

No. 27012

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**FEDERAL REPUBLIC OF GERMANY  
and  
BULGARIA**

**Convention for the avoidance of double taxation with respect  
to taxes on income and on capital (with protocol). Signed  
at Bonn on 2 June 1987**

*Authentic texts: German and Bulgarian.*

*Registered by the Federal Republic of Germany on 5 January 1990.*

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**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE  
et  
BULGARIE**

**Convention tendant à éviter la double imposition en matière  
d'impôts sur le revenu et sur la fortune (avec protocole).  
Signée à Bonn le 2 juin 1987**

*Textes authentiques : allemand et bulgare.*

*Enregistrée par la République fédérale d'Allemagne le 5 janvier 1990.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> 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 ON CAPITAL

The Federal Republic of Germany and the People's Republic of Bulgaria,  
Desiring to promote their economic, scientific, technical and cultural relations through the elimination of double taxation,  
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 on behalf of a Contracting State or of one of its political subdivisions (*Länder*) 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.

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

(a) In the Federal Republic of Germany:

The income tax;

The corporation tax;

The capital tax; and

The trade tax

(hereinafter referred to as “tax of the Federal Republic of Germany”);

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

The tax on total income;

The tax on income of unmarried, widowed and divorced persons and spouses without children;

The tax on profits; and

The tax on buildings

(hereinafter referred to as “tax of the People's Republic of Bulgaria”).

<sup>1</sup> Came into force on 21 December 1988, i.e., one month after the exchange of the instruments of ratification, which took place at Sofia on 21 November 1988, in accordance with article 28 (2).

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the signature of the 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.

### *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, depending on the context, the Federal Republic of Germany or the People’s Republic of Bulgaria, each State’s area of territorial jurisdiction coinciding in each case with the area of application of its tax laws;

(b) The term “person” means any individual, body corporate or any other body of persons which is treated as a body corporate 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 a ship, a boat engaged in inland waterways transport or an aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, boat 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 the 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 State concerning the taxes to which the Convention applies.

### *Article 4. RESIDENT*

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:

Any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, headquarters or any other criterion of a similar nature;

(b) In the case of the People’s Republic of Bulgaria:

(aa) Any individual who, under Bulgarian law, is liable to tax on his income and is not permanently resident in a third State;

(bb) Any body corporate which has its headquarters in the People’s Republic of Bulgaria.

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

(c) If the Contracting State of which he is a resident cannot be determined under the provisions of subparagraphs (a) and (b) above, the Contracting States shall proceed in accordance with article 24.

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

3. A building site or construction or assembly project is considered to be a permanent establishment only if it continues for a period of more than 12 months.

4. Notwithstanding the preceding provisions of this article, 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 exhibits after an exhibition;

(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 the purpose of carrying on a combination of the activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from such a combination is of a preparatory or auxiliary character.

5. Where a resident of a Contracting State carries on business in the other Contracting State through an agent, a permanent establishment shall be deemed to exist if the agent:

(a) Has an authority to conclude contracts in the name of the resident;

(b) Habitually exercises such authority in the other State;

(c) Is not acting as an agent of an independent status within the meaning of paragraph 6 of this article.

A permanent establishment shall not be deemed to exist if the activities of the agent are limited to those mentioned in paragraph 4 of this article.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business 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.

#### *Article 6. INCOME FROM IMMOVABLE PROPERTY*

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 State.

2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property is situated. Ships, boats engaged in inland waterways transport 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 independent personal services.

#### *Article 7. BUSINESS PROFITS*

1. The profits of an enterprise of a Contracting State shall be taxable in the other Contracting State only if the enterprise carries on business in the other Contracting State 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for that permanent estab-

lishment 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 of goods or merchandise for the enterprise.

5. 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, boats engaged in inland waterways transport or aircraft operated 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 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.

3. The provisions of paragraphs 1 and 2 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. DIVIDENDS*

1. Dividends paid by a body corporate 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 body corporate 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 per cent of the gross amount of the dividends.

3. The term “dividends” as used in this article means:

(a) Dividends on 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 profits distributed by a body corporate which is a 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 laws of the Federal Republic of Germany of which the body corporate making the distribution is a resident, and, for the purposes of taxation in the Federal Republic of Germany, income derived by a sleeping partner from his participation as such and distributions on certificates of an investment trust.

4. The provisions of paragraphs 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 body corporate paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such

permanent establishment or fixed base. In such case the provisions of article 7 or article 13, as the case may be, shall apply.

#### *Article 10. INTEREST*

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 article 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, bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.

3. The provision of paragraph 1 shall not apply if the beneficial owner, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases the provisions of article 7 or article 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 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 11. ROYALTIES*

1. Royalties arising in a Contracting State and received 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 in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 5 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 cinematographic films, or films or tapes used for radio or television broadcasting, any patent (including copyright-protected inventions and rationalization proposals), trade mark, design or model, plan, secret formula or process, or computer programme, 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, 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 independent personal 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 cases the provisions of article 7 or article 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, one of its political subdivisions (*Länder*) or local authorities 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 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 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. CAPITAL GAINS*

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 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 independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships, boats engaged in inland waterways transport 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 of the capital stock of a body corporate which is a resident of a Contracting State may be taxed in that State.

5. Gains from the alienation of any 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.

#### *Article 13. INDEPENDENT PERSONAL SERVICES*

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Con-



tracting State for the purpose of performing his activities. If he has such a fixed base available to him, 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, dentists and accountants.

#### *Article 14. SALARIES AND WAGES*

1. Subject to the provisions of articles 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 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 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 article, remuneration derived in respect of an employment exercised aboard a ship, boat engaged in inland waterways transport 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.

#### *Article 15. 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 body corporate which is a resident of the other Contracting State may be taxed in that other State.

#### *Article 16. ENTERTAINERS AND ATHLETES*

1. Notwithstanding the provisions of articles 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 articles 7, 13 and 14, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Income derived by the persons referred to in paragraphs 1 and 2 shall, however, not be taxed in the Contracting State in which they exercise their activities if the visit of the professional entertainer or athlete to that Contracting State is either entirely or to a significant extent financed out of the public funds of the other Contracting State or takes place under cultural exchange arrangements agreed by the Contracting States.

#### Article 17. 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 18. PERFORMANCE OF FUNCTIONS OF A GOVERNMENTAL NATURE

1. Remuneration, including pensions, paid by a Contracting State or one of its political subdivisions (*Länder*) or local authorities to an individual in respect of services rendered to that State or subdivision (*Land*) or authority in the discharge of functions of a governmental nature shall be taxable only in that State. 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 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, or one of its political subdivisions (*Länder*) or local authorities.

#### Article 19. TEACHERS, STUDENTS AND OTHER TRAINEES

1. An individual who is present in a Contracting State at the invitation of that Contracting State or of a university, college, school, museum or other cultural establishment of that Contracting State, or under an official cultural exchange, for a period not exceeding two years solely for the purpose of teaching, lecturing or engaging in research at such establishment and is, or was immediately before entering the first-mentioned State, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State in respect of any remuneration derived [from] such activity, provided that such remuneration arises from sources outside that State.

2. If an individual is a resident of a Contracting State, or was a resident thereof immediately before entering 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 that other State, or as an apprentice (the term including volunteers and practitioners [*Volontäre* or *Praktikanten*] in the Federal Republic of Germany), or other student receiving further education, he shall, as from the date of his first arrival in that other State in connection with the visit in question, be exempt from tax in the said other State:

(a) In respect of all remittances received from outside that State for his maintenance, education or training; and

(b) For a period not exceeding three years, in respect of all remuneration up to a total of 7,200 deutsche mark, or the equivalent in Bulgarian currency, per calendar year for work which he performs in the other Contracting State to supplement funds for his maintenance, education or training.

3. An individual who is present in a Contracting State solely as the recipient of a grant, allowance or award from a charitable, scientific or educational organization principally for the purpose of study or research, and who is, or was immediately before entering the first-mentioned State, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State in respect of all remittances received from outside that State for his maintenance, study or training.

#### *Article 20. OTHER INCOME*

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

#### *Article 21. CAPITAL*

1. Capital represented by immovable property referred to in article 6, owned by a resident of a Contracting State and situated in the other 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 engaged in inland waterways transport and 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. Shares of the capital stock of a body corporate which is a resident of 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.

#### *Article 22. ELIMINATION OF 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 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 arising in the People's Republic of Bulgaria and any elements of capital situated in 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 shall, however, take into account in the determination of its rate of tax the items of income and capital so excluded.

The preceding provisions shall apply to distributed profits only when such distributed profits are paid to a body corporate which is a resident of the Federal Republic of Germany by a body corporate which is a resident of the People's Republic of Bulgaria and the participation of the body corporate which is a resident of the Federal Republic of Germany is at least 10 per cent.

For the purpose of taxation of capital, there shall also be excluded from the basis upon which tax of the Federal Republic of Germany is imposed any share-

holdings whose distributed profits, if paid, would be excluded from the said basis in accordance with the preceding sentence.

(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 income and corporation tax of the Federal Republic of Germany payable in respect of the following items of income arising in the People's Republic of Bulgaria the tax of the People's Republic of Bulgaria paid under the law of the People's Republic of Bulgaria and in accordance with this Convention on:

(aa) Distributed profits to which subparagraph (a) does not apply;

(bb) Royalties to which article 11 applies;

(cc) Gains from the alienation of shares referred to in article 12, paragraph 4;

(dd) Fees to which article 15 applies;

(ee) Income to which article 16 applies.

(c) The provisions of subparagraph (a) shall not apply to the profits of, and to the capital represented by movable and immovable property forming part of the business property of, a permanent establishment and to the gains from the alienation of such property, provided that the resident of the Federal Republic of Germany concerned does not prove that the receipts of the permanent establishment or body corporate are derived exclusively or almost exclusively from producing or selling goods or merchandise, giving technical advice or rendering engineering services or from banking or insurance transactions in the People's Republic of Bulgaria.

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

2. Tax shall be determined in the case of a resident of the People's Republic of Bulgaria as follows:

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

(b) Where a resident of the People's Republic of Bulgaria derives income which, in accordance with the provisions of articles 9 and 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 the income of that resident an amount equal to the tax paid in the Federal Republic of Germany. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from the Federal Republic of Germany.

(c) Where, in accordance with this Convention, income derived or capital owned by a resident of the People's Republic of Bulgaria is exempt from tax in the People's Republic of Bulgaria, the People's Republic of Bulgaria may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

*Article 23. NON-DISCRIMINATION*

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. This article shall, notwithstanding the provisions of article 2, apply to taxes of every kind and description.

*Article 24. MUTUAL AGREEMENT PROCEDURE*

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

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. 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 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 reaching an agreement in the sense of the preceding paragraphs.

*Article 25. 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 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 the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes.

2. In no case shall 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, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

*Article 26. DIPLOMATIC AND CONSULAR PRIVILEGES*

Nothing in this Convention shall affect the fiscal privileges of members of a diplomatic mission or a consular post and employees of international organizations under the general rules of international law or under the provisions of special agreements.

*Article 27. BERLIN CLAUSE*

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

*Article 28. ENTRY INTO FORCE*

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at 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 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 29. 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 Bonn on 2 June 1987, in two original copies, each in the German and Bulgarian languages, both texts being equally authentic.

For the Federal Republic of Germany:

RUHFUS

GERHARD STOLTENBERG

For the People's Republic of Bulgaria:

P. MLADENOV

<sup>1</sup> United Nations, *Treaty Series*, vol. 880, p. 115.

## PROTOCOL

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

On the occasion of the signing on 2 June 1987 at Bonn of the Convention between the two States for the avoidance of double taxation with respect to taxes on income and on capital have agreed on the following provisions, which shall form an integral part of the Convention:

1. *Ad article 7:*

(a) In the Contracting State in which the permanent establishment is situated, only such items of income may be attributed to a building site or construction or assembly project as are the result of those activities as such. The value of any consignment of machines or equipment from the central permanent establishment or from another permanent establishment of the enterprise or from a third party, whether connected with those activities or independent of them, shall not count as income attributable to the building site or construction or assembly project.

(b) Items of income relating to planning, design, construction or research work or technical services provided by a resident of a Contracting State in that Contracting State and which are connected with a permanent establishment maintained in the other Contracting State shall not be attributed to such permanent establishment.

2. *Ad articles 9 and 10:*

Notwithstanding the provisions of these articles, dividends and interest may be taxed in the Contracting State in which they arise under the laws of that State:

(a) If they are derived from rights or debt-claims carrying a right to participate in profits (including income derived by a sleeping partner from his participation, from a "partial loan" and from "profit obligations" within the meaning of the tax law of the Federal Republic of Germany); and

(b) On condition that they are deductible in the determination of the profits of the debtor of the dividends or interest.

3. *Ad articles 9 to 11:*

The competent authorities of the Contracting States shall establish by mutual agreement methods for the implementation of the provisions relating to tax relief and tax exemption.

4. *Ad article 22:*

Where a body corporate which is a resident of the Federal Republic of Germany distributes income derived from sources within the People's Republic of Bulgaria, paragraph 1 shall not preclude the compensatory imposition of corporation tax on such distributions in accordance with the provisions of the tax law of the Federal Republic of Germany.

5. *Ad article 26:*

Notwithstanding the provisions of article 4, an individual who is a member of a diplomatic mission or consular post maintained by a Contracting State in the other Contracting State or in a third State shall, for the purposes of the Convention, be deemed to be a resident of the sending State, if:

(a) He is not, under international law, subject to tax in the receiving State with respect to items of income arising from sources outside that State; and

(b) He is subject in the sending State to the same tax obligations with respect to his world-wide income as are residents of the sending State.

DONE at Bonn on 2 June 1987, in two originals each in the German and Bulgarian languages, both texts being equally authentic.

For the Federal Republic of Germany:

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