

## **YUGOSLAVIA (Treaty of 21.11.1980)**

Signature: 21-11-80

Entry into force: 26-05-83

Publication in the official gazette: 20-05-83

Source tax: 01-01-84

Other tax: 31-12-84

The Kingdom of Belgium and the Socialist Federal Republic of Yugoslavia, desiring to conclude a Convention for the avoidance of double taxation of income and capital, have agreed as follows:

### **I. SCOPE OF THE CONVENTION**

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

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

## **Article 2 Taxes covered**

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied. The Convention shall also apply to the contributions levied in Yugoslavia, except for the contributions for social security.

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, as well as taxes on capital appreciation. For the purposes of this Convention, the term "taxes" includes also the contributions referred to in paragraph 1 of this article.

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

a) in Belgium:

1 the individual income tax (impôt des personnes physiques - personenbelasting);

2 the corporate income tax (impôt des sociétés - vennootschapsbelasting);

3 the income tax on legal entities (impôt des personnes morales - rechtspersonenbelasting);

4 the income tax on non-residents (impôt des non-résidents - belasting der niet-verblijfhouders);

5 the exceptional and temporary solidarity contribution (la participation exceptionnelle et temporaire de solidarité - de uitzonderlijke en tijdelijke solidariteitsbijdrage);

including the prepayments, the surcharges on these taxes and prepayments, and the supplements to the individual income tax;

(hereinafter referred to as "Belgian tax");

b) in Yugoslavia:

1 the tax and contributions on income of organisations of associated labour (porez i doprinosi iz dohotka organizacija udruzenog rada);

2 the tax and contributions on personal income derived from dependent personal services (porez i doprinosi iz licnog dohotka iz radnog odnosa);

3 the tax and contributions on personal income derived from agricultural activity (porez i doprinosi iz licnog dohotka od poljoprivredne delatnosti);

4 the tax and contributions on personal income derived from independent economic and non-economic activities (porez i doprinosi iz licnog dohotka od samostalnog obavljanja privrednih i neprivrednih delatnosti);

5 the tax on personal income derived from copyrights, patent and technical improvements (porez iz licnog dohotka od autorskih prava, patenata i tehnickih unapredjenja);

6 the tax on revenue from capital and capital rights (porez na prihod od imovine i imovinskih prava);

7 the tax on capital (proz na imovinu);

8 the tax on total revenue of citizens (porez iz ukupnog prihoda gradjana);

9 the tax on profits of foreign persons derived from investments in a domestic organisation of associated labour for the purposes of a joint venture (porez na dobit stranih lica ostvarenu ulaganjem u domacu organizaciju udruzenog rada za svrhe zajednickog poslovanja);

10 the tax on profits of foreign persons derived from investment works (porez na dobit stranih lica ostvarenu izvodjenjem investicionih radova);

11 the tax on revenue of foreign persons derived from passenger and cargo transport (porez na prihod stranih lica ostvaren od prevoza putnika i robe);

(hereinafter referred to as "Yugoslav tax").

4. The Convention shall apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

## **II. DEFINITIONS**

**Article 3 General definitions**

1. For the purposes of this Convention:

a) the term "Belgium" means the Kingdom of Belgium;

b) the term "Yugoslavia" means the Socialist Federal Republic of Yugoslavia;

c) the terms "a Contracting State" and "the other Contracting State" mean Belgium or Yugoslavia, as the context requires;

d) the term "person" means:

(i) in respect of Belgium, an individual and a company;

(ii) in respect of Yugoslavia, an individual and a legal person;

e) the term "company" means:

(i) in respect of Belgium, any body corporate or any entity which is treated as a body corporate for tax purposes;

(ii) in respect of Yugoslavia, any organisation of associated labour or any other legal person

subject to tax;

f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, as the context requires, in respect of Belgium, an enterprise carried on by a resident of Belgium, and in respect of Yugoslavia, an organisation of associated labour and other self-managed organisation and community, working people who individually perform activities independently and an enterprise established outside the territory of Yugoslavia carried on by a resident of Yugoslavia. These terms do not include the activities mentioned in Article 14;

g) the term "national" means:

(i) in respect of Belgium, any individual possessing the nationality of Belgium;

(ii) in respect of Yugoslavia, a citizen of Yugoslavia and any other individual who derives his status as such from the laws valid therein;

h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which 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;

i) the term "competent authority" means:

(i) in respect of Belgium, the Minister of Finance or his authorised representative;

(ii) in respect of Yugoslavia, the Federal Secretariat for Finance or its authorised representative.

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

#### ***Article 4 Fiscal domicile***

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person whose income or capital, under the laws of that State, is subject 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 Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

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

d) if he is a national of both Contracting 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 Contracting 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 in which the business of the enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop;

f) a mine, quarry or other place of extraction of natural resources;

g) a building site or construction or assembly project which exists for more than twelve months.

3. The term "permanent establishment" shall not be deemed to include:

a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 5 applies - shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. 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 agent of an independent status, where such persons are acting in the ordinary course of their business.

6. 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 make either company a permanent establishment of the other.

### **III. TAXATION OF INCOME**

#### ***Article 6 Income from immovable property***

1. Income from immovable property including income from agriculture or forestry may be taxed in the Contracting State in which such property is situated.

2. For the purposes of this Convention, 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. Ships, boats and aircraft shall not be regarded as immovable property.

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

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

## ***Article 7 Business profits***

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

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

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions, expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. The profits to be attributed to a permanent establishment shall be determined on the basis of business books kept by the permanent establishment. If such books do not constitute an adequate basis for the purpose of determining the profits of the permanent establishment, then such profits may be determined on the basis of an apportionment of the total profits of the enterprise to its various parts; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles embodied in this article. If necessary the competent authorities of the Contracting States shall endeavour to agree on the method for apportioning the profits of the enterprise.

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

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method.

7. The provisions of this article shall apply to the profits derived by a resident of Belgium in Yugoslavia on the grounds of this participation in a joint venture with a Yugoslav enterprise.

8. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of these 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 derived from the participation in a pool, a joint business or in an international operating agency.

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

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.

#### ***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 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 the tax so charged shall not exceed:

a) 10% of the gross amount of the dividends if the recipient is a company which holds directly at least 25% of the capital of the company paying the dividends;

b) 15% of the gross amount of the dividends, in all other cases.

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

3. The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income 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.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient 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 a 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 to a resident of that first-mentioned 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; this provision shall not prevent that other State from taxing dividends relating to a holding which is effectively connected with a permanent establishment or a fixed base situated in that 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 be taxed in the Contracting State in which it arises, and according to the laws

of that State, but the tax so charged shall not exceed 15% of the gross amount of the interest.

3. 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 bonds or debentures.

However, the term "interest" does not include, for the purpose of this Article, penalty charges for late payment.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. 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.

6. Notwithstanding the provisions of paragraph 5, interest shall be deemed to arise in the Contracting State in which the payer of the interest has a permanent establishment or a fixed base with which the indebtedness on which the interest is paid is effectively connected and which bears the interest, whether or not the payer of the interest is a resident of a Contracting State.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the interest may be taxed in the Contracting State in which the interest arises, according to the laws of that State.

## **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 be taxed in the Contracting State in which they arise, and according to the laws of that State, but the tax so charged shall not exceed 10% of the gross amount of the royalties.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient 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 a 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 Contracting State itself, a political subdivision, a local authority or a resident of that Contracting State.

6. Notwithstanding the provisions of paragraph 5, royalties shall be deemed to arise in the Contracting State in which the payer of the royalties has a permanent establishment or a fixed base with which the liability to pay the royalties was incurred and which bears the royalties, whether or not the payer of the royalties is a resident of a Contracting State.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the royalties may be taxed in the Contracting state in which the royalties arise, according to the laws of that State.

### ***Article 13 Capital gains***

1. Gains from the alienation of immovable property may be taxed in the Contracting State in which such property is situated.

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 together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

3. Notwithstanding the provisions of paragraph 2, 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 nature may be taxed in that Contracting State. Except as provided in paragraph 2, such income shall be exempt from tax in the other Contracting State.

2. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar nature in the other Contracting State may be taxed in that other Contracting State, if the resident is present in that other Contracting State for a period or periods exceeding in the aggregate 183 days in the calendar year concerned.

3. 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 paragraphs 2 to 6, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxed 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. 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 the calendar year concerned, and

b) the remuneration is paid by, or on behalf of, a person 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 that person has in the other State.

3. a) Remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual shall be taxable only in that State.

b) Remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual shall be taxable only in the other Contracting State if the employment is exercised in that State and the recipient is a resident of that State who:

(i) is a national of that State, or

(ii) did not become a resident of that State solely for the purpose of exercising the employment.

4. Remuneration derived by an individual in respect of an employment exercised in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof shall be taxable in accordance with the provisions of paragraphs 1 and 2.

5. Remuneration derived by an individual in respect of an employment exercised in the Joint Economic Representation of Yugoslavia or the Tourist Federation of Yugoslavia shall be taxable only in Yugoslavia.

6. Remuneration derived in respect of an employment exercised aboard a ship or aircraft in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is

situated.

7. The provisions of this Article shall not apply to income dealt with in paragraphs 1 and 2 of Article 16 and in Articles 18 and 19.

***Article 16 Directors' fees and fees derived from work on joint business boards***

1. Director's fees and similar payments derived by a resident of Yugoslavia in his capacity as a member of the board of directors or a similar organ of a company which is a resident of Belgium may be taxed in Belgium.

2. Fees and similar payments derived by a resident of Belgium in his capacity as a member of a joint business board of a company which is a resident of Yugoslavia may be taxed in Yugoslavia.

3. The remuneration which a person to whom paragraph 1 or 2 applies derives from the company in respect of the discharge of day-to-day functions may be taxed in accordance with the provisions of paragraph 1 or 2 of Article 15.

***Article 17 Artistes and athletes***

1. Notwithstanding the provisions of Article 14 and of paragraphs 1 and 2 of Article 15, income derived by entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

2. Where income in respect of personal activities as such of an entertainer or athlete accrues not to that

entertainer or athlete himself but to another person that income may, notwithstanding the provisions of Articles 7 and 14 and of paragraphs 1 and 2 of Article 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived in respect of personal activities as such of an entertainer or athlete being a resident of a Contracting State shall be taxable only in that State if the activities are exercised in the other Contracting State within the framework of a cultural or sports exchange programme agreed by both Contracting States.

### ***Article 18 Pensions***

1. Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in the Contracting State of which the recipient of the pension is a resident.

2. a) Notwithstanding the provisions of paragraph 1, such pensions and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof out of the budget or of special funds to an individual shall be taxable only in that State.

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

3. Any pension derived by an individual in respect of an employment exercised in connection with any business carried on by a Contracting State or a political subdivision or local authority thereof shall be taxable only in the Contracting State of which the individual is a resident.

### ***Article 19 Professors***

1. Remuneration which a professor or teacher who is, or immediately before was, a resident of a Contracting State and who visits the other Contracting State for a period not exceeding two years for the purpose of carrying out advanced study or research or for teaching at a university or other recognized educational institution receives for such work shall not be taxed in that other State.

2. The provisions of paragraph 1 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

#### ***Article 20 Students, apprentices or business trainees***

1. Payments which a student, an apprentice or a business trainee 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 Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments are made to him from sources outside that State.

2. Notwithstanding the provisions of Article 14 and of paragraphs 1 and 2 of Article 15, income derived by a student, an apprentice or a business trainee referred to in paragraph 1 in respect of activities exercised in the Contracting State in which he is present for the purpose of his education or training, shall not be taxable in this State, unless it exceeds the amount necessary for his maintenance, education or training.

#### ***Article 21 Other income***

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

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

#### **IV. TAXATION OF CAPITAL**

##### ***Article 22 Capital***

1. Capital represented by immovable property may be taxed in the Contracting State in which such property is situated.

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of independent personal services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic, and 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.

## **V. ELIMINATION OF DOUBLE TAXATION**

### ***Article 23 Methods for elimination of double taxation***

1. In respect of Belgium, double taxation shall be avoided as follows:

a) Where a resident of Belgium derives income which may be taxed in Yugoslavia in accordance with the Convention and which is not subject to the provisions of subparagraph b) below, or possesses elements of capital which may be taxed in Yugoslavia in accordance with the provisions of the Convention, Belgium shall exempt such income and such elements of capital from tax but may, in calculating the amount of tax on the remaining income or capital of that resident, apply the rate of tax which would have been applicable if such income or elements of capital had not been exempted.

b) In the case of dividends taxable in accordance with paragraph 2 of Article 10, interest taxable in accordance with paragraph 2 or 7 of Article 11 and royalties taxable in accordance with paragraph 2 or 7 of Article 12, the fixed proportion in respect of the foreign tax for which provision is made under Belgian law shall, under the conditions and at the rate provided for by such law, be allowed as a credit against Belgian tax relating to such income.

2. In respect of Yugoslavia, double taxation shall be avoided as follows:

a) Where a resident of Yugoslavia derives income or owns capital which in accordance with the provisions of this Convention may be taxed in Belgium, Yugoslavia shall, subject to the provision of subparagraph b) below, exempt such income or capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

b) Where a resident of Yugoslavia derives income which, in accordance with the provisions of Articles 10, 11 and 12 may be taxed in Belgium, Yugoslavia shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in Belgium. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived in Belgium.

## **VI. SPECIAL PROVISIONS**

### ***Article 24 Mutual agreement procedure***

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. This case must be presented within three years from the first notification of the action giving rise to taxation not in accordance with 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 an appropriate 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 application of the Convention.

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

## **Article 25 Exchange of information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to this Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes. The persons or authorities 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 or the 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 the disclosure of which would be contrary to public policy (ordre public) or information which would disclose any trade process or, in respect of Belgium, any trade, business, industrial, commercial or professional secret and, in respect of Yugoslavia, any business or official secret.

## **Article 26 Diplomatic and consular officials**

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

## **VII. FINAL PROVISIONS**

### ***Article 27 Entry into force***

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Brussels.

2. The Convention shall enter into force on the thirtieth day after the date of exchange of the instruments of ratification and its provisions shall have effect:

a) in Belgium:

(i) in respect of taxes due at source on income credited or payable on or after the first day of January in the calendar year next following that in which the instruments of ratification are exchanged;

(ii) in respect of taxes other than taxes due at source, on income of any accounting period ending on or after the 31st day of December in the calendar year next following that in which the instruments of ratification are exchanged;

b) in Yugoslavia:

in respect of the taxes for any fiscal year beginning on or after the first day of January in the calendar year next following that in which the instruments of ratification are exchanged.

### **Article 28 Termination**

This Convention shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the instruments of ratification have been exchanged, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to have effect:

a) in Belgium:

(i) in respect of taxes due at source on income credited or payable on or after the first day of January in the calendar year next following that in which the notice of termination is given;

(ii) in respect of taxes other than taxes due at source, on income of any accounting period beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given;

b) in Yugoslavia:

in respect of the taxes for any fiscal year beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given.

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

Done at Beograd this 21st day of November 1980 in two originals, in the English language.

For the Kingdom of Belgium:

J. TROUVEROY

For the Socialist Federal Republic of Yugoslavia:

P. KOSTI'C

## **PROTOCOL**

At the moment of signing the Convention between the Kingdom of Belgium and the Socialist Federal Republic of Yugoslavia for the avoidance of double taxation of income and capital, the undersigned have agreed that the following provisions shall form an integral part of the said Convention:

1. The term "dividends" shall include income from invested capital received by members of Belgian companies other than companies with share capital where, under Belgian law, such income is taxable in the same way as dividends.
2. In the event that changes are made in the Yugoslav laws to allow the report of losses incurred by enterprises, the competent authorities of both Contracting States shall consult each other with a view to making such amendments to the Convention as they consider appropriate in order to avoid a double deduction of such losses for tax purposes.

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

Done at Beograd this 21st day of November 1980 in two originals, in the English language.

For the Kingdom of Belgium:

J. TROUVEROY

For the Socialist Federal Republic of Yugoslavia:

P. KOSTI'Ć