

# **1996 Income and Capital Tax Convention and Final Protocol (English Translation)**

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**In force date:** March 17, 1998

**Effective date:** Generally, from January 1, 1999. See Article 28.

**Status:** In Force

## **CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ARMENIA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION FOR AVOIDANCE OF DOUBLE TAXATION ON INCOME AND CAPITAL**

[TRANSLATION]

The Government of the Republic of Armenia and the Government of the Russian Federation, Desiring to promote and reinforce the economic, scientific, technical and cultural relations between both States, in order to avoid double taxation with respect to taxes on income and capital, to prevent tax evasion, and to prohibit tax discrimination have resolved to conclude this Convention, and have agreed to the following:

### **Article 1 Personal Scope**

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

### **Article 2 Taxes Covered Under the Convention**

1. This Convention shall apply to taxes on income and capital imposed in a Contracting State, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and capital all taxes imposed on total income, total capital or on individual elements thereof.

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

a) In regard to Russia, taxes imposed according to the following Laws of the Russian Federation:

(i) "O naloge na pribyl predpriyatii i organizatsii" (On the Tax on Profits of Enterprises and Organizations);

(ii) "O podokhodnom naloge s fizicheskikh lits" (On the Individual Income Tax);

(iii) "O naloge na imushchestvo predpriyatii (On the Tax on the Capital of Enterprises); and

(iv) "O naloge na imushchestvo fizicheskikh lits" (On the Tax on the Capital of Individuals);

b) In regard to Armenia:

(i) nalog na pribyl i otdelnye vidy dokhodov yuridicheskikh lits (tax on profits and other forms of income of legal entities);

(ii) podokhodnyi nalog (income tax);

(iii) nalog na imushchestvo (tax on capital); and

(iv) nalog na zemlyu (tax on land).

4. The Convention shall also apply to any identical taxes or substantially similar taxes to those referenced in paragraph 1 of this Article, which will be imposed in addition to, or in place of existing taxes, after the signing date of this Convention.

The competent authorities of the Contracting States shall notify each other in a timely manner of any substantial changes which have been made in their respective tax laws and in other regulations related to taxation.

### **Article 3 General Definitions**

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

a) the terms "Contracting State" and "the other Contracting State" mean, as required by context, Armenia or Russia;

b) the term "Armenia" means the Republic of Armenia, and when used in the geographic sense, means the territory of the Republic of Armenia;

c) the term "Russia" means the Russian Federation, and when used in the geographic sense, means the territory of the Russian Federation and its exclusive economic zone and continental shelf;

d) the term "person" includes an individual, enterprise and any body of persons considered to be subject to taxation;

e) the term "enterprise of a Contracting State" means an enterprise registered according to the laws of that State;

f) the term "international traffic" means any transport by sea or air craft, motor vehicle or railroad car carried on by a resident of a Contracting State, except when such traffic occurs solely between points in the other Contracting State;

g) the term "competent authority" means:

in regard to Armenia, the Tax Inspectorate of the Republic of Armenia or its authorized representative;

in regard to Russia, the Ministry of Finance of the Russian Federation or its authorized representative.

2. As regards the application of the Convention by a Contracting state, any term or expression not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State. In the event of a disagreement between the laws of a Contracting State with regard to the taxes to which the Convention applies, and other areas of the laws of that State, the laws regarding the taxes to which the Convention applies shall apply.

#### **Article 4 Resident**

1. As regards the application of this Convention, the term "resident of a Contracting State" means any organ of government of that State or person who, under the laws of that State, is liable to tax therein by reason of his domicile, place of registration or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 of this Article 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 an habitual abode available to him;

b) if he has an habitual abode available to him in both Contracting States or in neither Contracting State, he shall be deemed to be a resident of the Contracting State of which he is a national;

c) if each of the Contracting States considers him a national, or if he is not a national of either of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

#### **Article 5 Permanent Establishment**

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which an enterprise of a Contracting State carries on its ordinary business in the other Contracting State.

2. Subject to the provisions of paragraph 1, the term "permanent establishment" includes especially:

a) a branch;

b) an office;

c) a factory;

d) a workshop;

e) a mine, pit, oil or gas well, quarry or any other place used for the exploration, development or extraction of natural resources.

3. A construction site, installation or assembly facilities, and technical inspection activities related thereto, as well as the rendering of services, shall constitute a permanent establishment, when the duration of such site, facilities, activities or services exceeds 18 months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall not include:

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to this 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 performing any other activities of a preparatory or auxiliary character for this enterprise;

f) the maintenance of a fixed place of business exclusively for carrying on any combination of activities referenced in subparagraphs a) through e).

5. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, if a person-other than an agent of an independent status to whom paragraph 7 of this Article applies-acting on behalf of an enterprise of a Contracting State, has and habitually exercises in the other Contracting State the authority to conclude contracts on behalf of this enterprise, or maintains a stock of goods and merchandise belonging to that enterprise from which regular deliveries of these goods and

merchandise are made on behalf of this enterprise, then such enterprise shall be considered to have a permanent establishment in the other Contracting State with respect to any business which this person carries on for the enterprise, with the exception of those cases when activities are limited by paragraph 4 of this Article.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State, except in regard to cases involving re-insurance, shall be deemed to have a permanent establishment in the other Contracting State, if it collects insurance premiums in that other State, or provides insurance from potential risks therein through a person other than an agent of an independent status.

7. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State, if it carries on business in that other Contracting State through a broker or any other agent of an independent status.

The term "agent of an independent status" as it relates to an enterprise of a Contracting State means an individual who is a resident of the other Contracting State, and who is not engaged in a labor relationship with the enterprise of the first-mentioned State.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by an enterprise which is a resident of the other Contracting State, or which carries on business activity in that other State (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) located 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 means of transportation referenced in sub-paragraph f), paragraph 1 of Article 3 shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article shall apply to income derived from the sale, direct use, letting or use in any other form of immovable property.

### **Article 7 Business Profits**

1. The business profits derived by 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 in the other Contracting State through a permanent establishment situated therein, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to such permanent establishment.

2. Subject to the provisions of paragraph 3 of this Article, 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 person engaged in the same or similar activities under the same or similar conditions, and dealing wholly independently from 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 substantiated in writing which are incurred for the purposes of such permanent establishment, including executive and general administrative expenses, whether incurred in the State in which the permanent establishment is situated or elsewhere. In any event, these expenses shall not include any amounts which are paid (other than to cover actually incurred costs) by a permanent establishment to an enterprise or other subdivision thereof in the form of various payments for the use of patents or other rights, or in the form of commissions for management or other services provided, or, with the exception of banks, in the form of interest for a loan provided by them to a permanent establishment.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. For the purposes of the preceding paragraphs of this article, the profits that are attributed to a permanent establishment shall be determined by the same method year by year unless the competent authorities of the Contracting States reach an agreement that there is good and sufficient reason to the contrary.

6. If according to the laws of a Contracting State the profits attributable to a permanent establishment may be determined on the basis of proportional distribution of the total profits of the enterprise by its various subdivisions, the provisions of paragraph 2 of this Article shall not apply with respect to the calculation of taxable profits by means of such distribution.

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

### **Article 8 Income From International Transportation**

1. Income derived by a resident of a Contracting State from the operation of the means of transportation indicated in sub-paragraph f), paragraph 1 of Article 3 shall be taxable only in that State.

2. Income derived by a resident of a Contracting State from leasing means of transportation, and containers and equipment related thereto, for their operation in international traffic, shall be taxed only in that Contracting State.

3. The provisions of paragraphs 1 and 2 of this Article shall also apply to income derived by a resident of a Contracting State from participation in a joint business for the operation of means of transportation, but only that portion of income which is attributed to its share in the joint business.

### **Article 9 Corrections to Taxable Profits**

1. Where conditions are made or established between an enterprise of a Contracting State and an enterprise of the other Contracting State in their commercial or financial relations, which differ from those which would be made between two independent enterprises, then any profits which would have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included by a Contracting State in the profits of that enterprise and taxed accordingly.

2. The competent authorities of the Contracting States shall agree to a mechanism for making such a correction.

### **Article 10 Dividends**

1. Dividends paid by an enterprise 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 in accordance with the laws of that State, but if the recipient is the beneficial owner of the dividends the tax levied shall not exceed:

a) 5 % of the gross amount of the dividends, if the resident of the other Contracting State contributed at least U.S. \$40,000 (or an equivalent amount in the domestic currency of either of the Contracting States) to the authorized capital of the enterprise;

b) 10 percent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of sub-paragraph a).

This paragraph shall not affect the taxation of enterprises with respect to the profits from which dividends are paid.

3. For the purposes of this Article, the term "dividends" means income from any stock or other rights, which are not debt claims, which give the right to participate in profits, as well as income from other rights, which are subjected to the same taxation treatment as income from stock, according to the laws of the State in which the enterprise distributing the profits 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 activities in the other Contracting State, of which the enterprise 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 13 shall apply as required by circumstances.

5. Where an enterprise which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may fully exempt the dividends paid by this enterprise from taxes, 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 fixed base situated in that other State, and may not subject the enterprise's undistributed profits to taxes, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other Contracting State.

### **Article 11 Interest**

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

2. For the purposes of this Article, the term "interest" means income from debt claims of any type, whether or not secured by mortgage, and whether or not carrying a right to participate in the profits of the debtor, and in particular, income from government securities, bonds and debt instruments,

including premiums and gains from these securities, bonds and debt instruments. Fines for late payments are not deemed to be interest for the purposes of this Article.

3. The provisions of paragraph 1 shall not apply, if the beneficial owner of the interest, being a resident of a Contracting State, carries on commercial activities in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs independent personal services in that other State from a fixed base situated therein, and the debt claims in respect of which the interest is paid are effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 13 shall apply as required by circumstances.

4. Interest shall be deemed to arise in a Contracting State, if the payer is an organ of government established in that State 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 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.

5. Where by reason of a special relationship between the payer and the recipient of the interest, or between both of them and some other person, the amount of the interest paid, with respect to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient of the interest 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 payment shall remain taxable according to the laws of each Contracting State, due regard being given to the other provisions of this Convention.

### **Article 12 Royalties**

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

2. For the purposes of this Convention, the term "royalties" 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 movies and radio and television broadcasts, any patent, trademark, 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 (know how).

3. The provisions of paragraph 1 shall not apply, if the beneficial owner of the royalties, being a resident of a Contracting State, carries on commercial activities 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 13 shall apply as required by circumstances.

4. Royalties shall be deemed to arise in a Contracting State, if the payer of such royalties is an organ of government established in that State or a resident of that State. However, when the payer of royalties, whether such person is a resident or not of a Contracting State, has in that State a permanent establishment or fixed base in connection with which the liability arose for which the royalties are paid, and such royalties are borne by such permanent establishment or fixed base, the royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

5. 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, in respect 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 given to the other provisions of this Convention.

### **Article 13 Income From Independent Personal Services**

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character not related to employment in the other Contracting State may be taxable in that Contracting State, only if such resident has a fixed base available to him in the other State for the purpose of performing his business, and the income is related to this fixed base.

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

#### **Article 14 Income From Dependent Personal Services**

1. Subject to the provisions of Articles 15, 16 and 18 of this Convention, 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 exercised in the other Contracting State, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1 of this Article, 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 carries on work in the other Contracting State for a period or periods not exceeding a total of 183 days in the course of 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:

a) remuneration derived in respect of an employment exercised aboard the means of transportation referenced in sub-paragraph f), paragraph 1 of Article 3 in international traffic may be taxed in the Contracting State in which the person carrying on such transportation is a resident;

b) remuneration or income derived by a resident of a Contracting State with respect of an employment carried on in the other Contracting State at facilities not deemed to be a permanent establishment shall be taxed only in the first-mentioned State.

#### **Article 15 Directors' Fees**

1. Payments received by a resident of a Contracting State in his capacity as a member of the board of directors or other similar body of an enterprise which is a resident of the other Contracting State may be taxed in that other State.

#### **Article 16 Artistes and Sportsmen**

1. Notwithstanding the provisions of Articles 13 and 14, income derived by a resident of a Contracting State as an entertainer-such as a theater, 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 an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 13 and 14, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

#### **Article 17 Pensions**

Pensions and other similar remuneration paid out of sources in a Contracting State to an individual in consideration of past employment shall be taxable only in that State.

#### **Article 18 Government Service**

1. Salaries and other similar remuneration paid by, or out of funds created by, an organ of government established in a Contracting State to an individual in respect of services rendered to that organ of government shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, such remuneration shall be taxable only in the other Contracting State, if the services are rendered in that State, and the individual, being a resident of that State:

a) is a national of that State; or

b) did not become a resident of that State for the sole purpose of rendering services therein.

3. The provisions of Articles 14 and 15 shall apply to remuneration in respect of services rendered in connection with commercial activities carried on by an organ of government established in a Contracting State.

#### **Article 19 Students and Business Apprentices**

Payments made to a student, trainee 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 obtaining his education or training-which are intended for

his maintenance, education and professional training, shall not be taxed in the first-mentioned 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, which are not dealt with in the foregoing Articles of this Convention, shall be taxable in that State.
2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as specified in paragraph 2 of Article 6, if the recipient of such income is a resident of a Contracting State, and carries on commercial activities in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is received is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 13 shall apply as required by circumstances.
3. Any types of income of a resident of a Contracting State, arising in the other Contracting State and not covered in the preceding Articles of this Convention, may also be taxed in that other State.

### **Article 21 Capital**

1. Immovable property referred to in Article 6, which is the property of a resident of a Contracting State, and which is situated in the other Contracting State, may be taxed in that other State.
2. Movable property which is a part of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, as well as 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 the means of transportation referenced in sub-paragraph f), paragraph 1 of Article 3 and operated in international traffic, which belongs to a resident of a Contracting State, shall be taxable only in that State.
4. All other items of capital of a resident of a Contracting State shall be taxable only in that State.

### **Article 22 Methods for Elimination of Double Taxation**

1. If a resident of a Contracting State receives income or owns property in the other Contracting State which, in accordance with the provisions of this Convention, may be taxed in that other State, the amount of tax on this income or capital paid in that other State shall be deducted from the tax imposed on such resident with respect to such income or capital in the first-mentioned State. However, this deduction shall not exceed the amount of tax of the first State on such income or capital, calculated according to its tax laws and regulations.
2. If, according to any provision of the Convention, income derived or capital of a resident of a Contracting State is exempt from tax in that State, that State may, nonetheless, when calculating the rate and amount of tax on the remaining portion of income or capital of this resident, take into account the income or capital exempt from taxation.

### **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 are or may be subjected. Notwithstanding the provisions of Article 1, this provision shall also apply to individuals who are not residents of one or both Contracting States.
2. Persons without citizenship who are residents of either Contracting State shall not be subjected in either 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 those States in the same circumstances are subjected.
3. Taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on similar activities.
4. The provisions of this Article shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal privileges, deductions and reductions for taxation purposes, which it grants to its own residents in consideration of their civil status or family responsibilities.
5. With the exception of those circumstances in which the provisions of paragraph 1 of Article 9, paragraph 5 of Article 11, or paragraph 5 of Article 12 apply, 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, the debts of an enterprise of a Contracting State

relating to residents of the other Contracting State shall, for the purposes of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been incurred in relation to a resident of the first-mentioned State.

6. Enterprises of a Contracting State, the authorized capital of which is wholly or partly contributed 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 may be subjected.

#### **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 for review to the competent authorities of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. Notice must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavor, if the case 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 avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be applied irrespective of any time restrictions stipulated by the domestic laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties arising as to the interpretation or application of the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement regarding the application of the preceding paragraphs of this Article.

#### **Article 25 Assistance in the Collection of Taxes**

1. The Contracting States undertake to provide each other with assistance in the collection of taxes set forth in Article 2, as well as any other supplemental payments and collections which are not fines.

2. At the request of the tax authority of a Contracting State, the tax authority of the other Contracting State shall ensure collection of taxes stipulated in paragraph 1, according to the legal provisions and regulations applicable for the collection of such taxes in the latter State.

3. Requests stipulated in paragraph 2 must be accompanied by an official copy of the execution documents to which, if necessary, an official copy shall be attached of the administrative or judicial findings which entered into force as a result of a trial.

4. With respect to tax payments which are subject to collection, the tax authority of a Contracting State may, for the purpose of protecting its rights, require the tax authority of the other Contracting State to take the preventative measures stipulated under its laws.

5. The provisions of paragraph 1 of Article 26 shall apply in the same degree to all investigations conducted in order to execute the provisions of this Article with the consent of the tax authority of a Contracting State.

6. For the purposes of this Article, the term "tax authority" means:

- a) In Armenia, the Tax Inspectorate of the Republic of Armenia;
- b) In Russia, the State Tax Service of the Russian Federation.

#### **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 this Convention. Exchange of information shall not be limited by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information received in the framework of the domestic laws of that State, and may be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes covered by this Convention. Such persons or authorities shall use the information only for such purposes. They may disclose this information at public court proceedings, or when making judicial decisions.

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

- a) to carry out administrative measures at variance with the laws or administrative practice of that or 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, commercial, industrial or professional secret or trade process, or information, if this is contrary to state interests.

### **Article 27 Diplomatic Agents and Consular Officers**

No provisions of 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.

### **Article 28 Entry Into Force**

1. This Convention is subject to ratification.
2. The Convention shall enter into force on the date the instruments of ratification are exchanged, and its provisions shall apply:
  - a) with regard to taxes collected at the source, to amounts paid starting on the first of January of the calendar year following the year in which the Convention enters into force;
  - b) with regard to other taxes on income, for taxation periods beginning on the first of January of the calendar year following the year in which the Convention enters into force;
  - c) with regard to taxes on capital, to capital in existence on the first of January of the year following the year in which the Convention enters into force;
  - d) with regard to Articles 25 and 26, on the date the Convention enters into force.

### **Article 29 Termination**

This Convention shall remain in force until terminated by a Contracting State.

Either Contracting State may terminate the Convention through diplomatic channels, by giving appropriate notice of termination to the other Contracting State at least six months before the end of any calendar year following the three-year period from the date the Convention enters into force. In such event, the Convention shall cease to apply:

- a) with regard to taxes collected at the source, to amounts paid beginning on the first of January of the calendar year following the year in which notice is given;
- b) with regard to other taxes on income, for taxation periods starting on the first of January of the calendar year following the year in which notice is given;
- c) with regard to taxes on capital, to capital in existence on the first of January of the year in which notice is given.

Done in duplicate in Moscow on December 28, 1996, in the Armenian and Russian languages, each version being equally authentic.

**FOR THE GOVERNMENT OF THE REPUBLIC OF ARMENIA:**

**FOR THE GOVERNMENT OF THE RUSSIAN FEDERATION:**

### **Final Protocol**

The parties have agreed that the following provisions form an integral part of the Convention:

1. With regard to Article 5:

As regards the application of paragraph 3, the start and completion times of the construction site, installation or assembly facilities, and of the supervisory activities related to such site, facilities or activities, shall be determined by the dates set jointly by representatives of the customer and contractor in the protocol or other document setting forth the conditions of the contract.

2. With regard to Article 13:

As regards the criteria for a fixed base, the parties shall apply the criteria for a permanent establishment set forth in Article 5.

At the same time, the term "fixed base" shall not include those types of activities (other than those indicated in Article 14), which result in a total annual income which is less than two hundred times the average minimum monthly salary established under the laws of a Contracting State in which such activity is carried on during the course of the relevant calendar year.

The competent authorities of the Contracting States shall, by mutual agreement, establish the procedure for collecting taxes under these circumstances.

3. With regard to Article 26:

The provisions of this Article shall apply irrespective of the effects of the "Convention between the Government of the Republic of Armenia and the Government of the Russian Federation on Cooperation and Mutual Assistance on Matters Regarding Compliance with Tax Laws" signed in Moscow on March 11, 1994.

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