

# AGREEMENT OF 18<sup>TH</sup> MARCH, 1991

## Czechoslovakia

CONVENTION BETWEEN THE GOVERNMENT OF THE CZECH AND SLOVAK FEDERAL REPUBLIC AND THE GOVERNMENT OF THE GRAND DUCHY OF LUXEMBOURG ON PREVENTION OF DOUBLE TAXATION AND TAX EVASION IN TERMS OF INCOME TAX AND PROPERTY TAX

The Government of the Czech and Slovak Federal Republic and the Government of the Grand Duchy of Luxembourg

wishing to conclude the Convention on prevention of double taxation and tax evasion in terms of the income tax and property tax have reached the following agreement:

### Article 1

#### Persons To Which The Convention Applies

This Convention applies to the persons whose address or registered office is in one or both of the contracting states (residents).

### Article 2

#### Taxes To Which The Convention Applies

- 1) This Convention applies to the income and property taxes levied for the benefit of each of the contracting states or its administrative bodies or local authorities regardless of the manner of collection.
- 2) The income taxes and property taxes are understood to mean the taxes imposed on the total amount of income or total value of property or a partial amount of income or partial value of property including the tax on profit arising from transfer (sale) of movable or immovable property, tax on the total amount of wages or salaries paid by enterprises and also the tax on increase of value.
- 3) The taxes to which this Convention applies are namely:
  - a) in Czechoslovakia: income tax; wages tax; tax on income from literary and artistic activities; agricultural tax; individual income tax; house tax; (hereinafter referred to as "Czechoslovak tax")
  - b) in Luxembourg: individual income tax; corporate income tax; tax on directors' fees; property tax; domestic trade tax; (hereinafter referred to as "Luxembourg tax")
- 4) This Convention shall also apply to taxes of the same or similar kind imposed by any of the contracting states simultaneously with or in the place of the current taxes after signing

the Convention. The respective authorities of the contracting states shall notify each other of significant amendments of their material tax acts.

### **Article 3**

#### **General Definitions**

1) For the purpose of this Convention unless the circumstances require different explanation

- a)* “Czechoslovakia” means the Czech and Slovak Federal Republic;
- b)* “Luxembourg” means the Grand Duchy of Luxembourg;
- c)* “one contracting state” and “the other contracting state” means Czechoslovakia or Luxembourg, as the context require;
- d)* “person” shall include natural persons, companies and all other associations of persons;
- e)* “company” means any legal entity or bearer of rights considered for the purposes of tax to be a legal entity;
- f)* “enterprise of one contracting state” and “enterprise of the other contracting state” means an enterprise run by a resident of one contracting state or an enterprise run by a resident of the other contracting state as the case may be;
- g)* “national” means:
  - i)* any natural person who is a national of any contracting state;
  - ii)* any legal entity, unlimited company, or association established in compliance with the law effective in any of the contracting states;
- h)* “international transport” means any sort of water or air transport carried out by an enterprise whose actual headquarters are located in one of the contracting states unless the ships or airplanes are run only between destinations in the other contracting state;
- i)* “respective authority” means:
  - i)* the Minister of Finance of the Czech and Slovak Federal Republic or his empowered deputy in the case of Czechoslovakia;
  - ii)* the Minister of Finance of the Grand Duchy of Luxembourg or his empowered deputy in the case of Luxembourg.

2) For the purpose of application of this Convention any expression not defined hereby shall have the meaning given to it within the legal regulation governing taxes of the respective state to which this Convention applies unless the circumstances require different explanation.

#### **Article 4 Tax Domicile**

1) For the purposes of this Convention “resident of one of the contracting states” means any person who is liable to tax in this state due to his address, permanent residence, location of headquarters or any other similar reason in compliance with the law of such state. This expression does not, however, include a person who is liable to tax in this state only due to income from funds or property placed in this state.

2) Should a natural person be a resident of both the contracting states pursuant to para 1 above, his status shall be considered as follows:

- a)* the person is assumed to be a resident of the contracting state in which he has his permanent address; should he have his permanent address in both the contracting states, it is assumed that the person is a resident of the contracting state to which he has closer personal and business relations (centre of life concerns);
- b)* should it not be possible to determine in which of the contracting states the person has the centre of his life concerns or should not the person have permanent address in any of the contracting states, it is assumed that he is a resident of the contracting state in which he usually lives;
- c)* should the person usually live in both the contracting states or in none of the states, it is assumed that he is a resident of the contracting state of which he is a national;
- d)* should the person be a national of both the contracting states or none of them, the respective authorities of the contracting states shall conclude a mutual agreement concerning his status.

3) Should an entity other than a natural person be a resident of both the contracting states pursuant to para 1 above, it is assumed to be a resident of the state in which it has its actual headquarters.

#### **Article 5 Permanent Place Of Business**

1) For the purposes of this Convention “permanent place of business” means permanent facilities used for business activities in which the enterprise carries out its activities either wholly or in part.

2) The expression “permanent place of business” shall include namely

- a) headquarters
- b) plant
- c) office
- d) factory
- e) workshop
- f) mine, oil well, gas deposit, quarry or other place where natural resources are worked
- g) building site or place of construction or installation in the case they take no less than 6 months.

3) The expression “permanent place of business” shall not include

- a) facility used only for storing, displaying or supplying the goods belonging to the enterprise;
- b) stock of goods belonging to the enterprise that is kept only in order to be stored, displayed or supplied;
- c) stock of goods belonging to the enterprise that is kept only in order to be processed by another enterprise;
- d) permanent facility used for business activities kept only for the purpose of purchase of goods or gathering of information for the enterprise;
- e) permanent facility used for business activities kept only for the purpose of advertising, providing information, scientific research or similar activities of a preparatory or auxiliary nature as regards the enterprise.

4) The person (other than an independent agent to which para 5 applies) acting in one contracting state on behalf of the enterprise of the other contracting state is considered to be the permanent place of business of the enterprise in the former should the permanent place of business have at its disposal and usually use the power of attorney entitling it to conclude contracts on behalf of the enterprise, unless the activities of the person are limited to purchase of goods for the company.

5) The enterprise of one contracting state is not considered to have its permanent place of business in the other contracting state merely because it carries out its activities in such state via its broker, general commission agent or other independent agent provided that these persons act within their regular activity.

6) Merely the fact that the company which is a resident of one of the contracting states controls a company or is controlled by a company which is a resident of another contracting state or which carries out its activities therein (through its permanent place of business or another way) does not make in itself any of these companies a permanent place of business of the other company.

## **Article 6**

### **Income From Immovable Assets**

- 1) The income from immovable assets, including the income from agriculture and forestry, can be subject to tax in the state where such assets are located.
- 2)
  - a) The expression “immovable assets” shall have in accordance with subsections b) and c) have the meaning which it is given by the law of the contracting state in which the immovable assets are located.
  - b) The expression “immovable assets” at all events includes the appurtenances of immovable assets, livestock and deadstock used in agriculture and forestry, rights to which the provisions of the general law concerning land, buildings, right to use the immovable assets and the right to obtain fixed or variable payments for working or the permission to work mineral deposits, springs and other natural resources apply.
  - c) Ships, boats and airplanes are not considered to be immovable assets.
- 3) Provisions of para 1 shall apply to the income from direct use, lease or any other mode of use of immovable assets.
- 4) Provisions of paras 1 and 3 above shall also apply to the income from immovable assets of an enterprise and immovable assets used for performance of a free-lance profession.

## **Article 7**

### **Profit Of Enterprises**

- 1) Profit of enterprises of one contracting state shall be taxed only in such state unless the enterprise carries out its activities in the other contracting state through its permanent place of business located therein. Should the enterprise carry out its activities in such manner, the profit of the enterprise is taxable in that state but only to the extent to which it may be attributed to the permanent place of business.
- 2) Should the enterprise of one contracting state carry out its activities in the other contracting state through its permanent place of business located therein, the permanent place of business is attributed in each contracting state -- with the reservation pursuant to para 3 bellow- the profit that it could have achieved if it had carried out the same or similar activities under the same or similar conditions and was completely independent in relation to the enterprise whose permanent place of business it is.
- 3) When assessing the profits of the permanent place of business it is allowed to deduct the costs incurred in connection to the activity of such permanent place of business including the management costs and general overhead expenses incurred in this connection, no matter whether they arose in the state in which the permanent place of business is located or elsewhere.

4) Should it be a usual practice in a contracting state to assess the profits attributable to the permanent place of business on the basis of allocating the total profit of the enterprise to its individual units, the provision of para 2 does not preclude such contracting state to assess the taxable profit using this usual method. The employed mode of allocating the profits must, however, ensure the result complies with the principles laid down in this Article.

5) The permanent place of business is not attributed any profits in the case it only purchased goods for the enterprise.

6) Profits to be attributed to the permanent place of business shall be for the purpose of the above paragraphs assessed every year the same way unless there are reasons to choose another method.

7) In the case the profit includes income governed separately by other articles of the Convention, this Article is without prejudice to such provisions.

## **Article 8**

### **Shipping And Air Transport**

1) The profits proceeding from operating ships and airplanes in international transport are liable to tax only in the contracting state where the actual headquarters of the enterprise are located.

2) Should the actual headquarters of the maritime company be located on the board of a ship, it shall be considered to be located in the state of location of the home port of the ship or boat, or, in the case there is no such a home port, in the contracting state in which the operator is a resident.

3) The provision of Article 1 applies also to profits coming from participation in a pool, joint operation or international operating organization.

## **Article 9**

### **Joint-ventures**

1) Should

*a)* an enterprise of one contracting state participate either directly or indirectly in management, direction or property of an enterprise of the other contracting state or

*b)* the same persons participate either directly or indirectly in management, direction or property of an enterprise of both one contracting state and the other contracting state and should both the enterprises to which the above applies be bound to comply with the conditions regarding their business or financial relations agreed by them or imposed upon them and different from the conditions which would have been agreed between independent enterprises, any profits which would have been gained by one of the enterprises if there had

been no such conditions but which were not gained due to the conditions can be included in the profits of the enterprise and taxed.

2) Should one of the contracting states include in the profits of the enterprise of such contracting state (and tax subsequently) the profit of the enterprise of the other contracting state taxed therein and the profit taxed in such manner is the profit which would have been gained by the enterprise of the former state should the terms agreed by the enterprises have been the same as the terms agreed by two independent enterprises, the other contracting state shall reasonably adjust the amount of tax imposed on the profit by it. When assessing such adjustment other provisions of this Convention shall be taken into account as appropriate; should it be necessary the respective authorities of the contracting states shall consult with each other on such a matter.

## **Article 10**

### **Dividends**

1) Dividends paid to the person which is a resident of one contracting state by the company which is a resident of the other contracting state can be taxed in the other contracting state.

2) The above mentioned dividends can nevertheless be taxed also in the contracting state in which the company that pays the dividends is a resident in compliance with the legal regulation effective in the contracting state; however, if the recipient is the actual owner of the dividends the tax imposed this way shall not exceed:

- a) 5% of the gross amount of the dividends should the actual owner be a company which directly owns no less than 25% of the assets of the company which pays the dividends;
- b) 15% of the gross amount of the dividends in all other cases.

The provisions of this paragraph are without prejudice to taxation of the company's profits from which the dividends is paid.

3) For the purposes of this Article "dividends" means income from shares, redeemed shares or documents evidencing the right to usufruct, mining shares, founder's shares or other rights, except for receivables, related to the share in profit, and the income from rights related to a company which are treated the same way as the income from shares pursuant to the law of the state in which the company distributing the profit is a resident.

4) Provisions of paras 1 and 2 shall not apply should the actual owner of the dividends who is a resident of one contracting state carry out manufacturing or trading activities in the other contracting state, in which the company paying the dividends is a resident, through the permanent place of business located in the other contracting state or conduct a free-lance profession in the other state using a permanent base located therein and should the participation from which the payment of the dividends results be actually connected with the permanent place of business or permanent base. Should this be the case, the provisions of Articles 7 or 14 shall be applied depending on the nature of the particular case.

5) If a company which is a resident of one contracting state makes profit in or has income from the other contracting state, the other contracting state cannot tax the dividends paid by the company except for the dividends paid to a person who is resident of such state or in the case the participation in respect of which the dividends is paid is actually connected with the permanent place of business or permanent base located in the other state. Nor can the other contracting state make the retained profit of the company liable to the tax on retained profit no matter whether the dividends paid or retained profit consist of profit or income gained wholly or in part in the other state.

## **Article 11**

### **Interest**

1) Interest originating in one of the contracting states and paid to a person who is a resident of the other contracting state shall be subject to tax only in the other state.

2) For the purposes of this Article “interest” means income from any type of receivables both non-secured and secured by pledging real estate property or by a clause ensuring the right to share the debtor's profit and especially the income from government securities and income from treasury bills and debentures or bonds including bonuses and premiums related to such debentures or obligations.

3) Provisions of para 1 shall not be applied should the actual owner of the interest who is a resident of one contracting state carry out manufacturing or trading activities through the permanent place of business located in the other contracting state from which the interest originate or conduct in the other state a free-lance profession using a permanent base located therein and should the receivable bearing the interest be actually connected with the permanent place of business or permanent base. Should this be the case, the provisions of Articles 7 or 14 shall be applied depending on the nature of the particular case.

4) Should the amount of interest related to the receivables in respect of which it is paid exceed due to special relations between the payer and the actual owner of the interest or the relations maintained by both of them with a third person the amount that would be agreed between the payer and the actual owner of the interest if there were no such relations, the provisions of this Article shall apply only to the latter amount of interest. The amount of payments exceeding such amount of interests shall be subject to tax in compliance with the legal regulations of each of the contracting states and with respect to other provisions of this Convention.

## **Article 12**

### **Licence Fees**

1) Licence fees originating in one contracting state and paid to a person who is a resident of the other contracting state can be taxed in the other contracting state.

2) Licence fees pursuant to subsection a) of para 1 can nevertheless be taxed in the contracting state of their origin in compliance with the legal regulation effective in such

contracting state; the tax assessed this way shall not however exceed 10% of the gross amount of the licence fees.

3) For the purposes of this Article “licence fees” means any type of payment for using or right to use

- a) patent, trademark, design or pattern, scheme, secret formula or process of manufacture, or for using or right to use any industrial, trading or scientific facility, or for information related to experience gained in industry, trade or science,
- b) copyright related to any work of art, literature or science, including cine films and films and recordings for radio and television broadcasting.

4) Provisions of paras 2 and 3 shall not apply should the actual owner of the licence fees who is a resident of one contracting state carry out manufacturing or trading activities through the permanent place of business located therein in the other contracting state from which the licence fees originate or conduct in the other state a free-lance profession using a permanent base located therein and should the right or property in relation to which the licence fees arise be actually connected with the permanent place of business or permanent base. Should this be the case, the provisions of Articles 7 or 14 shall be applied depending on the nature of the particular case.

5) The licence fees are assumed to originate from a contracting state should the payer be the contracting state itself, its administrative body, local authority or a resident of such contracting state. However, in the case the payer of the licence fees, regardless whether a resident of a contracting state or not, has his permanent place of business or permanent base in connection to which the obligation to pay the licence fees arose in one of the contracting states and the permanent place of business or permanent base are debited with the fees, it is assumed that the licence fees originate from the state in which the permanent place of business or permanent base is located.

6) Should the amount of the licence fee related to the supply in relation to which it is paid exceed due to special relations between the payer and the actual owner or the relations maintained by both of them with a third person the amount that would be agreed between the payer and the actual owner if there were no such relations, the provisions of this Article shall apply only to the latter amount of interest. The amount of payments exceeding such amount of interests shall be subject to tax in compliance with the legal regulations of each of the contracting states and with respect to other provisions of this Convention.

### **Article 13**

#### **Profit From Property**

1) Profit inured to a resident of one contracting state in relation to transfer of immovable assets as defined in Article 6 para 2 located in the other contracting state can be taxed in the contracting state where such property is located.

2) Profit from transfers of movable assets which belong to assets of the permanent place of business of an enterprise of one contracting state located in the other contracting state or profit from transfers of movable assets which belong to the permanent base which a resident of one contracting state established in the other contracting state to conduct a free-lance profession, including the profit gained in relation to transfer of the permanent place of business itself (either alone or together with the whole enterprise) or permanent base, can be taxed in the other state. Without prejudice to the aforesaid the profit from transfers of property pursuant to Article 22 para 3 shall be taxed only in the contracting state of which the transferee is a resident.

3) Profit from transfers of other property than specified in paras 1 and 2 shall be liable to tax only in the contracting state in which the transferee is a resident.

#### **Article 14**

##### **Free-lance Professions**

1) Profit gained by a resident of one contracting state in relation to a free-lance profession or other independent activities of similar nature shall be liable to tax only in such state unless the recipient has the permanent base used regularly to carry out his activities in the other contracting state. In the case the recipient has such permanent base at his disposal, the profit can be taxed in the other contracting state but only to the extent to which it is attributable to the permanent base.

2) “Free-lance professions” include especially independent activities in the fields of science, literature, art, education and pedagogy, as well as independent activities of physicians and surgeons, lawyers, technicians, architects, dentists and accountants.

#### **Article 15**

##### **Employment**

1) Salaries, wages and other similar remuneration gained by a resident of one contracting state in relation to his paid employment can be liable to tax only in this such subject to provisions of Articles 16, 18 and 19 unless the employment is performed in the other contracting state. Should the employment be performed there, the remuneration obtained in connection to it may be taxed in the other contracting state.

2) Remuneration received by a resident of one contracting state in relation to his paid employment in the other contracting state can be taxed regardless to the provision of para 1 only in the former state should all the following conditions be complied with:

- a) the recipient stays in the other state for one or more periods of time not exceeding 183 days in total in the respective calendar year and
- b) the remuneration is paid by an employer or on behalf of an employer who is not a resident of the other state and
- c) the remuneration is not charged to the debit of the permanent place of business or permanent base of the employer located in the other state.

3) Regardless to the above provisions of this Article the remuneration received in relation to employment performed on the board of a ship or an airplane in the international transport, shall be taxed in the contracting state in which the actual headquarters of the enterprise are located.

## **Article 16**

### **Royalties**

Royalties and other similar fees received by a resident of one contracting state as a member of a board of directors or another similar body of a company which is a resident of the other contracting state can be taxed in the other state.

## **Article 17**

### **Artists And Sportsmen**

1) Income received by residents of one contracting state as publicly performing artists, dramatic, film, radio or television artists, or as musicians or sportsmen and related to activities of this kind personally performed by them in the other contracting state can be taxed in the other contracting state without prejudice to the provisions of Articles 14 and 15.

2) In the case the income from the activities carried out personally by the artist or sportsman is not received by the artist or sportsman himself but by another person, the income can be taxed in the contracting state in which the artist or sportsman performs his activities regardless of the Articles 7, 14 and 15.

3) Without prejudice to the provisions of paras 1 and 2 the income inured in connection to activities pursuant to para 1 above carried out within the cultural exchange between the contracting states shall be exempt from the tax in the contracting state in which the activities were carried out.

## **Article 18**

### **Public Functions**

1) Remuneration, including pensions, paid by one contracting state or its administrative body or local authority to the natural person who provided services to such state or its administrative body or local authority in connection to the conduct of public functions are liable to tax only in this state.

3) Provisions of Articles 15, 16 and 18 shall however apply to remuneration and pensions for services provided in connection with any business activity carried out by one of the contracting states, its administrative body or local authority.

## **Article 19**

### **Pensions**

Without prejudice to the provision of Article 18 para 1 pensions and other similar payments to residents of one contracting state made in relation to their former employment are liable to tax only in the state of which the recipient is a resident.

## **Article 20**

### **Students, Teachers And Research Workers**

- 1) Pays received to cover the expenses of sustenance, studying, or training by a student or apprentice who is or who was right before his arrival in one contracting state a resident of the other contracting state and who stays in the former state only for the purpose of studying or training shall not be taxed in such state provided that the pays are paid from funds outside the state.
- 2) A student of a university or another institution of tertiary education in one contracting state or an apprentice who stays in the other state for one or more periods of time not exceeding 183 days in the respective calendar year and who is or who was right before his arrival a resident of the former contracting state shall not be obliged to pay any tax on the services provided in the other state in the case such services are provided in connection to his studying or training and this pay forms the earnings necessary for his essential sustenance.
- 3) Remuneration received by a resident of one contracting state for carrying out research activities or teaching in the course of his temporary stay at the university, research institute or another institution of higher education recognized by the government of the other contracting state not exceeding two years shall not be liable to tax in such state.

## **Article 21**

### **Other Income**

- 1) Income of a person who is a resident of one contracting state which is not explicitly mentioned above shall be liable to tax only in such state.
- 2) The provision of para 1 shall not apply to income other than income from movable assets specified in Article 6 para 2 should the recipient of such income who is a resident of one of the contracting states carry out his manufacturing or trading activities in the other contracting state through a permanent place of business located therein or perform a free-lance profession through a permanent base located there and should the right or property from which the income inures be really connected to the permanent place of business or permanent base. Should this be the case, the provisions of Articles 7 or 14 shall be applied depending on the nature of the particular case.

## **Article 22**

### **Property**

- 1) Real estate property pursuant to Article 6 para 2 can be taxed in the contracting state where it is located.

- 2) Property in terms of movable assets belonging to the operating assets of a permanent place of business or movable property belonging to a permanent base which is used to perform a free-lance profession can be taxed in the state where the permanent place of business or permanent base is located.
- 3) Ships and airplanes used in the international transport and the movable assets supporting operation of such ships and airplanes is liable to tax only in the contracting state where the actual headquarters of the enterprise are located.
- 4) All other items of property of a resident of one of the contracting states shall be taxed only in such state.

### **Article 23**

#### **Avoidance Of Double Taxation**

- 1) In Czechoslovakia double taxation shall be avoided as follows:
  - a) where a resident of Czechoslovakia derives income or owns property which, in accordance with this Convention may be taxed in Luxembourg, Czechoslovakia shall, subject to subsection b) of this paragraph, exempt such income or property from tax, but may, in calculating tax on the remaining income and property of the person apply the rate of tax which would have been applicable if the exempted income or property had not been so exempted;
  - b) Czechoslovakia may, when assessing the tax of the persons who are residents of Czechoslovakia, include in the tax base on which such taxes are imposed also the income which may be pursuant to Articles 10, 12, 16, and 17 of this Convention taxed also in Luxembourg, but shall allow the amount of the tax computed on that base to be reduced by the amount equalling to the amount of tax paid in Luxembourg. Such deduction shall not, however, exceed that part of the Czechoslovak tax, computed before the deduction is made, which is appropriate to the income which may be taxed in accordance with Articles 10, 12, 16 and 17 of this Convention in Luxembourg.
- 2) In Luxembourg double taxation shall be avoided as follows:
  - a) where a resident of Luxembourg derives income or owns property which, in accordance with this Convention may be taxed in Czechoslovakia, Luxembourg shall, subject to subsections b) and c) of this paragraph, exempt such income or property from tax, but may, in calculating tax on the remaining income and property of the person apply the rate of tax which would have been applicable if the exempted income or property had not been so exempted;
  - b) where a resident of Luxembourg derives income which, in accordance with Articles 10 and 12, may be taxed in Czechoslovakia, Luxembourg shall allow the amount of the income tax of such person to be reduced

by the amount equalling to the amount of tax paid in Czechoslovakia. Such deduction shall not, however, exceed that part of the Czechoslovak tax, computed before the deduction is made, which is appropriate to the income which is derived in Czechoslovakia;

- c) in the case of a company which is a resident of Luxembourg that is paid dividends arising in Czechoslovakia, Luxembourg shall exempt such dividends from tax on condition that the company which is a resident of Luxembourg owns from the beginning of the period of tax directly no less than 25% of assets of the company paying the dividends. The aforesaid shares in the Czechoslovak company are exempt from the Luxembourg tax on property under the same conditions.

## **Article 24**

### **Principle Of Equal Treatment**

- 1) Nationals of one contracting state shall not be liable to any tax or have any other incidental obligations in the other contracting state other or more burdensome than taxes and obligations incidental to them which are imposed or can be imposed on the nationals of the other contracting state in the same situation. This provision shall apply also to the persons who are not residents of one or any of the contracting states regardless to provision of Article 1.
- 2) Taxes imposed on the permanent place of business which the enterprise of one contracting state has in the other contracting state shall be no less favourable than taxes imposed on enterprises of the other contracting state carrying out the same activities. This provision shall not be considered to be an undertaking of one contracting state to accord the residents of the other contracting state personal allowances, deductions and tax reduction for the reasons of personal standing or obligations to the person's family which are accorded to the residents of such state.
- 3) Should not the provisions of Article 9, Article 11 para 4 and Article 12 para 6 be applied, the interest, licence fees, and other expenses paid by an enterprise of one contracting state to a person who is a resident of the other contracting state deductible for the purpose of assessment of the taxable profit of such enterprise under the same conditions as if they were paid to a person who is a resident of the former state. Similarly, any debts of an enterprise of one contracting state to a resident of the other contracting state shall be for the purposes of assessment of taxable property of such enterprise deductible under the same conditions as if they were payable to a resident of the former contracting state.
- 4) The expression "taxes" means for the purposes of this Article taxes of any sort and denomination.

## **Article 25**

### **Solution Of Cases By Way Of Agreement**

1) Should a resident of one contracting state perceive that measures taken by one or both contracting state will lead in his case to such imposition of taxes which does not comply with the provisions of the present Convention, he can refer his case to the respective authority of the contracting state of which he is a resident or, should the case be subject to Article 24 para 1, to the authority of the contracting state of which he is a national, regardless of the corrective measures provided by the internal law of the contracting states. The case must be referred no later than 3 years after the measures leading to the tax imposition not complying with the present Convention are introduced.

2) Should the respective authority find the complaint to be justified and should it not be able to find a satisfactory solution by itself, it shall seek a solution of the case by way of agreement with the respective authority of the other contracting state in order to prevent the taxation not complying with the present Convention. The agreement reached shall be put into practice regardless of any deadlines in compliance with the local regulations of the contracting states.

3) The respective authorities of the contracting states shall seek solution by way of mutual agreement in the case of any difficulties or doubts which may arise in connection to interpretation and application of this Convention. They can also act in mutual consultation in order to prevent double taxation in the cases not regulated by this Convention.

4) The respective authorities of the contracting states can enter into direct contacts in order to reach agreement pursuant to the above paragraphs. Should oral exchange of views be thought useful in terms of reaching the agreement, such exchange of views can take place in the commission consisting of representatives of the respective authorities of the contracting states.

## **Article 26**

### **Information Interchange**

1) The respective authorities of the contracting states shall interchange information needful for application of the provisions of the present Convention or internal legal regulations of the contracting states governing taxes which are subject to this Convention unless the imposition of tax they govern is at variance with this Convention. Any information interchanged this way shall be treated as confidential, similarly to information received pursuant to internal law of the contracting state, and disclosed only to the persons or authorities (including courts and administrative bodies) whose activities are imposition or collection of taxes regulated by this Convention and prosecution in terms of cases related to these taxes.

2) The provisions of para 1 shall by no means be understood to impose the following obligations upon any of the contracting states:

- a) to take such administrative measures infringing legal regulations or administrative practice of any of the contracting states;
- b) provide information which cannot be acquired on the basis of legal regulations or in connection with the usual administrative proceedings of any of the contracting states;

- c) provide information disclosing trading, business, administrative, industrial, commercial, or professional secret or trading policy, or information the disclosure of which is a breach of the peace.

## **Article 27**

### **Diplomats And Consular Officers**

No provisions of the present Convention shall affect tax privileges appertained to diplomats or consular officers in compliance with the generally accepted rules of the international law or on the basis of special agreements.

## **Article 28**

### **Exclusion Of Certain Companies**

This Convention shall apply neither to holding companies subject to special Luxembourgese legal regulation, currently subject to the Act of 31 July 1929 and Decree of 17 December 1938, nor to the companies which are subject to similar tax regulations in Luxembourg. Neither shall the Convention apply to the income derived by a Czechoslovak resident from such companies or to shares or other rights of such a person related to those companies.

## **Article 29**

### **Entry Into Force**

- 1) This Convention is subject to ratification and the instruments of ratification shall be exchanged as soon as possible in Luxembourg.
- 2) The Convention shall come into force at the day of exchanging the instruments of ratification and its provisions shall apply:
  - a) to amounts paid on 1 January and later in the calendar year following the year in which the Convention enters into force in terms of the withholding taxes;
  - b) to amounts of taxes imposed for each year of tax beginning on 1 January or later in the calendar year following the year in which the Convention enters into force as regards other income and property taxes.

## **Article 30**

### **Termination**

This Convention shall be effective till it is denounced by any of the contracting states. Any of the contracting states can denounce the Convention by a written notice of termination sent through diplomatic channels no later than six months before the end of a calendar year

beginning within five years of the date of entry into force of this Convention. In such case the Convention shall cease to apply:

- a)* to amounts received on 1 January and later in the calendar year following the year in which the notice is given in terms of the taxes deducted at source;
- b)* to amounts of taxes imposed for each year of tax beginning on 1 January or later in the calendar year following the year in which the notice is given as regards other income and property taxes.