

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

The Government of the Russian Federation and the Government of the Czech Republic,

desiring to conclude a Protocol to the Convention between the Government of the Russian Federation and the Government of the Czech Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital signed at Prague on November 17, 1995 (in this Protocol referred to as "the Convention"),

have agreed as follows:

**ARTICLE I**

Sub-paragraph h) of paragraph 1 of Article 3 of the Convention shall be modified as follows:

"h) the term "international traffic" means any transport by a ship, boat or aircraft operated by a resident of a Contracting State, except when the ship, boat or aircraft is operated solely between places in the other Contracting State;"

**ARTICLE II**

1. Paragraph 3 of Article 5 of the Convention shall be modified as follows:

"3. The term "permanent establishment" likewise encompasses:

- a) a building site, or 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;
- b) the furnishing of services, including consultancy or managerial services, by an enterprise of a Contracting State through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue in the territory of the other Contracting State for a period or periods exceeding in the aggregate six months within any twelve-month period."

2. Paragraph 5 of Article 5 of the Convention shall be modified as follows:

"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, 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."

3. Paragraph 6 of Article 5 of the Convention shall be modified as follows:

"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."

### ARTICLE III

1. The first sentence of paragraph 2 of Article 10 of the Convention shall be modified as follows:

"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 10 per cent of the gross amount of the dividends."

2. Paragraph 3 of Article 10 of the Convention shall be modified as follows:

"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 other income which is subjected to the same taxation treatment as income from shares by the taxation laws of the State of which the company making the payment is a resident."

### ARTICLE IV

1. Paragraph 1 of Article 11 of the Convention shall be modified as follows:

"1. Interest arising in a Contracting State and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State."

2. Second sentence shall be added to paragraph 2 of Article 11 of the Convention that shall read as follows:

"The term "interest" shall not include any item of income which is considered as a dividend under the provisions of paragraph 3 of Article 10."

3. New paragraph 4 shall be added to Article 11 of the Convention that shall read as follows:

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

4. The existing paragraph 4 of Article 11 of the Convention shall be renumbered as paragraph 5.

#### ARTICLE V

The first sentence of paragraph 2 of Article 12 of the Convention shall be modified as follows:

"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 10 per cent of the gross amount of the royalties."

#### ARTICLE VI

1. New paragraph 4 shall be added to Article 13 of the Convention that shall read as follows:

"4. Gains derived by a resident of a Contracting State from the alienation of shares or other similar rights in a company deriving more than 50 per cent of their value from immovable property situated in the other Contracting State may be taxed in that other State."

2. The existing paragraph 4 of Article 13 of the Convention shall be renumbered as paragraph 5 and it shall be modified as follows:

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

#### ARTICLE VII

1. Paragraph 3 of Article 15 of the Convention shall be modified as follows:

"3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship, boat or aircraft operated by a resident of a Contracting State in international traffic, may be taxed in that State."

2. New paragraph 4 shall be added to Article 15 of the Convention that shall read as follows:

"4. The term "employer" mentioned in sub-paragraph b) of paragraph 2 means the person having right on the work produced and bearing the responsibility and risk connected with the performance of the work."

#### ARTICLE VIII

Article 24 of the Convention shall be modified as follows:

##### "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 other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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

3. Nothing in this Article shall 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.

4. Except where the provisions of Article 9, paragraph 5 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. 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.

5. 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.

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

#### ARTICLE IX

Paragraph 1 of Article 25 of the Convention shall be modified as follows:

"1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention."

#### ARTICLE X

Article 26 of the Convention shall be modified as follows:

##### "Article 26 EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political

subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 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, 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 paragraphs 1 and 2 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).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State 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 State 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 State 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."

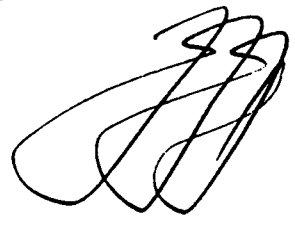
## ARTICLE XI

Each of the Contracting States shall notify to the other, through the diplomatic channels, the completion of the procedures required by its domestic law for the bringing into force of this Protocol. The Protocol, which shall form an integral part of the Convention, shall enter into force on the date of the latter of these notifications and

shall have effect in both States for taxable periods beginning on or after 1<sup>st</sup> January in the calendar year next following that in which the Protocol enters into force.

Done in duplicate at Moscow..... this 27<sup>th</sup> day of April.....  
2007. in the Russian, Czech and English languages, all texts being equally authentic.  
In the case of any divergence, the English text shall prevail.

For the Government  
of the Russian Federation



For the Government  
of the Czech Republic

