

**CZECH REPUBLIC - NIGERIA
INCOME TAX TREATY
(1989)**

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**AGREEMENT BETWEEN
THE GOVERNMENT OF THE CZECHOSLOVAK SOCIALIST REPUBLIC AND
THE GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL GAINS**

**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. The taxes which are the subject of this Agreement are:
 - (a) in Nigeria:
 - the personal income tax;
 - the companies income tax;
 - the petroleum profits tax; and
 - the capital gains tax,(hereinafter referred to as "Nigerian tax");
 - (b) in Czechoslovakia:
 - the taxes on profits;
 - the tax on wages;
 - the tax on income from literary and artistic activities;
 - the agricultural tax;
 - the tax on population income; and
 - the house tax,(hereinafter referred to as "Czechoslovak tax")

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

**Article 3
General definitions**

1. In this Agreement, unless the context otherwise requires:
 - (a) the term "Nigeria" means the Federal Republic of Nigeria including any area outside the territorial waters of the Federal Republic of Nigeria which in accordance with international law has been or may hereinafter be designated, under the laws of the Federal Republic of Nigeria concerning the Continental Shelf, as an area within which the rights of the Federal Republic of Nigeria with respect

- to the sea-bed and subsoil and their natural resources may be exercised;
- (b) the term "Czechoslovakia" means the Czechoslovak Socialist Republic;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Czechoslovakia and Nigeria as the context requires;
 - (d) the term "person" comprises an individual, a company and any other body of persons;
 - (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes under the laws of each 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) any individual possessing the citizenship and nationality of a Contracting State;
 - (ii) any legal person, partnership or association deriving its status as such from the law in force in a Contracting State;
 - (h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (i) the term "competent authority" means:
 - (i) in the case of Czechoslovakia, the Minister of Finance of the Czechoslovak Socialist Republic or his authorised representative;
 - (ii) in the case of Nigeria, the Minister of Finance or his authorised representative.

In the application of this Agreement by a Contracting State, any term not defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Agreement.

Article 4 Fiscal residence

1. For the purpose of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to taxation therein by reason of his domicile, residence, place of incorporation or any other criterion of a similar nature.
2. Whereby reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:
 - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - (c) if 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; 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 of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which it is incorporated.

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 an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - (a) a place of management;
 - (b) a branch;

23

- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) a building site, construction, assembly or installation project which exists for more than three months;
- (h) the provisions of supervisory activities for more than three months on a building site, construction, assembly or installation project.

3. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall not be deemed to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.

4. The term "permanent establishment" shall include a fixed place of business used as a sales outlet notwithstanding the fact that such fixed place of business is otherwise maintained for any of the activities mentioned in paragraph 3 of this Article.

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.

6. A person other than an agent of an independent status to whom the provisions of paragraph 5 of this Article apply who acts in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of that enterprise in the first-mentioned state if such person:

- (a) has and habitually exercises in the 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) habitually secures orders for the sale of goods or merchandise in that State exclusively or almost exclusively on behalf of the enterprise or other enterprise controlled by it or which have a controlling interest in it.

7. Subject to the preceding provisions of this Article, 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 from immovable property including income from agriculture or forestry may be taxed in the Contracting State in which such property is situated.

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

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

74

4. The provisions of paragraphs 1 and 3 of this Article shall also apply to income from immovable property of an enterprise and to the income from immovable property used for the performance of independent personal services.

Article 7 Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:

- (a) that permanent establishment;
- (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
- (c) other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

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

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

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by permanent establishment of goods or merchandise for the enterprise. Provided that where that permanent establishment is also used as a sales outlet for the goods or merchandise so purchased the profits on such sales may be attributed to that permanent establishment.

5. Where profits include items 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 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

28

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 an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the taxation authorities of the Contracting States shall, if necessary, consult each other.

Article 9 Dividends

1. Dividends derived from a company which is a resident of a Contracting State by 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 recipient is the beneficial owner of the dividends, the tax so charged shall not exceed:

- (a) 12.5 per cent of the gross amount of the dividend if the recipient is a company which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend;
- (b) 15 per cent of the gross amount of dividend in all other cases.

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

3. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the dividends being a resident of a Contracting State, has in the other Contracting State of which the company paying the dividends is a resident, a permanent establishment or a fixed base situated therein and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment or fixed base. In such case, the provision of Article 7 or 13 as the case may be, shall apply.

4. 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 to residents of the first-mentioned State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid, or the undistributed profits consist wholly or partly of profits or income arising in that other State.

5. 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 assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident, and also any other item (other than interest relieved from tax under the provisions of Article 10) which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

Article 10 Interest

1. Interest derived from a Contracting State by 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 law of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

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

- (a) the Government of the other Contracting State or a local authority thereof or any agency or instrumentality of that Government or local authority.

For the purpose of this sub-paragraph, Government agency or instrumentality means:

- (i) in the case of Czechoslovakia, the Ceskoslovenska obchodni banka; and
(ii) in the case of Nigeria, the Central Bank of Nigeria;
- (b) any institution of a Contracting State set up by the Government of the State to finance external trade, provided that the loan or credit in respect of which the interest arises is approved by the Governments of the two Contracting States.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State of which the person paying the interest is a resident, a permanent establishment or a fixed base situated therein and the debt-claim in respect of which the interest is paid is effectively connected with the business carried on through such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 13, as the case may be, shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that 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 owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid exceeds, for whatever reason, the amount which would have been agreed upon in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that 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.

7. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from Government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures.

Article 11 Royalties

1. Royalties derived from a resident of a Contracting State by a resident of the other Contracting State may be taxed in that other State.

However, such royalties may also be taxed in the Contracting State from which they are derived and according to the law of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.

3. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State of which the person paying the royalties is a resident, a permanent establishment or a fixed base situated therein and the right or property in respect of which the royalties are paid is effectively connected with the business carried on through such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 13, as the case may be, shall apply.

4. Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred and such royalties are borne by such permanent establishment or fixed base, such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

257
11

5. Where, owing to 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 that case, the excess part of the payment shall remain taxable according to the laws of each Contracting State, due regard being had to other provisions of this Agreement.

6. In this Article the term "royalties" means payment of any kind received as consideration for the use of, or the right to use any copyright of literary, artistic or scientific work including cinematograph films and films or tapes used for radio and television broadcasting, any patent, trade mark, design, model, plan, secret formula or process or for the use of, or the right to use industrial, commercial or scientific equipment or for information concerning industrial or commercial experience.

Article 12

Capital gains

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such immovable property is situated.

2. Gains from the alienation of movable property including shares in companies 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 professional services including such gains from alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

3. Gains from the alienation of ships and aircrafts operated in international traffic shall be taxable only in the Contracting State of which the enterprise is a resident.

4. Gains from the alienation of any property other than those mentioned in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 13

Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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

Article 14

Dependent personal services

1. Subject to the provisions of Articles 15, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any period of twelve months; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

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- (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 in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State of which the enterprise deriving the profits from the operation of the ship or aircraft is a resident.

Article 15 **Directors' fees**

Directors' fees and 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 16 **Artistes and athletes**

1. Notwithstanding the provisions of Articles 13 and 14, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion [picture], radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 13 and 14, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraph 1 of this Article, income derived from such activities as defined in paragraph 1 of this Article, performed within the framework of cultural exchange between the Contracting States, shall be exempt from tax in the State in which these activities are exercised, provided that such activities are sponsored by the Government of State [sic] and are not for the purpose of profits.

Article 17 **Government service**

1. (a) Remuneration other than pensions paid by a Contracting State, or a political subdivision or a local authority thereof to an individual in respect of services rendered to the Government of that State, or a political subdivision or a local authority shall be taxable only in that State.
(b) Such remuneration shall however be taxable only in the other Contracting State if the services in respect of which the remuneration is paid are rendered in the other Contracting State and the recipient is a resident and a national of that other State, provided that he did not become a resident of that other State solely for purpose of rendering the services.

2. The provisions of Articles 14 and 15 shall apply to remuneration in respect of an employment in connection with any business carried on by a Contracting State, or political subdivision or a local authority thereof for the purpose of profits.

Article 18 **Pensions and annuities**

1. Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment may be taxed in that State.

2. However, such pensions and other similar remuneration may also be taxed in the other Contracting State if the payment is made by a resident of that other State or a permanent establishment situated therein.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, pensions paid and other payments made under a public scheme which is part of the social security system of a Contracting State or a

39

political subdivision or a local authority thereof shall be taxable only in that State.

Article 19 **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 Contracting State primarily for the purpose of his education or training shall be exempt from tax in the first-mentioned Contracting State on payments made to him by persons residing outside that first-mentioned Contracting State for the purposes of his maintenance, education or training.

2. An individual who, immediately before visiting a Contracting State, is or was a resident of the other Contracting State and who is temporarily present in the first-mentioned State primarily 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 a Contracting State shall, from the date of his arrival in the first-mentioned State in connection with that visit, be exempt from tax in that State.

Article 20 **Teachers and researchers**

A professor or teacher who visits one of the Contracting States for the purpose of teaching or engaging in research at a University or any other similarly recognised educational institution in that State and who, immediately before that visit was a resident of the other Contracting State shall be exempt 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. During the said period of two years, the other Contracting State shall also exempt him from tax in respect of such remuneration from the first-mentioned State in respect of the teaching or research.

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 21 **Other income**

Items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Agreement and arising in the other Contracting State may be taxed in that other State.

Article 22 **Elimination of double taxation**

Subject to the provisions of the law of Nigeria regarding the allowance as a credit against Nigerian tax of tax payable in a territory outside Nigeria (which shall not affect the general principle hereof):

- (a) Czechoslovak tax payable under the laws of Czechoslovakia and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Czechoslovakia (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Nigerian tax computed by reference to the same profits, income or chargeable gains by reference to which Czechoslovak tax is computed.
- (b) In the case of a dividend paid by a company which is a resident of Czechoslovakia to a Company which is a resident in Nigeria, the credit shall take into account (in addition to any Czechoslovak tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) Czechoslovak tax payable by the company in respect of the profits out of which such dividend is paid.

For the purpose of this paragraph, the amount of tax credit to be granted shall not exceed the proportion of the Nigerian tax which such profits, income or chargeable gains bear to the entire profits, income or chargeable gains chargeable to Nigerian tax.

8

2. In Czechoslovakia, double taxation will be avoided in the following manner:
- (a) Where a resident of Czechoslovakia derives income which, in accordance with the provisions of this Agreement, may be taxed in Nigeria, Czechoslovakia shall, subject to the provisions of subparagraph (b) of this paragraph, exempt such income from tax, but may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.
 - (b) Czechoslovakia when imposing taxes on its residents may include in the tax base upon which such taxes are imposed the items of income which according to the provisions of Articles 9, 10, 11, 15 and 16 of this Agreement may also be taxed in Nigeria but shall allow as a deduction from the amount of tax computed on such a base an amount equal to the tax paid or payable or relieved under any laws in Nigeria. Such deduction shall not, however, exceed that part of the Czechoslovak tax, as computed before the deduction is given, which is appropriate to the income which, in accordance with the provisions of Articles 9, 10, 11, 15 and 16 of this Agreement may be taxed in Nigeria.

Article 23

Non-discrimination

1. Notwithstanding the provisions of Article 1 of this Agreement, 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 are or may be subjected.
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.
3. 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.
4. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs, and deductions for tax purposes, which are granted to individuals as residents.
5. The provisions of this Article, notwithstanding the provisions of Article 2 of this Agreement, apply to taxes, of every kind and description.

Article 24

Mutual agreement procedure

1. Where a resident or a national of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxations not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. If his case comes under paragraph 1 of Article 23 of this Agreement to that of the Contracting State of which he is a national.
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 not in accordance with this Agreement.
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 together for the elimination of double taxation in cases not provided for in this Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Article 25**Exchange of information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this 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. The exchange of information is not restricted by Article 1 of this Agreement. 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 of 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.

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

- (a) to carry out administrative measures at variance with the laws or the 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.

Article 26**Diplomatic and consular officials**

1. Nothing in this Agreement shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special Agreements.

2. Notwithstanding paragraph 1 of Article 4 of this Agreement, an individual who is a member of the diplomatic, consular or permanent mission of a Contracting State which is situated in the other Contracting State and who is subject to tax in that other State only if he derives income from sources therein, shall not be deemed to be a resident of that other State.

Article 27**Entry into force**

1. The Governments of the Contracting States shall notify to each other that the constitutional requirements for the entry into force of this Agreement have been complied with.

The Agreement shall enter into force thirty days after the date of the latter of the notification referred to in paragraph 1 of this Article and its provisions shall have effect:

- (a) in Nigeria:
 - (i) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after 1 January in the calendar year immediately following that in which the Agreement enters into force;
 - (ii) in respect of other taxes, in relation to income of any basic period beginning on or after 1 January in the calendar year immediately following that in which the Agreement enters into force.
- (b) in Czechoslovakia:
 - (i) in respect of taxes withheld at source, to amounts derived on or after 1 January in the calendar year next following that in which the Agreement enters into force;
 - (ii) in respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following that in which the Agreement enters into force.

Article 28

8

Termination

This Agreement shall continue in force until terminated. Either of the Contracting States may through diplomatic channels give written notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to be effective:

- (a) in Nigeria:
 - (i) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after 1 January in the calendar year immediately following that in which the Agreement enters into force;
 - (ii) in respect of other taxes, in relation to income of any basic period beginning on or after 1 January in the calendar year immediately following that in which the Agreement enters into force;
- (b) in Czechoslovakia:
 - (i) in respect of taxes withheld at source, to amounts derived on or after 1 January in the calendar year next following that in which the notice is given;
 - (ii) in respect of other taxes on income, to taxes chargeable for any taxable year beginning on or after 1 January in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done at Lagos, on 31 August 1989, in two original copies, each in the English language.

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