

Agreement

between

the Macedonian Government

and

the Government of the Federal Republic of Germany

for the Avoidance of Double Taxation

with respect to

Taxes on Income and on Capital

The Macedonian Government

and

the Government of the Federal Republic of Germany

Desiring to promote their mutual economic relations by removing fiscal obstacles,

Have agreed as follows:

#### Article 1

##### Personal Scope

This Agreement shall apply to persons who are resident in the sovereign territory of one Contracting Party or who are resident in the sovereign territory of both Contracting Parties.

#### Article 2

##### Taxes Covered

(1) This Agreement shall apply to taxes on income and on capital imposed on behalf of the state of a Contracting Party, on the German side also of one of its Länder or one of its political subdivisions, or local authority thereof, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

(3) The existing taxes to which this Agreement shall apply are in particular

a) on the German side

the income tax (Einkommensteuer),  
the corporation tax (Körperschaftsteuer),  
the trade tax (Gewerbsteuer) and  
the capital tax (Vermögensteuer),  
including the supplements levied thereon  
(hereinafter referred to as "German tax");

b) on the Macedonian side

the personal income tax (personalen danok na dohot),  
the profit tax (danok na dobivka),  
the capital tax (danok na imot)  
(hereinafter referred to as "Macedonian tax").

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

### Article 3

#### General Definitions

(1) For the purposes of this Agreement, unless the context otherwise requires,

a) the term "sovereign territory of a Contracting Party" and "sovereign territory of the other Contracting Party" shall mean the sovereign territory of these Contracting Parties as well as the area of the sea-bed or lake-bed, its sub-soil and the superjacent water

column adjacent to the territorial sea or lake, wherein the Contracting Party concerned exercises sovereign rights and jurisdiction in conformity with international law and its national legislation in force for the purpose of exploring, exploiting, conserving and managing the living and non-living natural resources;

b) the term "person" means an individual and a company and any body of persons:

c) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;

d) the terms "enterprise of a Contracting Party" and "enterprise of the other Contracting Party" mean respectively an enterprise carried on by a resident of the sovereign territory of a Contracting Party and an enterprise carried on by a resident of the sovereign territory of the other Contracting Party;

e) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in the sovereign territory of a Contracting Party, except when the ship or aircraft is operated solely between places in the sovereign territory of the other Contracting Party;

f) the term "national" means

aa) on the German side

any German within the meaning of the Basic Law for the Federal Republic of Germany and any legal person, partnership and association deriving its status as such from the laws in force in the Federal Republic of Germany;

bb) on the Macedonian side

any individual possessing the Macedonian nationality and any legal person, partnership and association deriving its status as such from the Macedonian laws in force;

g) the term "competent authority" means

aa) on the German side the Federal Ministry of Finance or the agency to which it has delegated its powers;

bb) on the Macedonian side the Ministry of Finance or its authorised representatives.

(2) As regards the application of the Agreement at any time by a Contracting Party any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of the state of this Contracting Party for the purposes of the taxes to which the Agreement applies, any meaning under the applicable tax laws in the sovereign territory of that Contracting Party prevailing over a meaning given to the term under other laws of the state of that Contracting Party.

#### Article 4

#### Resident

(1) For the purposes of this Agreement, the term "resident of the sovereign territory of the Contracting Party" shall mean any person who, under the laws of the state of that Contracting Party, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, and also includes the state of that Contracting Party, on the German side also its Länder and political subdivisions, or local authority thereof. The term shall not, however, include a person liable in the sovereign territory of that Contracting Party to tax only on income derived from sources in the sovereign territory of the Contracting Party or on assets situated in the sovereign territory of the Contracting Party.

(2) Where by reason of the provisions of paragraph 1 an individual is a resident of both territories, then his status shall be determined as follows:

- a) He shall be deemed to be a resident only of the sovereign territory of a Contracting Party in which he has a permanent home available to him; if he has a permanent home available to him in both sovereign territories, he shall be deemed to be a resident only of the sovereign territory of the Contracting State with which his personal and economic relations are closer (centre of vital interests).
- b) If the sovereign territory of the Contracting Party in which he has his centre of vital interests cannot be determined, or if he has a permanent home available to him in the sovereign territory of neither Contracting Party, he shall be deemed to be a resident only of the sovereign territory of the Contracting Party in which he has an habitual abode.
- c) If he has an habitual abode in both sovereign territories or in neither sovereign territory, he shall be deemed to be a resident only of the sovereign territory of the Contracting Party of which he is a national.
- d) If he is a national of both Contracting Parties or of neither Contracting Party, the competent authorities of the Contracting Parties shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph 1 a company is a resident of both sovereign territories, then it shall be deemed to be a resident only of the sovereign territory of the Contracting Party in which its place of effective management is situated.

Article 5  
Permanent Establishment

(1) For the purposes of this Agreement, 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

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop, and
- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

(4) Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include

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

- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(5) 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 the sovereign territory of a Contracting Party an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in the sovereign territory of that Contracting Party 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 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

(6) An enterprise shall not be deemed to have a permanent establishment in the sovereign territory of a Contracting Party merely because it carries on business in that sovereign territory 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.

(7) The fact that a company which is a resident of the sovereign territory of a Contracting Party controls or is controlled by a company which is a resident of the sovereign territory of the other Contracting Party or which carries on business in that other sovereign territory (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 the sovereign territory of a Contracting Party from immovable property (including income from agriculture or forestry) situated in the sovereign territory of the other Contracting Party may be taxed in the sovereign territory of that other Contracting Party.

(2) The term "immovable property" shall have the meaning which it has under the law of the state of the Contracting Party in whose sovereign territory 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 and aircraft shall not be regarded as immovable property.

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



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

#### Article 7

#### Business Profits

(1) The profits of an enterprise of a Contracting Party shall be taxable only in the sovereign territory of that Contracting Party unless the enterprise carries on business in the sovereign territory of the other Contracting Party through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the sovereign territory of the other Contracting Party 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 Party carries on business in the sovereign territory of the other Contracting Party through a permanent establishment situated therein, there shall in the sovereign territory of each Contracting Party 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 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 sovereign territory of the Contracting Party in which the permanent establishment is situated or elsewhere.

(4) Insofar as it has been customary in the sovereign territory of a Contracting Party 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 para-

graph 2 shall preclude that Contracting Party 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) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) For the purposes of the preceding paragraphs of this Article, 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.

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

## Article 8

### Shipping and Air Transport

(1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the sovereign territory of the Contracting Party in which the place of effective management of the enterprise is situated.

(2) For the purposes of this Article the terms "profits from the operation of ships or aircraft in international traffic" shall include profits from the

- a) occasional rental of ships or aircraft on a bare-boat basis and
- b) use or rental of containers (including trailers and ancillary equipment used for transporting the containers).

if these activities pertain to the operation of ships or aircraft in international traffic.

(3) If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the sovereign territory of the Contracting Party in which the home harbour of the ship is situated, or, if there is no such home harbour, in the sovereign territory of the Contracting Party of which the operator of the ship is a resident.

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

## Article 9

### Associated Enterprises

(1) Where

- a) an enterprise of a Contracting Party participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting Party, or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting Party and an enterprise of the other Contracting Party,

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.

(2) Where the sovereign territory of a Contracting Party includes in the profits of an enterprise of that Contracting Party - and taxes accordingly - profits on which an enterprise of the other Contracting Party has been charged to tax in the sovereign territory of that other Contracting Party and the profits so included are profits which would have accrued to the enterprise of the first-mentioned Contracting Party if the conditions

made between the two enterprises had been those which would have been made between independent enterprises, then that other Contracting Party shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting Parties shall, if necessary, consult each other.

#### Article 10

#### Dividends

(1) Dividends paid by a company which is a resident of the sovereign territory of a Contracting Party to a resident of the sovereign territory of the other Contracting Party may be taxed in the sovereign territory of that other Contracting Party.

(2) However, such dividends may also be taxed in the sovereign territory of the Contracting Party of which the company paying the dividends is a resident and according to the laws of the state of that Contracting Party, but if the beneficial owner of the dividends is a resident of the sovereign territory of the other Contracting Party, the tax so charged shall not exceed

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;
- b) 15 per cent 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 income 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 and distributions on certificates of an investment fund or investment trust.

(4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of the sovereign territory of a Contracting Party, carries on business in the sovereign territory of the other Contracting Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other sovereign territory 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 the sovereign territory of a Contracting Party derives profits or income from the sovereign territory of the other Contracting Party, that other Contracting Party may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of the sovereign territory of that other Contracting Party or 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 the sovereign territory of that other Contracting Party, 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 the sovereign territory of such other Contracting Party.

## Article 11

### Interest

(1) Interest arising in the sovereign territory of a Contracting Party and paid to a resident of the sovereign territory of the other Contracting Party may be taxed in the sovereign territory of that other Contracting Party, if such resident is the beneficial owner of the interest.

(2) However, such interest may also be taxed in the sovereign territory of the Contracting Party in which it arises and according to the laws of the state of that Contracting

Party, but if the beneficial owner of the interest is a resident of the sovereign territory of the other Contracting Party, the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph 2,

- a) interest arising in the German sovereign territory and paid to the Macedonian government shall be exempt from German tax;
- b) interest arising in the Macedonian sovereign territory and paid in consideration of a loan guaranteed by the Federal Republic of Germany in respect of export or foreign direct investment or paid to the Government of the Federal Republic of Germany, the Deutsche Bundesbank, the Kreditanstalt für Wiederaufbau or the Deutsche Investitions- und Entwicklungsgesellschaft shall be exempt from Macedonian tax.

(4) Notwithstanding the provisions of paragraph 2, interest as referred to in paragraph 1 may be taxed only in the sovereign territory of the Contracting Party of which the recipient is a resident if the recipient is the beneficial owner of the interest and the interest is paid

- a) in connection with the sale of commercial or scientific equipment on credit, or
- b) in connection with the sale of goods by an enterprise to another enterprise on credit.

(5) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, 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 payment shall not be regarded as interest for the purpose of this Article.

(6) The provision of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of the sovereign territory of a Contracting Party, carries on business in the sovereign territory of the other Contracting Party in which the interest arises, through a permanent establishment situated therein, or performs in that other sovereign territory 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, as the case may be, shall apply.

(7) Interest shall be deemed to arise in the sovereign territory of a Contracting Party if the debtor is the state of this Contracting Party or, in the case of the German Contracting Party, also one of its Länder or one of its political subdivisions, or local authority thereof, or a resident of the sovereign territory of that Contracting Party. Where, however, the person paying the interest, whether he is a resident of the sovereign territory of a Contracting Party or not, has in the sovereign territory of a Contracting Party 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 sovereign territory of the Contracting Party in which the permanent establishment or fixed base is situated.

(8) 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 payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

Article 12

Royalties

(1) Royalties arising in the sovereign territory of a Contracting Party and paid to a resident of the sovereign territory of the other Contracting Party may be taxed in the sovereign territory of that other Contracting Party, if such resident is the beneficial owner of the interest.

(2) However, such royalties may also be taxed in the sovereign territory of the Contracting Party in which it arises according to the laws of the state of that Contracting Party, but if the beneficial owner of the royalties is a resident of the sovereign territory of the other Contracting Party, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience. The term "royalties" shall also include payments of any kind for the use or the right to use a person's name, picture or any other similar personality rights and on payments received as consideration for the registration of entertainers' or sportsmen's performances by radio or television.

(4) The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of the sovereign territory of a Contracting Party, carries on business in the sovereign territory of the other Contracting Party in which the royalties arise, through a permanent establishment situated therein, or performs in the sovereign territory of that other Contracting Party 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 the sovereign territory of a Contracting Party if the debtor is the state of this Contracting Party or, in the case of the German Contracting Party, also one of its Länder or one of its political subdivisions, or local authority thereof, or a resident of the sovereign territory of this Contracting Party. Where, however, the person paying the royalties, whether he is a resident of the sovereign territory of a Contracting Party or not, has in the sovereign territory of a Contracting State a permanent establishment or 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 sovereign territory of the Contracting Party 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 payments shall remain taxable according to the laws of each Contracting Party, due regard being had to the other provisions of this Agreement.

#### Article 13

#### Capital Gains

(1) Gains derived by a resident of the sovereign territory of a Contracting Party from the alienation of immovable property situated in the sovereign territory of the other Contracting Party may be taxed in the sovereign territory of that other Contracting Party.

(2) Gains from the alienation of shares and similar rights in a company, the assets of which consist - directly or indirectly - principally of immovable property situated in the

sovereign territory of a Contracting Party, may be taxed in the sovereign territory of that Contracting Party.

(3) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the sovereign territory of the other Contracting Party or of movable property pertaining to a fixed base available to a resident of the sovereign territory of a Contracting Party in the sovereign territory of the other Contracting Party 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 the sovereign territory of that other Contracting Party.

(4) 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 sovereign territory of the Contracting Party in which the place of effective management of the enterprise is situated.

(5) Gains from the alienation of any property other than that referred to in paragraphs 1 to 4, shall be taxable only in the sovereign territory of the Contracting Party of which the alienator is a resident.

(6) Where an individual was a resident of the sovereign territory of a Contracting Party for a period of 5 years or more and has become a resident of sovereign territory of the other Contracting Party, paragraph 5 shall not prevent the first-mentioned Contracting Party from taxing under its domestic law the capital appreciation of shares in a company resident in the sovereign territory of the first-mentioned Contracting Party for the period of residency of that individual in the sovereign territory of the first-mentioned Contracting Party. In such case, the appreciation of capital taxed in the sovereign territory of the first-mentioned Contracting Party shall not be included in the determination of the subsequent appreciation of capital by the other Contracting Party.

#### Article 14

##### Independent Personal Services

(1) Income derived by an individual who is a resident in the sovereign territory of a Contracting Party in respect of professional services or other activities of an independent character shall be taxable only in the sovereign territory of that Contracting Party unless he has a fixed base regularly available to him in the sovereign territory of the other Contracting Party for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the sovereign territory of the other Contracting Party but only so much of it as is attributable to that fixed base.

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

#### Article 15

##### Dependent Personal Services

(1) Subject to the provisions of Articles 16 to 19, salaries, wages and other similar remuneration derived by a resident of the sovereign territory of a Contracting Party in respect of an employment shall be taxable only in the sovereign territory of that Contracting Party unless the employment is exercised in the sovereign territory of the other Contracting Party. If the employment is so exercised, such remuneration as is derived thereby may be taxed in the sovereign territory of that other Contracting Party.

(2) Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of the sovereign territory of a Contracting Party in respect of an employment exercised in the sovereign territory of the other Contracting Party shall be taxable only in the sovereign territory of the first-mentioned Contracting Party if

- a) the recipient is present in the sovereign territory of the other Contracting Party for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the sovereign territory of the other Contracting Party, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the sovereign territory of the other Contracting Party.

(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, may be taxed in the sovereign territory of the Contracting Party in which the place of effective management of the enterprise which operates the ship or aircraft is situated.

#### Article 16

##### Directors' Fees

Directors' fees and other similar payments derived by a resident of the sovereign territory of a Contracting Party in his capacity as a member of the board of directors of a company which is a resident of the sovereign territory of the other Contracting Party may be taxed in the sovereign territory of that other Contracting Party.

#### Article 17

##### Artistes and Sportsmen

(1) Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of the sovereign territory of a Contracting Party as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the sovereign territory of the other Contracting Party, may be taxed in the sovereign territory of that other Contracting Party

(2) Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the sovereign territory of the Contracting Party in which the activities of the entertainer or sportsman are exercised.

(3) Paragraphs 1 and 2 shall not apply to income accruing from the exercise of activities by artistes or sportsmen in the sovereign territory of a Contracting Party where the visit to the sovereign territory of that Contracting Party is financed entirely or mainly from public funds of the state of the other Contracting Party, or on the German side also one of its Länder or one of its political subdivisions, or a local authority thereof. In this case, the income may be taxed only in the sovereign territory of the Contracting Party in which the person is a resident.

#### Article 18

##### Pensions, Annuities and Similar Payments

(1) Subject to the provisions of paragraph 2 of Article 19, pensions and similar payments or annuities paid to a resident of the sovereign territory of a Contracting Party from the sovereign territory of the other Contracting Party shall only be taxable in the sovereign territory of the first-mentioned Contracting Party.

(2) Notwithstanding the provisions of paragraph 1, payments received by an individual being a resident of the sovereign territory of a Contracting Party from the statutory social insurance of the other Contracting Party shall be taxable only in the sovereign territory of that other Contracting Party.

(3) Notwithstanding the provisions of paragraph 1, recurrent or non-recurrent payments made by one of the Contracting Parties or a political subdivision thereof to a person resident in the sovereign territory of the other Contracting Party as compensation for political persecution or for an injury or damage sustained as a result of war (including restitution payments) or of military or civil alternative service or of a crime, vaccina-

tion or a similar event shall be taxable only in the sovereign territory of the first-mentioned Contracting Party.

(4) The term "annuities" means certain amounts payable periodically at stated times, for life or for 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.

(5) Maintenance payments, including those for children, made by a resident of the sovereign territory of one Contracting Party to a resident of the sovereign territory of the other Contracting Party shall be exempted from tax in sovereign territory of that other Contracting Party. This shall not apply where such maintenance payments are deductible in the sovereign territory of the first-mentioned Contracting Party in computing the taxable income of the payer; tax allowances in mitigation of social burdens are not deemed to be deductions for the purposes of this paragraph.

#### Article 19

##### Government Service

(1)

a) Salaries, wages and other similar remunerations, other than a pension, paid by the state of a Contracting Party, or on the German side also by one of its Länder or one of its political subdivisions, or a local authority thereof or some other legal entity under public law of the state of that Contracting Party, to an individual in respect of services rendered to that Contracting Party, or on the German side also to one of its Länder or to one of its political subdivisions, or local authority or some other legal entity under public law, shall be taxable only in the sovereign territory of that Contracting Party.

b) However, such remuneration shall be taxable only in the sovereign territory of the other Contracting Party if the services are rendered in the sovereign terri-

tory of that Contracting Party and if the individual is a resident of the sovereign territory of that Contracting Party and

- i) is a national of that Contracting Party or
- ii) did not become a resident of the sovereign territory of that Contracting Party solely for the purpose of rendering the services.

(2)

a) Pensions paid by the state of a Contracting Party, or on the German side also by one of its Länder of one of its political subdivisions, or a local authority thereof or by some other legal entity under public law of the state of that Contracting Party or from funds it has established, to an individual in respect of services rendered to that Contracting Party, or on the German side also to one of its Länder or to one of its political subdivisions, or local authority or to some other legal entity under public law shall be taxable only in the sovereign territory of that Contracting Party.

b) However, such pensions shall be taxable only in the sovereign territory of the other Contracting Party if the individual is a resident of the sovereign territory of that Contracting Party and is a national of that Contracting Party.

(3) The provisions of Articles 15, 16, 17 or 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on to a Contracting Party, or on the German side also to one of its Länder or one of its political subdivisions, or a local authority thereof, or to some other legal entity under public law of that Contracting Party.

## Article 20

### Visiting Professors, Teachers and Students

(1) An individual who visits the sovereign territory of a Contracting Party at the invitation of that Contracting Party or of a university, college, school, museum or other cultural institution of that Contracting Party or under an official programme of cultural exchange for a period not exceeding two years solely for the purpose of teaching, giving lectures or carrying out research at such institution and who is, or was immediately before that visit, a resident of the sovereign territory of the other Contracting Party shall be exempt from tax in the sovereign territory of the first-mentioned Contracting Party on his remuneration for such activity, provided that such remuneration is derived by him from outside the sovereign territory of that Contracting Party.

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

(3) Payments which a student or business apprentice who is or was immediately before visiting the sovereign territory of a Contracting Party a resident of the sovereign territory of the other Contracting Party and who is present in the sovereign territory of the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in the sovereign territory of the first-mentioned Contracting Party, provided that such payments arise from sources outside the sovereign territory of that Contracting Party.

## Article 21

### Other Income

(1) Items of income of a resident of the sovereign territory of a Contracting Party, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in the sovereign territory of that Contracting Party.



(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 the sovereign territory of a Contracting Party, carries on business in the sovereign territory of the other Contracting Party through a permanent establishment situated therein, or performs independent personal services in the sovereign territory of the other Contracting Party 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.

#### Article 22

#### Capital

(1) Capital represented by immovable property referred to in Article 6, owned by a resident of the sovereign territory of a Contracting Party and situated in the sovereign territory of the other Contracting Party, may be taxed in the sovereign territory of that other Contracting Party.

(2) Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting Party has in the sovereign territory of the other Contracting Party or by movable property pertaining to a fixed base available to a resident of the sovereign territory of a Contracting Party in the sovereign territory of the other Contracting Party for the purpose of performing independent personal services, may be taxed in the sovereign territory of that other Contracting Party.

(3) Capital represented by ships and aircraft operated in international traffic, and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the sovereign territory of the Contracting Party in which the place of effective management of the enterprise is situated.

(4) All other elements of capital of a resident of the sovereign territory of a Contracting Party shall be taxable only in the sovereign territory of that Contracting Party.

#### Article 23

##### Method for the Elimination of Double Taxation

(1) Tax shall be determined in the case of a resident of the German sovereign territory as follows:

- a) Unless foreign tax credit is to be allowed under sub-paragraph b), there shall be exempted from the assessment basis of the German tax any Macedonian income and any item of capital situated within Macedonian sovereign territory which, according to this Agreement, may be taxed there.

In the case of items of income from dividends the preceding provision shall apply only to such dividends as are paid to a company (not including partnerships) being a resident of the German sovereign territory by a company being a resident of the Macedonian sovereign territory at least 10 per cent of the capital of which is owned directly by the German company, and which were not deducted when determining the profits of the company distributing these dividends.

There shall be exempted from the assessment basis of the taxes on capital any shareholding the dividends of which if paid, would be exempted, according to the foregoing sentences.

- b) Subject to the provisions of German tax law regarding credit for foreign tax, there shall be allowed as a credit against German tax on income payable in respect of the following items of income the Macedonian tax paid under the laws of Macedonia and in accordance with this Agreement:

- aa) dividends not dealt with in sub-paragraph a);

- bb) interest;
  - cc) royalties;
  - dd) items of income that may be taxed by the Macedonian side according to para-graph 2 of Article 13;
  - ee) directors' fees;
  - ff) items of income within the meaning of Article 17.
- c) The provisions of sub-paragraph b) shall apply instead of the provisions of sub-paragraph a) to items of income as defined in Articles 7 and 10 and to the assets from which such income is derived if the resident of the German sovereign territory does not prove that the gross income of the permanent establishment in the business year in which the profit has been realised or of the company resident in the Macedonian sovereign territory in the business year for which the dividends were paid was derived exclusively or almost exclusively from activities within the meaning of numbers 1 – 6 of paragraph 1 of section 8 of the German Law on External Tax Relations (Aussensteuergesetz); the same shall apply to immovable property used by a permanent establishment and to income from this immovable property of the permanent establishment (paragraph 4 of Article 6) and to profits from the alienation of such immovable property (paragraph 1 of Article 13) and of the movable property forming part of the business property of the permanent establishment (paragraph 3 of Article 13).

- d) The German side, however, retains the right to take into account in the determination of its rate of tax the items of income and capital, which are under the provisions of this Agreement exempted from German tax.
  - e) Notwithstanding the provisions of sub-paragraph a) double taxation shall be avoided by allowing a tax credit as laid down in sub-paragraph b)
    - aa) if in the sovereign territories of the Contracting Parties items of income or capital are placed under differing provisions of this Agreement or attributed to different persons (except pursuant to Article 9) and this conflict cannot be settled by a procedure in accordance with paragraph 3 of Article 25 and if as a result of this difference in placement or attribution the relevant income or capital would remain untaxed or be taxed lower than without this conflict or
    - bb) if after due consultation with the competent Macedonian authority the competent German authority notifies the former through diplomatic channels of other items of income to which it intends to apply the provisions of sub-paragraph b). Double Taxation is then avoided for the notified income by allowing a tax credit from the first day of the calendar year, next following that in which the notification was made.
- (2) Tax shall be determined in the case of a resident of the Macedonian sovereign territory as follows:
- a) Where a resident of the sovereign territory of Macedonia derives income or owns capital which, in accordance with the provisions of this Agreement may be taxed by the German side, the Macedonian side shall allow
    - aa) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid on the German side:

bb) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid on the German side;

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed by the German side or to the capital which may be taxed by the German side.

b) Where in accordance with any provision of the Agreement income derived or capital owned by a resident of the Macedonian sovereign territory is exempt from Macedonian taxation, the Macedonian side may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

#### Article 24

##### Non-discrimination

(1) Nationals of a Contracting Party shall not be subjected in the sovereign territory of the other Contracting Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the other Contracting Party in the same circumstances, especially with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article I, also apply to persons who are not residents of the sovereign territory of one or both of the Contracting Parties.

(2) Stateless persons who are residents of the sovereign territory of a Contracting Party shall not be subjected in the sovereign territory of either Contracting Party to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of the Contracting Party concerned in the same circumstances are or may be subjected.

(3) The taxation on a permanent establishment which an enterprise of a Contracting Party has in the sovereign territory of the other Contracting Party shall not be less favourably levied in the sovereign territory of that other Contracting Party than the taxation levied on enterprises of that other Contracting Party carrying on the same activities. This provision shall not be construed as obliging a Contracting Party to grant to residents of the sovereign territory of the other Contracting Party any personal allowances, reliefs and reductions for taxation purposes which it grants only to its own residents.

(4) Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting Party to a resident of the sovereign territory of the other Contracting Party 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 sovereign territory of the first-mentioned Contracting Party. Similarly, any debts of an enterprise of a Contracting Party to a resident of the sovereign territory of the other Contracting Party shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the sovereign territory of the first-mentioned Contracting Party.

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

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

## Article 25

### Mutual Agreement Procedure

(1) Where a person considers that the actions of one or both of the Contracting Parties result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies applying in the sovereign territory of those Contracting Parties, present his case to the competent authority of the Contracting Party of whose sovereign territory he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting Party 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 Agreement.

(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 Party, with a view to the avoidance of taxation which is not in accordance with the Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting Parties.

(3) The competent authorities of the Contracting Parties shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Agreement. They may also consult together for the avoidance of double taxation in cases not provided for in the Agreement.

(4) The competent authorities of the Contracting Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 26

Exchange of Information

(1) The competent authorities of the Contracting Parties shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting Parties concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting Party shall be treated as secret in the same manner as information obtained under the domestic laws of that Contracting Party and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals and other legal remedies in relation to, the taxes covered by the Agreement. 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 as to impose on a Contracting Party the obligation

- a) to carry out administrative measures for the supply of information at variance with the laws of the state and the administrative practice of that or of the other Contracting Party;
- b) to supply information which is not obtainable under the laws of the state or in the normal course of the administration of that or of the other Contracting Party;
- c) 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 27

Procedural Rules for Taxation at Source

(1) If in the sovereign territory of a Contracting Party the taxes on dividends, interest, royalties or other items of income derived by a person who is a resident of the sovereign territory of the other Contracting Party are levied by withholding at source, the right of the first-mentioned Contracting Party to apply the withholding of tax at the rate provided under its domestic law shall not be affected by the provisions of this Agreement. The tax withheld at source shall be refunded on application by the taxpayer if and to the extent that it is reduced by this Agreement or ceases to apply.

(2) Refund applications must be submitted by the end of the fourth year following the calendar year in which the withholding tax was applied to the dividends, interest, royalties or other items of income.

(3) Notwithstanding paragraph 1, each Contracting Party shall provide for procedures to the effect that payments of income subject under this Agreement to no tax or only to reduced tax in the state of source may be made without deduction of tax or with deduction of tax only at the rate provided in the relevant Article.

(4) The Contracting Party in whose sovereign territory the items of income arise may ask for a certificate by the competent authority on the residence in the sovereign territory of the other Contracting Party.

(5) The competent authorities may by mutual agreement implement the provisions of this Article and if necessary establish other procedures for the implementation of tax reductions or exemptions provided for under this Agreement.

Article 28

Application of the Agreement in Special Cases

(1) This Agreement shall not be interpreted to mean that

- a) a Contracting Party is prevented from applying its domestic legal provisions on the prevention of tax evasion or tax avoidance;
- b) the German side is prevented from levying taxes on amounts which are to be included in the items of income of a resident of the German sovereign territory under the Fourth Part of the German Law on External Tax Relations (Aussensteuergesetz).

(2) If the provisions of paragraph 1 result in double taxation, the competent authorities shall consult each other pursuant to Article 25 paragraph 3 on how to avoid double taxation.

Article 29

Members of Diplomatic Missions and Consular Posts

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

Article 30

Protocol

The attached Protocol shall be an integral part of this Agreement.

Article 31

Entry into force

(1) This Agreement shall enter into force on the day on which the Contracting Parties have notified each other that the domestic requirements for entry into force of this Agreement are met. The day of receipt of the last notification shall be decisive.

(2) This Agreement shall be applied in both territories

a) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year next following that in which the Agreement entered into force;

b) in the case of other taxes, in respect of taxes levied for periods beginning on or after the first day of January of the calendar year next following that in which the Agreement entered into force.

(3) Upon the entry into force of this Agreement, the Agreement between the Socialist Federal Republic of Yugoslavia and the Federal Republic of Germany for the Avoidance of Double Taxation with respect to Taxes on Income and Capital, signed on 26th March 1987, shall cease to have effect in Macedonian-German relations.

a) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year next following that in which the Agreement entered into force:

b) in the case of other taxes, in respect of taxes levied for periods beginning on or after the first day of January of the calendar year next following that in which the Agreement entered into force.

Article 32  
Termination

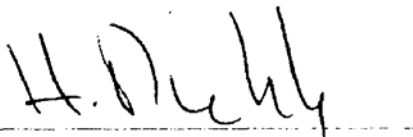
This Agreement shall be concluded for an unlimited period but either of the Contracting Parties may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give the other Contracting Party, through diplomatic channels, written notice of termination and, in such event, this Agreement shall cease to have effect

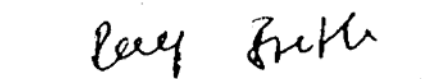
- a) in the case of taxes withheld at source, in respect of amounts paid on or after the first day of January of the calendar year next following that in which notice of termination is given;
- b) in the case of other taxes, in respect of taxes levied for periods beginning on or after the first day of January of the calendar year next following that in which notice of termination is given.

Done at Скопје on 15<sup>th</sup> July 2006 in two originals in the Macedonian, German, and English languages, each text being authentic. In the case of divergent interpretation of the Macedonian and the German texts, the English text shall prevail.

For the  
Macedonian Government

For the Government of  
the Federal Republic of Germany





Protocol

to the Agreement

between

the Macedonian Government

and

the Government of the Federal Republic of Germany

for the Avoidance of Double Taxation

with respect to

Taxes on Income and on Capital

signed on .....

On signing the Agreement between the Macedonian Government and the Government of the Federal Republic of Germany for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital, the Contracting Parties have in addition agreed on the following provisions which shall form an integral part of the said Agreement:

1. With reference to Article 2:

Property tax as referred to in paragraph 3 b does not include inheritance tax, gift tax and sales tax of real estate and rights.

2. With reference to Article 7:

a) Where an enterprise of a Contracting Party sells goods or merchandise or carries on business in the sovereign territory of the other Contracting Party through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received therefore by the enterprise but only on the basis of the amount which is attributable to the actual activity of the permanent establishment for such sales or business.

b) In the case of contracts, in particular for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, where the enterprise has a permanent establishment in the sovereign territory of the other Contracting Party, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but only on the basis of that part of the contract which is effectively carried out by the permanent establishment in the sovereign territory of the Contracting Party in which it is situated. Profits derived from the supply of goods to that permanent establishment or profits related to the part of the contract which is carried out in the sovereign territory of the Contracting Party in which the head office of the enterprise is situated shall be taxable only in sovereign territory of that Contracting Party.

c) Payments received as a consideration for technical services, including studies or surveys of a scientific, geological or technical nature, or for engineering contracts including blue prints related thereto, or for consultancy or supervisory services shall be deemed to be payments to which the provisions of Article 7 or Article 14 of the Agreement apply.

3. With reference to Articles 10 and 11:

Notwithstanding the provisions of Article 10 and 11 of this Agreement, dividends and interest may be taxed in the sovereign territory of the Contracting Party in which they arise, and according to the law of the state of that Contracting Party,

- a) if they are derived from rights or debt claims carrying a right to participate in profits, including income derived by a silent partner (“stiller Gesellschafter”) from his participation as such, or from a loan with an interest rate linked to borrower’s profit (“partiarisches Darlehen”) or from profit sharing bonds (“Gewinnobligationen”) within the meaning of the German tax law and
- b) under the condition that they are deductible in the determination of profits of the debtor of such income.

4. With reference to Article 19:

The provisions of paragraph 1 shall likewise apply in respect of remuneration paid, under a development assistance programme of the state of a Contracting Party, on the German side also of one of its Länder or of one of its political subdivisions, or a local authority thereof, out of funds exclusively supplied by that Contracting Party, on the German side also by one of its Länder or one of its political subdivisions, or local authority thereof, to a specialist or volunteer seconded to the sovereign territory of the other Contracting Party with the consent of that Contracting Party.

The provisions of paragraphs 1 and 2 shall likewise apply in respect of remuneration paid by Goethe-Institute or the German Academic Exchange Service (“Deutscher Akademischer Austauschdienst”) of the Federal Republic of Germany. Corresponding treatment of the remuneration of other comparable institutions of the Contracting Parties may be arranged by the competent

authorities by mutual agreement. If such remuneration is not taxed in the State where the institution was founded, the provisions of Article 15 shall apply.

5. With reference to Article 26:

If in accordance with domestic law personal data are exchanged under this Agreement, the following additional provisions shall apply subject to the legal provisions in effect for the state of each Contracting Party:

- a) The receiving agency may use such data only for the stated purpose and shall be subject to the conditions prescribed by the supplying agency.
- b) The receiving agency shall on request inform the supplying agency about the use of the supplied data and the results achieved thereby.
- c) Personal data may be supplied only to the responsible agencies. Any subsequent supply to other agencies may be effected only with the prior approval of the supplying agency.
- d) The supplying agency shall be obliged to ensure that the data to be supplied are accurate and that they are necessary for and proportionate to the purpose for which they are supplied. Any bans on data supply prescribed under applicable domestic law shall be observed. If it emerges that inaccurate data or data which should not have been supplied have been supplied, the receiving agency shall be informed of this without delay. That agency shall be obliged to correct or erase such data.
- e) Upon application the person concerned shall be informed of the supplied data relating to him and of the use to which such data are to be put. There shall be no obligation to furnish this information if on balance it turns out that the public interest in withholding it outweighs the interest of the person concerned in receiving it. In all other respects, the right of the person concerned to be informed of the existing data relating to him shall be governed by the domestic



law of the Contracting Party in whose sovereign territory the application for the information is made.

- f) The receiving agency shall bear liability in accordance with its domestic laws if supplied information has been revealed to an unauthorised person and any other person concerned suffers unlawful damage as a result of supply under the exchange of data pursuant to this Agreement. In relation to the damaged person, the receiving agency may not plead to its discharge that the damage had been caused by the supplying Contracting Party.
  
- g) If the domestic law of the supplying agency provides for special provisions for the erasing of the personal data supplied, that agency shall inform the receiving agency accordingly. Irrespective of such law, supplied personal data shall be erased once they are no longer required for the purpose for which they were supplied.
  
- h) The supplying and the receiving agencies shall be obliged to keep official records of the supply and receipt of personal data.
  
- i) The supplying and the receiving agencies shall be obliged to take effective measures to protect the personal data supplied against unauthorised access, unauthorised alteration and unauthorised disclosure.

2017194006

## СОБРАНИЕ НА РЕПУБЛИКА МАКЕДОНИЈА

Врз основа на членот 75 ставови 1 и 2 од Уставот на Република Македонија, претседателот на Република Македонија и претседателот на Собранието на Република Македонија издаваат

### **УКАЗ ЗА ПРОГЛАСУВАЊЕ НА ЗАКОНОТ ЗА РАТИФИКАЦИЈА НА ПРОТОКОЛОТ ЗА ИЗМЕНУВАЊЕ НА ДОГОВОРОТ ОД 13 ЈУЛИ 2006 ГОДИНА МЕЃУ МАКЕДОНСКАТА ВЛАДА И ВЛАДАТА НА СОЈУЗНА РЕПУБЛИКА ГЕРМАНИЈА ЗА ОДБЕГНУВАЊЕ НА ДВОЈНОТО ОДАНОЧУВАЊЕ ВО ОДНОС НА ДАНОЦИ НА ДОХОД И НА ИМОТ**

Се прогласува Законот за ратификација на Протоколот за изменување на Договорот од 13 јули 2006 година меѓу Македонската Влада и Владата на Сојузна Република Германија за одбегнување на двојното оданочување во однос на даноци на доход и на имот, што Собранието на Република Македонија го донесе на седницата одржана на 22 декември 2017 година.

Бр. 08-4805/1  
22 декември 2017 година  
Скопје

Претседател  
на Република Македонија,  
д-р **Ѓорге Иванов**, с.р.

Претседател  
на Собранието на Република  
Македонија,  
м-р **Талат Џафери**, с.р.

### **ЗАКОН ЗА РАТИФИКАЦИЈА НА ПРОТОКОЛОТ ЗА ИЗМЕНУВАЊЕ НА ДОГОВОРОТ ОД 13 ЈУЛИ 2006 ГОДИНА МЕЃУ МАКЕДОНСКАТА ВЛАДА И ВЛАДАТА НА СОЈУЗНА РЕПУБЛИКА ГЕРМАНИЈА ЗА ОДБЕГНУВАЊЕ НА ДВОЈНОТО ОДАНОЧУВАЊЕ ВО ОДНОС НА ДАНОЦИ НА ДОХОД И НА ИМОТ**

#### Член 1

Се ратификува Протоколот за изменување на Договорот од 13 јули 2006 година меѓу Македонската Влада и Владата на Сојузна Република Германија за одбегнување на двојното оданочување во однос на даноци на доход и на имот, склучен во Скопје на 14 ноември 2016 година.

#### Член 2

Протоколот од член 1 на овој закон во оригинал на македонски, германски и англиски јазик, гласи:

**Протокол**  
**за**  
**изменување на Договорот од 13 јули 2006 година**  
**меѓу**  
**Македонската Влада**  
**и**  
**Владата на Сојузна Република Германија**  
**за одбегнување на двојното оданочување**  
**во однос на даноци на доход и**  
**на имот**

Македонската Влада  
**и**  
Владата на Сојузна Република Германија

со желба да продолжат да ги развиваат меѓусебните економски односи и да ја продлабочат соработката во областа на оданочувањето со цел да се обезбеди ефикасна и правилна наплата на данок,

се договорија за следното:

**Член 1**

Членот 26 од Договорот се изменува и гласи:

**“Член 26**  
**Размена на информации**

(1) Надлежните органи на договорните страни ќе разменуваат информации кои се очигледно релевантни за спроведување на одредбите од овој Договор или за администрирањето или извршувањето на домашните закони кои се однесуваат на даноците од било кој вид или опис кои се воведени од една од договорните страни, една од нејзините покраини или една од

единиците на локалната самоуправа, доколку оданочувањето предвидено со тие закони не е во спротивност со овој Договор. Размената на информации не е ограничена со членовите 1 и 2 од овој Договор.

(2) Секоја информација добиена од една од договорните страни согласно став 1 на овој член, ќе се смета за тајна на ист начин како и информациите добиени според нејзините домашни закони, и може да биде откриена само на лица или органи (вклучувајќи ги судовите и органите на управата) кои се вклучени во утврдувањето или наплатата на даноците, во извршувањето или во кривичниот прогон, во решавањето по правни лекови во однос на даноците наведени во став 1 на овој член или во надзорот над истите. Овие лица или органи можат да ги користат информациите само за тие намени. Тие можат да ги откријат информациите во јавни судски постапки или во судски одлуки.

(3) Одредбите од ставовите 1 и 2 на овој член во никој случај не можат да се толкуваат како воспоставување на обврска на некоја договорна страна:

а) за обезбедувањето на информации да спроведува административни мерки кои отстапуваат од законите и административната практика на таа или на другата договорна страна,

б) да обезбедува информации кои не можат да се добијат согласно со законите или во редовна управна постапка на таа или на другата договорна страна,

в) да обезбедува информации кои би откриле некоја трговска, деловна, индустриска, комерцијална или професионална тајна, или деловна постапка, или информации чие откривање би било во спротивност со јавниот поредок (*ordre public*).

(4) Доколку се бараат информации од една од договорните страни во согласност со овој член, другата договорна страна ќе ги применува своите мерки за добивање на побараните информации, дури ако таа самата нема потреба од таквите информации за

нејзините сопствени даночни цели. Обврската содржана во претходната реченица им подлежи на ограничувањата од ставот 3 на овој член, но во никој случај таквите ограничувања не треба да се толкуваат како да и се одобрува на некоја договорна страна да одбие да обезбеди информации исклучиво поради тоа што нема внатрешен интерес за таквите информации.

(5) Во никој случај одредбите од став 3 на овој член не треба да се толкуваат како да и се одобрува на некоја договорна страна да одбие да обезбеди информации исклучиво поради тоа што информациите се поседувани од страна на банка, друга финансиска институција, ополномоштено лице, застапник или лице со фидуцијарно својство или бидејќи се однесуваат на сопственост врз лице.“

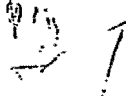
## Член 2

(1) Овој Протокол ќе влезе во сила на денот на кој договорните страни ќе се известат една со друга дека се исполнети внатрешните услови за влегување во сила на овој Протокол. Мероводен е денот на прием на последното известување.

(2) Договорот како што е изменет со овој Протокол ќе се применува на двете територии од првиот ден на јануари од календарската година која следува по календарската година во која Протоколот влегува во сила.

Составен во СКОПЈЕ, на 14.11.2016, во два оригинални примероци, на македонски, германски и англиски јазик, со тоа што секој текст има еднаква сила. Во случај на несогласување во толкувањето на македонскиот и германскиот текст, англискиот текст ќе биде меродавен.

За  
Македонската Влада



За Владата на  
Сојузна Република Германија



**Protokoll**  
**zur**  
**Änderung des Abkommens vom 13. Juli 2006**  
**zwischen**  
**der Mazedonischen Regierung**  
**und**  
**der Regierung der Bundesrepublik Deutschland**  
**zur Vermeidung der Doppelbesteuerung**  
**auf dem Gebiet der Steuern vom Einkommen und**  
**vom Vermögen**

**Die Mazedonische Regierung**  
**und**  
**die Regierung der Bundesrepublik Deutschland**

von dem Wunsch geleitet, die beiderseitigen wirtschaftlichen Beziehungen weiter zu entwickeln und die Zusammenarbeit auf steuerlichem Gebiet zur Gewährleistung einer wirksamen und zutreffenden Steuererhebung zu vertiefen,

sind wie folgt übereingekommen:

**Artikel 1**

Artikel 26 des Abkommens wird wie folgt neu gefasst:

**„Artikel 26**  
**Informationsaustausch**

(1) Die zuständigen Behörden der Vertragsparteien tauschen die Informationen aus, die zur Durchführung dieses Abkommens oder zur Verwaltung bzw. Vollstreckung des innerstaatlichen Rechts betreffend Steuern jeder Art und Bezeichnung, die für Rechnung einer Vertragspartei, eines ihrer Länder oder einer ihrer Gebietskörperschaften erhoben werden, voraussichtlich erheblich sind, soweit die diesem Recht entsprechende

Besteuerung nicht dem Abkommen widerspricht. Der Informationsaustausch ist durch Artikel 1 und 2 nicht eingeschränkt.

(2) Alle Informationen, die eine Vertragspartei nach Absatz 1 erhalten hat, sind ebenso geheim zu halten wie die aufgrund ihres innerstaatlichen Rechts beschafften Informationen und dürfen nur den Personen oder Behörden (einschließlich der Gerichte und der Verwaltungsbehörden) zugänglich gemacht werden, die mit der Veranlagung oder Erhebung, der Vollstreckung oder Strafverfolgung, der Entscheidung über Rechtsmittel hinsichtlich der in Absatz 1 genannten Steuern oder mit der Aufsicht darüber befasst sind. Diese Personen oder Behörden dürfen die Informationen nur für diese Zwecke verwenden. Sie dürfen die Auskünfte in einem öffentlichen Gerichtsverfahren oder in einer Gerichtsentscheidung offen legen.

(3) Absätze 1 und 2 sind nicht so auszulegen, als verpflichteten sie eine Vertragspartei,

- a) für die Erteilung von Informationen Verwaltungsmaßnahmen durchzuführen, die von den Gesetzen oder der Verwaltungspraxis dieser oder der anderen Vertragspartei abweichen;
- b) Informationen zu erteilen, die nach den Gesetzen oder im üblichen Verwaltungsverfahren dieser oder der anderen Vertragspartei nicht beschafft werden können;
- c) Informationen zu erteilen, die ein Handels-, Industrie-, Gewerbe- oder Berufsgeheimnis oder ein Geschäftsverfahren preisgeben würden oder deren Erteilung der öffentlichen Ordnung widerspräche (ordre public).

(4) Ersucht eine Vertragspartei nach diesem Artikel um Informationen, so nutzt die andere Vertragspartei die ihr zur Verfügung stehenden Möglichkeiten zur Beschaffung der erbetenen Informationen, selbst wenn sie diese Informationen für ihre eigenen steuerlichen Zwecke nicht benötigt. Die im vorhergehenden Satz enthaltene Verpflichtung unterliegt den Beschränkungen gemäß Absatz 3, aber diese Beschränkungen sind in keinem Fall so auszulegen, als könne eine Vertragspartei die Erteilung von Informationen nur deshalb ablehnen, weil sie kein innerstaatliches Interesse an diesen Informationen hat.

(5) Absatz 3 ist in keinem Fall so auszulegen, als könne eine Vertragspartei die Erteilung von Informationen nur deshalb ablehnen, weil sich die Informationen bei einer Bank, einem sonstigen Finanzinstitut, einem

Bevollmächtigten, Vertreter oder Treuhänder befinden oder weil sie sich auf das Eigentum an einer Person beziehen.”

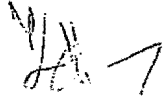
## Artikel 2

(1) Dieses Protokoll tritt an dem Tag in Kraft, an dem die Vertragsparteien einander mitgeteilt haben, dass die innerstaatlichen Voraussetzungen für das Inkrafttreten erfüllt sind. Maßgebend ist der Tag des Eingangs der letzten Mitteilung.

(2) Das Abkommen in der durch dieses Protokoll geänderten Fassung ist in beiden Hoheitsgebieten vom 1. Januar des Kalenderjahres, das auf das Kalenderjahr folgt, in dem das Protokoll in Kraft tritt, anzuwenden.

Geschehen zu *SKOPJE* am *14. NOVEMBER 2016* in zwei Urschriften, jede in mazedonischer, deutscher und englischer Sprache, wobei jeder Wortlaut verbindlich ist. Bei unterschiedlicher Auslegung des mazedonischen und des deutschen Wortlauts ist der englische Wortlaut maßgebend.

Für die  
Mazedonische Regierung



Für die Regierung der  
Bundesrepublik Deutschland





**Protocol  
amending the Agreement of 13 July 2006  
between  
the Macedonian Government  
and  
the Government of the Federal Republic of Germany  
for the Avoidance of Double Taxation  
with respect to Taxes on Income and on Capital**

**The Macedonian Government  
and  
the Government of the Federal Republic of Germany**

Desiring to develop further their mutual economic relations and to deepen cooperation in the field of taxation for the purpose of ensuring the effective and correct collection of tax,

Have agreed as follows:

**Article 1**

Article 26 of the Agreement shall be amended to read as follows:

**“Article 26  
Exchange of Information**

(1) The competent authorities of the Contracting Parties shall exchange such information as is foreseeably relevant for carrying out the provisions of this Agreement or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of a Contracting Party, of a Land or a political subdivision or local authority thereof, insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Articles 1 and 2.

(2) Any information received under paragraph 1 by a Contracting Party shall be treated as secret in the same manner as information obtained under its domestic laws and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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.

(3) In no case shall the provisions of paragraph 1 and 2 be construed so as to impose on a Contracting Party the obligation:

- (a) to carry out administrative measures for the supply of information at variance with the laws and administrative practice of that or of the other Contracting Party;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting Party;
- (c) 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).

(4) If information is requested by a Contracting Party in accordance with this Article, the other Contracting Party shall use its information gathering measures to obtain the requested information, even though it may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting Party to decline to supply information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of paragraph 3 be construed to permit a Contracting Party to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

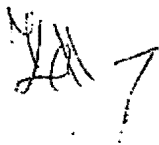
## Article 2

(1) This Protocol shall enter into force on the day on which the Contracting Parties have notified each other that the domestic requirements for entry into force of this Protocol are met. The day of receipt of the last notification shall be decisive.

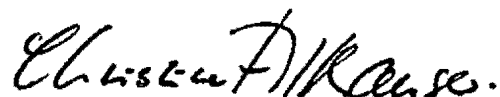
(2) The Agreement as amended by this Protocol shall be applied in both territories from the first day of January of the calendar year next following the calendar year in which the Protocol enters into force.

Done at SKOPJE on 14 NOVEMBER 2017 in two originals in the Macedonian, German and English languages, each text being authentic. In the case of divergence of interpretation of the Macedonian and German texts, the English text shall prevail.

For the  
Macedonian Government



For the Government of the  
Federal Republic of Germany



## Член 3

Министерството за финансии се определува како надлежен орган на државната управа што ќе се грижи за извршување на Протоколот од членот 1 на овој закон.

## Член 4

Овој закон влегува во сила осмиот ден од денот на објавувањето во „Службен весник на Република Македонија“.

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