

CONVENTION
BETWEEN
THE GOVERNMENT OF UKRAINE
AND
THE GOVERNMENT OF THE KINGDOM OF DENMARK
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME AND ON PROPERTY

The Government of Ukraine and the Government of the Kingdom of Denmark,

desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on property,

and confirming their endeavour to the development and strengthening of mutual economic relations,

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 property 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 property all taxes imposed on total income, on value of property, or on elements of income or of property including taxes on gains from the alienation of movable or immovable property.
3. The existing taxes to which the Convention shall apply are in particular:

a) In the case of Ukraine:

- (i) the tax on profits of enterprises; and
 - (ii) the income tax on citizens;
- (hereinafter referred to as "Ukrainian tax").

b) In the case of Denmark:

- (i) the income tax to the State (indkomstskatten til staten);
- (ii) the income tax to the municipalities (den kommunale indkomstskat);
- (iii) the income tax to the county municipalities (den amtskommunale indkomstskat);

- (iv) taxes imposed under the Hydrocarbon Tax Act (skatter i henhold til kulbrinteskatteloven);
- (v) the capital tax to the State (formueskatten til staten);

(hereinafter referred to as "Danish tax").

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed by either Contracting State 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 substantial changes which have been made in their respective taxation laws.

5. The provisions of this Convention, apart from the provisions of Article 28, shall not apply to penalties for infringement of the tax legislation of the Contracting States.

Article 3

GENERAL DEFINITIONS

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

- a) the terms "Ukraine" means the territory of Ukraine, its Continental Shelf and its exclusive (maritime) economic zone, including any area outside the territorial sea of Ukraine which in accordance with international law has been or may hereafter be designated, under the laws of Ukraine, as an area within which the rights of Ukraine with respect to the sea bed and sub-soil and their natural resources may be exercised;
- b) the term "Denmark" means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an

area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area; the term does not comprise the Faroe Islands and Greenland;

- c) the term "citizen" means:
 - (i) any individual possessing the citizenship of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;
- d) the terms "a Contracting State" and "the other Contracting State" mean Ukraine or Denmark, as the context requires;
- e) the term "person" includes an individual, a company and any other body of persons;
- f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- g) 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;
- h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

- i) the term "competent authority" means, in the case of Ukraine, the Ministry of Finance of Ukraine or its authorized representative, and, in the case of Denmark, the Minister for Taxation or his authorized 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 any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of registration or any other criterion of a similar nature. But this term 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 of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

- b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either Contracting State, he shall be deemed to be a resident only of the Contracting State in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a citizen;
- d) if he is a citizen of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5

PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

g) a warehouse or other structure used as a sales outlet.

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

4. Notwithstanding the preceding provisions of this 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 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an au-

thority to conclude contracts on behalf of the enterprise, or maintains a stock of goods or merchandise belonging to the enterprise, from which regular sale of such goods and merchandise is carried on 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. 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.

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

Article 6

INCOME FROM IMMOVABLE PROPERTY

1. Income 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 and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article 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 of this Article 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 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 of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in case of a banking enterprise, by way of interest on money lent to the permanent establishment by the enterprise.

4. Insofar as it has been customary in a Contracting State to determine, according to its laws, 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 of this Article 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

INTERNATIONAL TRANSPORT

1. Profits derived by a resident of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:

- a) income from the rental on a bareboat basis of ships or aircraft; and
- b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. Where profits within paragraphs 1 and 2 of this Article are derived by a resident of a Contracting State from participation in a pool, a joint business or an international operating agency, the profits attributable to that resident shall be taxable only in the Contracting State of which he is a resident.

4. Whenever companies from different countries have agreed to carry on an air transportation business together in the form of a consortium, the provisions of paragraphs 1 and 2 shall apply only to such proportion of the profits of the consortium as relates to the participation held in that consortium by a company that is a resident of a Contracting State.

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, may be included by a Contracting State 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 an appropriate adjustment 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:

- a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States may by mutual agreement settle the mode of application of these limitations.

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 or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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, 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 14, as the case may be, 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 or a fixed base 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 if such resident is the beneficial owner of this interest.

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 recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraphs 1 and 2,

a) interest arising in Ukraine shall be exempt from Ukrainian tax if the interest is paid to:

(i) the State of Denmark, a political subdivision, a local authority or a statutory body thereof;

(ii) the National Bank of Denmark;

(iii) the Industrialization Fund for Developing Countries;

(iv) the Investment Fund for Central and Eastern Europe;

b) interest arising in Denmark shall be exempt from Danish tax if the interest is paid to:

(i) the State of Ukraine, a political subdivision, a local authority or a statutory body thereof;

(ii) the National Bank of Ukraine;

c) any other institution which is a resident of a Contracting State shall be exempt from the tax in the other Contracting State with respect to interest paid to such institution and arising in that other State if such institution is defined by mutual agreement between the competent authorities of the two States as being similar to those institutions mentioned in subdivision a) (iii) - (iv);

d) interest arising in a Contracting State on a loan guaranteed by any of the bodies mentioned or referred to in sub-paragraphs a) or b) and paid to a resident of the other Contracting State shall be taxable only in that State;

- e) interest arising in a Contracting State shall be taxable only in the other Contracting State if:
 - (i) the recipient is a resident of that other State, and
 - (ii) such recipient is an enterprise of that other State and the beneficial owner of the interest, and
 - (iii) the interest is paid in respect of indebtedness incurred in connection with the sale on credit by that enterprise, of any industrial, commercial or scientific equipment, to an enterprise of the first-mentioned State, except where the sale or indebtedness is between associated enterprises within the meaning of Article 9.

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.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however,

the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base 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.

8. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

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, except those referred to in subparagraph b) of paragraph 3, may also be taxed in the Contracting State in which they arise and in accordance with 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:

- a) any copyright of literary, artistic or scientific work (including cinematograph films, and films or tapes for radio or television broadcasting), trade mark, patent, design, model or plan;
- b) any secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience.

The competent authorities may by mutual agreement settle the mode of application of these limitations.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State 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 case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

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

due regard being had to the other provisions of this Convention.

6. The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

7. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority 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.

Article 13

CAPITAL GAINS

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

2. Gains derived by a resident of a Contracting State from the alienation of:

- a) shares, other than shares quoted on an approved Stock Exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or

- b) an interest in any other company defined under the provisions of Article 3 of this Convention the assets of which consist principally of immovable property situated in the other Contracting State, or of shares referred to in sub-paragraph a) above,

may be taxed in that other State.

3. 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.

4. Gains from the alienation of ships or aircraft operated in international traffic by an enterprise of a Contracting State or movable property, including containers, pertaining to the operation of such ships or aircraft, shall be taxable only in that Contracting State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 of this Article shall be taxable only in the Contracting State of which the alienator is a resident provided that those gains are subject to tax in that Contracting State.

6. With respect to gains derived by an air transport consortium formed by companies from different countries, the provisions of paragraph 4 shall apply only to such proportion of the gains as relates to the participation held in that consortium by a company that is a resident of a Contracting State.

7. Where an individual, who is a resident of one Contracting State and immediately thereafter becomes a resident of the other Contracting State, is treated by the first-mentioned Contracting State as having alienated shares and is taxed by that

State in respect of gains on such shares as of the date of change of residence, such individual may elect in the other Contracting State in his annual return of income for the year of alienation to be liable to tax as if he had purchased the shares for an amount equal to the amount used as sales prices in the first-mentioned State when it made the final assessment of its gains tax.

Article 14

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

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

Article 15

DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 20 of this Convention 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 of this Article, 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 fiscal year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is a resident of the first-mentioned 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 or aircraft operated in international traffic, may be taxed in the Contracting State of which the enterprise operating the ship or aircraft is a resident.

4. Where a resident of a Contracting State derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by an air transport consortium formed by companies from different countries including a company that is a resident of that State, such remuneration shall be taxable only in that State.

Article 16

DIRECTORS' FEES

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

Article 17

ARTISTES AND SPORTSMEN

1. Notwithstanding the provisions of Articles 14 and 15 of this Convention, 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, 14 and 15 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income referred to in this Article shall be exempt from tax in the Contracting State in which the activities of the entertainer or sportsman are exercised, if such activities are substantially supported by public funds of either Contracting State or a political subdivision or a local authority thereof, or are carried on under a culture cooperation agreement between the Contracting States.

Article 18

PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19 of this Convention, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and any annuity paid to such resident shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, payments received by an individual, being a resident of a Contracting State, under the social security legislation of the other Contracting State shall be taxable only in that other State.
3. In the case of an individual who was a resident of a Contracting State and has become a resident of the other Contracting State, the provisions of paragraph 1 of this Article or Article 21 shall not affect the right of the first-mentioned State under its national laws to tax pensions, annuities or other similar remuneration accruing to such individual from that State.
4. The term "annuity" means a stated sum payable to an individual periodically at stated times during his life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19

GOVERNMENT SERVICE

1. a) 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.

- b) Notwithstanding the provisions of sub-paragraph a) of this paragraph, such 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:
 - (i) is a citizen of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
- 2. a) Any pension paid by, or out of funds created 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.
- b) Notwithstanding the provisions of sub-paragraph a) of this paragraph, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a citizen of, that State.
- 3. The provisions of Articles 15, 16 and 18 of this Convention shall apply to remuneration and pensions 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

- 1. 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 the first-mentioned State,

provided that such payments arise from sources outside that State.

2. Income which a student or apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State receives for his activities performed in the Contracting State in which he is present solely for the purpose of his education or training shall not be taxed in that State, except when the income exceeds the amount necessary for his maintenance, education or training. In such case, the other Articles of this Convention shall apply.

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 the first-mentioned State.

2. The provisions of paragraph 1 of this Article shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6 of this Convention, 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, 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 income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 22

PROPERTY

1. Property 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. Property 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. Property represented by ships and aircraft operated by an enterprise of a Contracting State in international traffic and by movable property, including containers, pertaining to the operation of such ships and aircraft, shall be taxable only in that Contracting State.
4. All other elements of property of a resident of a Contracting State shall be taxable only in that State.
5. With respect to property owned by an air transport consortium formed by companies from different countries, the provisions of paragraph 3 shall apply only to such proportion of the property as relates to the participation held in that consortium by a company that is a resident of a Contracting State.

Article 23

ACTIVITIES IN CONNECTION WITH PRELIMINARY SURVEYS,
EXPLORATION OR EXTRACTION OF HYDROCARBONS
AND OTHER NATURAL RESOURCES

1. Notwithstanding the provisions of Articles 5 and 14, a person who is a resident of a Contracting State and carries on activities in connection with preliminary surveys, exploration or extraction of hydrocarbons and other natural resources situated in the other Contracting State shall be deemed to be carrying on in respect of those activities a business in that other Contracting State through a permanent establishment or fixed base situated therein.
2. The provisions of paragraph 1 shall not apply where the activities are carried on for a period or periods not exceeding 30 days in aggregate in any 12-month period. However, for the purpose of this paragraph, activities carried on by an enterprise related to another enterprise within the meaning of Article 9 shall be regarded as carried on by the enterprise to which it is related if the activities in question are substantially the same as those carried on by the last-mentioned enterprise.
3. Notwithstanding the provisions of paragraphs 1 and 2, drilling rig activities carried on offshore shall constitute a permanent establishment only if the activities are carried on for a period or periods exceeding 6 months in aggregate in any 12-month period. However, for the purpose of this paragraph, activities carried on by an enterprise related to another enterprise within the meaning of Article 9 shall be regarded as carried on by the enterprise to which it is related if the activities in question are substantially the same as those carried on by the last-mentioned enterprise.
4. Notwithstanding the provisions of Article 13, capital gains on drilling rigs used for activities, as mentioned in paragraph 3, which are deemed to be derived by a resident of a Contracting State when the rig activities cease to be subjected to tax

in the other Contracting State shall be exempt from tax in that other State, provided the termination of the drilling activities is not made in connection with the sale of the drilling rig. For the purpose of this paragraph, the term "capital gains" means the amount by which the market value at the moment of transfer exceeds the residual value at that moment, as increased by any depreciation taken.

Article 24

ELIMINATION OF DOUBLE TAXATION

1. Subject to the provisions of the law of Ukraine regarding the elimination of tax paid in a territory outside Ukraine (which shall not affect the general principle of this Article), Danish tax paid under the laws of Denmark and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable property from sources within Denmark shall be allowed as a credit against any Ukrainian tax computed by reference to the same profits, income or property by reference to which the Danish tax is computed.

2. In the case of Denmark, subject to the provisions of paragraph 4 of this Article, where a resident of Denmark derives income or owns property which, in accordance with the provisions of this Convention, may be taxed in Ukraine, Denmark shall allow:

- a) as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Ukraine;
- b) as a deduction from the tax on the property of that resident, an amount equal to the property tax paid in Ukraine.

3. Such deduction in either case shall not exceed that part of income tax or capital tax, as computed before the deduction

is given, which is attributable, as the case may be, to the income or the property which may be taxed in that other State.

4. Where in accordance with any provision of the Convention income derived or property owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or property of such resident, take into account the exempted income or property.

5. For the purposes of paragraphs 1 and 2 of this Article, profits, income and property gains derived by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

Article 25

NON-DISCRIMINATION

1. Citizens 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 citizens of that other State in the same circumstances 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 citizens of the State concerned in the same circumstances 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.

4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 5 of Article 12, apply, interest, royalties 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 property 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 property 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. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not residents in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident under the criteria not contained in general tax laws.

7. The provisions of this Article shall apply to taxes covered by this Convention.

Article 26

MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with 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 25, to that of the Contracting State of which he is a citizen. 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 may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 27

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 or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention and in particular, in order to prevent fraud. The exchange of information is not restricted by Article 1. 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

The competent authorities shall develop the appropriate conditions, methods and technic regarding cases, in respect of which such exchange of information may be done, including where it is necessary exchange of information regarding tax evasions, by way of consultations.

2. In no case shall the provisions of paragraph 1 of this Article be construed so as to impose on the competent authority of either Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice prevailing in either Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of either Contracting State;

- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Article 28

ASSISTANCE IN COLLECTION

1. The Contracting States undertake to lend assistance to each other in the collection of the taxes owed by a taxpayer to the extent that the amount thereof has been finally determined according to the laws of the Contracting State making the request for assistance.
2. In the case of a request by a Contracting State for the collection of taxes which has been accepted for collection by the other Contracting State, such taxes shall be collected by that other State in accordance with the laws applicable to the collection of its own taxes and as if the taxes to be so collected were its own taxes.
3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the provisions of this Article.
4. In this Article, the term "taxes" means the taxes to which the Convention applies and includes any interest and penalties relating thereto.

Article 29

**MEMBERS OF DIPLOMATIC OR PERMANENT MISSIONS
AND CONSULAR POSTS**

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

Article 30

TERRITORIAL EXTENSION

This Convention may be extended, either in its entirety or with any necessary modifications, to any part of the territory of the Contracting States which is specifically excluded from the application of the Convention or, to any State or territory for whose international relations one of the Contracting States is responsible, and which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

Article 31

ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other, through the diplomatic channels, the completion of the procedures required by its domestic law for the bringing into force of this Convention. This Convention shall enter into

force on the date of the later of these notifications and shall thereupon have effect:

a) in Ukraine:

- (i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the Convention enters into force;
- (ii) in respect of tax on profits of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the Convention enters into force;
- (iii) in respect of income tax on citizens, whether residents or non-residents of Ukraine, for any payments made on or after the sixtieth day following that day on which the Convention enters into force;

b) in Denmark:

- (i) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the Convention enters into force;
- (ii) in respect of other taxes on income, and taxes on property, for taxes chargeable for any income year beginning on or after 1 January in the calendar year next following the year in which the Convention enters into force.

2. The Convention between the Kingdom of Denmark and the Union of Soviet Socialist Republics for the Avoidance of Double Taxation with respect to Taxes on Income and on Capital signed on 21 October 1986 shall terminate in relations between Ukraine and the Kingdom of Denmark upon the entry into force of this Convention.

3. From the date on which this Convention shall have effect, all provisions concerning taxation of income and property of individuals and legal persons in the following Conventions and diplomatic notes shall cease to apply in relations between Ukraine and the Kingdom of Denmark:

- a) Convention between the Government of the Kingdom of Denmark and the Government of the Union of Soviet Socialist Republics on international road traffic, signed on 3 December 1971;
- b) Protocol signed on 9 February 1971 concerning mutual tax exemption for companies engaged in air traffic and their employees, drawn up in connection with the Convention between the Government of the Kingdom of Denmark and the Government of the Union of Soviet Socialist Republics concerning air traffic relations, signed on 31 March 1956;
- c) Verbal notes of 21 March 1960 and 10 May 1960 exchanged between the Embassy of the Union of Soviet Socialist Republics in Copenhagen and the Danish Ministry of Foreign Affairs on taxation of individuals employed in certain enterprises, institutions and organisations.

Article 32

TERMINATION

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year, beginning after the expiry of five years from the date of entry into force of the Convention.

In such event, the Convention shall cease to have effect

a) in Ukraine:

- (i) in respect of taxes on dividends, interest or royalties for any payments made on or after the sixtieth day following that day on which the notice is given;
- (ii) in respect of tax on profits of enterprises for any taxation period beginning on or after 1 January in the calendar year next following that in which the notice is given;
- (iii) in respect of income tax on citizens, whether residents or non-residents of Ukraine, for any payments made on or after the sixtieth day following that day on which the notice is given;

b) in Denmark:

- (i) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the notice is given;
- (ii) in respect of other taxes on income, and taxes on property, for taxes chargeable for any income year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

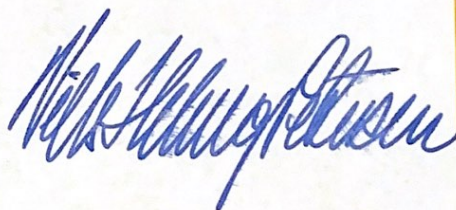
In witness whereof the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

Done in duplicate at Copenhagen this ...^{5th}... day of March, 1996, in the Ukrainian, Danish and English languages, all texts being equally authentic. In case of divergence of interpretation the English text shall prevail.

For the Government of Ukraine

A handwritten signature in blue ink, appearing to be a stylized name, located below the text 'For the Government of Ukraine'.

For the Government of
the Kingdom of Denmark

A handwritten signature in blue ink, appearing to be 'Niels H. Andersen', located below the text 'For the Government of the Kingdom of Denmark'.

PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on property, this day concluded between the Government of Ukraine and the Government of the Kingdom of Denmark, the undersigned have agreed that the following provisions shall form an integral part of the Convention:

1. With reference to sub-paragraph a) (ii) of paragraph 3 of Article 2

It is understood that the Ukrainian "income tax on citizens" applies to citizens of Ukraine, foreign citizens and stateless persons, whether residents or non-residents of Ukraine.

2. With reference to paragraph 1 of Article 4

It is understood that the term "resident of a Contracting State" also includes a Contracting State itself, a political subdivision, a local authority thereof, and a non-profit organisation.

3. With reference to Articles 22 and 24

The provisions on taxation of property in this Convention, including the provisions with respect to the elimination of double taxation with respect to property in Article 24 of the Convention, will only be effective when Ukraine levies a tax on property and after the competent authorities have so agreed after mutual consultations.

In witness whereof the undersigned, duly authorized thereto have signed this Protocol.

Done in duplicate at Copenhagen this ... 5th ... day of March, 1996, in the Ukrainian, Danish and English languages, all texts being equally authentic. In case of divergence of interpretation the English text shall prevail.

For the Government of Ukraine



For the Government of
the Kingdom of Denmark

