

## **1991 Income and Capital Tax Convention (English Translation)**

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### **CONVENTION BETWEEN THE DEMOCRATIC AND POPULAR REPUBLIC OF ALGERIA AND THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

#### **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 Algeria:

(1) the tax on industrial and commercial profits (l'impôt sur les bénéfices industriels et commerciaux);

(2) the tax on profits from non-commercial professions (l'impôt sur les bénéfices des professions non commerciales);

(3) the business tax (la taxe sur l'activité professionnelle);

(4) the tax on income from debt-claims, deposits and guarantees (l'impôt sur les revenus des créances, dépôts et cautionnements);

(5) the property tax on developed land (la taxe foncière sur les propriétés bâties);

(6) the special tax on capital gains (l'impôt spécial sur les plus-values);

(7) the tax on income of foreign construction enterprises (l'impôt sur le revenu des entreprises étrangères de construction);

(8) the lump-sum payment by employers and payers of pensions and life annuities (le versement forfaitaire à la charge des employeurs et débirentiers);

(9) the tax on wages, salaries, emoluments, pensions and life annuities (l'impôt sur les traitements, salaires, émoluments, pensions et rentes viagères);

(10) the complementary tax on total income (l'impôt complémentaire sur l'ensemble du revenu);

(11) the royalty and tax on the results of the activities of prospection, research, exploitation and transportation through pipes of hydrocarbons (la redevance et l'impôt sur les résultats relatifs aux activités de prospection, de recherche, d'exploitation et de transport par canalisation des hydrocarbures);

(12) the flat rate tax on private transport (l'impôt unique sur les transports privés);

(13) the fixed duty applied to income of marine fishermen, owners of fishing boats, persons engaged in small scale fishing and boat fitters (le droit fixe appliqué aux revenus des marins pêcheurs, patrons-pêcheurs, exploitants de petits métiers et armateurs);

(14) the flat rate levy on agriculture (la contribution unique agricole);

(15) the yearly solidarity tax on the ownership of immovable property (l'impôt annuel de solidarité sur le patrimoine immobilier);

(16) the tax on immovable property used for commercial purposes promoting immovable properties (l'impôt sur les revenus de la promotion immobilière);

(17) the withholding tax on dividends distributed to individuals and legal persons which do not have their fiscal domicile or seat in Algeria (la retenue à la source applicable aux dividendes distribués aux personnes physiques et morales n'ayant pas leur domicile fiscal ou leur siège social en Algérie) (hereinafter referred to as "Algerian tax");

(b) in the case of Belgium:

- (1) the individual income tax (personenbelasting; l'impôt des personnes physiques);
  - (2) the corporate income tax (vennootschapsbelasting; l'impôt des sociétés);
  - (3) the income tax on legal entities (rechtspersonenbelasting; l'impôt des personnes morales);
  - (4) the income tax on non-residents (belasting van niet- verblijfshouders; l'impôt des non-résidents);
  - (5) the special levy assimilated to the individual income tax, including the prepayments, the surcharges on these taxes and prepayments, as well as the supplements to the individual income tax (hereinafter referred to as "Belgian tax").
4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of important changes which have been made in their respective taxation laws.

### **Article 3 General Definitions**

1. For the purposes of this Convention, unless the context otherwise requires:
- (a) the terms "a Contracting State" and "the other Contracting State" shall mean Algeria or Belgium as the context requires;
  - (b) (1) the term "Algeria" means the Democratic and Popular Republic of Algeria; when used in a geographical sense it means the territory of the Democratic and Popular Republic of Algeria including the territorial sea and any area outside the latter within which in accordance with international law the Democratic and Popular Republic of Algeria may exercise its jurisdiction and sovereign rights regarding the exploration and the exploitation of the natural resources of the seabed, the maritime subsoil and of the waters above the seabed;
  - (2) the term "Belgium" means the Kingdom of Belgium; when used in a geographical sense it means the territory of the Kingdom of Belgium including the territorial sea and any area outside the latter within which in accordance with international law the Kingdom of Belgium may exercise its jurisdiction and sovereign rights regarding the exploration and the exploitation of the natural resources of the seabed, the maritime subsoil and of the waters above the seabed;
  - (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 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 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;
  - (g) the term "competent authority" means:
    - (1) in the case of Algeria, the Minister of Finance or his authorized representative, and
    - (2) in the case of Belgium, the Minister of Finance or his authorized representative.
2. As regards the application of the Convention by a Contracting State, any term not defined therein shall have the meaning that it has under the law of that State for the purposes of the taxes to which the Convention applies, unless the context otherwise requires.

### **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 or any other criterion of a similar nature.
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;
  - (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 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;
- (f) a sales office;
- (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term "permanent establishment" shall also include a building site or construction or installation project or supervisory activities in connection therewith, where such site, project or activities last more than three 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 or display 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 or display;
- (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 in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

- (a) has and habitually exercises in that State an authority to conclude contracts in the name of 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 of such fixed place of business a permanent establishment under the provisions of that paragraph; or
- (b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other intermediary 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.

### **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 or enjoyment, letting, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

### **Article 7 Business Profits**

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and acting wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no deduction shall be allowed in respect of amounts, if any, paid (otherwise than for the reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments, for the use of patents or other rights, or by way of commission, for specific services rendered or for management or, except in the case of a banking enterprise, by way of interest on amounts lent to the permanent establishment. Likewise, no account shall be taken, in the computation of the profits of a permanent establishment, for amounts charged (otherwise than for the reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise, by way of royalties, fees or other similar payments, in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on amounts lent to the head office of the enterprise or any of its other offices.

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. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

### **Article 8 Shipping and Air Transport**

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

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

4. Notwithstanding the provisions of Article 29, paragraph 2, of this Convention, the provisions of this Article shall, however, not apply with respect to any Algerian tax or any Belgian tax relating to income over which the following Agreements have effect with regard to that tax:

(a) The Agreement between the Government of the Democratic and Popular Republic of Algeria and the Government of the Kingdom of Belgium for the avoidance of double taxation of income from the operation of international air services, signed in Algiers on 30 May 1981.

(b) The Agreement between the Government of the Democratic and Popular Republic of Algeria and the Government of the Kingdom of Belgium for the avoidance of double taxation of income from the operation of ships in international traffic, signed in Algiers on 11 January 1983.

(c) The maritime Agreement between the Government of the Democratic and Popular Republic of Algeria and the Belgian- Luxembourg Economic Union, signed in Algiers on 17 May 1979, insofar that Agreement concerns the Algerian-Belgian relations.

### **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 an adjustment which it deems appropriate to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

### **Article 10 Dividends**

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 15% of the gross amount of 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" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. The term also means income from capital invested by partners in companies, not being companies limited by shares which are resident in Belgium, even where this income is paid as interest.

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 15% of the gross amount of the interest.
3. Notwithstanding the provisions of paragraphs 1 and 2, interest shall only be taxable in the Contracting State of which the beneficial owner is a resident if it is:
  - (a) interest on commercial debt-claims -- including claims represented by commercial paper -- resulting from deferred payments for goods, merchandise or services supplied by enterprises;
  - (b) interest on loans of any kind -- not represented by bearer instruments -- granted by banking enterprises;
  - (c) interest on cash deposits, not represented by bearer instruments, with banking enterprises.
4. Notwithstanding the provisions of paragraph 2, interest received by a Contracting State for its own account shall be exempt from tax in the other Contracting State.
5. 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, for the purpose of this Article the term "interest" shall not include penalty charges for late payment nor the interest which is treated as dividend by virtue of Article 10, paragraph 3, second sentence.
6. 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.
7. 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.
8. 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 interest shall remain taxable according to the laws of the Contracting State in which the interest arises.

## **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:
  - (a) 5% of the gross amount of the royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work, excluding cinematograph films and films or tapes for radio or television broadcasting;
  - (b) 15% of the gross amount of the royalties in all other cases.
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 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 any 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 royalties shall remain taxable in the Contracting State in which the royalties arise, according to its laws.

### **Article 13 Capital Gains**

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains 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 Independent Personal Services**

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless this resident:

(a) has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to the activities performed through such fixed base shall be taxable in that other State; or

(b) is present in the other Contracting State for the purpose of performing his activities for a period or periods exceeding in the aggregate 183 days in a calendar year; in that case, only so much of the income as is attributable to the activities performed in that other State during the period concerned, or the periods concerned, shall be taxable in that other State.

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

### **Article 15 Dependent Personal Services**

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in a calendar year; 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 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 16 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. This provision shall also apply to payments derived in respect 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 to those exercised by a person referred to in the previous sentence.

2. Remuneration derived by a person referred to in paragraph 1 from a company in respect of the discharge of day-to-day activities of a managerial or technical nature as well as the remuneration which a resident of a Contracting State derives 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, shall be taxable in accordance with the provisions 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.

3. The provisions of paragraphs 1 and 2 shall not apply to income in respect of personal activities as an entertainer exercised in a Contracting State and which are financed totally or mainly by public funds from the other Contracting State or from one of its political subdivisions or local authorities. In that case, the income derived from these activities shall be taxable only in that other Contracting State.

#### **Article 18 Pensions**

1. Subject to the provisions of Article 19, paragraph 2, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, pensions and other allowances, periodic or non-periodic, paid under the social security legislation of a Contracting State or in the framework of a general scheme organized by a Contracting State in order to supplement the benefits provided for under the mentioned legislation, shall be taxable in 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 such 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 such 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 to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

4. Remuneration paid by a Contracting State to an individual in respect of an activity exercised in the other Contracting State within the framework of an assistance or cooperation convention or agreement concluded between the two Contracting States shall only be taxable in the first-mentioned State.

#### **Article 20 Students, Business Apprentices and Trainees**

Payments which a student, business apprentice or trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is temporarily present in the first-mentioned State solely for the purpose of his education or training, shall not be taxable in the first-mentioned State:

(a) with respect to any sum he receives from sources outside that State for the purpose of his maintenance, education or training;

(b) with respect to any grant, allowance or award he receives from a scientific, educational or philanthropic organization;

(c) with respect to remuneration of an employment exercised in the first-mentioned State during, as the case may be, the normal duration of the education, apprenticeship or traineeship not exceeding one year, provided that such remuneration does not exceed an amount fixed by mutual agreement and that it is destined to supplement the resources necessary for the pursued goal.

### **Article 21 Other Income**

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.

### **Article 22 Capital**

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic, as well as by movable property pertaining to the operation of such ships and 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.

### **Article 23 Elimination of Double Taxation**

1. In the case of Algeria, double taxation shall be avoided as follows:

(a) Where a resident of Algeria derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Belgium, Algeria shall deduct:

(1) from the tax it imposes on the income of that resident, an amount equal to the income tax paid in Belgium;

(2) from the tax it imposes on the capital of that resident, an amount equal to the capital tax paid in Belgium.

(b) However, in either case such deduction shall not 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.

2. In the case of Belgium, double taxation shall be avoided as follows:

(a) Where a resident of Belgium derives income or owns items of capital which, in accordance with the provisions of this Convention, other than those of Article 10, paragraph 2, Article 11, paragraphs 2 and 8, and Article 12, paragraphs 2 and 6, may be taxed in Algeria, Belgium shall exempt such income or items of capital from tax but may, in calculating the amount of tax on the remaining income or capital of that resident, apply the rate of tax which would have been applicable if such income or items of capital had not been exempted.

(b) Where a resident of Belgium derives items of income which are included in his aggregate income subject to Belgian taxes which are dividends taxable in accordance with Article 10, paragraph 2, and not exempt from Belgian tax according to subparagraph (c) hereinafter, interest taxable in accordance with Article 11, paragraph 2 or 8, or royalties taxable in accordance with Article 12, paragraph 2 or 6, the Algerian tax levied on that income shall be allowed as a credit against the Belgian tax relating to such income in accordance with the existing provisions of Belgian law concerning the imputation to the Belgian tax of the tax paid in a foreign country and taking into account any future modification of this law.

(c) Where a company which is a resident of Belgium owns shares in a company with share capital which is a resident of Algeria, the dividends paid to it by the latter company and which may be taxed in Algeria in accordance with Article 10, paragraph 2, 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 Algeria have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in (a) above 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 exempt from tax in Algeria by reason of compensation for the said losses.

#### **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 are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to nationals of a Contracting State who are not residents of one or both of the Contracting States.

2. The term "nationals" means:

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

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

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less 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.

4. Except where the provisions of Article 9, paragraph 1, Article 11, paragraph 8 or Article 12, paragraph 6, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

6. The provisions of this Article shall not be construed as preventing a Contracting State:

(a) from taxing the amount of profits of a permanent establishment in that State of a company being a resident of the other Contracting State at the rate of tax provided for by the laws of the first-mentioned State, provided the said rate does not exceed the maximum rate applicable to the whole or portion of the profits of companies which are residents of the first-mentioned State;

(b) from imposing the withholding tax on dividends derived from a holding which is effectively connected with a permanent establishment in that State by a company which is a resident of the other Contracting State.

7. Nationals of a Contracting State shall not be subjected to the formality of a tax clearance certificate upon leaving the territory of the other Contracting State either temporarily or permanently.

8. 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 Article 24, paragraph 1, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the

competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

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 consult together with respect to the administrative measures required to carry out the provisions of the Convention and in particular with respect to the proof to be furnished by residents of either Contracting State in order to benefit in the other State from the tax exemptions or reductions provided for in this Convention. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

5. The competent authorities of the Contracting States shall communicate with each other directly for the purpose of the application of the Convention.

### **Article 26 Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, insofar as the taxation thereunder is not contrary to the Convention and this, in particular to combat tax evasion and avoidance with respect to these taxes. 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

3. The information shall be exchanged either on request with reference to a particular case, or automatically with regard to one or more categories of income, or spontaneously with regard to income the knowledge of which is of interest for a Contracting State.

### **Article 27 Assistance in Collection**

1. The Contracting States shall provide aid and assistance to each other in order to notify and recover the taxes referred to in this Convention as well as any surcharges, additions, interest, costs and fines of a non-penal nature relating to these taxes when such tax claims are due and are no longer open to appeal in accordance with the laws or regulations of the State applying for assistance.

2. At the request of the applicant State, the requested State shall proceed to the notification and recovery of the tax claims of the first-mentioned State in accordance with the laws and the administrative practice applying to the notification and recovery of its own tax claims, unless otherwise provided by the Convention.

3. The requested State shall not be obliged to accede to the request of the applicant State if that State has not exhausted all remedies in its own territory for the recovery of its tax claim.

4. The request for assistance in the recovery of a tax claim shall be accompanied:

(a) by an official copy of the instrument permitting enforcement in the applicant State;

(b) by an official copy of any other document required for the recovery by the applicant State; and

(c) where appropriate, by a certified copy of any final decision of an administrative body or court of law.

5. The instrument permitting enforcement in the applicant State shall have the same effect in the requested State.

6. Questions concerning any period of limitation of the tax claim shall be governed exclusively by the laws of the applicant State.

7. Acts of recovery carried out by the requested State in pursuance of a request for assistance which, according to the laws of that State, would have the effect of suspending or interrupting the period of limitation, shall have the same effect under the laws of the applicant State. The requested State shall inform the applicant State about measures taken to this end.

8. Tax claims for the recovery of which assistance is requested shall benefit in the requested State from the same privileges as claims of the same nature in that State.

9. The requested State shall not be obliged to apply any means of enforcement which are not authorized by the legal or regulatory provisions of the applicant State.

10. The provisions of Article 26, paragraph 1, shall also apply to any information which, by virtue of this Article, is supplied to the competent authority of a Contracting State.

11. With regard to tax claims of a Contracting State which are the subject of, or which are still open to, appeal, the competent authority of that State may, in order to safeguard its rights, request the competent authority of the other Contracting State to take measures of conservancy provided for in the laws of the latter. The provisions of the preceding paragraphs shall mutatis mutandis apply to these measures.

12. The competent authorities of the Contracting States shall consult together in order to settle the mode of the transfer of the amounts recovered by the requested State on behalf of the applicant State.

### **Article 28 Limitation of the Effects of the Convention**

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

2. For the purpose of the Convention, diplomatic agents and consular officers of a Contracting State who are accredited to the other Contracting State or to a third State, and who have the nationality of the sending State, shall be deemed to be residents of that State if they are subject to the same obligations with respect to taxes on income and capital as are the residents of that State.

3. The Convention shall not apply to international organisations, to organs or officials thereof nor to diplomatic agents or consular officers of a third State, if they are present in the territory of a Contracting State and are not treated as residents of either Contracting State with respect to taxes on income or on capital.

### **Article 29 Entry Into Force**

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

2. The Convention shall enter into force the thirtieth day following the day of the exchange of instruments of ratification and its provisions shall apply:

(a) with respect to taxes due at source, to income credited or payable as from 1 January of the year immediately following the year of the exchange of the instruments of ratification;

(b) with respect to other taxes charged on income, for taxable periods beginning on or after 1 January of the year immediately following the year of that exchange.

### **Article 30 Termination**

This Convention shall remain in force indefinitely. However, either Contracting State may terminate it, through diplomatic channels, by giving to the other Contracting State written notice of termination not later than six months before the end of any calendar year, but after the end of a period of five years following the date of its entry into force. In such event the Convention shall cease to have effect:

(a) with respect to taxes due at source, to income credited or payable as from 1 January of the year immediately following the year in which the notice of termination is given;

(b) with respect to other taxes charged on income, of taxable periods beginning on or after 1 January of the same year.

In witness whereof the undersigned, duly authorized to that effect by their respective governments, have signed this Convention.

Done at Algiers on 15 December 1991.

In duplicate in the Arabic, French and Dutch languages, the three texts being equally authentic.

**FOR THE GOVERNMENT OF ALGERIA:**

**FOR THE GOVERNMENT OF BELGIUM:**