

No. 22735

**CZECHOSLOVAKIA
and
FEDERAL REPUBLIC OF GERMANY**

**Convention for the avoidance of double taxation with
respect to taxes on income and on capital. Signed at
Prague on 19 December 1980**

Authentic texts: Czech and German.

Registered by Czechoslovakia on 13 March 1984.

**TCHÉCOSLOVAQUIE
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE**

**Convention tendant à éviter la double imposition en matière
d'impôts sur le revenu et sur la fortune. Signée à Prague
le 19 décembre 1980**

Textes authentiques : tchèque et allemand.

Enregistrée par la Tchécoslovaquie le 13 mars 1984.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE CZECHOSLOVAK SOCIALIST REPUBLIC AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Czechoslovak Socialist Republic and the Federal Republic of Germany,
Desiring to conclude a convention for the avoidance of double taxation with respect to taxes on income and on capital,

Have agreed as follows:

Article 1. PERSONAL 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 and on capital imposed in one of the Contracting States, 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, taxes on wages or salaries, as well as taxes on capital appreciation.

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

(a) In the Federal Republic of Germany:

- The income tax (*Einkommensteuer*);
- The corporation tax (*Körperschaftsteuer*), including the supplementary corporation tax (*Ergänzungsabgabe*);
- The tax on capital (*Vermögensteuer*);
- The real property tax (*Grundsteuer*); and
- The business tax (*Gewerbesteuer*);

(b) In the Czechoslovak Socialist Republic:

- The taxes on profits (*odvod ze zisku a daň ze zisku*);
- The wages tax (*daň ze mzdy*);
- The tax on income from literary and artistic activities (*daň z příjmů z literární a umělecké činnosti*);
- The agricultural tax (*daň zemědělská*);
- The tax on population income (*daň z příjmů obyvatelstva*);
- The house tax (*daň domovní*); and
- The capital tax (*odvod z jmění*).

¹ Came into force on 17 November 1983, i.e., 30 days after the exchange of the instruments of ratification, which took place at Bonn on 18 October 1983, in accordance with article 29.

4. The provisions of this Convention concerning the taxation of income or capital shall apply *mutatis mutandis* to the business tax, levied in the Federal Republic of Germany, which is not computed on the basis of income or property.

5. The Convention shall apply also to any identical or similar taxes which are subsequently imposed 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.

Article 3. GENERAL DEFINITIONS

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

(a) The terms “a Contracting State” and “the other Contracting State” mean the Federal Republic of Germany or the Czechoslovak Socialist Republic, depending on the context;

(b) The term “person” includes individuals and companies;

(c) The term “company” means any body corporate or any legal entity which is treated as a body corporate for tax purposes;

(d) 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;

(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 Czechoslovak Socialist Republic, the Minister of Finance of the Czechoslovak Socialist Republic or his authorized representative.

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

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to tax 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, the following provisions shall apply:

(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 closer;

(b) If the Contracting State with which his personal and economic relations are closer 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.

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

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise 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;
- (f) A mine, quarry or other place of extraction of natural resources;
- (g) A building site or construction or assembly project which continues for a period of more than 12 months.

3. 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;
- (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 advertising, the supply of information, scientific research or similar activities of a preparatory or auxiliary character, for the enterprise.

4. Where a person — other than an agent of an independent status to whom paragraph 5 applies — acts in a Contracting State on behalf of an enterprise of the other Contracting State, a permanent establishment shall be deemed to exist in the first-mentioned State if the person has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to the purchase of goods or merchandise for 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, provided that 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 constitute either company a permanent establishment of the other.

Article 6. INCOME FROM 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 have the meaning which it has under 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, livestock and equipment used in agriculture and forestry, 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, sources 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.

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. In so far as it is 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. 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 Convention, then the provisions of those articles shall not be affected by the provisions of this article.

Article 8. SHIPPING, INLAND WATERWAYS TRANSPORT AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

3. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or a 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.

4. The provisions of paragraphs 1 to 3 shall apply *mutatis mutandis* to the participation of enterprises engaged in the operation of ships, boats or aircraft in a pool, a joint business or any other international operating agency.

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, 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.

2. Where profits on which an enterprise of a Contracting State has been charged to tax in that State are included, under the terms of paragraph 1, in the profits of an enterprise of the other Contracting State and taxed accordingly and the profits so included are profits which would have accrued to that enterprise of the other Contracting State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then the first-mentioned State shall make an appropriate adjustment in order to avoid double taxation of the profits so included. In determining such adjustment, due regard shall be had to the other provisions of this Convention in relation to the nature of the income, and for this purpose the competent authorities of the Contracting States shall, if necessary, consult each other.

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 laws of that State, but the tax so charged shall not exceed:

(a) Five per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;

(b) Fifteen per cent of the gross amount of the dividends in all other cases.

3. So long as in one Contracting State the rate of tax on the profits of a company is lower in the case of distributed profits than in the case of undistributed profits and the difference is 20 per cent or more, the tax levied on dividends in that State may, notwithstanding the provisions of paragraph 2, amount to 25 per cent of the gross amount of the dividends, including the supplementary corporation tax, if such dividends are derived from a company which is a resident of that Contracting State and are received by 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, owns, directly or indirectly, at least 25 per cent of the voting shares of the company which is a resident of the first-mentioned State.

4. The term "dividends" as used in this article means 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 income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident, including income derived from participation in a business by a sleeping partner, income from bonds and loans carrying a right to participate in profits, and distribution on certificates of an investment trust.

5. The provisions of paragraphs 1 to 3 shall not apply if the beneficial owner 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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such 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, nor subject the company's 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 arising in a Contracting State and paid to a resident of the other Contracting State may be taxed only in that other State.

2. 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 from debt-claims of every kind, as well as all other income which is subjected to the same taxation treatment as income from loans by the laws of the State in which it arises.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case article 7 shall apply.

4. Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of interest paid, 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 recipient 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 may be taxed according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12. ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may be taxed in the Contracting State in which they arise and according to the laws of that State, but the tax so charged shall not exceed five per cent of the gross amount of the royalties.

3. The term "royalties" as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of article 7 shall apply.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. GAINS FROM THE ALIENATION OF PROPERTY

1. Gains from the alienation of immovable property, as defined in article 6, may be taxed in the Contracting State in which the 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 with the whole enterprise) or of such fixed base, may be taxed in that other State. However, gains from the alienation of movable property of the kind referred to in article 22, paragraph 3, shall be taxable only in the Contracting State in which such movable property may be taxed in accordance with that article.

3. Gains from the alienation of shares in 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 that referred to 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, only so much of the income as is attributable to that fixed base may be taxed in the 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 and dentists.

Article 15. DEPENDENT PERSONAL SERVICES

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

2. Notwithstanding the provisions of paragraph 1, remuneration derived by an individual who is 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 calendar year concerned; and
- (b) The remuneration is paid by, or on behalf of, a person who is not a resident of the other State; and
- (c) The remuneration is not borne by a permanent establishment which the person paying the remuneration has in the other State.

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

Article 16. DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the Board of Directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17. ENTERTAINERS AND ATHLETES

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

2. Where income in respect of personal activities exercised by an entertainer or an athlete accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from activities of the kind referred to therein may not be taxed in the State in which the entertainer or athlete exercises his activities if the entertainer or athlete performs under the cultural exchange arrangements agreed by the Contracting States.

Article 18. PERFORMANCE OF FUNCTIONS OF A GOVERNMENTAL NATURE

1. Remuneration, including pensions, paid directly by, or out of special funds created by, a Contracting State or a local authority thereof to an individual in respect of services rendered to that State or local authority in the discharge of functions of a governmental nature may be taxed in that State. However, this provision shall not apply if the remuneration is paid to an individual who is a permanent resident of the other State.

2. The provisions of articles 15, 16 and 19 shall apply to remuneration or pensions in respect of services rendered in connection with a trade or business carried on by one of the Contracting States or a local authority thereof.

Article 19. PENSIONS

Subject to the provisions of article 18, paragraph 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.

Article 20. TEACHERS, STUDENTS AND OTHER TRAINEES

1. Payments which a professor or other teacher 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 for a period not exceeding two years for the purpose of engaging in advanced studies or research activity or for the purpose of teaching at a recognized university, college or other similar non-profit-making educational institution receives for such work, shall not be taxed in that State provided that such payments arise from sources outside that State.

2. If an individual is 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 establishment of the said other State, or as an apprentice (including volunteers and practitioners (*Volontäre* and *Praktikanten*) in the Federal Republic of Germany), he shall, as from the date of his first arrival in the said other State in connection with the visit in question, be exempt from tax in the said other State in respect of all remittances received from outside that State for his maintenance, education or training.

3. If an individual is 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 the recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization, he shall, for a period not exceeding two years from the date of his first arrival in the said other State in connection with that visit, be exempt from tax in that State:

(a) In respect of the amount of such grant, allowance or award, and

- (b) In respect of all remittances received from outside that State for his maintenance, education or training.

Article 21. INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles shall be taxable only in that State.

Article 22. CAPITAL

1. Capital represented by immovable property, as defined in article 6, paragraph 2, 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 professional services, may be taxed in the Contracting State in which the permanent establishment of fixed base is situated.

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

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

Article 23. ELIMINATION OF DOUBLE TAXATION

1. In the case of a resident of the Federal Republic of Germany, tax shall be determined as follows:

(a) Unless the provisions of subparagraph (b) apply, there shall be excluded from the basis upon which the tax of the Federal Republic of Germany is imposed any item of income from sources in the Czechoslovak Socialist Republic and any elements of capital situated in the Czechoslovak Socialist Republic which, according to this Convention, may be taxed in the Czechoslovak Socialist Republic. The Federal Republic of Germany shall, however, take the items of income and elements of capital so excluded into account in the determination of its rate of tax. The first sentence shall apply to dividends only when they are paid to a joint-stock company which is a resident of the Federal Republic of Germany by a company which is a resident of the Czechoslovak Socialist Republic and owns at least 25 per cent of the voting shares of the first-mentioned company. There shall also be excluded from the basis upon which tax of the Federal Republic of Germany is imposed any shareholdings whose dividends have been excluded from the said basis in accordance with the preceding sentence or, if paid, would be so excluded.

(b) The tax paid under the laws of the Czechoslovak Socialist Republic and in accordance with this Convention on the following items of income arising from sources in the Czechoslovak Socialist Republic shall, subject to the provisions of the tax laws of the Federal Republic of Germany relating to credit for foreign tax, be credited against the tax imposed on the said items of income in the Federal Republic of Germany:

1. Dividends to which subparagraph (a) does not apply;
2. Royalties as defined in article 12;

3. Items of income as defined in article 13, paragraph 3;
 4. Items of income as defined in article 16;
 5. Items of income as defined in article 17.
- (c) Subparagraph (a) shall apply to profits attributable to a permanent establishment situated in the Czechoslovak Socialist Republic, to capital constituting regular working capital of such permanent establishment and to dividends paid by a company which is a resident of the Czechoslovak Socialist Republic, as well as to shareholdings in such a company, only if the permanent establishment or company in which shares are held derives its income exclusively or almost exclusively from the following activities exercised in the Czechoslovak Socialist Republic: manufacture or sale of goods or merchandise, technical services or banking or insurance transactions. If these requirements are not met, subparagraph (b) shall apply. In imposing taxes on capital, the tax levied in accordance with the Convention in the Czechoslovak Socialist Republic on elements of capital situated in the Czechoslovak Socialist Republic shall also be credited against the tax levied in the Federal Republic of Germany in accordance with the provisions of the tax laws of the Federal Republic of Germany relating to credits for foreign tax.
2. In the case of a resident of the Czechoslovak Socialist Republic, tax shall be determined as follows:
- (a) Items of income arising in the Federal Republic of Germany — with the exception of items of income covered by subparagraph (b) — and elements of capital situated in the Federal Republic of Germany which, in accordance with this Convention, may be taxed in the Federal Republic of Germany shall be excluded from taxation in the Czechoslovak Socialist Republic. The Czechoslovak Socialist Republic may, however, for the purpose of determining the tax on the remaining income or capital of such person, apply the rate of tax which would have been applied if the items of income or capital in question had not been so excluded.
 - (b) For the purpose of determining Czechoslovak tax, items of income arising in the Federal Republic of Germany which, in accordance with articles 10, 12, 13, paragraph 3, 16 and 17, may be taxed in the Federal Republic of Germany shall be included in the basis on which tax is imposed. Tax imposed in the Federal Republic of Germany in accordance with articles 10, 12, 13, paragraph 3, 16 and 17 shall be credited against the tax imposed on such items of income in the Czechoslovak Socialist Republic. The credit shall not however, exceed that part of the tax, as computed before the credit is given, which is appropriate to such items of income as are taxable in the Federal Republic of Germany.

Article 24. EQUAL TREATMENT

1. A Contracting State shall not subject persons who are residents of the other Contracting State to taxation to which it would not subject persons who are residents of a third State with which the first-mentioned State has no convention for the avoidance of double taxation.

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, family responsibilities or 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 Contracting 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.

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 Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident.

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

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

Article 26. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities involved in the assessment or collection of taxes which are the subject of the Convention.

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 or administrative practice of that or of the other Contracting State;
- (b) To supply particulars which are not obtainable under the normal course of the administration of that or of the other Contracting State;
- (c) To supply information which would disclose any trade, business or professional secret or business process, or information, the disclosure of which would be contrary to public policy.

Article 27. MEMBERS OF DIPLOMATIC AND CONSULAR MISSIONS

Nothing in this Convention shall affect the fiscal privileges to which members of diplomatic and consular missions are entitled under the general rules of international law or under the provisions of special agreements.

Article 28. BERLIN (WEST) CLAUSE

In conformity with the Quadripartite Agreement of 3 September 1971,¹ this Convention shall be extended to Berlin (West) in accordance with established procedures.

Article 29. ENTRY INTO FORCE

1. This Convention shall be ratified; the instruments of ratification shall be exchanged at Bonn as soon as possible.

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

- (a) In respect of taxes levied for the taxation period following the year in which the Convention enters into force and for subsequent taxation periods;
- (b) In respect of taxes withheld at source on amounts paid after 31 December of the year in which the Convention enters into force.

Article 30. TERMINATION

This Convention shall remain in force indefinitely; however, either Contracting State may denounce the Convention, through the diplomatic channel, by giving notice of termination in writing to the other Contracting State on or before 30 June of any calendar year after the expiry of five years following the end of the calendar year in which it enters into force. In such event, the Convention shall cease to have effect in both Contracting States:

- (a) In respect of taxes levied for the tax year following the tax year in which notice of termination is given and for subsequent tax years;
- (b) In respect of taxes withheld at source on amounts paid after 31 December of the year in which notice of termination is given.

DONE at Prague, on 19 December 1980, in two originals each in the Czech and German languages, both texts being equally authentic.

For the Czechoslovak
Socialist Republic:

[BOHUSLAV CHŇOUPEK]

For the Federal Republic
of Germany:

[HANS DIETRICH GENSCHER]

¹ United Nations, *Treaty Series*, vol. 880, p. 115.