

CONVENTION

BETWEEN THE GOVERNMENT OF THE RUSSIAN FEDERATION AND THE GOVERNMENT OF THE REPUBLIC OF ECUADOR 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 Republic of Ecuador, 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:

CHAPTER I Scope of the Convention

Article 1 Subjective Scope

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

Article 2 Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State, one of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on income from the alienation of movable or immovable property.

3. The existing taxes to which this Convention shall apply are, in particular:

a) In the Republic of Ecuador,

- (i) the income tax of individuals;
- (ii) the income tax of societies and other similar entities
(hereinafter referred to as "Ecuadorian Tax"); and

b) In Russia:

- (i) the tax on profits of organizations;
- (ii) the tax on income of individuals
(hereinafter referred to as "Russian Tax").

4. The Convention shall apply also to any identical or substantially similar taxes, or to those taxes imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other by the end of each year of any substantial changes, which have been made in their respective taxation laws.

CHAPTER II **Definitions**

Article 3 **General definitions**

1. For the purposes of this Convention, unless the context otherwise requires, it will be understood that:

a) the expressions "a Contracting State" and "the other Contracting State" mean, as the context requires, the Russian Federation or the Republic of Ecuador;

b) the term “Russia” refers to the Russian Federation, when used in geographical sense, means all the territory of the Russian Federation and also its exclusive economic zone and continental shelf, defined according to the UN Convention on the law of the seas (1982);

c) the term “Republic of Ecuador” refers to the Republic of Ecuador, such term means the national territory, including the territorial sea thereof, subsoil and other territories over which the Republic of Ecuador exerts sovereignty, sovereign rights or jurisdiction in accordance with its domestic and international laws;

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

e) the term “company” means any juridical person or entity that - according to the domestic law - is treated as juridical person for tax purposes;

f) 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;

g) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the transport occurs solely between places in the other Contracting State;

h) the term “competent authority” means:

(i) in the case of the Republic of Ecuador, the General Director of the Internal Revenue Service (Servicio de Rentas Internas);

(ii) in the case of Russia, the Ministry of Finance of the Russian Federation or its authorized representative;

i) the term “national” means:

(i) any individual possessing the nationality of a Contracting State,
or

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

j) In the case of Russia, the term “political subdivisions” means subjects of the Russian Federation, defined as such according to its legislation.

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 incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

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 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 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 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 he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question through a mutual agreement procedure.

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 only of the State in which its place of effective management is situated. If the State where the place of effective management is situated cannot be determined the competent authorities of the Contracting States shall endeavor to settle the question through a mutual agreement procedure. In absence of mutual agreement between the competent authorities of the Contracting States, such person shall not have the right to demand any relief or tax exemption under this Convention.

Article 5 Permanent Establishment

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place through which an enterprise of a Contracting State wholly or partly carries on the business in the other Contracting State.

2. A resident enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if:

- a) it maintains fixed places or centers of economic activity such as:
 - (i) a place of management;
 - (ii) a branch;
 - (iii) an office;
 - (iv) a factory;
 - (v) a workshop; and
 - (vi) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

- b) it maintains any building site, or construction, assembly or installation project or supervisory activities in connection therewith, but only if such site, project or activities last more than 10 months;

- c) it maintains a stock of goods or merchandise intended for trade and not only for display or exhibition;

- d) it provides services, including consultancy services through employees or personnel hired by that enterprise, but only if such activities continue for a

period or periods exceeding one month in total, within any period of 12 months.

3. The term “permanent establishment” does not 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 development of activities through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business and invoiced directly at their own risk, transactions of goods or services. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he shall not be considered an agent of an independent status if the transactions between the agent and the enterprise were not made under arm’s length conditions; and

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.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom item d) of the paragraph 3 applies – is acting in a Contracting State on behalf of an enterprise of the other Contracting State, and has, and habitually exercises, in that 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 Contracting State in respect to any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3 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.

5. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 3 (d) applies.

6. 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.

CHAPTER III

Taxation of Income

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. For the purposes of this Convention, the term “immovable property” shall have the meaning, which it has under the laws 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, mineral, oil and forestry exploitations, rights to which the provisions of general 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 concession right to work, mineral deposits, sources and other natural resources. Ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, tenancy or 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 the income from immovable property used for the performance of independent personal services.

5. The provisions of paragraphs 1 and 3 shall also apply to the income on units of a real estate investment trust, a real estate investment fund or a similar collective investment vehicle, which is organized primarily for the purposes of investing in immovable property.

Article 7 Business Profits

1. The business 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. In such case, the business profits of the enterprise may be taxed in the other State but only so much of them as are attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in 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 including executive and general administrative expenses, insofar as they are incurred for the purposes of the permanent establishment, whether incurred in the State in which the permanent establishment is situated or elsewhere, only if the domestic legislation of the Contracting State where the establishment is located, considers such expenses as deductible.

The Contracting State where the permanent establishment is located shall recognize its expenses if it complies with the formal requirements set out in the domestic laws of that Contracting State.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in

accordance with the principles contained in this Article.

5. 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.

6. 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.

Article 8 **Shipping and Air Transport**

1. Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft, in international traffic shall be taxable only in that Contracting State.

2. For the purposes of this Article:

a) the term “profits” includes:

(i) the gross revenue arising from the operation of ships or aircraft in international traffic, and

(ii) interest on sums generated directly from the operation of ships or aircraft in international traffic, provided that such interest is incidental to the operation;

b) the expression “operation of a ship or aircraft” by an enterprise, also includes:

(i) charter or rental of ships or aircraft on a bareboat basis;

(ii) rental of containers and related equipment, if the charter or rental income is incidental to profits from the operation – by that enterprise – of ships or aircraft in international traffic.

3. Notwithstanding the provisions of paragraph 1 and Article 7, profits derived from the operation of ships or aircraft, used primarily for transporting passengers or goods exclusively between places in a Contracting State may be taxed in that State.

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,

b) decisions are taken by boards composed primarily of the same members in an enterprise of a Contracting State and an enterprise of the other Contracting State,

c) the same group of members, partners or shareholders 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,

d) 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 so 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 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, if it is agrees to such adjustment. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting State shall, if necessary, consult each other.

3. The provisions of paragraph 2 shall not apply where, in judicial or administrative or other legal proceedings, there were a firm decision that, by virtue of acts which result in an adjustment of benefits in accordance with paragraph 1, one of those enterprises will be liable for punishment for fraud, gross negligence or fraudulent breach.

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 only in that other State.

2. 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. However, if the recipient is the resident of the other Contracting State and the beneficial owner of the dividends the tax so charged shall not exceed:

a) 5 percent of the gross amount of the dividends if the beneficial owner is a company that owns directly at least 25 percent of the voting stock of the company paying the dividends;

b) 10 percent of the gross amount of the dividends in all other cases.

The provisions of 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, except debt-claims, participating in profits, as well as income from other 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. This term also means any payments on units of the mutual investment funds or similar collective investment vehicles (other than those mentioned in paragraph 5 of Article 6).

4. The provisions of paragraph 1 and 2 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, or performs in that other Contracting State independent personal services from a

fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of 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.

6. The provision 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 dividend is 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 Contracting 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 is a resident of the other Contracting State, the tax so charged shall not exceed 10

percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government, a political subdivision or a local authority, or any financial institution wholly owned by the Government of the other Contracting State, or paid on loans guaranteed or insured by the Government, a political subdivision or a local authority, or any financial institution wholly owned by the Government of the other Contracting State, as well as the interests paid upon loans granted by State-owned financial institutions of the other Contracting State carried out within the inter-governmental cooperation framework to fund socio – economic development programs prior to the Government’s authorization of the State where the borrower resides, shall be exempt from tax in the first – mentioned State.

4. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income bonds and debentures, as well as any other income that is subjected to the same taxation treatment as income from money lent by the taxation law of the Contracting State in which the income arises. The term “interest” however, does not include income dealt with in Article 10.

5. The provisions of paragraph 1 and 2 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 independent personal services from a fixed base situated therein, and the debt-claim generating that interest is attributable to such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is 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 and such interest is borne by such a 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 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 Convention.

8. The provisions of this Article shall not apply if the purpose or one of the main purposes of any person connected with the creation or allocation of credit on which interest is paid, were to take advantage of this Article through such creation or allocation.

Article 12

Royalties

1. Royalties arising in a Contracting State and beneficially owned by 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 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 royalties for the use of, or the right to use industrial, commercial or scientific equipment;

b) 15 percent of the gross amount of the royalties in all the other cases.

3. The term "royalties" as used in this Article means amounts of any kind paid for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films, tapes and other means of reproduction of sound and image, patents, trademarks, designs or models, plans, secret formulas or processes, or other intangible property, including information concerning industrial, commercial or scientific experience, including the right of plant varieties breeders, 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 Contracting State independent personal services from a fixed base, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is 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 a fixed base and the royalties are borne by such permanent establishment, or fixed base then 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 to use 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 a 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, with due regard to the other provisions of this Convention.

7. The provisions of this Article shall not apply if the purpose or one of the main purposes of any person connected with the creation or allocation of rights on which royalties are paid, were to take advantage of this Article through such creation or allocation.

Article 13 Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property situated in the other Contracting State shall be taxed only 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 that other State.

3. Gains derived from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State where the alienator is a resident.

4. Nothing in this Article shall affect the application of the domestic laws of a Contracting State to tax capital gains derived from the alienation of any property other than those mentioned in this Article.

Article 14 **Independent Personal Services**

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that base may be taxed in that other Contracting State; or

b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve - month

period; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed 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, accountants and auditors.

Article 15 **Income from employment**

1. Subject to the provisions of Article 16, 18 and 19, 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 done in the other Contracting State. If the employment is so done, such remuneration as is derived therefrom may be taxed in that other Contracting 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 that other Contracting 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, a person who is not a resident of that other Contracting State, and

c) the remuneration is not borne by a permanent establishment or a fixed

base, which the person has in the other Contracting State.

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

Article 16 Directors' Fees

Directors fees, assistance allowances and other similar payments derived by a resident of a Contracting State in his capacity as a member of a management board or board of directors of a company 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 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theater, 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 Contracting State. The income referred to in this paragraph shall include the income that the resident obtains from any personal activity exercised in the other Contracting State relating to its reputation as entertainer or sportsman.

2. Notwithstanding the provisions of Articles 7, 14 and 15, where income is respect of personal activities exercised by an entertainer or a sports person in his capacity as such accrues not to the entertainer or sports person himself but to

another person, that income may be taxed in the Contracting State in which the activities of the entertainer or sports person are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to the income derived by an entertainer or a sportsman from the activities performed within the framework of the cultural agreement concluded between the Contracting States.

Article 18 Pensions

1. Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxed only in that Contracting State.

2. Notwithstanding the provisions of paragraph 1 pensions paid and other payments made under public schemes, which are parts of the social security system of a Contracting State, its political subdivision or a local authority thereof, shall be taxable only in that Contracting State.

Article 19 Government Service

1. a) Salaries, wages and other remuneration, other than a pension, paid 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 subdivision or authority shall be taxable only in that State;

b) such salaries, wages and other remuneration, however, 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. The provisions of Articles 15, 16, 17, and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State, political subdivision or local authority thereof.

Article 20 Students

Payments which a student or business 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, receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21 Other Income

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

CHAPTER IV
Methods for Elimination of Double Taxation

Article 22
Elimination of Double Taxation

1. In the Republic of Ecuador double taxation is eliminated as follows:

a) where a resident of the Republic of Ecuador derives income which, in accordance with the provisions of this Convention, may be taxed in Russia, the Republic of Ecuador shall, without detriment of the provisions of item b), exempt such income from tax;

b) where a resident of the Republic of Ecuador derives items of income which, in accordance with the provisions of Article 10, 11 and 12, may be taxed in Russia, the Republic of Ecuador shall allow as a deduction from the Ecuadorian tax on the income of that resident an amount equal to the tax paid in Russia. 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 Russia.

2. In Russia, double taxation is eliminated as follows:

where a resident of Russia derives income from the Republic of Ecuador, the amount of tax on that income payable in the Republic of Ecuador in accordance with the provisions of this Convention may be credited against the Russian tax imposed on that resident. The amount of credit, however, shall not exceed the amount of the Russian tax on that income computed in accordance with the taxation laws and regulations of Russia.

CHAPTER V
Special Provisions

Article 23
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.

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. Nothing in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, relieves and reductions for taxation purposes on account of personal status or family responsibilities which it grants to its own residents.

4. Except where the provisions of paragraph 3 of Article 7, Article 9, paragraphs 7 and 8 of Article 11 or paragraphs 6 and 7 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.

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, notwithstanding the rules relating to related parties that handle each of the Contracting States in their domestic law, provided that this does not mean discrimination.

6. In this Article the term "taxation" refers to taxes covered by this Convention.

Article 24 **Limitation of benefits**

1. Unless the contrary is provided by this Convention, a person (other than an individual) who is a resident of a Contracting State and obtains income from the other Contracting State shall be entitled to all benefits applicable for residents of a Contracting State under this Convention, only if that person meets the requirements of paragraph 2 as well as the other conditions of this Convention to obtain any of benefits.

2. A resident of a Contracting State shall be a person who meets the requirements for a fiscal year only if such person is:

- a) a Governmental entity; or
- b) a company incorporated in any of the Contracting States, with at least 50 percent of the voting power or value of shares owned directly or indirectly by one or more individuals resident in either Contracting State and/or by other persons that were incorporated in any Contracting State and at least 50 percent

of their voting power or value of shares, or profit – sharing is owned directly or indirectly by one or more individuals resident of either Contracting State, or

c) a partnership or association of persons, where at least 50 percent or more of the profit-sharing is owned by one or more individuals resident in either Contracting State and/or by other persons that were incorporated in any Contracting State and at least 50 percent of their voting power or value of shares, or profit-sharing is owned directly or indirectly by one or more individuals resident of either Contracting State, or

d) charitable institution or other entity that is exempt for tax purposes, whose principal activities are carried out in any of the Contracting States.

The persons mentioned above shall not be entitled to the benefits of this Convention if more than 50 percent of the person's gross income for the taxable year is paid, directly or indirectly, to persons who are not residents of either Contracting State in the form of payments that are deductible for income tax purposes determined under this Convention in the person's State of residence.

3. A resident of a Contracting State shall, however, be entitled to the benefits of this Convention if the competent authority of the other Contracting State determines that such resident carries on business in the other State and the establishment or acquisition or maintenance of that person and commercial activities did not have as one of its principal purposes the obtaining of the benefits of the Convention.

4. Prior to a resident of a Contracting State is denied the tax relief in the other Contracting State in accordance to the preceding paragraphs, the competent authorities of the Contracting States shall consult each other. Also, the

competent authorities of the Contracting States may consult each other regarding the implementation of this Article.

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 this Convention, 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 of Article 23, 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 that produces taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavor, if the objection appears 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 the Convention. Any agreement reached will be implemented, notwithstanding any time limits in the domestic legislation of the Contracting States.

3. The competent authorities of the Contracting States shall endeavor to resolve any difficulties or doubts arising as to the interpretation or application of the Convention by means of a mutual agreement procedure. They may also consult with each other to eliminate double taxation in cases not covered by the Convention.

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

Article 26 **Exchange of Information**

1. The competent authorities of the Contracting States shall exchange information foreseeably relevant for carrying out the provisions of this Convention or the administration or implementation of the domestic laws concerning taxes of all kinds, including information relating to identification, settlement or collection of such taxes, collection and enforcement of tax credits, investigation or prosecution of alleged fiscal fraud or cases of tax avoidance. The exchange of information shall not be restricted by Articles 1 and 2 of this Convention.

Any information received by either Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of the requested State or according to the confidentiality conditions of the applicant State if such conditions are more restrictive, and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment, identification, settlement, administration or collection of taxes related to the requested information; the enforcement or prosecution in respect of such taxes; or the determination of appeals in relation to them.

Such persons or authorities shall use the information only for such purposes and in exercising their legal powers. They may disclose such information in public court proceedings or in judicial decisions of the requesting State's Fiscal Administration, in relation to these matters.

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 against 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; and,

c) to supply information which would disclose any commercial, industrial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

Notwithstanding the foregoing, this paragraph shall not be construed as meaning that the requested State may refuse to provide the information requested because it has to be obtained from financial institutions or similar figures.

3. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall obtain that information in the same manner and to the same extent as if the tax of the first – mentioned State were the tax of that other State and were being imposed by that other State, notwithstanding that the other State may not, at that time, need such information for purposes of its own tax. If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this Article in the required form, which may consist of – among others – depositions of witnesses and authenticated copies of unedited original documents (including books, papers, statements, records, reports, and writings), to the same extent such depositions

and documents can be obtained under the laws and administrative practices of that the other State with respect to its own taxes.

4. Where the competent authority of a Contracting State considers that information it has received from the other Contracting State, are likely to be used by the competent authority of a third country with which it maintains a signed specific agreement for exchange of information, it may transmit it to the latter with the consent of the competent authority of the providing Contracting State.

5. Except in the case of paragraph 2, the provisions of the preceding paragraphs shall be construed so as to impose on one of the Contracting States the obligation to use all legal means and make its best efforts to accomplish a request. The requested Contracting State shall response with the utmost diligence not exceeding the deadline for its response to 30 days from the receipt of the request. If it is impossible to response within the time limit, there is any difficulty in obtaining the information or there is refusing to provide it, the competent authority of the requested Contracting State shall inform the competent authority of the requesting Contracting State, indicating the presumable date that the response may be sent, the nature of the obstacles or the reasons for refusing to provide the information, as appropriate. In any case, the requested State may not refuse to provide the information only because it has no national interest in this type of information or because it has to be obtained from banking, financial institutions or nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interest in a person. The requesting State shall ensure that the information requested is of interest, reasonable and necessary for the determination of a tax or tax crime.

6. To facilitate the opportune exchange of information provided in this Article,

the competent authorities of the Contracting State shall – by mutual agreement – establish a specific procedure for this purpose. If the competent authorities of the Contracting State agree to follow an approved procedure proposed by the requesting State, this shall be fulfilled under the agreed terms.

In the case of the Republic of Ecuador, the information obtained through this Convention will have legal validity as the laws of the requesting State upon complying with the conditions established in such laws and in this Convention.

In the case of Russia, any information received according to the provisions of this Convention or a certificate of residence or any other document, issued by a competent authority of a Contracting State or its authorized representative shall not require authentication or apostille for the purposes of application of any provision of this Convention, including its use in courts or administrative bodies.

Article 27 **Assistance in tax collection**

1. The Contracting States shall provide assistance to each other for collecting of revenue claims. This assistance shall not be restricted by Articles 1 and 2. The competent authorities of the Contracting States may – by mutual agreement – set the mode of application of this Article.

2. The term “revenue claim” as used in this Article means any amount due in taxes of every kind and nature required by the Contracting States, their political subdivisions or local authorities, to the extent that this taxation is not contrary to this Convention or any other instrument of which the Contracting States are parties; the term also includes interest, penalties and administrative costs for

collection of, or settling of restraining orders related to, such amount.

3. Where a revenue claim of a Contracting State is enforceable under the laws of that State and the debtor is a person who – under the law of that State – cannot prevent the recovery at that time, the competent authorities of the other Contracting State, at the request of the competent authorities of the first mentioned State, shall accept such revenue claim for purposes of tax collection by that other State. Such other State shall recover revenue claims in accordance with the provisions of its domestic law on the implementation and collection of its own taxes, as if they were its own revenue claims.

4. When a revenue claim of a Contracting State is of such nature that this State could by virtue of its domestic Law, take measures of conservancy to safeguard recovery, the competent authorities of the other Contracting State shall, by request of the competent authorities of the first mentioned State, accept the above mentioned revenue claim for the purposes of taking such measures of conservancy. The other State will take the measures of conservancy in accordance with the provisions of its domestic law, as if it were its own revenue claim, even if – in the moment of application of such measures – the revenue claim was not exigible in the first mentioned State or the debtor was a person with right to prevent its collection.

5. Notwithstanding the provisions of paragraphs 3 and 4, a revenue claim accepted by a Contracting State for the purposes of such paragraphs, will not be subject in that State to prescription or priority applicable to revenue claims in conformity with its domestic Law because of its nature of revenue claim. Likewise, revenue claim accepted by a Contracting State under the provisions of paragraphs 3 or 4 will not be – in that State – entitled to priorities applicable to revenue claims by virtue of domestic Law of the other Contracting State.

6. No proceedings relating to the existence, validity or amount of the revenue claim in a Contracting State may be brought before the courts or administrative bodies of the other Contracting State.

7. After the application of recovery by a Contracting State under paragraphs 3 or 4, and prior to collection and submission by the other Contracting State, the revenue claim is no longer:

a) in the case of a request pursuant paragraph 3, a claim exigible under the law of the first mentioned State, and whose debtor is a person who at that time and according to the law of that State could not prevent its collection, or

b) in the case of a request pursuant to paragraph 4, a claim for which - under the law of the first mentioned State - might be taken conservancy measures to ensure its collection,

the competent authorities of the first - mentioned State shall notice without delay to the competent authorities of the other State that fact and, as determined by that other State, the first-mentioned State shall suspend or revoke its request.

8. In no case shall the provisions of this Article 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 carry out measures contrary to public policy;

c) to provide assistance if the other Contracting State has not reasonably

implemented all the conservancy measures for the collection or, as the case may be, the available measures of collection under its laws or administrative practice;

d) to provide assistance in cases where the administrative burden for that State is clearly disproportionate to the benefit to be obtained by the other Contracting State.

Article 28

Members of diplomatic missions and consular posts

The provisions of this Convention shall not-affect the fiscal privileges of members of diplomatic missions or consular post under the general rules of international law or under the provisions of special agreements.

Article 29

Miscellaneous provisions

1. The signing of this Convention does not limit in any way the powers of determination and control corresponding to the competent authorities of each Contracting State in terms of their domestic law. No resident of the Contracting States may invoke the existence of this Convention to justify the nonobservance of obligations and requirements provided in the domestic law of each Contracting State.

2. Considering that the main objective of this Convention is to avoid international double taxation, the Contracting States agree that in the event that the provisions of the Convention are used in ways that confer benefits not covered or pursued by the Convention, the competent authorities of the Contracting States shall, in accordance with the mutual agreement procedure of Article 25, recommend specific amendments to the Convention. Besides, the

Contracting States hereby agree that any such recommendations will be considered and discussed in an expeditious manner in order to amend the Convention to the extent necessary.

3. Each of the Contracting States keeps the right to tax, in accordance with its legislation, the income whose taxation is attributed to the other State by the Convention but that is not actually subject to tax under the domestic laws of that other State.

CHAPTER VI Final Provisions

Article 30 Entry into Force

1. Each Contracting State shall notify the other, through diplomatic channels, of compliance with the procedures required by law for entry into force of this Convention. This Convention shall enter into force on the date of receipt of the last notification.

2. The provisions of this Convention will apply:

a) in the Republic of Ecuador, with respect to taxes on income obtained and amounts to be paid, credited to account, make available or recorded as an expense, from the first day of January of the calendar year immediately following the year on which the Convention enters into force, and

b) in Russia, with respect to income derived during the taxable years beginning on or after the first day of January of the following year in which this Convention enters into force.

Article 31 Termination

1. This Convention shall remain in force and effect indefinitely, but either of the Contracting States, not later than June 30 of any calendar year, may denounce the Convention by giving notice thereof in writing to the other Contracting State through diplomatic channels.

2. The provisions of this Convention shall cease to have effect:

a) in the Republic of Ecuador, with respect to taxes on income obtained and amounts to be paid, credited to account, made available or recorded as an expense, from the first day of January of the immediately following calendar year;

b) in Russia, with respect to income derived during the taxable years beginning on or after the first day of January in the following calendar year in which the notice of termination is given;

c) the right of the States to request information, under this Convention, will continue until 31 December of the year following the termination of this instrument. Requests for information, incurred during the term of the Convention shall be processed in accordance with the procedure for such cases, until the completion of the process with the attention of the request;

d) the right of States to ask for assistance under Article 27, will continue until 31 December, of the year in which either State denounces this instrument. Requests for assistance in the collection, incurred during the term of the

Convention shall be processed in accordance with the procedure for such cases, until the completion of the process with the attention of the request.

Done in duplicate in Sochi on November 14th, 2016, in Russian, Spanish and English languages, all three texts being equally authentic. In the case of divergence in interpretation, the English text shall prevail.

**For the Government of
the Russian Federation**



**For the Government of
the Republic of Ecuador**



PROTOCOL

At the moment of signing of the Convention between the Government of the Russian Federation and the Government of the Republic of Ecuador for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions, which shall form an integral part of the Convention:

General:

The term "fixed base" in this Convention means a fixed place through which an individual performs his independent personal services.

With reference to Article 3:

In the case of the Republic of Ecuador, the term "company" includes any society or legal entity, which is considered as such, by the Ecuadorian law.

Done in duplicate in Sochi on November 14th, 2016, in Russian, Spanish and English languages, all three texts being equally authentic. In the case of divergence in interpretation, the English text shall prevail.

**For the Government of
the Russian Federation**



**For the Government of
the Republic of Ecuador**

