

**CONVENTION**  
**BETWEEN**  
**THE BELGIAN GOVERNMENT**  
**AND**  
**THE MACEDONIAN GOVERNMENT**  
**FOR THE AVOIDANCE OF DOUBLE TAXATION**  
**WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**  
**AND THE PREVENTION OF FISCAL EVASION**

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**THE BELGIAN GOVERNMENT**

**AND**

**THE MACEDONIAN GOVERNMENT,**

**DESIRING** to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital and the prevention of fiscal evasion, have agreed as follows:

## **CHAPTER I**

### **SCOPE OF THE CONVENTION**

#### **Article 1**

##### **Persons Covered**

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

#### **Article 2**

##### **Taxes Covered**

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
  - a) in the case of Macedonia:
    - 1° the personal income tax;
    - 2° the profit tax;
    - 3° the property tax;(hereinafter referred to as “Macedonian 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;(hereinafter referred to as “Belgian tax”).
4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their 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 “Macedonia”, used in a geographical sense, means its land, inland lake waters and bottom over which it has jurisdiction or sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, pursuant to internal jurisdiction and international law;
    - 2° the term “Belgium”, used in a geographical sense, means its territory, 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 Belgium or Macedonia 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 or any entity that is treated as a body corporate for tax purposes;
  - e) the term “enterprise” applies to the carrying on of any business;
  - f) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
  - g) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
  - h) the term “competent authority” means:
    - 1° in the case of Macedonia, the Ministry of Finance or its authorised representative, and
    - 2° in the case of Belgium, the Minister of Finance or his authorised representative;
  - i) the term “national”, in relation to a Contracting State, means:
    - 1° any individual possessing the nationality of that Contracting State; and
    - 2° any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;

- j) the term “business” includes the performance of professional services and of other activities of an independent character.
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 that 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 political subdivision or 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 only 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 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 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 and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise.

#### **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 Traffic**

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. For the purpose of this Article, profits from the operation of ships or aircraft in international traffic shall include in particular:
  - a) profits from the leasing of ships or aircraft engaged in international traffic on charter fully equipped, manned and supplied;
  - b) profits from the leasing of ships or aircraft on a bare boat charter basis if such leasing activity is an ancillary activity for the enterprise engaged in international traffic;
  - c) profits from the leasing of containers if such leasing activity is an ancillary activity for the enterprise engaged in international traffic.
3. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.



## **Article 9**

### **Associated Enterprises**

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.
3. The provisions of paragraph 2 shall not apply in cases where one or more transactions leading to an adjustment of profits in accordance with paragraph 1 are regarded as fraudulent according to a judicial decision.

## **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.

Notwithstanding the preceding provisions of this paragraph, dividends shall not be taxed in the Contracting State of which the company paying the dividends is a resident if the beneficial owner of the dividends is a company which is a resident of the other Contracting State and which at the moment of the payment of the dividends holds, for an uninterrupted period of at least twelve months, directly or indirectly at least 25 per cent of the capital of the company paying the dividends.

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 which is subjected to the same taxation treatment as income from shares by the 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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 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 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 in respect of a loan granted or a credit extended by an enterprise to another enterprise;

- b) interest paid to the other Contracting State, to one of its political subdivisions or local authorities or a public entity of that State.
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- 4. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, the term “interest” shall not include for the purpose of this Article penalty charges for late payment or interest regarded as dividends under paragraph 3 of Article 10.
  - 5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
  - 6. Interest shall be deemed to arise in a Contracting State when the payer is 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment 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 10 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 or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.
4. The provisions of 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is 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 in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment 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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, shall be taxable only in the Contracting State of which the alienator is a resident.

## **Article 14**

### **Income from Employment**

1. Subject to the provisions of paragraph 1 of Article 15 and Articles 17 and 18, 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 taxable period 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 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 or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

## **Article 15**

### **Directors' Fees**

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.

The preceding provision shall also apply to payments derived in respect of the exercise 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.

2. Remuneration derived by a person referred to in paragraph 1 from a company which is a resident of a Contracting State in respect of the exercise of day-to-day functions of a managerial or technical, commercial or financial nature and remuneration received by a resident of a Contracting State in respect of his day-to-day activity as a partner of a company, other than a company with share capital, which is a resident of a Contracting State, may be taxed in accordance with the provisions of Article 14, as if such remuneration were remuneration derived by an employee in respect of an employment and as if references to the "employer" were references to the company.

## **Article 16**

### **Artistes and Sportsmen**

1. Notwithstanding the provisions of Articles 7 and 14, 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 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

## **Article 17**

### **Pensions**

Subject to the provisions of paragraph 2 of Article 18, 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 shall also apply to pensions and other similar remuneration paid under the social security legislation of a Contracting State or under a public scheme organised by that State in order to supplement the benefits of its social security legislation.

## **Article 18**

### **Government Service**

1.
  - a) Salaries, wages and other similar remuneration 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 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) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration 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 pensions and other similar remuneration 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 14, 15, 16 and 17 shall apply to salaries, wages, pensions and other similar remuneration 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 19**

### **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 20**

### **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 and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.
3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing articles of the Convention and arising in the other Contracting State may be taxed in that other State if these items are not effectively taxed in the first-mentioned State.

## **CHAPTER IV**

### **TAXATION OF CAPITAL**

#### **Article 21**

##### **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 may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic, and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

## **CHAPTER V**

### **ELIMINATION OF DOUBLE TAXATION**

#### **Article 22**

1. In the case of Macedonia, double taxation shall be avoided as follows:
  - a) Where a resident of Macedonia derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Belgium, Macedonia shall allow:
    - 1° as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Belgium;
    - 2° as a deduction from the tax on the capital 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 capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed in Belgium.
  - b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Macedonia is exempt from tax in Macedonia, Macedonia may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.



2. In the case of Belgium:

- a) Where a resident of Belgium derives income, not being dividends, interest or royalties, or owns elements of capital which are taxed in Macedonia in accordance with the provisions of this Convention, Belgium shall exempt such income or such elements of capital from tax but where the resident is an individual Belgium shall only exempt such income from tax to the extent that it is effectively taxed in Macedonia.
- b) Notwithstanding the provisions of subparagraph a) and any other provision of the Convention, Belgium shall, for the determination of the additional taxes established by Belgian municipalities and conurbations, take into account the earned income (revenus professionnels – beroepsinkomsten) that is exempted from tax in Belgium in accordance with subparagraph a). These additional taxes shall be calculated on the tax which would be payable in Belgium if the earned income in question had been derived from Belgian sources.

Where in accordance with any provision of the Convention income derived or capital owned by a resident of Belgium is exempted from tax in Belgium, Belgium may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, apply the rate of tax which would have been applicable if such income or elements of capital had not been exempted.

- c) The provisions of subparagraph a) shall not apply to income derived or capital owned by a resident of Belgium where Macedonia applies the provisions of the Convention to exempt such income or capital from tax or applies the provisions of paragraph 2 of Article 10 or paragraph 2 of Article 11 to limit the taxation of such income.
- d) Dividends derived by a company which is a resident of Belgium from a company which is a resident of Macedonia shall be exempted from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.
- e) Where a company which is a resident of Belgium derives from a company which is a resident of Macedonia dividends which are not exempted in accordance with subparagraph d), such dividends shall nevertheless be exempted from the corporate income tax in Belgium if the company which is a resident of Macedonia is effectively engaged in the active conduct of a business in Macedonia. In such case, such dividends shall be exempted under the conditions and within the limits provided for in Belgian law except those related to the fiscal regime applicable to the company which is a resident of Macedonia or to the income out of which the dividends are paid. This provision shall only apply to dividends paid out of income generated by the active conduct of a business.
- f) 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 interest or royalties, the Macedonian tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.
- g) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Macedonia have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in subparagraph 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 Macedonia by reason of compensation for the said losses.

## **CHAPTER VI**

### **SPECIAL PROVISIONS**

#### **Article 23**

##### **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 24**

##### **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 either Contracting State. 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 of 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 25**

### **Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed by or on behalf of the Contracting States, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2. Furthermore, with respect to the taxes covered, the competent authorities of the Contracting States shall, if necessary, enter into negotiation in order to modify or expand the scope of this Article.
2. Any information received under paragraph 1 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.
3. In no case shall the provisions of paragraphs 1 and 2 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).
- 4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.
- 5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, foundation, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person or a foundation.

## **Article 26**

### **Limitation of Benefits**

Notwithstanding the provisions of any other Article of this Convention, no reduction in or exemption from tax provided for in the Convention shall be applied to income paid in connection with an artificial arrangement. An arrangement shall not be considered as artificial if it meets legitimate financial or economic needs and is entered into for valid commercial reasons.

## **Article 27**

### **Members of Diplomatic Missions and Consular Posts**

- 1. 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.
- 2. For the purposes of the Convention, persons who are members of diplomatic missions or consular posts of a Contracting State in the other Contracting State or in a third State, and who are nationals of the sending State, shall be deemed to be residents of the sending State if they are subjected therein to the same obligations in respect of taxes on income and on capital as are residents of that State.
- 3. The Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of diplomatic missions or consular posts of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income or on capital.

## **CHAPTER VII**

### **FINAL PROVISIONS**

#### **Article 28**

##### **Entry into Force**

1. Each of the Contracting States shall notify to the other, through the diplomatic channels the completion of the procedures required by its domestic law for the bringing into force of this Convention. This Convention shall enter into force on the date of the later of these notifications and its provisions shall have effect:
  - a) in the case of Macedonia
    - 1° with respect to taxes withheld at source, to income paid or credited on or after 1 January in the calendar year next following that in which the Convention enters into force;
    - 2° with respect to other taxes on income and taxes on capital, to income derived or capital owned in any taxable year beginning on or after 1 January in the calendar year next following that in which the Convention enters into force;
    - 3° with respect to other taxes, on taxes due in respect of taxable events taking place on or after 1 January in the calendar year next following that in which the Convention enters into force.
  - b) in the case of Belgium
    - 1° with respect to taxes due at source on income credited or payable on or after 1 January in the calendar year next following that in which the Convention enters into force;
    - 2° with respect to other taxes charged on income of taxable periods beginning on or after 1 January in the calendar year next following that in which the Convention enters into force;
    - 3° with respect to taxes on capital charged on elements of capital existing on or after 1 January in the calendar year next following that in which the Convention enters into force;
    - 4° with respect to other taxes, on taxes due in respect of taxable events taking place on or after 1 January in the calendar year next following that in which the Convention enters into force.

2. The Convention between the Socialist Federal Republic of Yugoslavia and the Kingdom of Belgium for the avoidance of double taxation of income and capital, signed on 21 November 1980, shall cease to have effect in the relations between Macedonia and Belgium with respect to the taxes for which the provisions of this Convention shall apply in accordance with the provisions of paragraph 1.
3. The provisions of Article 4 of the Agreement between the Macedonian Government and the Belgo-Luxemburg Economic Union on the reciprocal promotion and protection of investments, done at Brussels on 17 February, 1999, shall not apply with respect to taxes on income and on capital for which the present Convention has effect.

## **Article 29**

### **Termination**

1. This Convention shall remain in force until terminated by a Contracting State.
2. Either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State written notice of termination not later than 30 June of any calendar year from the fifth year following that in which the Convention entered into force. In the event of termination before 1 July of such year, the Convention shall cease to have effect:
  - a) in the case of Macedonia
    - 1° with respect to taxes withheld at source, to income paid or credited on or after 1 January in the calendar year next following that in which the notice of termination is given;
    - 2° with respect to other taxes on income and taxes on capital, to income derived or capital owned in any taxable year beginning on or after 1 January in the calendar year next following that in which the notice of termination is given;
    - 3° with respect to other taxes, on taxes due in respect of taxable events taking place on or after 1 January in the calendar year next following that in which the notice of termination is given.
  - b) in the case of Belgium
    - 1° with respect to taxes due at source on income credited or payable on or after 1 January in the calendar year next following that in which the notice of termination is given;
    - 2° with respect to other taxes charged on income of taxable periods beginning on or after 1 January in the calendar year next following that in which the notice of termination is given;
    - 3° with respect to taxes on capital charged on elements of capital existing on or after 1 January in the calendar year next following that in which the notice of termination is given;

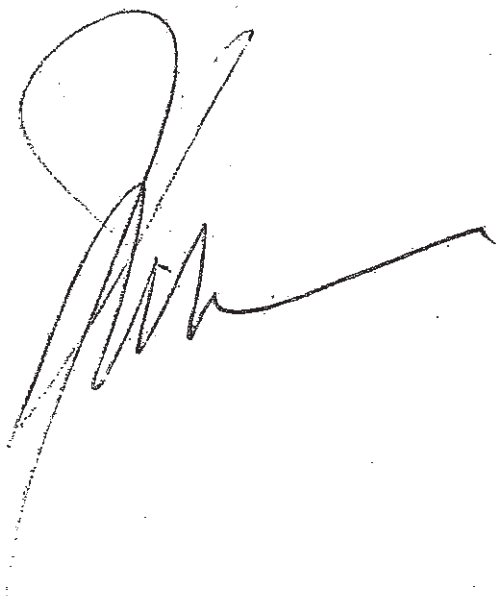
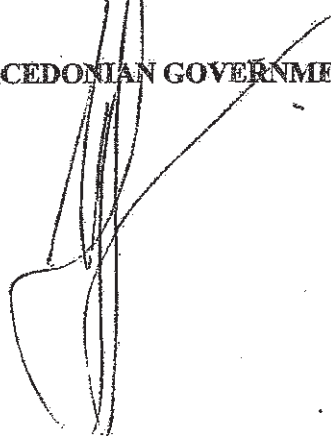
- 4° with respect to other taxes, on taxes due in respect of taxable events taking place on or after 1 January in the calendar year next following that in which the notice of termination is given.

**IN WITNESS WHEREOF** the undersigned, being duly authorised thereto, have signed this Convention.

**DONE** in duplicate at Brussels, this 6<sup>th</sup> day of July 2010, in the French, Dutch, Macedonian and English languages. In the case of any divergence between the texts, the English text shall prevail.

**FOR THE BELGIAN GOVERNMENT:**

**FOR THE MACEDONIAN GOVERNMENT:**

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# PROTOCOL

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

1. In the interpretation of the provisions of the Convention which are identical or in substance similar to the provisions of the OECD Model Tax Convention, the tax administrations of the Contracting States shall endeavour to follow the general principles of the Commentaries on the Articles of that Model Convention provided the Contracting States did not include in those Commentaries any observations expressing a disagreement with those principles and to the extent the Contracting States do not agree on a divergent interpretation in the framework of paragraph 3 of Article 24.

2. Ad Article 2, paragraph 3, subparagraph b):

It is understood that the Belgian taxes mentioned in subparagraph b) of paragraph 3 of Article 2 include the prepayments and the surcharges on these taxes and prepayments.

3. Ad Article 12, paragraph 3:

In applying paragraph 3 of Article 12 of the Convention payments for technical assistance and 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.

4. Ad Article 14, paragraph 1:

It is understood that an employment is exercised in a Contracting State when the activity in respect of which the salaries, wages and other similar remuneration are paid, is effectively carried on in that State. The activity is effectively carried on in that State where the employee is physically present in that State for carrying on the activity there.



5. Ad Articles 14 and 15:

It is understood that a compensation paid by reason of the termination of an employment, or of a mandate in a company, may be taxed in the Contracting State in which the employment is exercised, or of which the company is a resident, if and to the extent that the salaries or fees derived during the calendar year preceding the termination of that employment or mandate in respect of that employment or mandate may be taxed in that State according to the provisions of Article 14 or Article 15, as the case may be.

6. Ad Article 20, paragraph 3 and Article 22, paragraph 2, a):

For the application of paragraph 3 of Article 20 and paragraph 2, a) of Article 22, an item of income is effectively taxed in a Contracting State where such item of income is subjected to tax in that Contracting State and does not benefit as such from an exemption from tax therein.

7. Ad Article 22, paragraph 2, a):

For the application of paragraph 2, a) of Article 22, an item of income is taxed in Macedonia where it is subjected therein to the tax regime that is normally applicable to such item of income according to Macedonia's tax laws.

8. Ad Article 22, paragraph 2, a) and e):

- a) For the application of paragraph 2, a) of Article 22, where a company which is a resident of Belgium derives income that is exempted from tax in Macedonia under the Law on Technological Industrial Development Zones, such income shall be considered as taxed in Macedonia only if it is derived from the active conduct of a business in Macedonia.
- b) In the case of income, or profits out of which dividends are paid, derived in Macedonia from financial, holding or service activities and exempted from tax in Macedonia, paragraph 2, a) and e) of Article 22 shall apply to companies provided that such income or profits do not include any items that have been deducted from income or profits that are taxable in Belgium.

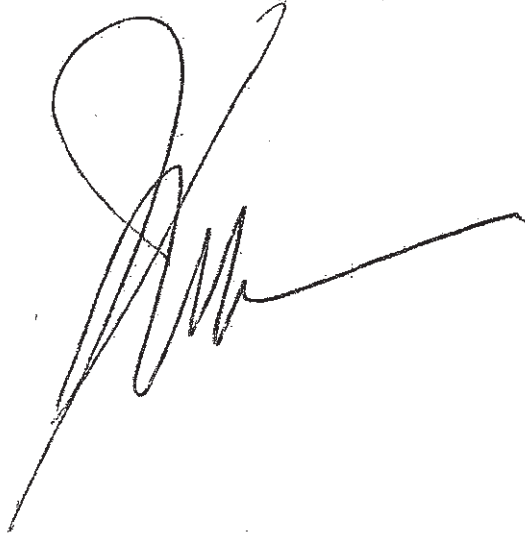
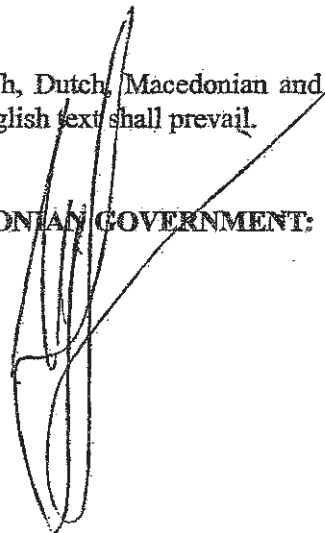
- c) Paragraph 2, a) and e) of Article 22 shall not apply to a resident of Belgium if the main purpose of that resident's activities or investments in Macedonia is to take undue advantage of those provisions, that is where those activities or investments do not meet legitimate financial or economic needs and are carried out or made for fiscal reasons. This shall in particular be the case where, before the end or after the expiry of the period for which the exemption from Macedonian tax referred to in a) and b) of this provision is granted to a company that is a resident of Macedonia or to a permanent establishment which a resident of Belgium has in Macedonia, an enterprise associated, within the meaning of Article 9, to the said resident of Macedonia or of Belgium, as the case may be, takes over the activities of the company or of the permanent establishment in order to benefit in Macedonia from a new period of exemption of the profits derived from those activities.

**IN WITNESS WHEREOF** the undersigned, being duly authorised thereto, have signed this Protocol.

**DONE** in duplicate at Brussels, this 6<sup>th</sup> day of July 2010, in the French, Dutch, Macedonian and English languages. In the case of any divergence between the texts, the English text shall prevail.

**FOR THE BELGIAN GOVERNMENT:**

**FOR THE MACEDONIAN GOVERNMENT:**

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