

No. 14541

**FEDERAL REPUBLIC OF GERMANY
and
LIBERIA**

**Agreement for the avoidance of double taxation with respect to taxes on income and capital (with protocol).
Signed at Monrovia on 25 November 1970**

Authentic texts: German and English.

Registered by the Federal Republic of Germany on 16 January 1976.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
LIBÉRIA**

**Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et sur la fortune (avec protocole).
Signée à Monrovia le 25 novembre 1970**

Textes authentiques : allemand et anglais.

Enregistrée par la République fédérale d'Allemagne le 16 janvier 1976.

AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE REPUBLIC OF LIBERIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

The Federal Republic of Germany and The Republic of Liberia,
Desiring to conclude an Agreement for the Avoidance of Double Taxation with
respect to Taxes on Income and Capital,
Have agreed as follows:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

(1) This Agreement shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its *Länder*, political subdivisions or local authorities, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

(3) The existing taxes to which this Agreement shall apply are, in particular:

a) in the Federal Republic of Germany:

- the *Einkommensteuer* (income tax) including the *Ergänzungsabgabe* (surcharge) thereon,
 - the *Körperschaftsteuer* (corporation tax) including the *Ergänzungsabgabe* (surcharge) thereon,
 - the *Vermögensteuer* (capital tax),
 - the *Gewerbesteuer* (trade tax), and
 - the *Grundsteuer* (real property tax)
- (hereinafter referred to as “German tax”);

b) in Liberia:

- the income tax,
 - the austerity tax,
 - the realty lease tax,
 - the real property tax, and
 - any other tax on income or capital imposed by Liberian legislation including taxes to which section 151 of the Liberian Internal Revenue Code applies
- (hereinafter referred to as “Liberian tax”).

(4) This Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

¹ Came into force on 25 April 1975, the day after the date of the exchange of the instruments of ratification, which took place at Bonn on 24 April 1975, in accordance with article 29 (2).

(5) The provisions of this Agreement in respect of taxation of income or capital shall likewise apply to the German trade tax, computed on a basis other than income or capital.

Article 3. GENERAL DEFINITIONS

(1) In this Agreement, unless the context otherwise requires:

a) The term “Federal Republic of Germany”, when used in a geographical sense, means the territory in which the Basic Law for the Federal Republic of Germany is in force, as well as any area adjacent to the territorial waters of the Federal Republic of Germany designated, in accordance with international law as related to the rights which the Federal Republic of Germany may exercise with respect to the sea-bed and subsoil and their natural resources, as domestic area for tax purposes;

b) The term “Liberia” means the Republic of Liberia, and, when used in a geographical sense, the territory of Liberia as well as any area adjacent to the territorial waters of Liberia designated in accordance with international law as related to the rights which Liberia may exercise with respect to the sea-bed and subsoil and their natural resources, as domestic area for tax purposes;

c) The term “person” comprises an individual, a company or any other body treated as a legal entity for tax purposes;

d) The term “company” means any corporation or any entity which is treated as a corporation for tax purposes;

e) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

f) The term “national” means:

aa) in respect of the Federal Republic of Germany all Germans in the meaning of paragraph (1) of Article 116 of the Basic Law for the Federal Republic of Germany and all legal persons, partnerships and associations deriving their status as such from the law in force in the Federal Republic of Germany;

bb) in respect of Liberia all citizens of Liberia and all legal persons, partnerships and associations deriving their status as such from the law in force in Liberia;

g) The term “competent authority” means in the case of the Federal Republic of Germany the Federal Minister of Finance, and in the case of Liberia the Secretary of the Treasury.

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

Article 4. FISCAL DOMICILE

(1) For the purposes of this Agreement, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

(2) Where, by reason of the provisions of paragraph (1), an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

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

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

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

d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where, by reason of the provisions of paragraph (1), a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall settle the question by mutual agreement.

Article 5. PERMANENT ESTABLISHMENT

(1) For the purposes of this Agreement the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term “permanent establishment” shall include especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop;
- f) a mine, quarry or other place of extraction of natural resources;
- g) a building site or construction or assembly project which exists for more than six months.

(3) The term “permanent establishment” shall not be deemed to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph (5) applies—shall be deemed to be a permanent establishment in the first-mentioned State if:

- a) he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- b) he has, and habitually exercises in that State, an authority to fill orders on behalf of the enterprise from a stock of goods or merchandise which he maintains in that State and which belong to the enterprise.

(5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

(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 make either company a permanent establishment of the other.

(7) Notwithstanding any other provision of this Article, an enterprise of a Contracting State which is regularly engaged in the business of furnishing personal services, shall be deemed to have a permanent establishment in the other Contracting State, if a person or persons, being employees of such enterprise and sent by such enterprise for the purposes of performing such services, are present in that other State for performing such services in respect of the same project for a period or periods exceeding in the aggregate six months during any twelve-month period.

Article 6. IMMOVABLE PROPERTY

(1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

(2) The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

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

(4) The provisions of paragraphs (1) and (3) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7. BUSINESS PROFITS

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

(2) 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 the determination of 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) Nothing in paragraph (2) shall preclude a Contracting State from determining 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; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

(5) 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.

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

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

Article 8. SHIPS AND AIRCRAFT

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

(2) The provisions of paragraph (1) shall likewise apply in respect of participations in pools, in a joint business or in an international operation agency of any kind by enterprises engaged in the operation of ships or aircraft in international traffic.

Article 9. RELATED PERSONS

Where

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10. DIVIDENDS

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

(2) However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed:

- a) 10 per cent of the gross amount of the dividends if the recipient is a company which itself, or jointly within a partnership with other companies, holds at least 25 per cent of the capital of the company paying the dividends;
- b) in all other cases, 15 per cent of the gross amount of the dividends.

(3) Notwithstanding the provisions of paragraph (2), the tax of a Contracting State on dividends paid by a company which is a resident of that State may exceed the rates provided for in that paragraph, but shall not exceed 25.75 per cent of the gross amount of the dividends, if

- a) the rate of the corporation tax of that State on distributed profits is lower than that on undistributed profits and the difference between those two rates is 20 percentage points or more, and
- b) such dividends are paid by a company which is a resident of that State to a company which is a resident of the other Contracting State and which itself or together with other persons controlling it or being under common control with it, holds, directly or indirectly, at least 25 per cent of the capital of the first-mentioned company.

(4) The term “dividends” as used in this Article means income from shares, mining shares, founders, shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident, and income derived by a sleeping partner from his participation as such and distributions on certificates of an investment-trust.

(5) The provisions of paragraphs (1) to (3) shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

(6) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. INTEREST

(1) Interest derived from a Contracting State by a resident of the other Contracting State may be taxed in that other State.

(2) However, such interest may be taxed in the Contracting State from which it is derived, and according to the law of that Contracting State, but the tax so charged shall not exceed:

- a) 10 per cent of the gross amount of such interest, if the recipient is a bank or other financial institution;
- b) in all other cases, 20 per cent of the gross amount of such interest.

(3) Notwithstanding the provisions of paragraph (2),

- a) interest derived from the Federal Republic of Germany and paid to the Liberian Government shall be exempt from German tax;

- b) interest derived from Liberia and paid to the German Government, the Deutsche Bundesbank, the Kreditanstalt für Wiederaufbau or to the Deutsche Gesellschaft für wirtschaftliche Zusammenarbeit (Entwicklungsgesellschaft) shall be exempt from Liberian tax.

The competent authorities of the Contracting States shall determine by mutual agreement any other governmental institution to which this paragraph shall apply.

(4) The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State from which the income is derived.

(5) The provisions of paragraphs (1) and (2) shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.

(6) Interest shall be deemed to be derived from a Contracting State when the payor 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 interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to be derived from the Contracting State in which the permanent establishment is situated.

(7) Where, owing to a special relationship between the payor and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payor and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12. ROYALTIES

(1) Royalties derived from a Contracting State by a resident of the other Contracting State may be taxed in that other State.

(2) However, such royalties may be taxed in the Contracting State from which they are derived and according to the law of that State, but the tax so charged shall not exceed:

- a) 20 per cent of the gross amount of such payments if they are made as consideration for the use of, or the right to use, any copyright, excluding cinematograph films or tapes for television or broadcasting, or any trade mark (trade name);
- b) 10 per cent of the gross amount of such payments in all other cases.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright, patent, trade mark (trade name), design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, for information concerning industrial, commercial or scientific experience, or for the use of, or the right to use, cinematograph films or tapes for television or broadcasting, but does not include any payment dealt with in Article 6.

(4) The provisions of paragraphs (1) and (2) shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.

(5) Royalties shall be deemed to be derived from a Contracting State when the payor is that State itself, a Land, a political subdivision or a local authority thereof or a resident of that State or when the right or property giving rise to the royalties is used in that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to be derived from the Contracting State in which the permanent establishment is situated.

(6) Where, owing to a special relationship between the payor and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payor and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 13. CAPITAL GAINS

(1) Gains from the alienation of immovable property, as defined in Article 6, may be taxed in the Contracting State in which such property is situated.

(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 together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph (3) of Article 22 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

(3) Gains from the alienation of shares of a company which is a resident of a Contracting State may be taxed in that State.

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

Article 14. INDEPENDENT PERSONAL SERVICES

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar 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 Contracting 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.

(3) In determining whether a resident of a Contracting State has a fixed base regularly available to him in the other Contracting State, paragraph (7) of Article 5 shall likewise apply.

Article 15. DEPENDENT PERSONAL SERVICES

(1) Subject to the provisions of Articles 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 exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days during any twelve-month period, and
- b) the remuneration is paid by, or 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.

Article 16. DIRECTORS' FEES

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the 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 ATHLETES

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

(2) Notwithstanding anything contained in this Agreement, where the services of a public entertainer or an athlete mentioned in paragraph (1) are provided in a Contracting State by an enterprise of the other Contracting State, the profits derived from providing those services by such enterprise may be taxed in the first-mentioned State if the public entertainer or the athlete performing the services controls, directly or indirectly, such enterprise.

Article 18. PUBLIC FUNDS

(1) Subject to the provisions of Article 19, remuneration paid by, or out of funds created by a Contracting State, a Land, a political subdivision or a local authority thereof to any individual in respect of an employment shall be taxable only in that State. If, however, the employment is exercised in the other Contracting State by a national of that State not being a national of the first-mentioned State, the remuneration shall be taxable only in that other State.

(2) The provisions of Articles 15, 16 and 17 shall apply to remuneration in respect of an employment in connection with any business carried on by a Contracting

State, a Land, a political subdivision or a local authority thereof for the purpose of profits.

Article 19. PENSIONS AND ANNUITIES

(1) 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.

(2) Pensions, annuities and other recurring or non-recurring payments which are paid to any individual by a Contracting State, a Land, a political subdivision or a local authority thereof as compensation for an injury or damage sustained as a result of hostilities or political persecution shall be taxable only in that State.

Article 20. TEACHERS AND STUDENTS

(1) Subject to the provisions of Article 18, remuneration which a professor or teacher who is a resident of a Contracting State and who visits the other Contracting State for a period not exceeding two years for the purpose of carrying out advanced study or research or for teaching at a university, college, school or other educational institution receives for such work shall not be taxed in that other State, provided that such remuneration is derived by him from outside that other State.

(2) An individual who was a resident of a 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 in the case of the Federal Republic of Germany a *Volontär* or a *Praktikant*) 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) on all remittances from abroad for purposes of his maintenance, education or training, and
- b) for a period not exceeding three years, on any remuneration not exceeding 6,000 DM or the equivalent in US-dollars for the calendar year for personal services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes.

(3) An individual who was a resident of a Contracting State immediately before visiting the other Contracting State and is temporarily present in that other State solely for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization or under a technical assistance program entered into by the Government of a Contracting State shall, for a period not exceeding two years from the date of his first arrival in that other State in connection with that visit, be exempt from tax in that other State on

- a) the amount of such grant, allowance or award, and
- b) all remittances from abroad for the purposes of his maintenance, education or training, and
- c) any remuneration for personal services in that other State, provided that such services form part of his study, research or training.

Article 21. INCOME IN SPECIAL CASES

Where a person who by reason of the provisions of paragraph (1) of Article 4 is a resident of both Contracting States but by reason of the provisions of paragraphs (2) or (3) of Article 4 is deemed for the purposes of this Agreement to be a resident solely of one of the States, derives income

- a) from that State, or
 - b) from outside both States,
- that income shall be taxable only in that State.

Article 22. CAPITAL

(1) Capital represented by immovable property, as defined in paragraph (2) of Article 6, may be taxed in the Contracting State in which such property is situated.

(2) Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of independent personal services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

(3) Ships and aircraft operated in international traffic by an enterprise of a Contracting State and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that State.

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

Article 23. RELIEF FROM DOUBLE TAXATION

(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 German tax is imposed, any item of income derived from Liberia and any item of capital situated within Liberia, which, according to this Agreement, may be taxed in Liberia. 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 of this sub-paragraph shall apply only to such dividends as are paid to a company being a resident of the Federal Republic of Germany by a company being a resident of Liberia if at least 25 per cent of the capital of the Liberian company is held directly by the German company. There shall also be excluded from the basis upon which German tax is imposed any shareholding, the dividends of which, if paid, would be excluded from the basis upon which tax is imposed according to the immediately foregoing sentence.

b) Subject to the provisions of German tax law regarding credit for foreign tax, there shall be allowed as a credit against German income tax and corporation tax, including the surcharge thereon, payable in respect of the following items of income derived from Liberia, the Liberian tax paid under the laws of Liberia and in accordance with this Agreement on:

- aa) dividends to which sub-paragraph a) does not apply; provided that in the case of dividends to which paragraph (2), sub-paragraph a), of Article 10 applies, the amount so credited shall be 15 per cent of the gross amount of such dividends;
- bb) interest to which paragraph (2) of Article 11 applies;
- cc) royalties to which paragraph (2) of Article 12 applies;
- dd) gains to which paragraph (3) of Article 13 applies;
- ee) remuneration to which Article 16 applies.

The credit shall not, however, exceed that part of the German tax, as computed before the credit is given, which is appropriate to such items of income.

c) For purposes of credit referred to in the foregoing sub-paragraph *b*), where the rate of Liberian tax on interest, or on royalties to which paragraph (2), sub-paragraph *b*), of Article 12 applies, is reduced below 10 per cent of the gross amount of such interest or royalties by virtue of special incentive measures designed to promote economic development in Liberia, the amount of Liberian tax shall be deemed to be 10 per cent of the gross amount of such interest or royalties.

(2) Tax shall be determined in the case of a resident of Liberia as follows:

a) Unless the provisions of sub-paragraph *b*) apply, there shall be excluded from the basis upon which Liberian tax is imposed, any item of income derived from the Federal Republic of Germany and any item of capital situated within the Federal Republic of Germany, which, according to this Agreement, may be taxed in the Federal Republic of Germany. Liberia, however, retains the right to take into account in the determination of its rate of tax the items of income and capital so excluded.

b) Subject to the provisions of Liberian tax law regarding credit for foreign tax, there shall be allowed as a credit against Liberian income tax payable in respect of the following items of income derived from the Federal Republic of Germany, the German tax paid under the laws of the Federal Republic of Germany and in accordance with this Agreement on:

aa) dividends to which paragraph (2) of Article 10 applies;

bb) interest to which paragraph (2) of Article 11 applies;

cc) royalties to which paragraph (2) of Article 12 applies;

dd) gains to which paragraph (3) of Article 13 applies;

ee) remuneration to which Article 16 applies.

The credit shall not, however, exceed that part of the Liberian tax, as computed before the credit is given, which is appropriate to such items of income.

Article 24. NON-DISCRIMINATION

(1) The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

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

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities or any other personal circumstances which it grants to its own residents.

(3) 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 that first-mentioned State are or may be subjected.

(4) In this Article the term "taxation" means taxes of every kind and description.

Article 25. MUTUAL AGREEMENT PROCEDURE

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, 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.

(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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Agreement.

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Agreement. They may also consult together for the elimination of double taxation in cases not provided for in this Agreement.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of applying the provisions of this Agreement.

Article 26. EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or for the prevention of fiscal fraud. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons, authorities, or courts other than those concerned with the assessment, collection or prosecution in respect of taxes which are the subject of this Agreement.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on one of the Contracting States the obligation:

- a) to carry out administrative measures at variance with the laws, or the administrative practice of that or of the other Contracting State;
- b) to supply particulars which are 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.

Article 27. DIPLOMATIC AND CONSULAR PRIVILEGES

(1) Nothing in this Agreement shall affect diplomatic or consular privileges under the general rules of international law or under the provisions of special international agreements.

(2) Insofar as, due to such privileges granted to a person under the general rules of international law or under the provisions of special international agreements, income or capital is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

(3) For the purposes of this Agreement, persons who are members of a diplomatic or consular mission of a Contracting State in the other Contracting State or in a third State, as well as persons connected with such persons, and who are nationals of the sending State, shall be deemed to be residents of the sending State if they are subjected therein to the same obligations in respect of taxes on income and capital as are residents of that State.

Article 28. LAND BERLIN

This Agreement shall also apply to *Land* Berlin, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of the Republic of Liberia within three months from the date of entry into force of this Agreement.

Article 29. ENTRY INTO FORCE

(1) This Agreement shall be ratified and the instruments of ratification shall be exchanged at Bonn as soon as possible.

(2) This Agreement shall enter into force on the day after the date of exchange of the instruments of ratification and shall have effect:

- a) in the Federal Republic of Germany in respect of taxes which are levied for the assessment period 1970 and for subsequent assessment periods;
- b) in Liberia in respect of taxes which are levied for the taxable year 1970 and for subsequent taxable years;
- c) in both Contracting States in respect of taxes withheld at source on dividends, interest and royalties paid after 31 December 1969.

Article 30. TERMINATION

This Agreement shall continue in effect indefinitely, but either of the Contracting States may, on or before the thirtieth day of June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the diplomatic channel, written notice of termination and, in such event, this Agreement shall cease to be effective:

- a) in the Federal Republic of Germany in respect of taxes which are levied for the assessment period next following that in which the notice of termination is given and for subsequent assessment periods;
- b) in Liberia in respect of taxes which are levied for the taxable year next following that in which the notice of termination is given and for subsequent taxable years;
- c) in both Contracting States in respect of taxes withheld at source on dividends, interest and royalties paid after 31 December of the year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their respective Governments, have signed this Agreement.

DONE at Monrovia this twenty-fifth day of November 1970, four originals, two each in the German and English languages, all the texts being equally authentic.

For the Federal Republic of Germany:

NEUBERT

DEBATIN

For the Republic of Liberia:

MILTON WEEKS

P R O T O C O L

The Federal Republic of Germany and the Republic of Liberia

Have agreed at the signing at Monrovia on 25 November 1970 of the Agreement between the two States for the avoidance of double taxation with respect to taxes on income and capital upon the following provisions which shall form an integral part of the said Agreement.

(1) *With reference to Article 4.* The fact that an individual, being a resident of the Federal Republic of Germany by reason of paragraphs (1) or (2) of Article 4 of the Agreement, is a national of Liberia shall not affect the application of the provisions of the Agreement. However, Liberian tax levied on the basis of such nationality may be imposed, but there shall be allowed as a credit against Liberian tax:

- a) Liberian tax imposed in accordance with Articles 6 to 22 of the Agreement;
- b) German [tax] imposed in accordance with the Agreement; and
- c) German tax payable under German law, but not imposed by reason of the provisions of Article 23 of the Agreement.

However, in no event shall such credit reduce Liberian tax below the amount which is imposed on income derived from Liberia in accordance with the Agreement.

(2) *With reference to Article 5.* For the purposes of paragraph (7) of Article 5 of the Agreement, the performance of services for different persons or entities shall not be deemed to form part of the same project.

(3) *With reference to Article 6.* Where an enterprise of a Contracting State derives income from the extraction of natural resources, the provisions of paragraph (1) of Article 6 of the Agreement shall likewise apply to profits derived by a selling agent, related, as described in Article 9 of the Agreement, to that enterprise, from his activities in respect of the selling of such natural resources, unless such agent proves that such profits are attributable to his activities in accordance with Article 9.

(4) *With reference to Articles 6 to 22.* The provisions of Articles 6 to 22 of the Agreement shall apply to any item of income derived from the Federal Republic of Germany, or to any item of capital situated within the Federal Republic of Germany owned, by a company or partnership which is a resident of Liberia more than 25 per cent of the capital of which is held, directly or indirectly, by persons who are not residents of Liberia, only if the company or partnership proves that the Liberian tax appropriate to the income is equal to the Liberian tax which would have been appropriate to such income if the Liberian tax were computed without regard to any provisions identical or similar to the provisions of sections 140 (b) or (c) of the Liberian Internal Revenue Code as in force at the signing of the Agreement.

(5) *With reference to Articles 6 to 22.* A partnership established under German law shall be considered a person resident in the Federal Republic of Germany for the purposes of Articles 6 to 22 of the Agreement.

(6) *With reference to Articles 7 and 23.* Profits of an enterprise shall be deemed to include any items of income derived by an enterprise to which Articles 6 and 8 to 21 of the Agreement do not apply and as far as such profits are attributable to a permanent establishment of that enterprise, they shall be deemed to be derived from the Contracting State in which such permanent establishment is situated.

(7) *With reference to Articles 10 and 23.* Notwithstanding the provisions of paragraph (1), sub-paragraph a), of Article 23 of the Agreement, the provisions of paragraph (1), sub-paragraph b), of that Article shall apply likewise to the profits of, and to the capital represented by property forming part of the business property

of, a permanent establishment; to dividends paid by, and to the shareholding in, a company; or to gains referred to in paragraph (2) of Article 13 of the Agreement, provided that the resident of the Federal Republic of Germany concerned does not prove that the receipts of the permanent establishment or company are derived exclusively or almost exclusively:

- a) from producing or selling tangible property, mining, giving technical advice or rendering engineering services, or doing banking or insurance business, within Liberia, or
- b) from dividends paid by one or more companies, being residents of Liberia, more than 25 per cent of the capital of which are held by the first-mentioned company, which themselves derive their receipts exclusively or almost exclusively from producing or selling tangible property, mining, giving technical advice or rendering engineering services, or doing banking or insurance business, within Liberia.

Where in the cases mentioned above the provisions of paragraph (1), sub-paragraph *b*) of Article 23 shall apply to dividends, the limitations of the rates of Liberian tax provided for in paragraph (2) of Article 10 of the Agreement shall not apply.

(8) *With reference to Article 12.* The term royalties in the meaning of paragraph (3) of Article 12 of the Agreement shall include any fixed and determinable payments made to a person in consideration of an obligation of that person to exclude others, in respect of a certain area, from receiving the same special rights as granted to the payor of the compensation related to that special right.

(9) *With reference to Article 25.* The competent authorities of the Contracting States shall, at request, inform each other on significant changes in their tax laws, and in the event of appreciable modifications in such laws, shall consult together to determine whether amendments to the Agreement are desired.

For the Federal Republic of Germany:

NEUBERT
DEBATIN

For the Republic of Liberia:

MILTON WEEKS
