

RUSSIA

Agreement for avoidance of double taxation and prevention of fiscal evasion with Russian Federation

Whereas the annexed agreement between the Government of the Russian Federation and the Government of the Republic of India for the avoidance of double taxation with regard to taxes on income has entered into force on the eleventh day of April, 1998, thirty days after the receipt of later of notifications by both the Contracting States to each other of the completion of the procedures required under their respective laws for entry into force of the said agreement in accordance with article 28 of the said agreement.

Now, therefore, in exercise of the powers conferred by section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby directs that all the provisions of the said agreement shall be given effect to in the Union of India.

Notification : No. 10677 [F. No. 501/6/92-FTD], dated 21-8-1998.

ANNEXURE

TEXT OF DOUBLE TAXATION AVOIDANCE AGREEMENT BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE RUSSIAN FEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

The Government of the Republic of India and the Government of the Russian Federation, desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and with a view to promoting economic cooperation between the two countries, have agreed as follows :

ARTICLE 1 : *Personal scope* - This Agreement shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE 2 : *Taxes covered* - 1. This Agreement shall apply to taxes on income imposed in each Contracting State.

2. The taxes to which this Agreement shall apply are in particular :

(a) in the case of the Russian Federation :

(i) taxes on profits (income) of enterprises and organisations; and

(ii) the income-tax on individuals

(hereinafter referred to as "Russian Tax") ;

(b) in the case of India :

income-tax, including any surcharge thereon

(hereinafter referred to as "Indian tax").

3. This Agreement shall apply also to any identical or substantially similar taxes on income which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the taxes referred to in paragraph 2. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

ARTICLE 3 : *General definitions* - 1. In this Agreement, unless the context otherwise requires :

(a) the term "the Russian Federation (Russia)" means the territory of the Russian Federation and includes its internal waters, territorial sea and air space above them as well as exclusive economic zone and continental shelf within which the Russian Federation has and exercises sovereign rights and jurisdiction in accordance with its national legislation and international law including the 1982 United Nations Convention on the Law of the Sea, and where its tax legislation is applicable ;

(b) the term "India" means the territory of India and includes its internal waters, territorial sea and air space above them as well as exclusive economic zone and continental shelf within which the Republic of India has and exercises sovereign rights and jurisdiction in accordance with its national legislation and international law including the 1982 United Nations Convention on the Law of the Sea, and where its tax legislation is applicable ;

- (c) the terms “a Contracting State”, and “the other Contracting State” mean the Russian Federation or India, as the context requires ;
- (d) the term “person” includes an individual, an enterprise, a company and any other entity which is treated as a taxable unit under the taxation laws in force in a Contracting State ;
- (e) the term “company” means any body corporate or any entity which is treated as a company or body corporate under the taxation laws in a Contracting State ;
- (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 “national” means :
 - (i) in the case of the Russian Federation, any individual possessing the citizenship of the Russian Federation, and in the case of India, any individual possessing the nationality of India ;
 - (ii) any person, partnership and association deriving its status as such from the laws in force in a Contracting State ;
- (h) the term “international traffic” means any transportation 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 “tax” means Russian tax or Indian tax, as the context requires, but shall not include any penalty or interest imposed under the laws of either Contracting State in relation to the taxes which are the subject of this Agreement ;
- (j) the term “fiscal year” means :
 - (i) in the case of the Russian Federation, the financial year beginning on the 1st of January ;
 - (ii) in the case of India, the financial year beginning on the 1st of April;
- (k) the term “competent authority” means :
 - (i) in the case of the Russian Federation, the Ministry of Finance or its authorised representative ;
 - (ii) in the case of India - the Central Government in the Ministry of Finance (Department of Revenue) or their authorized representative.

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

ARTICLE 4 : *Resident* - 1. For the purposes of this Agreement, 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 registration, place of management or any other similar criterion.

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

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

ARTICLE 5 : *Permanent establishment* - 1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of the 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) an installation or structure used for the exploration or exploitation of natural resources ;
- (h) a farm, plantation or other place where agriculture, forestry, plantation or related activities are carried on ;
- (i) a premises used as a sales outlet or for receiving or soliciting orders ;
- (j) a building site or construction, installation or assembly project or supervisory activities in connection therewith, but only if such site, project or activities continue for a period of more than 12 months.

However, the competent authorities of the Contracting States may, in particular cases, agree by mutual agreement to consider the supervisory activities in connection with a building site or construction, installation or assembly project as not constituting a permanent establishment also in the cases in which the duration of works on a building site or construction, installation or assembly project exceeds 12 months.

3. 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 or display 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 or display ;
- (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, for the supply of information, for scientific research or for similar activities which have a preparatory or an auxiliary character ;
- (f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e).

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 5 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if

- (a) he has, and habitually exercises in that State, an authority to conclude contracts or carry on any business activities on behalf of the enterprise, unless his activities are limited to those specified in paragraph 3 of this Article ; or

- (b) he habitually secures orders for the sale of goods or merchandise in that State exclusively or almost exclusively on behalf of the enterprise or other enterprises controlled by it or which have a controlling interest in it ; or
- (c) he has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise ; or
- (d) in acting as described in (b) above, he manufactures or processes in that State for the enterprise, goods or merchandise belonging to the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise itself or on behalf of that enterprise and other enterprises controlling, controlled by, or subject to the same common control as that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

ARTICLE 6 : *Income from immovable property - 1.* Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may also be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the laws of the Contracting State in which the property in question is situated. Ships, boats, aircraft and road vehicles shall not be regarded as immovable property.

The term "immovable property" shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of 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.

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 derived in a Contracting State by an enterprise of the other Contracting State may be taxed in the first-mentioned State only if it is derived through a permanent establishment situated therein and only so much of them as is attributable to the activity of such 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 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 in accordance with the provisions of and subject to the limitations of the taxation laws of that State.

4. 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.

5. For the purposes of the preceding paragraphs of this Article, 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.

6. Where profits include items of income which are dealt with separately in other Articles of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8 : *Income from international transport*¹ - 1. Income derived by an enterprise of a Contracting State from the operation or rental of ships or aircraft in international traffic and the rental of containers and related equipment which is incidental to the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.

2. The provisions of paragraph 1 shall also apply to income from the participation in a pool, a joint business or an international operating agency.

3. For the purposes of this Article, interest on funds connected directly with the operation of ships or aircraft in international traffic shall be regarded as income derived from the operation of such ships or aircraft; and the provisions of Article 11 shall not apply in relation to such interest, provided that such funds are incidental to that operation.

4. Notwithstanding the preceding provisions of this Article, income derived by an enterprise of a Contracting State from the operation of ships between the ports of the other Contracting State and the ports of third countries may be taxed in that other Contracting State, but the tax imposed in that other State shall be reduced by an amount equal to two-third thereof.

ARTICLE 9 : *Associated enterprises* - 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.

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 subject to tax thereon in the other State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

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, or performs independent personal services from a fixed base situated therein and the dividends are attributable to such permanent establishment or fixed base. In such case, the provisions of Article 7 or 14 of this Agreement, 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 so far 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 un-distributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11 : *Interest* - 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the 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.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State provided it is derived and beneficially owned by :

- (i) the Government, a political sub-division or a local authority of the other Contracting State ; or
- (ii) the Central Bank of the other Contracting State ; or
- (iii) the other Governmental agencies or financial institutions as may be specified and agreed to in an exchange of notes between the competent authorities of the Contracting States.

4. The term "interest" as used in this Article means income from debt-claims of every kind, and in particular income from Government securities, bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

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 or performs 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 14 of this Agreement, as the case may be, shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is the Contracting State itself, a political sub-division, a local authority thereof or a resident of that Contracting 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 a fixed base, then such interest shall be deemed to arise in the Contracting 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 of interest 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 Agreement.

ARTICLE 12 : *Royalties and fees for technical services* - 1. Royalties and fees for technical services 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 and fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties or fees for technical services, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties or fees for technical services.

3. The term "royalties" as used in this Article means :

- (a) payments of any kind received as a consideration for the use of, or the right to use, any copyright of a literary, artistic, or scientific work, including cinematography films or recordings on any means of reproduction for use in connection with radio or television broadcasting, any patent, trade mark, design or model, plan, know-how, computer software programme, secret formula or process, or for information concerning industrial, commercial or scientific experience ; and

(b) payments of any kind received as consideration for the use of, or the right to use, any industrial, commercial, or scientific equipment.

4. For the purposes of this Article, "fees for technical services" means payments of any kind in consideration for the rendering of any managerial, technical or consultancy services including the provision of services by technical or other personnel but does not include payments for services mentioned in Articles 14 and 15 of this Agreement.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services 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, property or contract in respect of which the royalties or fees for technical services 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.

6. Royalties and fees for technical services shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties or fees for technical services, 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 or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services 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 royalties or fees for technical services paid exceeds the amount which would have been paid 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 Agreement.

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 and situated in the other Contracting State may also be taxed in that other State.

2. Gains derived 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 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 together with the whole enterprise) or such fixed base, may be taxed in that other State.

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

4. Gains from the alienation of shares of a company which is a resident of a Contracting State may be taxed in that State.

5. Gains from the alienation of any property other than that mentioned in paragraphs 1, 2, 3 and 4 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 from the performance of professional services or other activities of an independent character in another Contracting State shall be taxable only in the first-mentioned State, unless :

(a) such services are performed or were performed in the other Contracting State and the income is attributable to a fixed base which the individual has or had regularly available to him in that other State ; or

(b) the recipient is present in the other Contracting State for a period or periods exceeding in the aggregate 183 days in any 12 month period.

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

ARTICLE 15 : *Dependent personal services* - 1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable in the first-mentioned State if :

- (a) the recipient is present in the other Contracting State for a period or periods not exceeding in the aggregate 183 days in any 12 month period ; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other Contracting State ; and
- (c) the remuneration is not borne by a permanent establishment or fixed base which the employer has in the other Contracting 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 shall be taxed 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 : *Income of entertainers and sportsmen* - 1. Notwithstanding the provisions of Articles 7, 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. 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 a sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, 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 derived by an entertainer or a sportsman who is a resident of a Contracting State from his personal activities as such exercised in the other Contracting State, shall be taxable only in the first-mentioned Contracting State, if the activities in the other Contracting State are financed wholly or substantially by the first-mentioned Contracting State, including any of its political sub-divisions or local authorities.

ARTICLE 18 : *Income from Government service* -

- 1. (a) Remuneration, other than a pension, paid by the Government of a Contracting State, a political sub-division or local authority thereof to an individual in respect of services rendered to that State, political sub-division or local authority thereof shall be taxable only in that State.
- (b) However, 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 national of that State ; or
 - (ii) did not become a resident of that State solely for the purpose or rendering the services.
- 2. (a) Any pension paid by, or out of funds created by a Contracting State or a political sub-division or a local authority thereof to an individual in respect of services rendered to that State or sub-division or authority shall be taxable only in that State.
- (b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of that other State.

3. The provisions of Articles 15, 16 and 19 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 local authority thereof.

ARTICLE 19 : *Pensions and annuities* - 1. Pensions, other than those referred to in Article 18, and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in the State where such income is derived.

2. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payment in return for adequate and full consideration in money or money's worth.

ARTICLE 20 : *Students and trainees* - 1. A student or business apprentice who, immediately before visiting a Contracting State, is or was 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 shall be exempted from tax in that first-mentioned State, provided that such payments are received from outside that State.

2. An individual who immediately before visiting a Contracting State, is or was a resident of the other Contracting State and who is present in the first-mentioned State for a period not exceeding two years solely for the purpose of study, research or training as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of that other Contracting State shall, from the date of his arrival in the first-mentioned State in connection with that visit, be exempt from tax in the first-mentioned State.

ARTICLE 21 : *Professors, teachers and researchers* - 1. A professor, teacher or researcher who visits one of the Contracting States for the purpose of teaching or engaging in research at a university or any other educational institution approved by the Government in that State and who, immediately before that visit, was a resident of the other Contracting State shall be exempted from tax by the first-mentioned State in respect of any remuneration received for such teaching or research for a period not exceeding two years from the date of his first arrival in that State for such purpose.

2. This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the benefit of a specific person or persons.

ARTICLE 22 : *Other income* - 1. Items of income of a resident of a Contracting State, wherever arising, which are not dealt with in the foregoing Articles of this Agreement, shall be taxable only in that Contracting 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 beneficial owner 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, any income in the form of winnings or prizes from lotteries, crossword puzzles, races including horse races, card games and other games of any form or nature whatsoever may be taxed in the Contracting State where they arise.

ARTICLE 23 : *Methods of elimination of double taxation* - 1. In the case of Russia, double taxation is eliminated as follows :

where a resident of Russia derives income which, in accordance with the provisions of this Agreement, may be taxed in India, the amount of tax on that income payable in India may be credited against the tax imposed on that resident of Russia. The amount of credit, however, shall not exceed the amount of the tax on that income computed in accordance with the taxation laws and regulations of Russia.

2. In the case of India, double taxation is eliminated as follows :

where a resident of India derives income which, in accordance with the provisions of this Agreement, may be taxed in Russia, India shall allow as a deduction from the tax on the income of that resident an amount equal to the income-tax paid in Russia whether directly or by deduction at source. Such deduction in

either case shall not, however, exceed that part of the income-tax (as computed before the deduction is given) which is attributable to the income which may be taxed in Russia.

3. For the purposes of this Article the term "tax" paid or payable as mentioned in paragraphs 1 and 2 of this Article shall be deemed to include the tax which would have been paid but for any exemption or reduction of tax granted under incentive provisions contained in the law of a Contracting State designed to promote economic development to the extent that such exemption or reduction is granted for profits from industrial, construction, manufacturing or agricultural activities provided that the activities have been carried out within the Contracting State.

The competent authorities may agree to extend the application of this provision also to other activities.

The provisions of this paragraph shall apply only for the first ten years during which this Agreement is effective. This period may be extended by a mutual agreement between the competent authorities.

ARTICLE 24 : *Non-discrimination* - 1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. 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 in the same circumstances and under the same conditions.

3. Nothing contained in this Article shall be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. Except where the provisions of Article 9, paragraph 7 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.

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

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

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 Agreement, 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 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 Agreement.

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 Agreement. Any agreement reached shall be implemented notwithstanding any time limits provided for in the domestic laws of the Contracting State.

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 Agreement. They may also consult with each other for the elimination of double taxation in case not provided for in this Agreement.

4. The competent authorities of the Contracting State may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

ARTICLE 26 : *Exchange of information - 1.* The competent authorities of the Contracting States shall exchange such information (including documents) as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement, in particular for the prevention of fraud or evasion of such taxes. Any information received by a Contracting State shall be treated as confidential 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 Agreement. Such persons or authorities shall use the information only for such purposes, but may disclose the information in public court proceedings or in judicial decisions.

2. The exchange of information or documents shall be either on a routine basis or on request with reference to particular cases or both. The competent authorities of the Contracting States shall agree from time to time on the list of the information or documents which shall be furnished on a routine basis.

3. 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 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.

ARTICLE 27 : *Members of diplomatic missions and consular posts* - Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions or consular posts or other persons for whom they are provided under the rules of international law or under the provisions of special agreements.

ARTICLE 28 : *Entry into force - 1.* The Contracting State shall notify each other in writing, through diplomatic channels, the completion of the procedure required by the respective laws for the entry into force of this Agreement.

2. This Agreement shall enter into force thirty days after the receipt of the latter of the notifications referred to in paragraph 1 of this Article.

3. The provisions of this Agreement shall have effect :

(a) In Russia :

- (i) in respect of taxes withheld at source, to income arising on or after the first day of January in the calendar year next following the year in which this Agreement enters into force ;
- (ii) in respect of other taxes on income, to taxes arising for any fiscal year beginning on or after the first day of January next following the calendar year in which this Agreement enters into force.

(b) In India :

in respect of income arising in any fiscal year beginning on or after the first day of April next following the calendar year in which this Agreement enters into force.

4. The provisions of this Agreement between the Government of the Union of the Soviet Socialist Republics and the Government of the Republic of India for the avoidance of double taxation of income signed in New Delhi on 20th of November, 1988 and subsequently extended to the Russian Federation on the basis of mutual agreement of the Contracting States shall cease to have effect on the date of coming into force of this Agreement.

ARTICLE 29 : *Termination - 1.* This Agreement shall remain in force unless terminated by a Contracting State. Either Contracting State may terminate this Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force.

2. This Agreement shall cease to have effect :

(a) In Russia :

- (i) in respect of taxes withheld at source, to income arising on or after the first day of January in the calendar year next following the year in which the notice of termination is given ;
- (ii) in respect of other taxes on income, to taxes arising for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the notice of termination is given.

(b) In India :

in respect of income arising in any fiscal year beginning on or after the first day of April next following the calendar year in which the notice of termination is given.

DONE at Moscow, this 25th day of March, 1997, in duplicate in the Russian, Hindi and English languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.

PROTOCOL

To the Agreement between the Government of the Republic of India and the Government of the Russian Federation for the avoidance of double taxation with respect to taxes on income

The Government of the Republic of India and the Government of the Russian Federation,

Having regard to the Agreement between the Government of the Republic of India and the Government of the Russian Federation for the avoidance of double taxation with respect to taxes on income signed today (in this Protocol called "the Agreement"),

Have agreed as follows :

1. With reference to paragraph 4 of Article 8 of the Agreement, the Contracting States agree that at the end of three years from the date of entry into force of this Agreement, the provisions of paragraph 4 will cease to have effect.

2. With respect to clause (j) of paragraph 2 of Article 5 of the Agreement, the competent authorities of the Contracting States may invoke mutual agreement procedure referred to in the aforesaid clause in particular cases of supervisory activities relating to a project which satisfies the following conditions :

- (a) the project has been approved by the Government of the concerned Contracting State ;
- (b) it is a turnkey project;
- (c) the fees for supervisory activities do not exceed 10 per cent of the total cost of the project, including the cost of the machinery and the equipment mentioned in the contract ;
- (d) the total cost of the project is not less than US \$ 10 million ;
- (e) the duration of the project is for a period extending from 12 months to five years or such longer period as has been specified in the contract by the authority granting approval to the contract. The said time will include the further period which may be extended by the project approving authority in consultation with the competent authority of the concerned Contracting State ; and
- (f) the enterprise is not involved in avoidance or evasion of tax in the Contracting State in which supervisory activities are being rendered.

Where aforementioned conditions of sub-paragraphs (a) to (f) of this paragraph are fulfilled, the enterprise shall be liable to pay in that Contracting State where the project is situated, tax on its income by way of fees for supervisory activities at the rate not exceeding 10 per cent of the gross amount of such fees as is applicable under Article 12 in respect of royalties and fees for technical services.

3. Notwithstanding the provisions of paragraph 2 of Article 24 of this Agreement, either Contracting State may tax the profits of a permanent establishment of an enterprise of the other Contracting State at a rate which is higher than that applied to the profits of a similar enterprise of the first-mentioned Contracting State. It is also provided that in no case the differences in the two rates, referred to above will exceed 12 percentage points.

The taxation of a permanent establishment of an enterprise of one Contracting State in the other Contracting State shall not, after the coming into force of this Agreement, be less favourable than the tax treatment given by that other Contracting State to a permanent establishment of an enterprise of any third country.

This Protocol shall form an integral part of the Agreement.

DONE at Moscow, this 25th day of March, 1997, in duplicate in the Russian, Hindi and English languages, all three texts being equally authentic. In case of divergence between the texts, the English text shall be the operative one.