

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND
THE GOVERNMENT OF THE REPUBLIC OF BULGARIA FOR THE AVOIDANCE OF
DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Republic of India and the Government of the Republic of Bulgaria, desiring to further expand and facilitate mutual economic relations, have resolved to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital and have agreed as follows :

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. The taxes to which the Convention shall apply are :—

(a) In India:

- (i) the income-tax, including any surcharge thereon; and
 - (ii) the wealth-tax;
- (hereinafter referred to as “Indian tax”);

(b) In Bulgaria:

- (i) the tax on total income;
 - (ii) the tax on profits; and
 - (iii) the tax on buildings;
- (hereinafter referred to as “Bulgarian tax”).

2. This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the taxes of that Contracting State referred to in paragraph 1 of this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective laws.

ARTICLE 3 : *General definitions* - 1. In this Convention, unless the context otherwise requires :

- (a) the term “India” means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian laws and in accordance with International law;
- (b) the term “Bulgaria” means the Republic of Bulgaria, and, when used in a geographical sense means the territory over which it exercises its State sovereignty, as well as the continental shelf and exclusive economic zone over which it exercises sovereign rights and jurisdiction according to international law;
- (c) the terms “Contracting State” and “the other Contracting State” mean India or Bulgaria, as the context requires;
- (d) the term “tax” means Indian tax or Bulgarian tax, as the context requires, but shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this Convention applies or which represents a penalty imposed relating to those taxes;
- (e) the term “person” shall have the meaning assigned to it in the taxation laws in force in the respective Contracting States;

- (f) the term “company” means any body corporate or any entity which is treated as a company or a body corporate under the taxation laws in force in the respective Contracting States;
- (g) 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;
- (h) the term “competent authority” means in the case of India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorized representative; and in the case of Bulgaria - the Minister of Finance or his authorized representative;
- (i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.

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

ARTICLE 4 : *Resident - 1.* For the purposes of this Convention, the term “resident of a Contracting State” means :

- (a) in the case of India, any person who, under the laws of India, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature;
- (b) in the case of Bulgaria, any individual who is national of Bulgaria, as well as any legal person which has its head office in Bulgaria or is registered therein.

2. (a) Where by reason of the provisions of paragraph 1 of this Article, an individual is a resident of both Contracting States, then 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 Contracting State in which he has his centre of vital interests cannot be determined, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this Article, 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 the enterprise is wholly or partly carried on separately or together with other persons.

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 mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) a warehouse in relation to a person providing storage facilities for others;
- (h) an installation on structure used for the exploration or exploitation of natural resources;
- (i) a building site or construction, installation or assembly project or supervisory activities in connection therewith, where such site, projects or activities (together with other such sites, projects or activities, if any) continue for a period of more than six months :

Provided that for the purpose of this paragraph an enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if it provides services or facilities in connection with or supplies plant and machinery on hire, used or to be used in the prospecting for, or extraction or production of mineral oils in the State.

3. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall not be deemed 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 advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the enterprise;
- (f) the selling of goods or merchandise belonging to the enterprises displayed in an occasional temporary fair or exhibition in the process of closing down of such fair or exhibition; and
- (g) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (f), provided that overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

However, the provisions of sub-paragraphs (a) to (g) shall not be applicable where the enterprise maintains any other fixed place of business in the other Contracting State for any purposes other than the purposes specified in the said sub-paragraphs.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 5 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, if,

- (a) he has, and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise;
- (b) he 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;
- (c) he habitually secures orders in the first-mentioned State, wholly or almost wholly for the enterprise itself or for the enterprise and other enterprises in which the first-mentioned enterprise has a majority participation, or for the enterprise and other enterprises which have a majority participation in the first-mentioned 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 carried on business in that other State through a broker, a general commission agent or any other agent of an independent status, provided that 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 the 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 laws of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, 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 also 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, 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 deduction expenses which are incurred for the purposes of the business 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, in accordance with the provisions of and subject to the limitation of the taxation laws of that State.

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, 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 the 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 : *Air transport - 1.* Profits derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State.

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

3. The provisions of paragraphs 1 and 2 shall also apply where the enterprise has an office or agency in the other State for the transportation of goods or persons. However, this shall apply only to activities directly connected with the business of the operation of aircraft in international traffic.

4. For the purposes of this Article, interest on funds connected with the operation of aircraft in international traffic shall be regarded as profits derived from the operation of such aircraft, and the provisions of Article 12 shall not apply in relation to such interest.

5. The term "operation of aircraft" shall mean business of transportation by air of passengers, mail, livestock or goods carried on by the owners or lessees or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises, the incidental lease of aircraft and any other activity directly connected with such transportation.

ARTICLE 9 : *Shipping - 1.* Income derived by an enterprise of a Contracting State from the operation of ships in international traffic shall be taxable only in that State.

2. Notwithstanding anything contained in paragraph 1 of this Article and paragraph 2 of Article 10 of the Agreement on merchant shipping dated 18-11-1976, between the Government of the Republic of India and the Government of the People's Republic of Bulgaria, income derived by an enterprise of a Contracting State from the operation of ships in international traffic from the ports of the other Contracting State to the ports of third countries and from the ports of third countries to the ports of the other Contracting State may be taxed in the other Contracting State, but the tax imposed in that other Contracting State shall not exceed :

- (a) 50 per cent of the tax otherwise imposed by the taxation law of that other Contracting State, or
- (b) 2.50 per cent of the gross amount payable in respect of such operation of ships, whichever is lower.

3. For the purposes of clause (b) of paragraph 2 of this Article, the gross amount payable in respect of the operation of ships shall mean the aggregate of the following amounts, namely :

- (a) the gross amount paid or payable on account of the carriage of passengers, livestock, mail or goods shipped at a port or ports in the other Contracting State;
- (b) the gross amount received in the other Contracting State on account of carriage of passengers, livestock, mail or goods shipped at a port of the third country;
- (c) interest arising in the other Contracting State on funds connected with the operation of ships in international traffic;
- (d) the gross amount payable on account of the use, maintenance or rent of containers (including trailers and related equipment for the transport of containers) in connection with the transport of goods or merchandise in international traffic.

4. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency engaged in the operation of ships.

5. For the purposes of this Article,

- (a) interest on funds connected with the operation of ships in international traffic shall be regarded as income from the operation of such ships and the provisions of Article 12 shall not apply in relation to such interest; and
- (b) income from the operation of ships includes income derived from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) in connection with the transport of goods or merchandise in international traffic.

ARTICLE 10 : *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 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 11 : *Dividends - 1.* Dividends paid by a company which is 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 recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 15 per cent 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 or other rights, not being debt-claims, participating in profits, as well as income from 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 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 a case the provisions of Article 7, or Article 15, 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 in so far 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 12 : *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, if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2,—

- (a) interest arising in a Contracting State shall be exempt from tax in that State provided it is derived and beneficially owned by :

- (i) the Government, a political sub-division or a local authority of the other Contracting State; or

- (ii) the Central Bank of the other Contracting State;
- (b) interest arising in a Contracting State shall be exempt from tax in that State if it is beneficially owned by a resident of the other Contracting State and it is derived in connection with a loan or credit extended or endorsed by :
 - (i) in the case of Bulgaria, the Foreign Trade Bank to the extent such interest is attributable to financing of exports and imports only;
 - (ii) in the case of India, the Export-Import Bank of India (Exim Bank), to the extent such interest is attributable to financing of exports and imports only;
 - (iii) any institution of a Contracting State incharge of public financing of external trade;
 - (iv) any other person provided that the loan or credit is approved by the Government of the first-mentioned Contracting State.

4. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payments shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1 and 2 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 a case the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political sub-division, a local authority thereof 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 Contracting State in which the permanent establishment or fixed base is situated.

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

ARTICLE 13 : *Royalties and fees for technical services* - 1. Royalties and fees for technical services 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 and fees for technical services may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, or fees for technical services, the tax so charged shall not exceed :

(a) 15 per cent of the gross amount of the royalties relating to copyrights of literary, artistic or scientific works, other than cinematograph films or films or tapes used for radio or television broadcasting; and

(b) 20 per cent of the gross amount of the royalties in all other cases or fees for technical services.

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

4. The term “fees for technical services” as used in this Article means payments of any amount to any person other than payments to an employee of the person making payments, in consideration for the services of a managerial, technical or consultancy nature, including the provision of services of technical or other personnel.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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, property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Royalties and fees for technical services shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority thereof, or a resident of that State. Where, however, the person paying the royalties or fees for technical services, 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 or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

ARTICLE 14 : *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 together 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 of which the alienator is resident.

4. Gains from the alienation of shares of the capital stock of a company the property of which consists directly or indirectly principally of immovable property situated in a Contracting State may be taxed in that State.

5. Gains from the alienation of shares, other than those mentioned in paragraph 4 of a company which is a resident of a Contracting State may be taxed in that State.

6. Gains from the alienation of any property other than that mentioned in paragraphs 1, 2, 3, 4 and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 15 : *Independent personal services* - 1. Income derived by an individual, who is a resident of a Contracting State from the performance of professional services or other independent activities of a similar character shall be taxable only in that State except in the following circumstances when such income may also be taxed in the other Contracting State :

- (a) if he 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 that fixed base may be taxed in that other State; or
- (b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the relevant “previous year” or “year of income”, as the case may be; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

ARTICLE 16 : *Dependent personal services* - 1. Subject to the provisions of Articles 17, 18, 19, 20, 21 and 22, 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 the relevant “previous year” or “year of income”, as the case may be ;
- (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 by an enterprise of a Contracting State may be taxed in that State.

ARTICLE 17 : *Directors’ fees* - Directors’ fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 18 : *Income earned by entertainers and athletes* - 1. Notwithstanding the provisions of Articles 15 and 16, 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 an athlete, 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 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, 15 and 16, be taxed in the Contracting State, in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraph 1, income derived by an entertainer or an athlete who is a resident of a Contracting State, from his personal activities as such, exercised in the other Contracting State, shall be taxable only in the first-mentioned Contracting State, if the activities in the other Contracting State are performed within the framework of cultural exchange between the two Contracting States, or are supported wholly or substantially, from the public funds of the first-mentioned Contracting State, including any of its political sub-divisions or local authorities.

4. Notwithstanding the provisions of paragraph 2 and Articles 7, 15 and 16, where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such in a Contracting State accrues not to the entertainer or athlete himself but to another person, that income shall be taxable only in the other Contracting State, if that other person is supported wholly or substantially from the public funds of that other State, including any of its political sub-divisions or local authorities.

ARTICLE 19 : *Remuneration and pensions in respect of Government service - 1.* (a) Remuneration, other than a pension, paid by a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division 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 other State and the individual 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 rendering the services.

2. (a) Any pension paid by, or out of funds, created by a Contracting State or a political sub-division or a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division 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 other State.

3. The provisions of Articles 16, 17 and 20 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political sub-division or local authority thereof.

ARTICLE 20 : *Non-Government pensions and annuities - 1.* Any pension, other than a pension referred to in Article 19, or any annuity derived by a resident of a Contracting State from sources within the other Contracting State may be taxed only in the first-mentioned Contracting State.

2. The term “pension” means a periodic payment made in consideration of past services or by way of compensation for injuries received in the course of performance of services.

3. The term “annuity” means a stated sum payable periodically at stated time during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

ARTICLE 21 : *Payments received by students and apprentices - 1.* A student or business apprentice who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State and who is present in that State solely for the purpose of his education or training, shall be exempt from tax in that other State on :—

(a) payments made to him by persons residing outside that other State for the purposes of his maintenance, education or training; and

(b) remuneration from employment in that other State, in an amount not exceeding Lev. 1500 or its equivalent in Indian currency during any “previous year” or “year of income”, as the case may be, provided that such employment is directly related to his studies or is undertaken for the purposes of his maintenance.

2. The benefits of this Article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this Article, for more than five consecutive years from the date of his first arrival in that other Contracting State.

ARTICLE 22 : *Payments received by professors, teachers and research scholars - 1.* A professor or teacher who is or was a resident of one of the Contracting States immediately before visiting the other Contracting State for the purpose of teaching or engaging in research, or both, at a university, college, school or other approved institution in that other Contracting State shall be exempt from tax in that other State on any remuneration for such teaching or research for a period not exceeding two years from the date of his arrival in that other State.

2. This paragraph shall not apply to income from research if such research is undertaken primarily for the private benefit of a specific person or persons.

3. For the purpose of this Article and Article 21, an individual shall be deemed to be a resident of a Contracting State if he is resident in that Contracting State in the “previous year” or the “year of income”, as the case may be, in which he visits the other Contracting State or in the immediately preceding “previous year” or “year of income”.

4. For the purposes of paragraph 1, “approved institution” means an institution which has been approved or established by the competent authority of the concerned Contracting State.

ARTICLE 23 : *Other income - 1.* Subject to the provisions of paragraphs 2 and 3, items of income of a resident of a Contracting State, wherever arising, which are not expressly dealt with in the foregoing Articles of this Convention, shall be taxable only in that Contracting State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may be taxed in that other State.

ARTICLE 24 : *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 or aircraft operated in international traffic and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State of which the enterprise owning such property is a resident.

4. All other elements of capital of a resident of a Contracting State may be taxed in the Contracting State in which such elements of capital are situated.

ARTICLE 25 : *Elimination of double taxation - 1.* The laws in force in either of the Contracting States shall continue to govern the taxation of income or capital in the respective Contracting States except where provisions to the contrary are made in this Convention.

2. In both the Contracting States, double taxation shall be avoided in the following manner :

(a) where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall, subject to the provisions of sub-paragraph (b) of this paragraph, 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) either of the Contracting States when imposing taxes on its residents may include in the tax base upon which such taxes are imposed the items of income which according to the provisions of Articles 9, 11, 12 and 13 of this Convention may also be taxed in the other State but shall allow as a deduction from the amount of tax computed on such a base an amount equal to the tax paid in the other Contracting State. Such deduction shall not, however, exceed that part of tax, leviable by the first-mentioned State, as computed before the deduction is given, which is appropriate to the income which, in accordance with the provisions of Articles 9, 11, 12 and 13 of this Convention may be taxed in the other State.

3. For the purposes of sub-paragraph (b) of paragraph 2, the term “tax paid in the other Contracting State” shall be deemed to include any amount which would have been payable as tax but for any relief by way of deduction allowed in computing the taxable income or an exemption or a reduction of tax or otherwise under the laws relating to taxation of income in force in that other Contracting State.

ARTICLE 26 : *Non-discrimination - 1.* The 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 and under the same conditions are or may be subjected.

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 in the same circumstances or under the same conditions. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which an enterprise of the other Contracting State has in the first-mentioned State at a rate of tax which is higher than that imposed on the profits of a similar enterprise of the first-mentioned

Contracting State, nor as being not in accordance with the provisions of paragraph 3 of Article 7 of this Convention.

4. Nothing in this Article shall be construed as obliging a Contracting State to grant to non-residents of that State any personal allowances, reliefs, reductions and deductions for taxation purposes which are by law available only to persons who are so resident.

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 Contracting 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 that first-mentioned State are or may be subjected in the same circumstances and under the same conditions.

6. In this Article, the term "taxation" means taxes which are the subject of this Convention.

ARTICLE 27 : *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 the Convention, he may, notwithstanding the remedies provided by the national laws of these 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 of the date of receipt of notice of the action which gives 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 not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the national laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. 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.

ARTICLE 28 : *Exchange of information* - 1. The competent authorities of the Contracting States shall exchange such information (including documents) as is necessary for carrying out the provisions of the 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, in particular for the prevention of fraud or evasion of such taxes. 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. However, if the information is originally regarded as secret in the transmitting State, it 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 subject of the Convention. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of

which such exchange of information shall be made, including, where appropriate, exchange of information regarding tax avoidance.

2. The exchange of information or documents shall be either on a routine basis or on request with reference to particular case or both. The competent authorities of the Contracting States shall agree from time to time on the list of the information or documents which shall be furnished on a routine basis.

3. 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 or documents which are 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 or documents 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).

ARTICLE 29 : *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.

ARTICLE 30 : *Entry into force* - Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. This Convention shall enter into force on the date of the latter of these notifications and shall thereupon have effect :

- (a) in India :
 - (i) in respect of income arising in any “previous year” beginning on or after the first day of April next following the calendar year in which the Convention enters into force; and
 - (ii) in respect of capital which is held on the last day of any previous year beginning on or after the first day of April next following the calendar year in which the Convention enters into force; and
- (b) in Bulgaria :
 - (i) in respect of income arising in any year of income beginning on or after the first day of January, next following the calendar year in which the Convention enters into force; and
 - (ii) in respect of capital which is held on the last day of any year of income beginning on or after the first day of January next following the calendar year in which the Convention enters into force.

ARTICLE 31 : *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 beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State through diplomatic channels, written notice of termination. In such event, the Convention shall cease to have effect :

- (a) in India :
 - (i) in respect of income arising in any “previous year” beginning on or after the first day of April, next following the calendar year in which the notice of termination is given; and

(ii) in respect of capital which is held on the last day of any previous year beginning on or after the first day of April next following the calendar year in which the notice of termination is given.

(b) In Bulgaria :

(i) in respect of income arising in any year of income beginning on or after the first day of January, next following the calendar year in which the notice of termination is given; and

(ii) in respect of capital which is held on the last day of any year of income beginning on or after the first day of January, next following the calendar year in which the notice of termination is given.

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

DONE in duplicate at Sofia on this 26th day of May of one thousand nine hundred and ninety-four in Hindi, Bulgarian and English languages, all the texts being equally authentic. In case of divergence between any of the two texts, the English text shall prevail.

PROTOCOL

At the signing today of the Convention between the Government of the Republic of India and the Government of the Republic of Bulgaria for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed upon the following provisions which shall form an integral part of the Convention :

1. To Article 7 (Business Profits) :

(a) In respect of paragraph 1, the profits attributable to a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall include profits directly or indirectly attributable to the permanent establishment and in particular shall include profits of the enterprise from the sales in that other State of goods or merchandise of the same or similar kind as those sold through the permanent establishment.

(b) In respect of paragraph 3, it is agreed that while determining the profits of a permanent establishment, no deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents, know-how or other rights, or by way of commission or other charges, for specific services performed or for management or, except in the case of a banking enterprise, by way of interest on money lent to the permanent establishment. Likewise, no account shall be taken in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any other of its offices, by way of royalties, fees or other similar payments in return for the use of patents, know-how or other rights, or by way of commission or other charges, for specific services performed or for the management or, except in the case of a banking enterprise, by way of interest on money lent to the head office of the enterprise or any of its other offices.

2. To Article 12 (Interest) :

In respect of paragraph 3(a)(ii), it is understood that the Central Bank in the case of India means the Reserve Bank of India.

3. To Article 26 (Non-discrimination) :

In respect of paragraph 3, it is understood that a Contracting State may not exercise in respect of a resident of the other Contracting State a higher or more burdensome taxation than the taxation which that State would exercise in respect of a resident of a third State.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed the present Protocol.

DONE in duplicate at Sofia on this 26th day of May of one thousand nine hundred and ninety-four in the Hindi, Bulgarian and English languages, all the texts being equally authentic. In case of divergence between any of the two texts, the English text shall prevail.