

CONVENTION BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE PEOPLE'S REPUBLIC OF BULGARIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

Prom. SG. 98/27 Dec 1988

The Government of the Federal Republic of Germany and the Government of the People's Republic of Bulgaria,

Led by the desire to encourage and deepen their mutual economic, scientific-technical and cultural relations by promoting the prevention of double taxation,

Have agreed as follows:

Personal Scope

Art. 1

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

Taxes Covered

Art. 2

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State, of a Land or a political subdivision thereof, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital.

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

(a) in the Federal Republic of Germany:

(I) the individual income tax (die Einkommensteuer);

(II) the corporate income tax (die Körperschaftsteuer);

(III) the capital tax (die Vermögensteuer); and

(IV) the trade tax (die Gewerbesteuer);

(hereinafter referred to as "tax of the Federal Republic of Germany")

(b) in the People's Republic of Bulgaria:

(I) the tax on total income;

(II) the tax on the income of unmarried, widowed and divorced persons and spouses without children;

(III) the tax on profits;

(hereinafter referred to as "taxes of the People's Republic of Bulgaria");

4. This Convention shall also apply to identical or substantially similar taxes imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes. At the end of each year the competent authorities of the Contracting States shall, if necessary, notify each other of changes which have been made in their respective taxation laws.

General Definitions

Art. 3

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

(a) The terms "a Contracting State" and "the other Contracting State" mean the Federal Republic of Germany or the People's Republic of Bulgaria as the context requires, in which the geographical territory is covered by the territory in which the tax law of the State concerned is in force;

(b) The term "person" means an individual, a legal entity or any other entity which is treated as a legal entity for tax purposes;

(c) 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;

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

(e) The term "competent Authority" means in the case of the Federal Republic of Germany the Federal Minister of Finance, and in the case of the People's Republic of Bulgaria the Minister of Finance or his representative.

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

Resident

Art. 4

1. For the purposes of this Convention the term "resident of a Contracting State" means:

(a) In the case of the Federal Republic of Germany a person who under the domestic laws is liable to tax therein by reason of his domicile, residence, place of management, seat or any other criterion of similar nature;

(b) In the case of the People's Republic of Bulgaria

(aa) an individual who according to domestic Bulgarian law is liable to tax with respect to income and does not have his residence in third States;

(bb) a legal entity which has its seat in the People's Republic of Bulgaria.

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

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

(b) if the State in which he has 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 of the State in which he has an habitual abode;

(c) if the State in which the individual is resident cannot be determined according to sub-paragraphs (a) and (b), then the Contracting States shall proceed in accordance with the provisions in Art. 24.

3. Where by reason of the provisions of paragraph 1 of this Art. 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.

Permanent Establishment

Art. 5

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

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

4. Notwithstanding the preceding provisions of this Art., the term "permanent establishment" shall be deemed not to include:

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

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery, including the sale of goods and merchandise displayed following the 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 auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Where a person resident in a Contracting State carries on a business activity in the other Contracting State through a representative, he shall be deemed to have a permanent establishment if the representative:

(a) has an authority to conclude contracts in the name of that person;

(b) habitually exercises such authority in that other State; and

(c) does not act as an agent of an independent status as defined in paragraph 6 of this Art..

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it is dealing in that 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.

Income From Immovable Property

Art. 6

1. Income derived by a resident of a Contracting State from immovable property situated in the other Contracting State may be taxed in that other Contracting State.

2. 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. Ships, boats and aircraft shall not be regarded as immovable property.

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

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

Business Profits

Art. 7

1. The profits of an enterprise of a Contracting State shall be taxable only in the Contracting State, if such enterprise carries on business through a permanent establishment situated therein.

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 deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

Shipping, Inland Waterways And Air Transport

Art. 8

1. Profits from the operation of ships, inland waterways transport 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.

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

3. The provisions of paragraph 1 and 2 shall likewise apply in respect of participation of a shipping or air transport company in a pool, a joint business or in an international operating agency.

Dividends

Art. 9

1. Dividends paid by a legal entity 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 legal entity paying the dividends is a resident, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 15 % of the gross amount of the dividends.

3. The term "dividends" as used in this Art. means:

(a) dividends from shares including income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims,

participating in profits, as well as the profits distributed by a legal entity which is resident of the People's Republic of Bulgaria; and

(b) other income which is subjected to the same taxation treatment as income from shares by the law of the Federal Republic of Germany in which the legal entity making the distribution is a resident, and for the purpose of taxation in the Federal Republic of Germany income derived from participations in a partnership as a silent partner and distributions on participating certificates of investment funds.

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 legal entity paying dividends is a resident, through a permanent establishment situated therein, or performs in that other State professional 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 Art. 7 or 13, as the case may be, shall apply.

Interest

Art. 10

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the interest.

2. The term "interest" as used in this Art. means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures including premiums and prizes attaching to such securities, bonds or debentures.

3. The provisions of paragraph 1 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 professional 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 Art. 7 or Art. 13, as the case may be, shall apply.

4. 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 Art. 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.

Royalties

Art. 11

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 law of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 5 % of the gross amount of such royalties.

3. The term "royalties" as used in this Art. 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 and films or tapes for radio or television broadcasting and other films or tapes, any patent (including inventions and suggestions for rationalization secured by copyright certificates), trade mark, design or model, plan, secret formula or process, software for electronic data-processing equipment 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 business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State professional 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 Art. 7 or Art. 13, as the case may be, shall apply.

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

Capital Gains

Art. 12

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional 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 from the alienation of ships, boats or aircraft operated in international traffic or movable property pertaining to the operation of such ships, boats or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of shares in the capital of a legal entity which is a resident in a Contracting State may be taxed in that State.

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

Professional Services

Art. 13

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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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

Employment Income

Art. 14

1. Subject to the provisions of Art. 15, 17, 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 exercised in the other Contracting State. If the employment is so exercised, such a 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 the fiscal year concerned;

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

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

3. Notwithstanding the preceding provisions of this Art., remuneration derived in respect of an employment exercised aboard a ship, boat or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Directors' Fee

Art. 15

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

Artistes And Athletes

Art. 16

1. Notwithstanding the provisions of Art.s 13 and 14, 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 an athlete, 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 an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Art. 7, 13 and 14, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. However, such income, derived by persons as described under paragraphs 1 and 2 shall not be taxed in the Contracting State in which these persons exercise their activities if the visit to that State by professional artistes or athletes is supported totally or substantially by public means of the other Contracting State or if the visit took place within the framework of cultural exchange between the Contracting States.

Pensions

Art. 17

Subject to the provisions of paragraph 1 of Art. 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Exercise Of Government Service

Art. 18

1. Remuneration including pensions paid by a Contracting State, a Land, a political subdivision or a local authority thereof to an individual in respect of services rendered to that State, Land, subdivision or authority shall be taxable only in that State. This, however, shall not apply to remunerations paid to a person who is a permanent resident of the other Contracting State.

2. The provisions of Art. 14, 15 and 17 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State, a Land, a political subdivision or a local authority thereof.

Teachers, Students And Trainees

Art. 19

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

2. An individual who is a resident of a Contracting State or was a resident of that Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely as a student at a university, college, school or other similar educational institution in that other State or as a business apprentice (including the case of the Federal Republic of Germany a "Volontar" or a "Praktikant") or in another capacity for purposes of education, shall, from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State:

(a) with respect to remittances from abroad for the purposes of his maintenance, education or training; and

(b) during a maximum period of 3 years regarding all remuneration not exceeding 7,200 DM or its equivalent in Bulgarian currency in each calendar year in respect of activities exercised in the other Contracting State for the purpose of his maintenance, education or training.

3. An individual who stays in a Contracting State as a recipient of a grant, allowance or award from a religious, charitable, scientific or educational organization for the primary purpose of study or research and who is, or was immediately before visiting that State, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State in respect of remittance from abroad for the purposes of his maintenance, education or training.

Other Income

Art. 20

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Art.s of this Convention shall be taxable only in that State.

Capital

Art. 21

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

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

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

4. Capital represented by shares in the capital of a legal entity resident in a Contracting State may be taxed in that State.

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

Relief From Double Taxation

Art. 22

1. Tax shall be determined in the case of a resident of the Federal Republic of Germany as follows:

(a) Unless the provisions of sub-paragraph (b) apply, there shall be excluded from the basis upon which tax of the Federal Republic of Germany is imposed, any item of income arising in the People's Republic of Bulgaria and any item of capital situated within the People's Republic of Bulgaria which, according to this Convention, may be taxed in the People's Republic of Bulgaria. The Federal Republic of Germany, however, retains the right to take into account in the determination of its rate of tax the items of income and capital so excluded.

In the case of income from dividends the foregoing provisions shall apply only to such dividends as are paid to a legal entity being a resident of the Federal Republic of Germany by a legal entity being a resident of the People's Republic of Bulgaria at least 10 % of which is owned directly by the German legal entity.

For the purposes of taxes on capital there shall also be excluded from the basis upon which German tax is imposed any shareholding the dividends of which are excluded, if paid, according to the immediately foregoing sentence, from the basis upon which German tax is imposed.

(b) Subject to the provisions of the tax law of the Federal Republic of Germany regarding credit for foreign tax, there shall be allowed as a credit against the income and corporation tax payable in the Federal Republic of Germany in respect of the following items if income arising in the People's Republic of Bulgaria the tax paid under the laws of the People's Republic of Bulgaria and in accordance with this Convention on:

- (aa) dividends not dealt with in sub-paragraph (a);
- (bb) remuneration to which Art. 11 applies;
- (cc) profits from the alienation of shares in the meaning of Art. 12(4);
- (dd) remuneration to which Art. 15 applies;
- (ee) income to which Art. 16 applies.

(c) The provisions of sub-paragraph (a) shall not apply to profits of and to the capital represented by, movable and immovable property forming part of the business property of a permanent establishment and the gains from the alienation of such property, unless the resident of the Federal Republic of Germany proves that the gross income of the permanent establishment or legal entity is derived exclusively or almost exclusively from the manufacture or sale of goods or merchandise, technical advising or technical services, or banking or insurance business carried out in the People's Republic of Bulgaria.

In such a case the tax of the People's Republic of Bulgaria is the tax levied pursuant to the laws of the People's Republic of Bulgaria and in accordance with this Convention on the abovementioned items of income and capital shall, subject to the provisions of tax law of the Federal Republic of Germany regarding credit for foreign tax, be allowed as a credit against income or corporation tax of the Federal Republic of Germany levied on such items of income or against capital tax of the Federal Republic of Germany levied on such items of capital.

2. With respect to resident of the People's Republic of Bulgaria, tax shall be determined as follows:

(a) Where a resident of the People's Republic of Bulgaria derives income or owns capital, which may in accordance with this Convention be taxed in the Federal Republic of Germany, then the People's Republic of Bulgaria shall exempt such income or such capital from tax, subject to sub-paragraphs (b) and (c) below.

(b) Where a resident of People's Republic of Bulgaria derives income which, in accordance with the provisions of Art. 9 or 11, may be taxed in the Federal Republic of Germany, the People's Republic of Bulgaria shall allow as a deduction from the tax on income of that person an amount equal to the tax on income paid in the Federal Republic of Germany. Such a deduction shall not, however, exceed that part of the tax on income, as computed before the deduction is given, which is attributable to the income which may be taxed in the Federal Republic of Germany.

(c) Where, in accordance with any provision of the Convention income derived by a resident of Bulgaria is exempt from tax in Bulgaria, Bulgaria may nevertheless, in calculating the amount of tax on the remaining income of the remaining of such resident, take into account the exempted income.

Non-discrimination

Art. 23

1. A Contracting State shall not subject persons resident in the other Contracting State to taxation to which it would not subject persons resident in a third State, with which it has not concluded a Convention for the avoidance of double taxation.

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

Mutual Agreement Procedure

Art. 24

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding 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. The case must be presented within 3 years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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 the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

They may also consult together for the elimination of double taxation in cases not provided for in the 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.

Exchange Of Information

Art. 25

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention. 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, tax commissions or authorities (including courts and administrative bodies) involved in assessment or collection of, the enforcement and 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.

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).

Diplomatic And Consular Privileges

Art. 26

Nothing in this Convention shall affect the fiscal privileges of members of a diplomatic mission or a consular post as well as public employees of an international organization under the general rules of international law or under the provisions of special agreements.

Land Berlin

Art. 27

This Convention shall also apply to Berlin (West) in conformity with Four-Power Agreement of 3 September 1971 in accordance with the established procedure.

Entry Into Force

Art. 28

1. This Convention shall be ratified and the instruments of ratification shall be exchanged in Sofia as soon as possible.

2. This Convention shall enter into force one month after the date of exchange of the instruments of ratification and shall have effect in both Contracting States:

(a) in respect of taxes levied for the assessment period following the year in which the Convention enters into force and subsequent assessment period.

(b) in respect of taxes withheld at source on income paid after 31 December of the year in which the Convention enters into force.

Termination

Art. 29

This Convention shall continue in effect indefinitely, but either of the Contracting States may, on or before the thirtieth day of June in any calendar year after the expiry of 5 years following the year in which the Convention enters into force, give to the other Contracting State, through diplomatic channels, written notice of termination. In such event this Convention ceases to apply:

(a) with respect to taxes levied for the assessment period following the assessment period in which the termination is pronounced and the subsequent assessment periods;

(b) with respect to taxes withheld at source on income paid after 31 December of the year of termination.

Done at Bonn, on 2 June 1987, in duplicate, in the German and Bulgarian languages, both texts being equally authentic.

FOR THE PEOPLE'S REPUBLIC OF BULGARIA:

P. Mladenov

FOR THE FEDERAL REPUBLIC OF GERMANY:

Ruhfus Gerhard Stoltenberg

PROTOCOL

At the moment of signing the Convention between the Federal Republic of Germany and the People's Republic of Bulgaria for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions which shall form an integral part of the Convention.

1. With respect to Art. 7:

(a) Only that part of the income of a building site may be allocated to the Contracting State in which the permanent establishment is situated, as is derived from the carrying out of such activities. Where, in connection with these activities or independently thereof, machinery or equipment is supplied by the head office or another office of the enterprise or by unrelated persons, then the value of such supply shall not be attributed to the profits of the building site or assembly project.

(b) Income which is attributable to the drawing of plans, projects or construction or research activities, as well as technical services, which a resident of a Contracting State performs in that Contracting State and which are connected with a permanent establishment maintained in the other Contracting State, shall not be allocated to that establishment.

2. With respect to Art.s 9 and 10:

Notwithstanding the provisions of these Art.s, dividends and interest may be taxed in the Contracting State in which they arise, and according to the law of that State, if they:

(a) are derived from rights or debt-claims carrying a right to participate in profits (including income derived by a silent partner from his participation as such, from a "partiarishes Darlehen" and from "Gewinnobligationen" within the meaning of the tax law of the Federal Republic of Germany); and

(b) are deductible in the determination of profits of the debtor of such dividends or interest.

3. With respect to Art.s 9 through 11:

The competent authorities of the Contracting States shall determine, by mutual agreement, the way in which the provisions for the relief from and elimination of double taxation have to be carried out.

4. With respect to Art. 22:

Where a legal entity being a resident of the Federal Republic of Germany distributes dividends arising from income derived from sources within the People's Republic of Bulgaria, then paragraph 1 shall not preclude the compensatory imposition of corporation tax in accordance with the provisions of the tax law of the Federal Republic of Germany.

5. With respect to Art. 26:

Notwithstanding the provisions of Art. 4, an individual who is a member of a diplomatic mission or consular post of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purpose of the Convention to be a resident of the sending State if:

(a) in accordance with international law he is not liable to tax in the receiving State in respect of income from sources outside that State; and

(b) he is liable in the sending State to the same obligations in relation to tax on his world income as are residents of that State.

Done at Bonn, on 2 June 1987, in duplicate, in the German and Bulgarian languages, both texts being equally authentic.

FOR THE PEOPLE'S REPUBLIC OF BULGARIA:

P. Mladenov

FOR FEDERAL REPUBLIC OF GERMANY:

Ruhfus Gerhard Stoltenberg