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AGREEMENT

BETWEEN

THE GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA
AND

THE GOVERNMENT OF THE KINGDOM OF BELGIUM
FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME
AND CAPITAL GAINS

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THE GOVERNMENT OF THE FEDERAL REPUBLIC OF NIGERIA
 and
THE GOVERNMENT OF THE KINGDOM OF BELGIUM

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains,

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. The taxes to which this Agreement shall apply are:
 - (a) In Nigeria:
 - (i) the personal income tax;
 - (ii) the companies income tax;
 - (iii) the petroleum profits tax; and
 - (iv) the capital gains tax
(hereinafter referred to as «Nigerian tax»).
 - (b) In Belgium:
 - (i) the individual income tax (impôt des personnes physiques — personenbelasting);
 - (ii) the corporate income tax (impôt des sociétés — vennootschapsbelasting);
 - (iii) the income tax on legal entities (impôt des personnes morales — rechtspersonenbelasting);
 - (iv) the income tax on non-residents (impôt des non-résidents — belasting der niet-verblijfhouders);
 - (v) the special levy assimilated to the individual income tax (cotisation spéciale assimilée à l'impôt des personnes physiques — met de personenbelasting gelijkgestelde bijzondere heffing), including the prepayments, the surcharges on these taxes and prepayments, and the supplement to the individual income tax;
(hereinafter referred to as «Belgian tax»).

2. This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this 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.

3. This Agreement shall not apply, in the case of Belgium, to the corporate income tax to the extent that such tax is payable, in accordance with Belgian law, by a company which is a resident of Belgium in the event of the repurchase by that company of its own shares or in the event of the distribution of its assets.

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 hereafter 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 «Belgium» means the Kingdom of Belgium; when used in a geographical sense, it means the national territory and any area beyond the territorial sea of Belgium within which under Belgian law and in accordance with international law Belgium exercises sovereign rights or its jurisdiction;
 - (c) the term «national» means:
 - (i) in relation to Nigeria, any citizen of Nigeria and any legal person, partnership, association or other entity deriving its status as such from the law in force in Nigeria;
 - (ii) in relation to Belgium, any individual possessing the Belgian nationality and any legal person, partnership or association deriving its status as such from the laws in force in Belgium;
 - (d) the terms «a Contracting State» and «the other Contracting State» mean Nigeria or Belgium as the context requires;
 - (e) the term «person» means an individual, a company or any other body of persons;
 - (f) the term «company» means any body corporate or any entity which is treated as a body corporate for tax purposes under the respective laws of each Contracting State;
 - (g) the terms «enterprise of a Contracting State» and «enterprise of the other Contracting State», mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (h) the term «international traffic» means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except where 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 Nigeria, the Minister of Finance or his authorised representative;
 - (ii) in the case of Belgium, the Minister of Finance or his authorised 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 concerning the taxes to which this 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 management or incorporation or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 of this Article, an individual is a resident of both Contracting States, then his status shall be determined 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 not a 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;
 - (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 of this Article a person other than an individual is a resident of both Contracting States, then the competent authorities shall endeavour to resolve the case by mutual agreement, due regard being had to its place of effective management or incorporation or to any other relevant criterion.

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;
 - (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 or construction or assembly project which exists for more than three months;
 - (h) the provision of supervisory activities for more than three months on a building site or construction or assembly project;
 - (i) the installation, or the provision of supervisory activities in connection with such installation, incidental to the sale of machinery or equipment where the charge payable for such installation exceeds 10 per cent of the sale price of the machinery or equipment free-on-board.
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 solely 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, where 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 Contracting State if:

- (a) he has, and habitually exercises in that State, an authority to conclude contracts or carries on any business activities on behalf of the enterprise, unless his activities are limited to those mentioned in paragraph 3 of this Article; or
- (b) he habitually secures orders for the sale of goods or merchandise in the first-mentioned State exclusively or almost exclusively on behalf of the enterprise or other enterprises controlled by it or which have a controlling interest in it.

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, live-stock 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.

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

Article 7

Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the

enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to

- (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 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 by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

For the purpose of this paragraph, interest payable to a banking enterprise by its permanent establishment or vice versa shall be allowed as a deduction to the extent that it represents a reimbursement of actual expenses.

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. 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 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

Shipping and air transport

1. A resident of a Contracting State shall be exempt from tax in the other Contracting State in respect of profits or gains derived from the operation of ships or aircraft in international traffic.

2. However, no exemption shall be granted if such operation in international traffic is carried on by a resident of only one of the Contracting States. In such a case, the tax charged shall not exceed 1 per cent of the earnings of the resident derived from the other Contracting State.

For the purpose of this paragraph, the term «earnings» means income from freight, mails and sale of tickets and other such income less refunds and payments of wages and salaries of ground staff.

3. Notwithstanding the provisions of paragraph 2 of this Article, the provisions of paragraph 1 of this Article shall also apply to profits derived from the participation in a pool, a joint business or an international operating agency in which residents of both Contracting States take part.

Article 9

Associated enterprises

1. Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. Where a Contracting State includes in the profits of an enterprise of that State — and taxes accordingly — profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make such adjustment as it considers appropriate to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:

- (a) 12,5 per cent of the gross amount of the dividends 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 dividends;
- (b) 15 per cent of the gross amount of the dividends 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 paragraph 1 or 2 of this Article shall not apply where the beneficial owner of the dividends, being a resident of a Contracting State, has in the other Contracting State a permanent establishment or performs in that other State independent personal services from 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 a case, the provisions of Article 7 or Article 14, 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 a resident of the first-mentioned State except insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State nor subject the company's undistributed profits to a tax on 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 provisions of this Article shall not apply if the right giving rise to the dividends was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

6. 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 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 11 of this Agreement) which, under the law of the Contracting State of which the company paying the dividends is a resident, is treated as a dividend or distribution of a company. In the case of Belgium the term also means income which is taxable under the head of income on capital invested by the members of a company other than a company with share capital, which is a resident of Belgium.

Article 11

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 laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 12,5 per cent of the gross amount of the interest.

3. 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, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Interest 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 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.

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 interest 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.

6. The provisions of this Article shall not apply if the right or property giving rise to the interest was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

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. However, the term «interest» does not include for the purpose of this Article income dealt with in paragraph 6 of Article 10.

Article 12

Royalties

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

2. However, such royalties may also be taxed in the Contracting State from which they are derived and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 12,5 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 in which the royalties arise a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Royalties shall be deemed to be derived 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.

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 the other provisions of this Agreement.

6. The provisions of this Article shall not apply if the right or property giving rise to the royalties was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

7. In this Article the term «royalties» means payments 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, commercial or scientific experience.

Article 13

Capital gains

1. Gains derived in a Contracting State by a resident of the other Contracting State from the sale or alienation of movable and immovable property including shares in companies may be taxed in each of the Contracting States in accordance with the laws of the respective States.

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

Article 14

Independent personal services

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

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

Article 15

Dependent personal services

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, 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 the year of assessment or in the taxable period, as the case may be, and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment 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 by an enterprise of a Contracting State may be taxed in that State.

Article 16

Directors' fees

1. Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.
2. However, any other remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 15.

Article 17

Artistes and athletes

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as 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, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 18

Pensions and annuities

1. Pensions 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 from which 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 payments in return for adequate and full consideration in money or money's worth.

Article 19

Government service

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) 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 of rendering the services.

2. The provisions of Articles 15 and 16 shall apply to remuneration in respect of an employment in connection with any business carried on by a Contracting State, or a political sub-division or a local authority thereof for the purpose of profits.

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 temporarily present in the first-mentioned Contracting State primarily for the purpose of his education or training shall be exempt from tax in that first-mentioned Contracting State on:

- (a) payments made to him by persons residing outside that first-mentioned Contracting State for the purpose of his maintenance, education or training; and
- (b) remuneration from employment in that first-mentioned Contracting State, provided that the remuneration constitutes earnings reasonably necessary for his maintenance and education.

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 21

Teachers

1. 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 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 apply to income from research only if such research is undertaken by the professor or teacher in the public interest and not primarily for the benefit of some other private person or persons.

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Article 22
Other income

1. Items of income of a resident of a Contracting State wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1 of this Article, 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 also be taxed in that other State.

Article 23
Elimination of double taxation

1. 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 thereof):
 - (a) Belgian tax payable under the laws of Belgium and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Belgium (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 Belgian tax is computed.
 - (b) In the case of a dividend paid by a company which is a resident of Belgium to a company which is a resident of Nigeria and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Belgian tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Belgian tax payable by the company in respect of the profits out of which such dividend is paid. In any case, the amount of tax credit to be granted under this sub-paragraph shall not exceed the proportion of Nigerian tax which such profits, income or chargeable gains bear to the entire profits, income or chargeable gains chargeable to Nigerian tax.
2. In the case of Belgium, double taxation shall be avoided as follows:
 - (a) Where a resident of Belgium derives income not dealt with in sub-paragraph (b) or (c) below which may be taxed in Nigeria in accordance with the provisions of this Agreement, other than those of paragraph 2 of Article 10, of paragraphs 2 and 5 of Article 11 and of paragraphs 2 and 5 of Article 12, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remaining income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.
 - (b) Where a resident of Belgium derives from Nigeria items of his aggregate income for Belgian tax purposes which are:
 - dividends taxable in accordance with paragraph 2 of Article 10 and not exempt from Belgian tax under sub-paragraph (c) below,
 - interest taxable in accordance with paragraph 2 or 5 of Article 11, and
 - royalties taxable in accordance with paragraph 2 or 5 of Article 12,
 the fixed proportion of the foreign tax for which provision is made under Belgian law shall, under the conditions and at the rate provided for by such law, be allowed as a credit against Belgian tax relating to such income.

 Notwithstanding the provisions of its law, Belgium shall also allow the credit provided for in this sub-paragraph in respect of tax which may be charged in Nigeria on dividends, interest and royalties by virtue of this Agreement and the law of Nigeria, but which is temporarily remitted or reduced under special provisions designed to promote the economic development of Nigeria.
 - (c) Where a company which is a resident of Belgium owns shares or other rights in a company with share capital which is a resident of Nigeria and which is subject to Nigerian tax on its profits, the dividends which are paid to it by the latter company and which may be taxed in Nigeria in accordance

with paragraph 2 of Article 10, shall be exempt from the corporate income tax in Belgium to the extent that exemption would have been accorded if the two companies had been residents of Belgium.

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

Article 24

Non-discrimination

1. Notwithstanding the provisions of Article 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 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 resident.
5. Nothing in this Article shall be construed as preventing a Contracting State:
 - (a) from taxing the total amount of the profits attributable to a permanent establishment in that State of a company being a resident of the other Contracting State or of an association having its place of effective management in that other State at the rate of tax provided by the law of the first-mentioned State, but this rate may not exceed the maximum rate applicable to the profits of companies which are residents of that first-mentioned State;
 - (b) from imposing its withholding tax on dividends derived from a holding which is effectively connected with a permanent establishment or a fixed base maintained in that State by a company which is a resident of the other Contracting State or by an association which has its place of effective management in that other State and is taxable as a body corporate in the first-mentioned State.
6. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25

Mutual agreement procedure

1. Where a 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 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, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the 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 not in accordance with the 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.

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 26

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. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the 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. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

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

Article 27

Diplomatic and consular officials

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

2. Notwithstanding paragraph 1 of Article 4, 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 liable to tax in that other State only if he derives income from sources therein, shall be deemed to be a resident of the sending State.

Article 28

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.

2. The Agreement shall enter into force thirty days after the date of the latter of the notification referred to in paragraph 1 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 1st 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 basis period beginning on or after 1st January in the calendar year immediately following that in which the Agreement enters into force;
- (b) in Belgium :
 - (i) in respect of taxes due at source on income credited or payable on or after 1st January in the calendar year immediately following that in which the Agreement enters into force;
 - (ii) in respect of taxes other than taxes due at source, on income of any taxable period beginning on or after 1st January in the calendar year immediately following that in which the Agreement enters into force.

Article 29
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, and in that event, this Agreement shall cease to be effective :

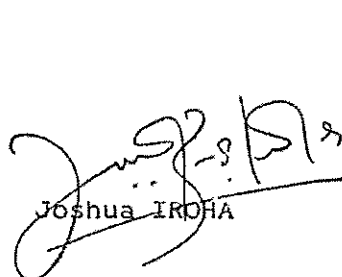
- (a) in Nigeria :
 - (i) in respect of withholding tax on income and taxes on capital gains derived by a non-resident, in relation to income and capital gains derived on or after 1st January in the calendar year immediately following that in which the notice of termination is given;
 - (ii) in respect of other taxes, in relation to income of any basis period beginning on or after 1st January in the calendar year immediately following that in which the notice of termination is given;
- (b) in Belgium :
 - (i) in respect of taxes due at source on income credited or payable on or after 1st January in the calendar year immediately following that in which the notice of termination is given;
 - (ii) in respect of taxes other than taxes due at source, on income of any taxable period beginning on or after 1st January in the calendar year immediately following that in which the notice of termination is given.

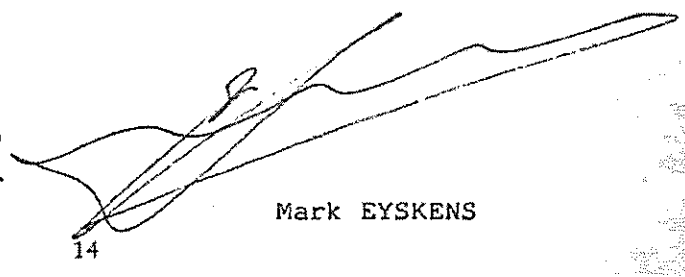
IN WITNESS WHEREOF, the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at BRUSSELS, this twentieth day of November 1989.. in the English language.

*For the Government
of the Federal Republic of Nigeria:*

*For the Government
of the Kingdom of Belgium:*


Joshua IROHA


Mark EYSKENS

