

Convention between the Kingdom of Belgium and the Republic of Rwanda for the avoidance of double taxation and the prevention of tax fraud and fiscal evasion with respect to taxes on income and on capital

THE KINGDOM OF BELGIUM

AND

THE REPUBLIC OF RWANDA,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of tax fraud and fiscal evasion with respect to taxes on income and on capital,

have agreed as follows :

CHAPTER I - Scope of the Convention

Article 1 - Persons covered

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 its 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

a) in the case of Rwanda :

- 1° the personal income tax;
 - 2° the corporate income tax;
 - 3° the withholding taxes, and
 - 4° the tax on rent of immovable property as imposed under Law No 17/2002 establishing the source of revenue for districts and towns and its management, as amended;
- (hereinafter referred to as « Rwandan tax »);

b) in the case of Belgium :

- 1° the individual income tax;
 - 2° the corporate income tax;
 - 3° the income tax on legal entities;
 - 4° the income tax on non-residents;
 - 5° the supplementary crisis contribution,
- including the prepayments and the surcharges on these taxes and prepayments;
(hereinafter referred to as « Belgian tax »).

4. The Convention shall apply also to any identical or substantially similar taxes that are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes that have been made in their taxation laws.

CHAPTER II - Definitions

Article 3 - General definitions

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

- a) 1° the term « Belgium », means the Kingdom of Belgium; used in its geographical sense, it means the territory of the Kingdom of Belgium, including the territorial sea and any other area in the sea and in the air within which the Kingdom of Belgium, in accordance with international law, exercises sovereign rights or its jurisdiction;
2° the term « Rwanda », means the Republic of Rwanda; used in its geographical sense it includes all the territory, lakes and any other area in the lakes and in the air within which Rwanda may exercise sovereign rights in accordance with international law;
- b) the terms « a Contracting State » and « the other Contracting State » mean Belgium or Rwanda, as the context requires;
- c) the term « person » includes an individual, a company and any other body of persons;
- d) the term « company » means any body corporate or any entity that is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;
- e) the term « enterprise » applies to the carrying on of any business;
- f) the terms « enterprise of a Contracting State » and « enterprise of the other Contracting State » mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- g) the term « international traffic » means any transport by a ship or aircraft operated by an enterprise that has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- h) the term « competent authority » means :
 - 1° in the case of Belgium, the Minister of Finance or his authorised representative, and
 - 2° in the case of Rwanda, the Minister in charge for Finance or his authorised representative;
- i) the term « national », in relation to a Contracting State, means :
 - 1° any individual possessing the nationality or citizenship of that Contracting State; and
 - 2° any legal person, partnership or association deriving its status as such from the laws in force in that Contracting State;
- j) the term « business » includes the performance of professional services and of other activities of an independent character.

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has

at that time under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

3. It is understood that the provisions of the Convention which are identical or in substance similar to the provisions of the OECD Model Tax Convention on Income and on Capital shall be interpreted in accordance with the general principles expressed in the commentaries on the Articles of the Model Tax Convention. This will not apply with respect to :

- a) any disagreement expressed by a Contracting State in an observation on the commentaries;
- b) any contrary interpretation provided for in this Convention;
- c) any contrary interpretation published by one of the Contracting States and notified to the competent authority of the other Contracting State prior to the entry into force of the Convention;
- d) any contrary interpretation agreed on by the competent authorities of the Contracting States after the entry into force of the Convention.

Article 4 - Resident

1. For the purposes of this Convention, the term « resident of a Contracting State » means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of incorporation, place of management or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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

- a) he shall be deemed to be a resident only of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;
- c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident only of the State of which he is a national;
- d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question 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, then it shall be deemed to be a resident only 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, and

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

3. The term « permanent establishment » likewise encompasses :

- a) a building site or construction or installation project or any supervisory activity in connection with such site or project, but only where such site, project or activities continue for a period of more than 6 months;
- b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purposes but only where activities of that nature continue (for the same or a connected project) within the Contracting State for a period or periods exceeding in the aggregate 3 months in any twelve-month period commencing or ending in the fiscal year concerned.

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;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person -other than an agent of an independent status to whom paragraph 7 applies- is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. 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.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III - Taxation of income

Article 6 - Income from immovable property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. 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.

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. 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.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are necessary and 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. Only that part of the expenses that is attributable to the permanent establishment shall be allowed as a deduction.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.
5. 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 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 in international traffic of ships or aircraft shall include in particular :

- a) profits derived from the lease of ships or aircraft on charter fully equipped, manned and supplied;
- b) profits derived from the lease on a bare boat charter basis of ships or aircraft if such leasing activity is an ancillary activity for the enterprise engaged in international traffic;
- c) profits derived from the leasing of containers if such leasing activity is an ancillary activity for the enterprise engaged in international traffic.

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

4. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an 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 a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make such an adjustment as it considers appropriate to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and 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 also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

Notwithstanding the preceding provision of this paragraph, dividends shall not be taxed in the Contracting State of which the company paying the dividends is a resident if :

- a) the beneficial owner of the dividends is a company which is a resident of the other Contracting State and which at the moment of the payment of the dividends holds, for an uninterrupted period of at least twelve months, shares representing directly at least 25 per cent of the capital of the company paying the dividends, and
- b) the paying company does not enjoy the benefit of special measures to promote economic development.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term « dividends » as used in this Article means income from shares, « jouissance » shares or « jouissance » rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income -even paid in the form of interest- which is subjected to the same taxation treatment as income from shares by the tax legislation of the State of which the paying company is a resident.

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 company paying the dividends is a resident through a permanent establishment situated therein 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.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 - Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest shall be exempted from tax in the Contracting State in which it arises if it is :

- a) interest on commercial debt-claims -including debt-claims represented by commercial

paper- resulting from deferred payments for goods, merchandise or services supplied by an enterprise;

b) interest paid in respect of a loan granted, guaranteed or insured or a credit extended, guaranteed or insured under a scheme organised by a Contracting State or one of its political subdivisions or local authorities in order to promote the export;

c) interest paid to the other Contracting State or one of its political subdivisions or local authorities;

d) interest paid by a company which is a resident of a Contracting State to a company which is a resident of the other Contracting State and which holds directly or indirectly at least 35 % of the capital of the first-mentioned company, insofar as the total amount of the loan(s) granted by the second company does not exceed an amount equal to the equity of the first-mentioned company.

4. 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 and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. However, the term « interest » shall not include for the purpose of this Article penalty charges for late payment or interest regarded as dividends under paragraph 3 of Article 10.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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 arise in the State in which the permanent establishment is situated.

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

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 also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 10 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, or films or tapes used for radio or television

broadcasting, any patent, trade mark, design or model, computer application, 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 paragraph 1 and paragraph 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein 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. Royalties shall be deemed to arise in a Contracting State when the payer is 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 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 arise in the State in which the permanent establishment 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 shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 - Technical fees

1. Technical fees derived by a resident of a Contracting State in respect of activities of a technical, managerial or consultancy character shall be taxable only in that State.

2. However, if such activities are exercised in the other Contracting State, such technical fees as are derived therefrom may be taxed in that other State but the tax so charged shall not exceed 10 per cent of the gross amount of the technical fees.

3. The term « technical fees » as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments or to a person mentioned in Article 16, in consideration for any services of a technical, managerial or consultancy nature.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the technical fees, being a resident of a Contracting State, exercises the activities dealt with in paragraph 1 in the other Contracting State through a permanent establishment situated therein. In such a case the provisions of Article 7 shall apply.

5. Notwithstanding the provisions of paragraph 2, the beneficial owner of the technical fees may choose to be taxed as if the activities giving rise to the technical fees exercised in the other Contracting State were exercised through a permanent establishment situated in the other Contracting State.

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 technical fees 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 14 - 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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains derived by a resident of a Contracting State from the alienation of shares of a company more than 50 per cent of the value of which is derived directly or indirectly from immovable property situated in the other Contracting State, may be taxed in that other State. However, this paragraph does not apply to gains derived from the alienation of shares :
 - a) quoted on a recognised stock exchange of one of the States;
 - b) alienated or exchanged in the framework of a reorganisation of a company, of a merger, of a scission, or of a similar operation;
 - c) 50 per cent or more of the value of which is derived from immovable property through which the company carries out its activity;
 - d) owned by a person who owns directly less than 50 per cent of the capital of the company of which the shares have been alienated.
5. Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

Article 15 - Income from employment

1. Subject to the provisions of Articles 16, 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 any twelve month period commencing or ending in the taxable period concerned, 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 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 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 16 - Directors' remuneration

1. 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 or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

The preceding provision shall also apply to payments derived in respect of the discharge of functions which, under the laws of the Contracting State of which the company is a resident, are regarded as functions of a similar nature as those exercised by a person referred to in the said provision.

2. Remuneration derived by a person referred to in paragraph 1 from a company which is a resident of a Contracting State in respect of the discharge of day-to-day functions of a managerial or technical, commercial or financial nature and remuneration received by a resident of a Contracting State in respect of his day-to-day activity as a partner in a partnership, which is a resident of a Contracting State, shall be taxable in accordance with the provisions of Article 15, as if such remuneration were remuneration derived by an employee in respect of an employment and as if references to the « employer » were references to the company.

Article 17 - Artistes and sportsmen

1. Notwithstanding the provisions of Articles 7 and 15, 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 a sportsman, 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

Article 18 - Pensions

Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in the Contracting State in which they arise. This provision shall also apply to pensions and other similar remuneration paid under the social security legislation of a Contracting State or under a public scheme organised by that State in order to supplement the benefits of its social security legislation.

Article 19 - Government service

1. Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

2. However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who :

a) is a national of that State; or

b) did not become a resident of that State solely for the purpose of rendering the services.

3. Salaries, wages and other similar remuneration paid by a Contracting State, a political subdivision, a local authority or by a public legal body of that Contracting State, to an individual in respect of services rendered in the other Contracting State in the framework of assistance or cooperation agreements or memoranda of understanding concluded between both Contracting States, shall be taxable only in the first mentioned State.

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

Article 20 - Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21 - Other income

1. 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.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of the Convention and arising in the other Contracting State may also be taxed in that other State if these items are not taxed in the first-mentioned State.

CHAPTER IV - Taxation of capital

Article 22 - 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, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships or aircraft, 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.

CHAPTER V - Methods for elimination of double taxation

Article 23

1. In the case of Rwanda, double taxation shall be avoided as follows :

Belgian tax paid by a resident of Rwanda in respect of income taxable in Belgium, in accordance with the provisions of this Convention, shall be deducted from the taxes due in accordance with the Rwandan fiscal law. Such deductions shall not, however, exceed the tax payable in Rwanda that would otherwise be payable on the income taxable in Belgium.

2. In the case of Belgium, double taxation shall be avoided as follows :

a) Where a resident of Belgium derives income, not being dividends, interest or royalties, or owns elements of capital which may be taxed in Rwanda in accordance with the provisions of this Convention, and which are taxed there, Belgium shall exempt such income or such elements of capital from tax but may, in calculating the amount of tax on the remaining income or capital of that resident, apply the rate of tax which would have been applicable if such income or elements of capital had not been exempted.

However, where the tax levied in Rwanda amounts to less than 15 per cent of the net amount of the income referred to in Article 7, Belgium shall not exempt that income but shall reduce to a half the Belgian tax which is proportionally relating to that income, calculated as if that income was income from Belgian sources.

b) Where a resident of Belgium derives income from business operations which may be taxed in Rwanda in accordance with the provisions of Article 7 of this Convention but which are not effectively taxed according to special measures to promote economic development in Rwanda, Belgium shall also exempt such income from tax. However, in calculating the amount of tax on the remaining income or capital of that resident, Belgium may apply the rate of tax which would have been applicable if such income or elements of capital had not been exempted. This provision applies for a period of ten consecutive calendar years starting from the moment the Convention starts to have effect. The competent authorities of the Contracting States may decide by mutual agreement to extend this provision for a new period of ten years.

c) Notwithstanding the provisions of sub-paragraphs a) and b) of this paragraph and any other provision of this Convention, Belgium shall, for the determination of the additional taxes established by Belgian municipalities and conurbations, take into account the earned income (revenus professionnels B beroepsinkomsten) that is exempted from tax in Belgium in accordance with sub-paragraph a) or b) of this paragraph. These additional taxes shall be calculated on the tax which would be payable in Belgium if the earned income in question had been derived from Belgian sources.

d) Dividends derived by a company which is a resident of Belgium from a company which is a resident of Rwanda, shall be exempt from the corporate income tax in Belgium under the conditions and within the limits provided for in Belgian law.

Notwithstanding the condition of taxation provided for in Belgian law, dividends referred to in Article 10, paragraph 2, sub-paragraph 2 and derived by a company which is a resident of Belgium from a company which is a resident of Rwanda and which are paid out of profits from business operations in Rwanda which Rwanda exempts from the corporate income tax under special measures to promote economic development in Rwanda, shall also be exempt from the corporate income tax in Belgium. Belgium shall exempt these dividends during a period of ten years starting from the moment the Convention starts to have effect and in accordance with the other limits and conditions provided for in Belgian law. The competent authorities of the Contracting States may decide by mutual agreement to extend this provision for a new period of ten years.

e) Subject to the provisions of Belgian law regarding the deduction from Belgian tax of taxes paid abroad, where a resident of Belgium derives items of his aggregate income for Belgian tax purposes which are interest or royalties, the Rwandan tax levied on that income shall be

allowed as a credit against Belgian tax relating to such income.

f) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Rwanda, have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in sub-paragraphs a) and b) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been exempted from tax in Rwanda by reason of compensation for the said losses.

CHAPTER VI - Special provisions

Article 24 - Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

3. 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 which it grants to its own residents.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, paragraph 6 of Article 12, or paragraph 6 of Article 13 apply, interest, royalties, technical fees and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

Article 25 - Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with 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, or if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

4. The competent authorities of the Contracting States shall agree on administrative measures necessary to carry out the provisions of the Convention and particularly on the proofs to be furnished by residents of either Contracting State in order to benefit in the other State from the exemptions or reductions of tax provided for in the Convention.

5. The competent authorities of the Contracting States shall communicate directly with each other for the application of the Convention.

Article 26 - Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is useful for carrying out the provisions of this Convention or of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2. 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 or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in the first sentence. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation :

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

3. Notwithstanding the preceding provisions of this Article, information received by a Contracting State may be used for other purposes when the laws of both Contracting States permit such use and when the competent authority of the State providing the information

authorises such use.

Article 27 - Aid in recovery

1. The Contracting States shall lend aid and assistance to each other in order to notify and recover the taxes referred to in Article 2 as well as surcharges, additions, interest, costs and fines of a non penal nature.

2. At the request of the competent authority of a Contracting State, the competent authority of the other Contracting State shall secure, in accordance with the legal provisions and regulations applicable to the notification and recovery of the said taxes of the latter State, the notification and the recovery of tax claims referred to in paragraph 1 which are due in the first mentioned State. Such claims shall not have any priority in the requested State and that State shall not be obliged to apply any means of enforcement which are not authorised by the legal provisions or regulations of the applicant State.

3. Requests referred to in paragraph 2 shall be supported by an official copy of the instrument permitting the execution, accompanied where appropriate, by an official copy of any final administrative or judicial decision.

4. With regard to tax claims which are open to appeal, the competent authority of a Contracting State may, in order to safeguard its rights, request the competent authority of the other Contracting State to take the protective measures provided for in the laws of that other State; the provisions of paragraphs 1 to 3 shall apply *mutatis mutandis* to such measures.

Article 28 - Members of diplomatic missions and consular posts

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

2. For the purposes of the Convention, persons who are members of diplomatic missions or consular posts of a Contracting State in the other Contracting State or in a third State 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 on capital as are residents of that State.

3. The Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of diplomatic missions or consular posts of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income or on capital.

CHAPTER VII - Final provisions

Article 29 - Entry into force

1. Each Contracting State shall notify the other Contracting State of the completion of the procedures required by its laws for the bringing into force of this Convention. The Convention shall enter into force from the date on which the later of these notifications is received.

2. The provisions of the Convention shall have effect :

- a) with respect to taxes due at source on income credited or payable on or after January 1 of the year next following the year in which the Convention entered into force;
- b) with respect to other taxes charged on income of taxable periods beginning on or after

January 1 of the year next following the year in which the Convention entered into force;
c) with respect to taxes on capital charged on elements of capital existing on January 1 of any year following the year in which the Convention entered into force.

Article 30 - Termination

This Convention shall remain in force until terminated by a Contracting State but either Contracting State may terminate the Convention, through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the Convention entered into force. In the event of termination before July 1 of such year, the Convention shall cease to have effect :

- a) with respect to taxes due at source on income credited or payable from January 1 of the year next following the year in which the notice of termination is given;
- b) with respect to other taxes charged on income of taxable periods beginning on or after January 1 of the year next following the year in which the notice of termination is given;
- c) with respect to taxes on capital charged on elements of capital existing on January 1 of any year following the year in which the notice of termination is given.

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

DONE in duplicate at Kigali, this 16th day of April 2007, in the English language.

PROTOCOL

At the moment of signing the Convention between the Kingdom of Belgium and the Republic of Rwanda for the avoidance of double taxation and the prevention of tax fraud and fiscal evasion with respect to taxes on income and on capital, the undersigned have agreed upon the following provisions, which shall form an integral part of the Convention.

1. Ad Article 10, paragraph 2, sub-paragraph 2 :

It is understood that the term « special measures to promote economic development » only refers to special measures taken in Rwanda in order to promote economic development in Rwanda.

2. Ad Article 11, paragraph 3 :

It is understood that the provision of sub-paragraph b) shall apply in any case :

a) With respect to Belgium :

- i. to interest of a loan or a credit for which a financial support is granted after advice of the Committee for financial support to export (« Finexpo »);
- ii. to interest of a loan or a credit granted by the Association for the coordination of medium-term financing of Belgian export (« Creditexport »);
- iii. to interest of a loan or a credit insured by the « Ducroire/Delcredere ».

b) With respect to Rwanda :

- i. to interest paid on the rural sector support schemes;
- ii. to interest on a loan or a credit granted under the export promotion fund;
- iii. to interest paid on any similar export oriented promotion scheme agreed on by the competent authorities of both Contracting States.

3. Ad Article 15, paragraph 1 :

An employment is exercised in a Contracting State when the activity in respect of which the salaries, wages and other similar remuneration are paid, is effectively carried on in that State. This means that the employee is physically present in that State for carrying on the activity there.

4. Ad Article 21, paragraph 3 and Article 23, paragraph 2, a) :

For the application of paragraph 3 of Article 21 and of paragraph 2, a) of Article 23, income is taxed when it is effectively included in the taxable base by reference to which the tax is computed. Income is therefore not taxed when, being subject to the tax treatment normally applicable to such income, it is either not taxable or exempted from tax.

5. Ad Article 23, paragraph 2, b) and d) second sub-paragraph :

The provisions of paragraph 2, b) and of the second sub-paragraph of paragraph 2, d) of Article 23 shall not apply to a resident of Belgium where the main purpose of that resident's activities or investments in Rwanda was to take undue advantage of the said provisions, that is where it is established that the said activities and investments do not meet legitimate requirements of a financial or economic nature. This shall be the case, in particular, where - before the end of, or after the expiry of, the period during which the exemption of Rwandan tax referred to in those provisions is granted to a company which is a resident of Rwanda or to a permanent establishment that a resident of Belgium has in Rwanda - an enterprise which is associated, within the meaning of Article 9, with that resident of Belgium or Rwanda, as the case may be, takes over the activities of the above-mentioned company or permanent establishment in order to be granted in Rwanda a new period of exemption of the profits derived from those activities.

For the purposes of this provision, the fact that an enterprise of Belgium carries on activities through a permanent establishment in Rwanda or invests funds in a company that is a resident of Rwanda and the income derived from the business activities carried out in Rwanda by that permanent establishment or that company regularly enjoys the benefit of a temporary exemption of Rwandan tax shall not of itself constitute sufficient reason to consider that the main purpose of such activities or investments was to take undue advantage of the provisions of paragraph 2, b) or of the second sub-paragraph of paragraph 2, d) of Article 23.

The term « special measures to promote economic development in Rwanda » in Article 23, 2, b) and d) means Articles 41 and 42 of the Law n° 16/2005 of 18/08/2005 on Direct Taxes on Income and any other substantially similar provision of the laws of Rwanda extending and/or amending Articles 41 and 42 provided that such substantial similarity is agreed on by the competent authorities of both Contracting States.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed this Protocol.

Done in duplicate at Kigali, this 16th day of April 2007, in the English language.