personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national.

If the status of such an individual cannot be determined according to the provisions of the preceding sentence, then 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 the competent authorities of the Contracting States shall settle the question by mutual agreement, due regard being had to any relevant criterion.

Article 5 PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term a "permanent establishment" means fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

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

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than 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 subparagraphs 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 in any way by a resident of a Contracting State from immovable property (including income from agriculture or forestry and royalties in respect of the operation of mines, quarries or other natural resources) situated in the other Contracting State may be taxed in that other State. Ships, boats and aircraft shall not be regarded as immovable property.

2. The provisions of paragraph 1 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 of 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) income from the rental on a bareboat basis of ships or aircraft, and
- b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise,

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

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. 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 or indirectly at least 25 per cent of the capital of the company paying the dividends;
- b) 15 per cent of the gross amount of the dividends in all other cases.

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

3. The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income -even paid in the form of interest- which is subjected to the same taxation treatment as income from shares by the laws 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 arising in a Contracting State shall be exempted from tax in that Contracting State if it is :

- a) interest beneficially owned by any person, which is a resident of the other Contracting State, provided that the transaction giving rise to the debt-claim was approved by the Government of the first-mentioned State;
- b) interest on debt-claims resulting from deferred payments for industrial, trade, medical or scientific equipment and related services supplied by an enterprise of the other Contracting State;
- c) interest paid in respect of a loan or a credit made, guaranteed or insured by public entities the objective of which is to promote the export and which is connected with the supply by an enterprise of the other Contracting State
- d) of industrial, trade, medical or scientific equipment and related services.

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 political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base

in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

Article 12 ROYALTIES

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

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

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

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

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 GAINS FROM THE ALIENATION OF PROPERTY

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 property -other than immovable 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 property -other than immovable 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 property -other than immovable 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 an individual who is 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.

3. For the purposes of this Convention, the term "fixed base" means a fixed place through which the activity of an individual performing independent personal services is wholly or partly carried on.

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 therefore 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, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, 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 COMPANY MANAGERS

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

1. Remuneration derived by a person referred to in paragraph 1 from the company in respect of the discharge of day-to-day functions of a managerial or technical nature and remuneration received by a resident of a Contracting State in respect of his Personal activity as a partner of a company, other than a company with share capital, which is a resident of the other Contracting State, may be taxed in accordance with the provisions of paragraph 1 of Article 15.

Article 17 ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his Personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

Article 18 PENSIONS

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 may be taxed in the Contracting State in which they arise.

This provision is also applicable to pensions or other allowances paid under a public scheme organized by a Contracting State in order to supplement the benefits of the social security legislation of that State.

Article 19 GOVERNMENT SERVICE

1. a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who :

1.°is a national of that State; or

2.°did not become a resident of that State solely for the purpose of rendering the services.

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

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

Article 20 STUDENTS

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21 OTHER INCOME

1. Items of income of a resident of a Contracting State wherever arising, not dealt with in the foregoing Articles of this Convention and which are taxed in that State 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 on fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

CHAPTER IV. TAXATION OF PROPERTY

Article 22 PROPERTY

1. Items of 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. Items of property other than immovable 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 property -other than immovable 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. Ships, aircraft and road or railway vehicles operated in international traffic by an enterprise of a Contracting State and items of property -other than immovable property-pertaining to the operation of such ships, aircraft or road or railway vehicles shall be taxable only in that Contracting State.
4. All other items of property 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 Belgium, double taxation shall be avoided as follows:
 - a) Where a resident of Belgium derives income or owns items of property which are taxed in Belarus 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 items of property from tax but may, in calculating the amount of tax on the remaining income or property of that resident, apply the rate of tax which would have been applicable if such income or items of property 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 sub-paragraph 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 Belarus 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 Belarus, 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 Belarus, have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in sub-paragraph a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Belarus by reason of compensation for the said losses.
2. In the case of Belarus, double taxation shall be avoided as follows :

Where a resident of Belarus derives income or owns items of property which, in accordance with the provisions of the Convention, may be taxed in Belgium, Belarus shall allow:

- a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Belgium;

- b) as a deduction from the tax on the items of property of that resident, an amount equal to the property 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 items of property which may be taxed in Belgium.

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 favorably 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 property of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

5. Nothing contained in this Article shall be construed as preventing a Contracting State:

- a) from applying the tax rates provided by its law on the profits attributable to a permanent establishment in that State of a company which is a resident of the other Contracting State;
- b) from imposing its withholding tax on dividends derived from a holding which is effectively connected with a permanent establishment in that State of a company which is a resident of the other Contracting State.

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

Article 25 MUTUAL AGREEMENT PROCEDURE

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

2. The competent authority shall 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.

4. The competent authorities of the Contracting States shall agree on 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 enjoy in the other State 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 there under 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.

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 administrative fines.

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 authorized 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 mutatis mutandis 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 MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

Nothing in this Convention shall affect the fiscal privileges of members of a diplomatic mission or consular post 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) with respect to taxes withheld at source on income derived on or after January 1 of the calendar year next following the year in which the Convention entered into force;
 - b) with respect to other taxes charged on income of taxable periods beginning on or after January 1 of the calendar year next following the year in which the Convention entered into force;
 - c) with respect to taxes on property charged on items of property existing on January 1 of any year following the year in which the Convention entered into force.
3. The provisions of the Convention between the Kingdom of Belgium and the Union of Soviet Socialist Republics for the avoidance of double taxation on income and property signed at Brussels, on 17 December 1987, shall cease to be effective in respect to any Belgian or Belarus tax relating to income or property for which the present Convention has effect as respects that tax, in accordance with the provisions of paragraph 2.

Article 30 TERMINATION

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

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

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- b) with respect to other taxes charged on income of taxable periods beginning on or after January 1 of the calendar year next following the year in which the notice of termination is given ;

- c) with respect to taxes on property charged on items of property 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 authorized thereto by their respective Governments, have signed this Convention.

DONE in duplicate at Brussels, this seventh day of March 1995, in the English language.

**FOR THE GOVERNMENT OF
THE REPUBLIC OF BELARUS:**

**FOR THE GOVERNMENT OF
THE KINGDOM OF BELGIUM:**

PROTOCOL

At the moment of signing the Convention between the Republic of Belarus 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 property, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

1. The term "political subdivisions" used in the Convention only refers to Belgium.
2. In applying paragraph 3 of 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.
3. Actual wages, salaries and other remuneration for dependent Personal services paid, for the purpose of its activities, by an enterprise which is a resident of a Contracting State and the capital of which is wholly or partly, directly or indirectly, hold or controlled by a resident of the other Contracting State, shall be allowed as a deduction in determining the taxable profits of that enterprise. Actual wages, salaries and other remuneration for dependent personal services shall also be allowed as a deduction in determining the taxable profits to be attributed to a permanent establishment situated in a Contracting State and through which an enterprise of the other State carried on business.

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

DONE in duplicate at Brussels, this seventh day of March 1995, in the English language.