

1977 Income Tax Convention (English Translation)

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CONVENTION BETWEEN THE KINGDOM OF BELGIUM AND THE REPUBLIC OF THE IVORY COAST FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

[TRANSLATION]

The Government of the Republic of Belgium and the Government of the Republic of the Ivory Coast, Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income,

Have agreed as follows:

Chapter 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 imposed on behalf of a Contracting State or its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on items of income, including taxes on gains from the alienation of immovable or movable property, as well as taxes on capital appreciation.

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

1 in Belgium:

- a) l'impôt des personnes physiques (individual income tax);
- b) l'impôt des sociétés (corporate income tax);
- c) l'impôt des personnes morales (income tax on legal entities);
- d) l'impôt des non-résidents (income tax on non-residents);
- e) la participation exceptionnelle et temporaire de solidarité; y compris les précomptes, les décimes et centimes additionnels aux dits impôts et précomptes ainsi que la taxe communale additionnelle à l'impôt des personnes physiques [exceptional and provisional national tax; including prepayments, surcharges on these taxes and prepayments, as well as the communal supplement to the individual income tax] (hereinafter referred to as the "Belgian Tax"),

2 in the Ivory Coast:

- a) l'impôt sur les bénéfices industriels et commerciaux et sur les bénéfices agricoles (tax on industrial and commercial profits and on agricultural profits);
- b) l'impôt sur les bénéfices non commerciaux (tax on non-commercial profits);
- c) l'impôt sur les traitements et les salaires (tax on wages and salaries);
- d) l'impôt sur le revenu des capitaux mobiliers (tax on income from movable assets);
- e) la contribution foncière des propriétés bâties (land tax on developed property);
- f) l'impôt général sur le revenu (general tax on income);
- g) la contribution nationale et tout prélèvement à caractère fiscal additionnel aux impôts précités [national tax and any tax levy in addition to the aforementioned taxes] (hereafter referred to as the "Ivory Coast Tax").

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

Chapter II. Definitions

Article 3 General Definitions

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

1

- a) the term "Belgian," used in its geographical sense, means the territory of Belgium, as well as the territorial waters of the Kingdom of Belgium;

- b) the term "Ivory Coast," used in its geographical sense, means the territory of the Ivory Coast, as well as the territorial waters of the Republic of the Ivory Coast;
- 2 The terms "a Contracting State" and "the other Contracting State," depending on the context, mean Belgium or the Ivory Coast;
- 3 the term "person" includes an individual, a company and any other body of persons lacking the status of a body corporate;
- 4 the term "body corporate" means any company or any other entity which is treated as a legal entity for tax purposes;
- 5 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;
- 6 the term "national" means:
- a) any individual possessing the nationality of a Contracting State;
- b) any legal entity, partnership or association deriving its status as such from the laws in force in a Contracting State;
- 7 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;
- 8 the term "competent authority" means:
- a) in Belgium, the Minister of Finance or his authorized representative, and
- b) in the Ivory Coast, the Minister of Finance or his authorized representative.
2. As regards the application of the Convention by a Contracting State, any term not defined therein shall, 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 any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any persons who are liable to tax in that State in respect only of income from sources in that State.
2. Where by reason of the provision of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
- 1 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 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);
- 2 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;
- 3 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;
- 4 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 State in which its place of effective management is situated.

Article 5 Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
- 1 a place of management;
- 2 a branch;
- 3 an office;
- 4 a factory;
- 5 a store;
- 6 a workshop;
- 7 a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- 8 a building site or construction project, or temporary assembly line or supervisory activities carried on therein, but only where such project, temporary assembly line or activities related thereto last

more than six months, or where such temporary assembly line or such activities, following the sale of machines or equipment, last for a period of less than six months and the expenses due for such temporary assembly line or such activities shall exceed 10 percent of the sale price of such machines or equipment;

9 a fixed place of business used for the purpose of the delivery of goods or merchandise belonging to the enterprise;

10 the maintenance of a stock of goods or merchandise belonging to the enterprise for the purpose of delivery;

11 a fixed place of business used for the purpose of purchasing goods or merchandise.

3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

1 the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

2 the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;

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

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

5 the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, advertising, for the supply of information, scientific research or similar activities of a preparatory or auxiliary character.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person--other than an agent of an independent status to whom paragraph 6 applies--is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3.

The agent who habitually has available to him, in the first-mentioned Contracting State, a stock of products, goods or merchandise belonging to the enterprise and by means of which he regularly carries out the orders which he receives on behalf of the enterprise, shall be deemed to exercise the authority referred to in the preceding section.

5. An insurance company of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it derives premiums in the territory of said State, or insures risks situated in that territory, through a representative not categorized as one of the persons referred to in paragraph 6.

6. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business therein through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, where the activities of such an agent shall be undertaken exclusively or almost exclusively on behalf of such enterprise, that agent shall not be deemed to be an independent agent for purposes of this Article.

7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Chapter III. Taxation of Income

Article 6 Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

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

Article 7 Business Profits

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

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

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

The share of executive and general administrative expenses which shall be attributable to the permanent establishment is determined in accordance with any acceptable criteria, especially in proportion to the sales results realized in the various establishments of the enterprise.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

6. The term "profits" as used in this Article includes profits payable to a partner by reason of his participation in a partnership which is a resident of the Ivory Coast.

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 such place of effective management 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 that part of the profits thus accrued to the multinational company Air-Afrique which are payable to the Ivory Coast State or to enterprises whose place of effective management is in that State, in proportion to their participation in that company. This same rule shall also apply to that part of the profits thus accrued which would be payable to a Contracting State or to an enterprise whose place of effective management is in that State, in proportion to its participation in a pool, a joint business or an international operating agency which would have been created after the date of signature of this Convention.

Article 9 Associated Enterprises

Where:

1 an enterprise of a Contracting State participates directly or indirectly in the management, control or financing of an enterprise of the other Contracting State, or

2 the same persons participate directly or indirectly in the management, control or financing 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 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:

-- 18 percent of the gross amount of the dividends if the latter are paid by a company which is a resident of the Republic of the Ivory Coast who has been found to be exempt from profits tax liability or does not pay this tax at the ordinary rate;

-- 15 percent 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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. This term also means the income--even income attributed in the form of interest--which is taxable as income from capital invested by partners in companies other than joint-stock companies which are residents of Belgium.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to residents of the first-mentioned State, except insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 16 percent 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 such securities, bonds or debentures; however, the term "interest" shall not include, for purposes of this Article, the interest treated as dividends by virtue of Article 10, paragraph 3, second sentence.

4. 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 case the provisions of Article 7 or Article 14 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. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the

beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount.

In such case, the excess part of the interest shall remain taxable, according to its laws, in the Contracting State in which the interest arises.

Article 12 Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable 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 if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 percent 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 and television films, 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 not constituting immovable property referred to in Article 6 and for information concerning industrial, commercial or scientific experience.

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the royalties shall remain taxable, according to its laws, in the Contracting State in which the royalties arise.

Article 13 Capital Gains

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

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

3. 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 profits arising from this operation are taxable by virtue of the provisions of Article 8.

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

Article 14 Income From Independent Personal Services

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

a) does not have a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities, or

b) does not perform such activities of an independent character in the other Contracting State for a period or periods--including the duration of normal work interruptions--exceeding in the aggregate 183 days in the calendar year considered.

In such cases, the income may be taxed in that other State, but only insofar as such income is attributable to the activities performed through said fixed base or during said period or periods.

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

Article 15 Salaried Income

1. Subject to the provisions of Articles 16, 18, 19 and 20, 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:

1 the recipient is present in the other State for a period or periods--including the duration of normal work interruptions--not exceeding in the aggregate 183 days in the calendar year, and

2 the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

3 the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated, without prejudice, as regards the Ivory Coast, to the possible apportionment of the tax collected between the member states of the multinational company Air-Afrique.

Article 16 Directors' Fees

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors, supervisory board, or similar body of a joint-stock company which is a resident of the other Contracting State may be taxed in that other State.

2. However, salaries, wages and other similar remuneration derived by the person referred to in paragraph 1 from the company by reason of his carrying on daily business of a managerial or technical nature may be taxed in accordance with the provisions of Article 15.

Article 17 Income of Entertainers and Athletes

1. Notwithstanding the provisions of Articles 14 et 15, income derived by a resident of one 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 an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 18 Pensions

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

Article 19 Government Remuneration and Pensions

1.

a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

i) is not a national of the first-mentioned 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 subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the recipient is a resident of that State, and if he is not a national of the first-mentioned State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions paid in respect of services rendered in connection with a business carried on by one of the Contracting States or a political subdivision or local authority thereof.

4. Notwithstanding the provisions of paragraphs 1 and 3, remuneration paid by Belgium to members of the personnel of technical cooperation in connection with the General Agreement for Technical Cooperation between the Republic of the Ivory Coast and the Kingdom of Belgium signed at Abidjan on June 7, 1968 and modified by the exchange of letters of July 18, 1975, shall be taxable only in Belgium.

Article 20 Income of Teachers and Students

1. Any remuneration of teachers and other members of faculty personnel being residents of a Contracting State, who were temporarily present in the other Contracting State for the purpose of teaching or conducting scientific research therein for a period not exceeding two years, in a university or other officially-recognized educational institution, shall not, for the purposes of this Article, constitute interests considered as taxable only in the first-mentioned State.

2. A student, apprentice or business apprentice who is or was immediately before visiting a Contracting State and who is present in the first-mentioned State solely for the purpose of pursuing his education or training shall not be taxed in that State:

-- on payments which he receives from sources situated outside that State, for the purpose of his maintenance, education or training;

-- on remuneration which he receives in respect of a salaried employment exercised in that State, provided that such remuneration shall not exceed BF 120,000 or the equivalent of that amount in Ivory Coast currency, at the official exchange rate.

Article 21 Other Income

1. Items of income which a resident of a Contracting State derives from sources situated in the other Contracting State not dealt with in the foregoing Articles of this Convention shall be taxable only in the first-mentioned State.

2. The provisions of paragraph 1 shall not apply 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 14, as the case may be, shall apply.

Chapter IV. Methods for Elimination of Double Taxation

Article 22

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

1 Where a resident of Belgium derives income not covered in sub-paragraphs 2 and 3 hereafter which, in accordance with the provisions of the Convention, may be taxed in the Ivory Coast, Belgium shall exempt such income from tax, but may nevertheless, in calculating the amount of tax on the remaining income of such resident, apply the same tax rate as if the income in question had not been exempt.

2 In respect of dividends taxable in accordance with Article 10, paragraph 2, and which are not exempt from Belgian tax by virtue of 3 hereafter, taxable interest in accordance with Article 11, paragraphs 2 or 6, and taxable royalties in accordance with Article 12, paragraphs 2 or 6, the flat-rate portion of foreign tax is chargeable, under conditions and at the tax rate provided for under Belgian law, to the Belgian tax accruing to such income, provided that this rate shall not be less than 15 percent.

3 Where a company which is a resident of Belgium owns stocks or shares of a company which is a resident of the Ivory Coast, and which is subject in that State to tax on profits from business and on profits from agricultural operations, the dividends which shall be paid to it by the latter company, and which are taxable in the Ivory Coast in accordance with Article 10, paragraph 2, shall be exempt from corporate income tax in Belgium insofar as such exemption would be granted if both companies were residents of Belgium.

4 Where, in accordance with Belgian law, the losses incurred by a Belgian enterprise in a permanent establishment situated in the Ivory Coast have been effectively deducted from the profits of that enterprise for taxation purposes in Belgium, the exemption provided for in sub-paragraph 1 shall not apply in Belgium to profits from other taxable periods which are chargeable to that establishment,

insofar as such profits have also been exempt from taxation in the Ivory Coast, by reason of their compensation of said losses.

2. In the Ivory Coast, double taxation is avoided in the following manner:

The Ivory Coast shall not include in its tax bases income which is taxable in Belgium by virtue of this Convention. However, the Ivory Coast reserves the right, when calculating the tax rate, to take into account the exempted income.

Chapter V. Special Provisions

Article 23 Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

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

5. No provision of this Article can be construed so as to preclude Belgium:

a) from taxing, at the rate provided for under Belgian law, the total profits of a Belgian permanent establishment of a company which is a resident of the Ivory Coast, or of an association whose effective place of management is in the Ivory Coast, provided that the aforementioned tax rate shall not exceed the maximum rate applicable to all or a part of the profits of the companies which are residents of Belgium;

b) from collecting tax withholdings on movable property for dividends related to an equity interest which is effectively connected with a permanent establishment or fixed base that a company which is a resident of the Ivory Coast has in Belgium and which is taxable as a legal entity in Belgium.

6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 24 Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under Article 23, paragraph 1, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

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

4. The competent authorities of the Contracting States can consult each other on what administrative measures need to be taken in order to enforce the provisions of the Convention and especially on what documentary evidence residents of each State must provide in order to obtain, in the other State, the tax reductions or exemptions provided for in this Convention

Article 25 Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. 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 covered by the Convention. Such persons or authorities shall use the information only for such purposes; they may disclose the information in public court proceedings or in judicial decisions.

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

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

2 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;

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

Article 26 Tax Collection Assistance

1. The Contracting States agree to mutually assist and support one another for the purpose of the notification and collection, in their entirety, of increases, surcharges, interest, charges and penalties of a non-criminal nature and of those taxes to which the Convention shall apply.

2. At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State, according to the laws and regulations applicable to the notification and collection of the taxes of the latter State, shall proceed to carry out the notification and collection of the tax debts referred to in paragraph 1, which are payable in the first-mentioned State. Such debts do not benefit from any exemption in the petitioned State and the latter is not obliged to apply means of compliance which are not authorized by the legal or regulatory provisions of the petitioning State.

3. The requests referred to in paragraph 2 are supported by an official copy of the writs of execution, accompanied, where necessary, by an official copy of the administrative or judicial decisions pronounced as possessing force of law.

4. As regards tax debts which are subject to appeal, the competent authority of a Contracting State can, in order to preserve its rights, request the competent authority of the other Contracting State to take the provisional measures to protect its interests provided for under the laws of the latter State; the provisions of paragraphs 1 and 3 shall apply, *mutatis mutandis*, to such measures.

5. The provisions of Article 25, paragraph 1, shall also apply to any information which, during the enforcement of this Article, is brought to the attention of the competent authority of the petitioned State.

Article 27 Miscellaneous

1. The provisions of this Convention shall not restrict the taxation of a company which is a resident of Belgium, in accordance with Belgian law, in the event of repurchase of its own stocks or shares or of the distribution of its registered capital.

2. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and consular posts under the general rules of international law or under the provisions of special agreements.

3. For purposes of the Convention, the members of diplomatic missions or of consular posts of a Contracting State accredited in the other Contracting State or in a third State, who have the same nationality as the accrediting State, are acknowledged to be residents of said State if they are subject therein to the same obligations in respect of income tax, as are residents of that State.

4. The Convention shall not apply to international organizations, their representative bodies or their administrative officials, nor to persons who are members of diplomatic missions or consular posts of a third State, where they are located in the territory of a Contracting State and are not considered as residents in one or the other Contracting States, in respect of income tax.

5. The competent authorities of the Contracting States may also consult together concerning the application of the Convention.

Chapter VI. Final Provisions

Article 28 Entry into Force

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

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

1 in Belgium:

a) upon withholding taxes due on income attributed or paid as from January 1 of the year immediately following that during which the instruments of ratification shall have been exchanged;

b) upon other taxes accruing to income of taxable periods ending as from December 31 of the year of that exchange;

2 in the Ivory Coast:

a) upon withholding taxes due on income attributed or paid from January 1 of the year immediately following that during which the instruments of ratification shall have been exchanged;

b) upon taxes on profits from business and on profits from agricultural operations chargeable on income of taxable periods ending as from September 30 of the year of that exchange.

c) upon other taxes accruing to income of taxable periods ending as from December 31 of the year of that exchange.

Article 29 Termination

This Convention shall remain in effect indefinitely; but either Contracting State may, until and including June 30 of any calendar year as from the fifth year following the exchange of the instruments of ratification, terminate this Convention, through diplomatic channels, by giving written notice of termination to the other Contracting State. In the event that such termination occurs before July 1 of such year, the Convention shall cease to have effect:

1 in Belgium:

a) upon withholding taxes due on income attributed or paid no later than December 31 of the year of termination;

b) upon other taxes levied on income of taxable periods ending no later than December 31 of that same year;

2 in the Ivory Coast:

a) upon withholding taxes due on income attributed or paid no later than December 31 of the year of termination;

b) upon taxes on profits from business and on profits from agricultural operations chargeable on income of taxable periods ending no later than September 30 of the same year;

c) upon other taxes levied on income of taxable periods ending no later than December 31 of that same year.

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

Done in duplicate at Abidjan, this 25th day of November 1977, in the French and Dutch languages, each version being equally authentic.

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM:

Hector De Bruyne,

Minister of Foreign Trade

FOR THE GOVERNMENT OF THE REPUBLIC OF THE IVORY COAST:

Siméon Ake,

Minister of Foreign Affairs

Abdoulaye Kone,

Minister of Finance, the Economy and Planning