

This document was signed in Brussels, on 6 of December 2007, and was published in the official gazette on 17 of July 2010. The Convention entered into force on 5 of May 2010 and its provisions shall have effect in respect of taxes on income obtained and amount paid, credited to an account, put at the disposal or accounted as an expense, on or after the first day of January 2011.

CONVENTION BETWEEN THE REPUBLIC OF CHILE AND THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

THE GOVERNMENT OF THE REPUBLIC OF CHILE

AND

THE GOVERNMENT OF THE KINGDOM OF BELGIUM,

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 Chile, the taxes imposed under the Income Tax Act, "*Ley sobre Impuesto a la Renta*", (hereinafter referred to as "Chilean tax"); and

b) in Belgium :

- (i) the individual income tax (*l'impôt des personnes physiques - de personenbelasting*);
- (ii) the corporate income tax (*l'impôt des sociétés - de vennootschapsbelasting*);
- (iii) the income tax on legal entities (*l'impôt des personnes morales - de rechtspersonenbelasting*);
- (iv) the income tax on non-residents (*l'impôt des non-résidents - de belasting van niet-inwoners*);
- (v) the supplementary crisis contribution (*la contribution complémentaire de crise - de aanvullende crisisbijdrage*);

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 and to taxes on capital 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, at the end of each year, notify each other of any significant changes that have been made in their taxation laws.

CHAPTER II. - DEFINITIONS

Article 3

GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires :
 - a) the term "Chile" means the Republic of Chile, including any area outside the territorial sea designated under the laws of the Republic of Chile and in accordance with international law as an area within which the Republic of Chile may exercise sovereign rights with regard to the seabed and subsoil and their natural resources;
 - b) the term "Belgium" means the Kingdom of Belgium, including any area outside the territorial sea designated under the laws of the Kingdom of Belgium and in accordance with international law as an area within which the Kingdom of Belgium may exercise sovereign rights with regard to the seabed and subsoil and their natural resources;
 - c) the terms "a Contracting State" and "the other Contracting State" mean Belgium or Chile as the context requires;
 - d) the term "person" includes an individual, a company and any other body of persons;
 - e) the term "company" means any body corporate or any entity that is treated as a body corporate for tax purposes;
 - 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 of a Contracting State, except when such transport is solely between places in the other Contracting State;
 - h) the term "competent authority" means :
 - (i) in the case of Chile, the Minister of Finance or his authorised representative, and
 - (ii) in the case of Belgium, the Minister of Finance or his authorised representative;
 - i) the term "national", in relation to a Contracting State, means :
 - (i) any individual possessing the nationality of that Contracting State; and
 - (ii) any legal person or association constituted in accordance with the laws in force in that Contracting State.
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.

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 incorporation 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 procedure.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, the competent authorities of the Contracting States shall by mutual agreement procedure endeavour to settle the question. In the absence of such agreement by the competent authorities of the Contracting States, the person shall not be entitled to any relief or exemption from tax provided for by this Convention, except as provided for by paragraph 2 of Article 23 of this Convention.

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 relating to the exploration for or the exploitation of natural resources.

3. The term "permanent establishment" shall also include:
 - a) a building site or construction or installation project and the supervisory activities in connection therewith, but only if such building site, project or activities last more than six months;
 - b) the furnishing of services, including consultancy services, by an enterprise through employees or other individuals engaged by the enterprise for such purpose where such activities continue within the country for a period or periods aggregating more than 183 days within any twelve months period.

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 advertising or supplying of information for the enterprise, and any other similar activity 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 authority to conclude contracts on behalf 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. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in the case of reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or if it insures risks situated therein through a representative other than an agent of an independent status to whom paragraph 6 applies.

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. For the purposes of this Convention, the term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of 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 or has carried 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 incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

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

3. 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 justified both in principle and as regards 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 provisions of this paragraph, dividends shall not be taxed in the Contracting State in which the company paying the dividends is a resident if the beneficial owner of the dividends is a company which is a resident in the other Contracting State and which at the moment of the payment of the dividends holds, and has held for an uninterrupted period of at least twelve months, shares representing directly at least 10 per cent of the capital of the company paying the dividends.

This paragraph shall not affect the taxation of the company's profits out of which the dividends are paid. In the case of Chile, this taxation includes the application of the Additional Tax.

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 which is subjected to the same taxation treatment as income from shares or other rights 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, 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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

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 shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.

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:

a) 5 percent of the gross amount of the interest derived from:

- (i) loans granted by banks and insurance companies;
- (ii) bonds or securities that are regularly and substantially traded on a regulated securities market;
- (iii) a sale on credit paid by the purchaser of machinery or equipment to a beneficial owner that is the seller of the machinery or equipment;

b) 15 percent of the gross amount of the interest in all other cases.

3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, as well as income which is subjected to the same taxation treatment as

income from money lent by the laws of the State in which the income arises. The term "interest" shall not include income dealt with in Article 10.

4. 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.

5. 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 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.

6. Where, there is a special relationship between the payer and the beneficial owner or between both of them and some other person, and the amount of the interest exceeds for whatever reason 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.

7. 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 may also be taxed in the Contracting State in which they arise and according to the laws in force in 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:

- a) 5 percent of the gross amount of the royalties for the use of, or the right to use, any industrial, commercial or scientific equipment;
- b) 10 per cent of the gross amount of the royalties, in all other cases.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties,

being a resident of a Contracting State, 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, as the case may be, 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 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 obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

7. 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 to which the royalties are paid to take advantage of this Article by means of that creation or assignment.

Article 13

CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or from movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State of which the alienator is a resident.

4. Gains derived by a resident of a Contracting State, from the alienation of shares or other rights representing the capital of a company that is a resident of the other Contracting State may be taxed in that other Contracting State if,

- a) the alienator at any time during the twelve month period preceding such alienation owned, directly or indirectly, shares or other rights representing 20 per cent or more of the capital of that company, or

- b) the gains derive more than 50 per cent of their value directly or indirectly from immovable property referred to in Article 6 of this Convention situated in that other Contracting State.

Any other gains derived by a resident of a Contracting State from the alienation of shares or other rights representing the capital of a company that is a resident of the other Contracting State may also be taxed in that other Contracting State but the tax so charged shall not exceed 16 per cent of the amount of the gain.

Notwithstanding any other provision of this paragraph, gains derived by a pension fund that is a resident of a Contracting State from the alienation of shares or other rights representing the capital of a company that is a resident of the other Contracting State shall be taxable only in the first-mentioned Contracting State.

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 14

INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that Contracting State. However, such income may also be taxed in the other Contracting State:

- a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing the activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or
- b) if he is present in the other Contracting State for a period or periods amounting to or exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from the activities performed in that other State may be taxed in that State.

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

Article 15

INCOME FROM EMPLOYMENT

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other 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 fiscal year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer being a person who is not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that Contracting 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 or a similar organ 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, 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. Notwithstanding the provisions of Articles 7, 14 and 15, 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 be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

Article 18

PENSIONS

1. Pensions arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned State.
2. Alimony and other maintenance payments paid to a resident of a Contracting State shall be taxable only in that State. However, any alimony or other maintenance payments paid by a resident of one of the Contracting State to a resident of the other Contracting State, shall, if it is not allowable as a relief to the payer, be taxable only in the first-mentioned State.

Article 19

GOVERNMENT SERVICE

1.
 - a) Salaries, wages and other 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) However, such salaries, wages and other 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 national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. The provisions of Articles 15, 16 and 17 shall apply to salaries, wages and other 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

A student or business trainee who is temporarily present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State during the normal duration of his education or training on payments received from outside that first-mentioned State for the purpose of his maintenance, education or training.

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, 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.

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.

CHAPTER IV. - TAXATION OF CAPITAL

Article 22

CAPITAL

1. Capital represented by immovable property owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships 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 enterprise operating such ships or aircraft is a resident.

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

ELIMINATION OF DOUBLE TAXATION

1. In Chile, double taxation shall be avoided as follows :

a) Residents of Chile, obtaining income which has, in accordance with the provisions of this Convention, been subject to taxation in Belgium, may credit the tax so paid against any Chilean tax

payable in respect of the same income, subject to the applicable provisions of the law of Chile. This paragraph shall apply to all income referred to in this Convention.

- b) Where, in accordance with any provision of the Convention, income derived or capital owned by a resident of Chile is exempt from tax in Chile, Chile may nevertheless, in calculating the amount of tax on other income or capital, take into account the exempted income or capital.

2. In 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 Chile 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.
- b) Dividends derived by a company which is a resident of Belgium from a company which is a resident of Chile, shall be exempt from the corporate income tax in Belgium under the same conditions and within the same limits as if the company paying the dividends was a resident of Belgium or of another member State of the European Union. For the application of the conditions and limits referred to in this provision, the total amount of the taxes paid on the profits out of which the dividends were paid to the resident of Belgium, including the Additional Tax, shall be taken into consideration.

Where a company which is a resident of Belgium derives from a company which is a resident of Chile dividends which are not exempt from the corporate income tax in Belgium, Belgium shall deduct from the Belgian tax relating to these dividends the Chilean tax (namely the Additional Tax after deduction of the First Category Tax) levied on these dividends. This deduction shall not exceed that part of the Belgian tax which is proportionally relating to these dividends.

- c) 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 Chilean tax levied on that income shall be allowed as a credit against Belgian tax relating to such income.
- d) Where, in accordance with Belgian law, losses incurred by an enterprise carried on by a resident of Belgium in a permanent establishment situated in Chile, have been effectively deducted from the profits of that enterprise for its taxation in Belgium, the exemption provided for in sub-paragraph a) 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 Chile 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 individuals who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 6 of Article 11, or paragraph 6 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 capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Companies which are residents 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 companies which are residents of the first-mentioned State are or may be subjected.

5. The provisions of this Convention shall not affect the taxation in Chile of a resident of Belgium in respect of the profits attributable to a permanent establishment situated in Chile in respect of the First Category Tax as well as, where profits remitted or withdrawn from the permanent establishment to the resident of Belgium are concerned, the Additional Tax, provided that the First Category Tax is deductible in computing the Additional Tax.

6. The provisions of this Article shall apply to the taxes which are the subject of this Convention.

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.

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

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

5. For the purposes of paragraph 3 of Article XXII (Consultation) of the General Agreement on Trade in Services, the Contracting States agree that, notwithstanding that paragraph, any dispute between them as to whether a measure falls within the scope of this Convention may be brought before the Council for Trade in Services, as provided by that paragraph, only with the consent of both Contracting States. Any doubt as to the interpretation of this paragraph shall be resolved under paragraph 3 of this Article or, failing agreement under that procedure, pursuant to any other procedure agreed to by both Contracting States.

Article 26

EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant 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. 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 imposed by that State. 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).

Article 27

MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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.

Article 28

MISCELLANEOUS RULES

1. With respect to pooled investment accounts or funds (as for instance the existing Foreign Capital Investment Fund, Law N°18.657), that are subject to a remittance tax and are required to be administered by a resident in Chile, the provisions of this Convention shall not be interpreted to restrict imposition by Chile of the tax on remittances from such accounts or funds in respect of investment in assets situated in Chile.

2. Nothing in this Convention shall affect the application of the existing provisions of the Chilean legislation DL 600 (Foreign Investment Statute) as they are in force at the time of signature of this Convention and as they may be amended from time to time without changing the general principle thereof.

3. Contributions in a year in respect of services rendered in that year paid by, or on behalf of, an individual who is a resident of a Contracting State or who is temporarily present in that State to a pension plan that is recognised for tax purposes in the other Contracting State shall, during a period not exceeding in the aggregate 60 months, be treated in the same way for tax purposes in the first-mentioned State as a contribution paid to a pension plan that is recognised for tax purposes in that first-mentioned State, if:

- a) such individual was contributing on a regular basis to the pension plan for a period ending immediately before that individual became a resident of or was temporarily present in the first-mentioned State; and
- b) the competent authority of the first-mentioned State agrees that the pension plan generally corresponds to a pension plan recognised for tax purposes by that State.

For the purposes of this paragraph, "pension plan" includes a pension plan created under the social security system in a Contracting State.

CHAPTER VII. - FINAL PROVISIONS

Article 29

ENTRY INTO FORCE

1. Each of the Contracting States shall notify the other through the diplomatic channel of the completion of the procedures required by law for the bringing into force of this Convention. This Convention shall enter into force on the date of the later of these notifications.

2. The provisions of this Convention shall have effect:

- a) in Chile,
 - (i) in respect of taxes on income obtained and amounts paid, credited to an account, put at the disposal or accounted as an expense, on or after the first day of January in the calendar year next following that in which this Convention enters into force; and
 - (ii) in respect of taxes on capital, if and to the extent such tax will be imposed by Chile after the date of signature of this Convention, for tax levied in relation to

capital owned on or after the first day of January in the calendar year next following the date on which such tax has been introduced; and

- b) in Belgium,
 - (i) in respect of taxes due at source, on income credited or payable on or after the first day of January in the calendar year next following that in which this Convention enters into force;
 - (ii) in respect of other taxes, on income of taxable periods beginning on or after the first day of January in the calendar year next following that in which this Convention enters into force;
 - (iii) in respect of taxes on capital, on elements of capital existing on or after the first day of January in the calendar year next following that in which this Convention enters into force.

Article 30

TERMINATION

1. This Convention shall remain in force indefinitely but either Contracting State may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the Convention enters into force, give to the other Contracting State a notice of termination in writing through diplomatic channels.
2. The provisions of this Convention shall cease to have effect:
 - a) in Chile,

in respect of taxes on income obtained and amounts paid, credited to an account, put at the disposal or accounted as an expense, or on capital owned, on or after the first day of January in the calendar year next following that in which the notice of termination is given; and
 - b) in Belgium,
 - (i) in respect of taxes due at source, on income credited or payable on or after the first day of January in the calendar year next following that in which the notice of termination is given;
 - (ii) in respect of other taxes, on income of taxable periods beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given;
 - (iii) in respect of taxes on capital, on elements of capital existing on or after the first day of January in the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto have signed this Convention.

DONE in duplicate at, this, in the Spanish, French, Dutch and English languages, the four texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF CHILE:

.....

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM :

.....

PROTOCOL TO THE CONVENTION BETWEEN THE REPUBLIC OF CHILE AND THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

On signing the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital between the Republic of Chile and the Kingdom of Belgium, the signatories have agreed that the following provisions shall form an integral part of the Convention.

1.

Considering that the main aim of the Convention is to avoid international double taxation, in the event the provisions of the Convention are used in such a manner as to provide benefits not contemplated or not intended, the competent authorities of the Contracting States shall consult together in order to recommend specific amendments to be made to the Convention. The Contracting States agree that any such recommendation will be considered and discussed in an expeditious manner with a view to amending the Convention, where necessary.

2. Ad Article 3, paragraph 1, d).

It is understood that a person is a company for the purposes of the Convention where such person is treated as a body corporate for tax purposes in the Contracting State of which it is a resident.

3. Ad Article 5, paragraph 3.

For the purposes of preventing misuse of paragraph 3 of Article 5, where an enterprise that carries on activities dealt with in this paragraph is associated with another enterprise (other than an enterprise of the Contracting State where the activities are carried on), the duration of the activities of both enterprises shall be taken into account together in determining the duration of activities under this paragraph, except to the extent that those activities are carried on at the same time. An enterprise shall be regarded as associated with another enterprise if one is controlled directly or indirectly by the other, or if both are controlled directly or indirectly by a third person or persons.

4. Ad Article 5, paragraph 6.

It is understood that where the commercial or financial conditions made or imposed between the broker or agent and the enterprise differ from those which would be made between independent persons, such broker or agent will not be considered an agent of independent status within the meaning of paragraph 6 of Article 5.

5. Ad Article 7, paragraphs 1 and 2:

For greater certainty when applying paragraphs 1 and 2 of Article 7, where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment shall not be determined on the basis of the total amount received by the enterprise, but shall be determined only on the basis of that portion of the income of the enterprise that is attributable to the activity of the permanent establishment in respect of such sales or business.

Specially, in the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a

permanent establishment, the profits attributable to such permanent establishment shall not be determined on the basis of the total amount of the contract, but shall be determined on the basis of the part of the contract that is effectively carried out by the permanent establishment in the Contracting State where the permanent establishment is situated. The profits related to the part of the contract which is not carried out by or attributed to the permanent establishment shall not be taxed by the Contracting State in which that permanent establishment is established. It is fully recognized that the Contracting States are free to use all methods at their disposal to fight fiscal evasion.

6. Ad Article 7, paragraph 3.

Subject to paragraphs 2 and 3 of Article 24, it is understood that the provisions of paragraph 3 of Article 7 shall apply only if the expenses are deductible according to the provisions of the tax law of the Contracting State in which the permanent establishment is situated.

7. Ad Article 10, paragraph 2 and Article 24, paragraph 5.

It is agreed that, in relation to the application of the additional tax under the laws of Chile, should:

- (i) the first category tax cease to be fully creditable in computing the amount of additional tax to be paid; or
- (ii) the rate of additional tax imposed with respect to residents of Belgium, exceed 42 per cent;

the Contracting States shall consult with each other with a view to amending the Convention to re-establish the balance of benefits under the Convention.

8. Ad Article 11, paragraph 2 and Article 12, paragraph 2.

It is agreed that if any agreement or convention between Chile and a member state of the Organisation for Economic Co-operation and Development entering into force after the date of signature of the Convention provides that Chile shall exempt from tax interest or royalties (either generally or in respect of specific categories of interest or royalties) arising in Chile, or limit the tax charged in Chile on such interest or royalties (either generally or in respect of specific categories of interest or royalties) to a rate lower than that provided for in paragraph 2 of Article 11 or paragraph 2 of Article 12 of the Convention, such exemption or lower rate shall automatically apply to interest or royalties (either generally or in respect of specific categories of interest or royalties) arising in Chile and beneficially owned by a resident of Belgium and interest or royalties arising in Belgium and beneficially owned by a resident of Chile under the same conditions as if such exemption or lower rate had been specified in those paragraphs. The competent authority of Chile shall inform the competent authority of Belgium without delay that the conditions for the application of this paragraph have been met.

9. Ad Article 12, paragraph 3 :

When applying Article 12, paragraph 3 where payments are encountered which cover both know-how and the provision of technical assistance, the appropriate course to take with a mixed contract, in principle, is to break down, on the basis of the information contained in the contract or by means of a reasonable apportionment, the whole amount of the stipulated consideration according to the various parts of what is being provided under the contract, and then to apply to each part of it so determined the taxation treatment proper thereto. If, however, one part of what is being provided constitutes by far the principal purpose of the contract and the other parts stipulated therein are only of an ancillary and largely unimportant character, then the treatment applicable to the principal part should generally be applied to the whole amount of the consideration.

10. Ad Article 15, paragraph 1:

It is understood that employment is exercised in the place where the employee is physically present when performing the activities for which the income from employment is paid.

11. Ad Article 21:

Where remuneration derived by a person referred to in Article 16 who is a resident of a Contracting State 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 of a company, other than a company with share capital, which is a resident of a Contracting State are not dealt with in Articles 14, 15 or 16, such remuneration shall not be taxable in accordance with the provisions of Article 21 but 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.

12. Ad Article 25:

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.

13. Ad Article 26:

It is understood that if information is requested by a Contracting State in accordance with Article 26, the other Contracting State shall obtain the information to which the request relates in the same way as if its own taxation were involved even though the other State does not, at that time, need such information.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto have signed this Protocol.

DONE in duplicate at, this, in the Spanish, French, Dutch and English languages, the four texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

FOR THE GOVERNMENT OF THE REPUBLIC OF CHILE:

.....

FOR THE GOVERNMENT OF THE KINGDOM OF BELGIUM :

