

A G R E E M E N T
BETWEEN
THE MACEDONIAN GOVERNMENT
AND
THE POLAND GOVERNMENT
FOR AVOIDANCE OF DOUBLE TAXATION WITH
RESPECT TO TAXES ON INCOME AND ON CAPITAL

THE MACEDONIAN GOVERNMENT

AND

THE POLAND GOVERNMENT

desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and capital

Have agreed as follows:

Article 1

PERSONAL SCOPE

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

Article 2

TAXES COVERED

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its local authorities, 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 the Agreement shall apply are in particular:

a) in the case of Macedonia:

- i) the personal income tax;
- ii) the profit tax;
- iii) the property tax;

(hereinafter referred to as "Macedonian Tax");

b) in the case of Poland

- i) the personal income tax;
- ii) the corporate income tax;

(hereinafter referred to as "Polish 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 States shall

notify each other of significant changes which 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) i) the term "Macedonia" means the territory of the Macedonian Contracting Party, and used in geographical sense means its land, inland lake water and bottom over which it has jurisdiction or sovereign rights for the purpose of exploring, exploiting, conserving and managing natural resources, pursuant to internal jurisdiction and international law;

ii) the term "Poland " when used in the geographical sense means the territory of the Poland Contracting Party, including any area beyond its territorial waters, within which under the laws of Poland and in accordance with international law, Poland may exercise its sovereign rights over the sea bed, its subsoil and their natural resources;

b) the terms " a Contracting State" and "the other Contracting State" mean the both Contracting Parties as the context requires;

c) the term "tax" means any tax covered by Article 2 of this Agreement;

d) the term "person" includes an individual, a company and any other body of persons;

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

f) the term "registered office" means the legal head office registered under the domestic laws of each Contracting State;

g) the term "national" means all individuals possessing the nationality of a Contracting State and all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;

h) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

i) the term "competent authority" means:

i) in the case of Macedonia, the Minister of Finance or his authorized representative; and

ii) in the case of Poland the Ministry of Finance or his authorized representative;

j) the term "international traffic" means any transport by a ship, aircraft or a road vehicle operated by an enterprise which has its head office in a Contracting State,

except when the ship, aircraft or the road vehicle is operated solely between places situated in the territory of the other Contracting State.

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

Article 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, legal head office or any other criterion of a similar nature.

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

a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (center of vital interests);

b) if the State in which he has his center of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

d) if each State considers him to be its national or if he is a national of neither of them, the competent authorities of the Contracting States shall settle the question by a mutual agreement.

3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its legal head office is situated.

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term " permanent establishment" means a fixed place of activities through which an enterprise of one Contracting State wholly or partly carries out any business in the other Contracting State.

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, a construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities continue for a period of 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 subparagraphs 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 of this Article, where a person - other than an agent of an independent status to whom the paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person has and habitually exercises in that State an authority to conclude contracts in the name of 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 other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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

Article 6

INCOME FROM IMMOVABLE PROPERTY

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

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

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

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

Article 7

BUSINESS PROFITS

1. The profits derived in a Contracting State by an enterprise of the other Contracting State may be taxed in the first-mentioned State only if it is derived through a permanent establishment situated therein and only so much of them as is attributable to the activity of such permanent establishment.

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

activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

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

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

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year, unless there is a good sufficient reason to the contrary.

6. 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

INTERNATIONAL TRANSPORT

1. Profits derived by an enterprise of a Contracting State from the operation of ships, aircraft or road vehicles in international traffic, shall be taxable only in the Contracting State where the head office of the permanent establishment is situated.

2. The provisions of paragraph 1 of this Article, shall also apply to profits derived 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 State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those

conditions, have not accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are by the first-mentioned State claimed to be profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits, where that other State considers the adjustment justified. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if it is necessary consult each other.

Article 10

DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

a) 5 per cent of the gross amount of the dividends if the recipient is a company (excluding partnership), which holds directly at least 25 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 in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article, means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident

of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State and derived by the Government of other Contracting State including local authorities thereof, the Central Bank or any financial institution controlled by that Government, or interest derived on loans guaranteed by that Government shall be exempt from tax in the first mentioned State.

4. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.

5. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein or performs in that other State an 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. In such case the provisions of Article 7 or 14 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

7. Where, by a 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 State, due regard being had to the other provisions of this Agreement.

Article 12

ROYALTIES

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

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 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 consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematography films and recordings for radio and television, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning, industrial, commercial or scientific experience or for the use of, or the right to use, industrial, commercial, or scientific equipment.

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the right or property giving rise to the royalties is effectively connected and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

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

taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

CAPITAL GAINS

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

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

3. Gains from the alienation of ships, aircraft or road vehicles operated in international traffic, or movable property pertaining to the operation of such ships, aircraft or road vehicles, shall be taxable only in the Contracting State in which the legal head office is situated.

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

Article 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State from the performance of professional services or other activities of an independent character shall be taxable only in that State, unless such services are performed or were performed in the other Contracting State and the income is attributable to a fixed base regularly available to him in that other State.

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

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment, shall be taxable only in that Contracting State.

If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1 of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State, shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and

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

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

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, salaries and other remuneration derived by the resident of a Contracting State for work carried out in the other Contracting State are not taxed in that other State if it is performed by persons:

a) in connection with a building site, a construction, assembly or installation project in accordance with paragraph 3 of Article 5 of this Agreement for a period not exceeding 12 months;

b) in respect of an employment exercised aboard of a ship, aircraft or road vehicle operated in international traffic by an enterprise of a Contracting State of which the enterprise is a resident.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTS AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as theater, motion picture, radio or television artists, or a musician, or as a sportsman from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or 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 Article 7, 14 and

15, be taxed in the Contracting State in which the activities of the entertainer or the sportsman are exercised

3. Such income shall, however, be exempt from tax in the first-mentioned Contracting State if such activities are exercised pursuant to a special program for cultural exchange agreed upon between the Governments of the two Contracting States.

Article 18

PENSIONS

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

Article 19

GOVERNMENT SERVICE

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

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

(i) is a national of that State; or

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

2. a) Any pension paid by, or out of funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or local authority, shall be taxable only in that State.

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

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

Article 20

STUDENTS

1. Payments which a student or a business apprentice who is a national of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments arise from sources outside that other State.

2. Remuneration which a student or a trainee who is a national of a Contracting State derives from an employment which he exercises in the other Contracting State for a period or periods not exceeding 183 days in a calendar year, in order to obtain practical experience related to his education or formation, shall not be taxed in that other State.

Article 21

TEACHERS

1. Likewise, remuneration received by a teacher or by an instructor who is a national of a Contracting State and who is present in the other Contracting State, whose primary purpose of teaching or engaging in scientific research for a period or periods is not exceeding two years, shall be exempt from tax in that other State on his remuneration from personal services for teaching or research, provided that such payments arise from sources outside that other State.

2. The provisions of paragraph 1 of this Article will not apply to the income derived from research work, if that research work has not been undertaken for public interest, but mainly for personal interest of particular person or more persons.

Article 22

OTHER INCOME

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

2. Income of a resident of a Contracting State, not dealt with in details in the previous articles of this Agreement, but which have been realized in the other Contracting State, shall be taxable only in that Contracting State.

Article 23

CAPITAL

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

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

3. Capital represented by ships, aircraft or road vehicles operated in international traffic and by movable property pertaining to the operation of such ships, aircraft or road vehicles, shall be taxable only in the Contracting State in which the registered office of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State, shall be taxable only in that State.

Article 24

ELIMINATION OF DOUBLE TAXATION

1). Double taxation for the Macedonian residents shall be eliminated as follows:

a) Where a Macedonian resident derives income or owns capital which in accordance with the provisions of this Agreement may be taxed in Poland, Macedonia shall allow:

i) as deduction of the income tax of that resident an amount equal to the amount to the income tax paid in Poland.

ii) as deduction of the capital tax of the resident, an amount equal to the property tax paid in Poland.

Such deductions shall not, however, exceed that part of the income tax computed before the deduction is given, which is appropriate to the income or the capital which may be taxed in Poland.

2) In the case of a Poland residents, double taxation shall be avoided as follows:

a) Where a Poland resident of derives income (or owns capital) which, in accordance with the provisions of this Agreement may be taxed in Macedonia, Poland shall, subject to the provisions of subparagraph b), exempt such income (or capital) from tax. Poland may in calculating the amount of tax on the remaining income (or capital) of such resident apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

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

3) Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State 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 25

NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other

or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

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

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

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

5. These provisions shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, relieves and deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own resident.

6. The provisions of this Article shall apply to taxes referred to in Article 2 of this Agreement.

Article 26

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, irrespective of the remedies provided by the national laws of those States, present his case to the Competent authority of the Contracting State of which he is a resident, or if his case comes under paragraph 1, Article 25, to the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case

by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.

3. The competent authorities of the Contracting States shall endeavor 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 elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 27

EXCHANGE OF INFORMATION

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

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

b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

c) to supply information 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 28

DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 29

ENTRY INTO FORCE

1. Each Contracting State shall notify to the other Contracting State the completion of the procedure required as far as it is concerned for the bringing into force of this Agreement.

2. This Agreement shall enter into force on the day of the latter of the notifications referred to in paragraph 1 of this Article and its provisions shall apply:

a) in Macedonia: for taxes with respect to income tax and capital tax for every taxable year beginning on or after the first day of January of the year following that of entry into force by the Agreement;

b) in Poland:

i) in respect of taxes withheld at source to amounts of income derived on or after 1st January in the calendar year next following the year in which the Agreement enters into force;

ii) in respect of other taxes on income, (and taxes on capital) to such taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following the year in which the Agreement enters into force.

Article 30

TERMINATION

1. This Agreement shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year after expiry of five years from the date on which the Agreement enters into force.

In such event, the Agreement shall cease to have effect:

a) in Macedonia: for taxes with respect to income tax and capital tax every taxable year beginning on or after the first day of January of the year following that the notice of termination is given.

b) in Poland:

i) in respect of taxes withheld at source to amounts of income derived on or after 1st January in the calendar year next following the year in which such notice has been given;

ii) in respect of other taxes on income and taxes on capital to such taxes chargeable for any taxable year beginning on or after 1st January in the calendar year next following the year in which such notice has been given.

IN WITNESS WHEREOF the undersigned being duly authorized thereto have signed this Agreement,

Done in Warsaw, on __ October 1995 in two original versions, in Macedonian, Polish and English languages, all three texts being equally authentic. In case of any divergence of interpretation, the English text shall prevail.

FOR THE MACEDONIAN
GOVERNMENT

Stevo Crvenkovski

FOR THE POLAND
GOVERNMENT

Wladyslaw Bartoszewski