

**CONVENTION  
BETWEEN  
THE GOVERNMENT OF THE RUSSIAN FEDERATION  
AND THE GOVERNMENT  
OF THE FEDERATIVE REPUBLIC OF BRAZIL  
FOR THE AVOIDANCE OF DOUBLE TAXATION  
AND THE PREVENTION OF FISCAL EVASION  
WITH RESPECT TO TAXES ON INCOME**

The Government of the Russian Federation and the Government of the Federative Republic of Brazil, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

**Article 1**  
**PERSONS COVERED**

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

**Article 2**  
**TAXES COVERED**

1. The taxes to which this Convention shall apply are:

(a) in the case of Russia:

(i) tax on profits of organisations,

(ii) income tax on individuals

(hereinafter referred to as "Russian tax");

(b) in the case of Brazil:

the federal income tax

(hereinafter referred to as "Brazilian tax").

2. This Convention shall apply also to any identical or substantially similar taxes on income which are imposed by either of the Contracting States after the date of signature of this Convention in addition to, or in place of, the above-mentioned taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

**Article 3**  
**GENERAL DEFINITIONS**

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

(a) the terms "a Contracting State" and "the other Contracting State" mean the Russian Federation or the Federative Republic of Brazil, as the context requires;

(b) the term "the Russian Federation (Russia)" means the territory of the Russian Federation, as well as its continental shelf and exclusive economic zone, where the Russian Federation has sovereign rights and exercises jurisdiction in accordance with international law;

(c) the term "the Federative Republic of Brazil (Brazil)" means the territory of the Federative Republic of Brazil, including its territorial sea, as defined in accordance with the United Nations Convention on the Law of the Sea, and the corresponding seabed and subsoil, as well as any maritime area beyond the territorial sea, including the seabed and the subsoil to the extent that Brazil exercises in such an area sovereign rights with respect to the exploration and exploitation of the natural resources in accordance with international law;

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

(e) 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;

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

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

(h) the term "national" means:

(i) any individual possessing:

- in the case of Russia the citizenship of Russia, and
- in the case of Brazil the nationality of Brazil;

(ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

(i) the term "competent authority" means:

(i) in the case of the Russian Federation - the Ministry of Finance of the Russian Federation or its authorised representative;

(ii) in the case of the Federative Republic of Brazil - the Minister of Finance, the Secretary of Federal Revenue or their authorised representatives.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### **Article 4 RESIDENT**

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of registration or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof.

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

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either

Contracting State, he shall be deemed to be a resident only 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 only of the State of which he is a national;

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

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

## **Article 5 PERMANENT ESTABLISHMENT**

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise of a Contracting State is wholly or partly carried on 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. The term "permanent establishment" likewise encompasses a building site, a construction, assembly or installation project, but only if such site or project continue for a period of more than nine 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 or display of goods or merchandise belonging to the enterprise;

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

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

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

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or an auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e).

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 a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise of a Contracting State 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 a permanent establishment of the other.

**Article 6**  
**INCOME FROM IMMOVABLE PROPERTY**

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. Ships and aircraft shall not be regarded as immovable property.

The term "immovable property" shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of law respecting landed property apply, rights known as 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.

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

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

activities under the same or similar conditions and 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 deduction expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred.

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

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

### **Article 8**

## **INCOME FROM INTERNATIONAL SHIPPING AND AIR TRANSPORT**

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. However, if the place of effective management is situated in neither Contracting State, such profits shall be taxable only in the State of which the enterprise is a resident.

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

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency, but only to so much of the profits so derived as is attributable to the participation held in the joint operation.



**Article 9**  
**ASSOCIATED ENTERPRISES**

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 have accrued to one of the enterprises, but, by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

**Article 10**  
**DIVIDENDS**

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

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

(a) 10 per cent of the gross amount of the dividends if the beneficial owner holds directly at least 20 per cent of the total 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, 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 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on or carried on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment or performs independent personal services from a fixed base situated therein and the dividends are attributable to such permanent establishment or fixed base. In such case the provisions of Articles 7 or 14 of this Convention, as the case may be, shall apply.

5. Where a resident of a Contracting State has a permanent establishment in the other Contracting State, such a permanent establishment may be subject to a tax withheld at source in accordance with the law of that other Contracting State. However, such a tax shall not exceed 10 per cent of the gross amount of the profits of that permanent establishment determined after the payment of the corporate tax related to such profits.

6. 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.

7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividends are paid to take advantage of this Article by means of that creation or assignment.

## **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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraphs 1 and 2:

(a) interest arising in a Contracting State and paid to the Government of the other Contracting State, a political subdivision thereof or any agency (including a financial institution) wholly owned by that Government, or political subdivision shall be exempt from tax in the first-mentioned State, unless subparagraph (b) applies;

(b) interest from securities, bonds or debentures issued by the Government of a Contracting State, a political subdivision thereof or any agency (including a financial institution) wholly owned by that Government or political subdivision shall be taxable only in that State.

4. The term "interest" as used in this Article means income from debt-claims of every kind, and in particular, income from government securities and income from bonds or debentures, as well as other income assimilated to income from money lent by the tax law of the Contracting State in which the income arises.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on or carried on business in the other Contracting State in which the interest arises, through a permanent establishment or performs 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 Articles 7 or 14 of this Convention, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is the Government of that Contracting State, a political subdivision of that State, a local authority thereof or a resident of that Contracting 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 a fixed base, then such

interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner of interest 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 Convention.

8. The tax rate limitation provided for in paragraph 2 shall not apply to interest arising in a Contracting State and paid to a permanent establishment of an enterprise of the other Contracting State which is situated in a third State.

9. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

## **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 also be taxed in the Contracting State in which they arise and according to the laws of that State, but, if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 15 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, films or tapes for television or radio broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on or carried on business in the other Contracting State in which the royalties arise, through a permanent establishment or performs 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 Articles 7 or 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is the Government of that Contracting State, a political subdivision of that State, a local authority thereof or a resident of that Contracting State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or 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 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.

7. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

### **Article 13** **CAPITAL GAINS**

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

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

3. However, gains from the alienation of ships or aircraft operated in international traffic by an enterprise of a Contracting State or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the enterprise is subject to tax in accordance with Article 8 of this Convention.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 of this Article and arising in the other Contracting State may also be taxed in that other State.

#### **Article 14** **INDEPENDENT PERSONAL SERVICES**

1. Income derived by a resident of a Contracting State from the performance of professional services or other independent activities of similar nature shall be taxable only in that State, unless:

(a) the remuneration for such services or activities is paid by a resident of the other Contracting State or is borne by a permanent establishment or a fixed base situated in that other State; in such a case, the income may also be taxed in that other State; or

(b) such a resident, his/her employees or any persons on his/her behalf stay, or the services or activities go on in the other Contracting State, for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; in such a case, only so much of the income as is derived from the services or activities performed by such a resident may be taxed in that other State; or

(c) such services or activities are performed in the other Contracting State and the beneficiary has habitually in that other State a fixed base for the

purpose of performing his/her activities; in such a case, only so much of the income as is attributable to that fixed base may be taxed in that other State.

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

### **Article 15** **INCOME FROM EMPLOYMENT**

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

(a) the recipient is present in the other State 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 other Contracting State, and

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

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in the Contracting State in which the profits of the enterprise are taxable according to Article 8 of this Convention.

**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 any other council of a company which is a resident of the other Contracting State may be taxed in that other State.

**Article 17**  
**ARTISTES 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 a theatre, motion picture, radio or television artiste, 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 the sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by entertainers or sportsmen if the visit to that State is wholly or substantially supported by the other Contracting State or a political subdivision or local authority thereof. In such a case the income shall be taxable only in the State of which the entertainer or sportsman is a resident.

**Article 18**  
**GOVERNMENT SERVICE**

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by the Government of a Contracting State, a political subdivision or a local authority thereof to an individual in respect of services rendered to that State, any political subdivision or local authority thereof shall be taxable only in that State.



(b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient 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. Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or a political subdivision or a local authority shall be taxable only in that State.

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

3. The provisions of Articles 15, 16 and 19 shall apply to salaries, wages and other similar remuneration, and to pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

### **Article 19 PENSIONS**

1. Subject to the provisions of paragraph 2 of Article 18, pensions, other similar remuneration in consideration of past employment, and annuities paid to a resident of a Contracting State may be taxed in that State.

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a Contracting State or a political subdivision or a local authority thereof shall be taxable only in that State.

3. As used in this Article:

(a) the term "pensions and other similar remuneration" means periodic payments made after retirement in consideration of past employment or by way of compensation for injuries received in connection with past employment;

(b) the term "annuity" means a stated sum payable periodically at stated times during life, or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth (other than services rendered).

#### **Article 20**

### **TEACHERS AND RESEARCHERS**

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

#### **Article 21**

### **STUDENTS AND APPRENTICES**

Payments received by a student or an apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training and assigned for the purpose of his maintenance and education shall not be taxed in the first-mentioned Contracting State provided that such payments arise from sources in the other State.

#### **Article 22**

### **OTHER INCOME**

Items of income of a resident of a Contracting State, arising in the other Contracting State and not dealt with in the foregoing Articles of this Convention, may also be taxed in that other State.

**Article 23**  
**ELIMINATION OF DOUBLE TAXATION**

1. Where a resident of a Contracting State derives income which in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow, as a deduction from the tax on income of that resident, an amount equal to the income tax paid in that other State.

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

2. Where in accordance with any provision of this Convention income derived 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 of such resident, take into account the exempted income.

**Article 24**  
**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 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 of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 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.

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. In this Article, the term "taxation" means taxes to which this Convention applies.

#### **Article 25**

### **MUTUAL AGREEMENT PROCEDURE**

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident.

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

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

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

#### **Article 26**

### **EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of

the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in court proceedings or in judicial decisions according to the domestic legislation of the Contracting States.

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 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 27** **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 rules of general international law or under the provisions of special agreements.

#### **Article 28** **LIMITATION OF BENEFITS**

1. The competent authorities of a Contracting State may deny the benefits of this Convention to any person, or with respect to any transaction, if in their

opinion the granting of such benefits would constitute an abuse of the Convention in view of its purposes.

2. If after the date of signature of this Convention a Contracting State introduces legislation in terms of which offshore income derived by a company from:

(a) shipping;

(b) banking, financing, insurance, investment or similar activities; or

(c) being the headquarter, co-ordination centre or similar entity providing administrative services or other support to a group of companies which carry on business primarily in other States,

is not taxed in that State or is taxed at a rate of tax which is significantly lower than the rate of tax which is applied to income from similar onshore activities, the other Contracting State shall not be obliged to apply any limitation imposed under this Convention on its right to tax the income derived by the company from such offshore activities or on its right to tax the dividends paid by the company.

3. A legal entity that is a resident of a Contracting State and derives income from sources within the other Contracting State shall not be entitled in that other Contracting State to the benefits of this Convention if more than fifty per cent of the beneficial interest in such an entity (or in the case of a company, more than fifty per cent of the aggregate vote and value of the company's shares) is owned, directly or indirectly, by any combination of one or more persons that are not residents of the first-mentioned Contracting State. However, this provision shall not apply if that entity carries on in the Contracting State of which it is a resident a substantial business activity other than the mere holding of securities or any other assets, or the mere performance of auxiliary, preparatory or any other similar activities in respect of other related entities.

### **Article 29**

#### **ENTRY INTO FORCE**

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention.

2. The Convention shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect:

(a) in respect of tax withheld at source, for amounts paid, remitted or credited on or after the first day of January in the calendar year next following that in which the Convention enters into force; and

(b) in respect of other taxes covered by the Convention, for tax years beginning on or after the first day of January in the calendar year next following that in which the Convention enters into force.

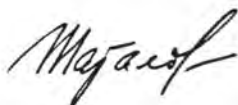
### Article 30 TERMINATION

This Convention shall remain in force indefinitely but either Contracting State may terminate the Convention through diplomatic channels, by giving to the other Contracting State written notice of termination at any time after the expiration of five years from the date on which the Convention enters into force, provided that any such notice shall be given on or before the thirtieth day of June in any calendar year. In such event, the Convention shall cease to have effect in respect of income derived on or after the first day of January of the calendar year next following that in which the notice of termination is given.

In witness whereof the undersigned, duly authorized thereto, have signed this Convention.

Done at Brasilia on 22<sup>nd</sup> November of 2004, in duplicate, in the Russian, Portuguese and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

**FOR THE GOVERNMENT OF  
THE RUSSIAN FEDERATION**



**FOR THE GOVERNMENT OF  
THE FEDERATIVE REPUBLIC  
OF BRAZIL**



## PROTOCOL

At the signing of the Convention between the Government of the Russian Federation and the Government of the Federative Republic of Brazil for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned, duly authorized thereto, have agreed upon the following provisions which constitute an integral part of the Convention.

### **1. With reference to Article 10, paragraph 3**

It is understood that in the case of Brazil the term "dividends" shall also include "jouissance" shares or "jouissance" rights, mining shares and founders shares.

### **2. With reference to Article 11, paragraphs 3 and 4**

It is understood that, in the case of an agency, the provisions of subparagraph (a) of paragraph 3 of Article 11 shall only apply to interest paid to such an agency (including a financial institution) wholly owned by the Government of a Contracting State or by a political subdivision thereof when such an agency is the beneficial owner of the interest.

It is understood that interest paid as "remuneration on the company's equity" ("remuneração sobre o capital próprio") in accordance with Brazilian tax law is also considered interest for the purposes of paragraph 4 of Article 11.

It is also understood that the term "interest", as defined for the purposes of paragraph 4 of Article 11, includes commissions and similar fees paid by a resident of Brazil for services linked with the money lent and paid to a bank or other financial institution.

### **3. With reference to Article 12, paragraph 3**

It is understood that the provisions of paragraph 3 of Article 12 shall apply to payments of any kind received as consideration for the rendering of technical services and technical assistance.

It is also understood that payments of any kind concerning any transactions with respect to computer softwares shall be taxable by a Contracting State in accordance with its domestic legislation.



#### **4. With reference to Article 14**

It is understood that the provisions of Article 14 shall apply even if the activities are exercised by a company or a partnership.

#### **5. With reference to Article 24**

It is understood that the provisions of paragraph 5 of Article 10 are not in conflict with the provisions of paragraph 2 of Article 24.

It is understood that the provisions of Brazilian tax law that do not allow that royalties as defined in paragraph 3 of Article 12, paid by a permanent establishment situated in Brazil to a resident of Russia that carries on business in Brazil through such a permanent establishment, be deductible at the moment of the determination of the taxable income of the above referred permanent establishment, are not in conflict with the provisions of Article 24.

It is understood that, with respect to Article 24, the provisions of the Convention do not prevent a Contracting State from applying the provisions of its tax law regarding "thin capitalization", as well as "controlled foreign corporations (CFCs)".

It is also understood that, with respect to paragraph 4 of Article 24, enterprises of Brazil, the capital of which is wholly or partly owned or controlled, directly or indirectly by one or more residents of Russia, shall not be subjected in Brazil 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 Brazil the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of a third State are or may be subjected.

#### **6. With reference to Article 25**

It is understood that, irrespective of the participation of the Contracting States in the General Agreement on Trade in Services (GATS), or in any other international agreements, the tax issues with regard to the taxes covered by the Convention arising between the Contracting States shall be governed only by the provisions of the Convention.

In witness whereof the undersigned, duly authorised thereto, have signed this Protocol.

Done at Brasilia on 22<sup>nd</sup> November of 2004, in duplicate, in the Russian, Portuguese and English languages, all texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

**FOR THE GOVERNMENT OF  
THE RUSSIAN FEDERATION**



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