AGREEMENT

between

The United Nations Interim Administration Mission in Kosovo acting for the Provisional Institutions of Self-Government in Kosovo

And

Council of Ministers of the Republic of Albania

On

The Avoidance of Double Taxation with Respect to Taxes on Income and on Capital and the Prevention of Fiscal Evasion

The United Nations Interim Administration Mission in Kosovo (UNMIK) on behalf of the Provisional Institutions of Self-Government in Kosovo and the Council of Ministers of the Republic of Albania (hereinafter referred to as the "Parties");

Desiring, for the purpose of further developing and facilitating their economic relationship, to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and on capital and for the prevention of fiscal evasion,

Have agreed as follows:

Article 1
Persons Covered

This Agreement shall apply to persons who are residents of the territories of one or both of the Parties.

Article 2
Taxes covered

1. This Agreement shall apply to taxes on income and on capital imposed on behalf of a Party or of its local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries, as well as taxes on capital appreciation.

3. The existing taxes to which the Agreement shall apply are in particular:

(a) In Kosovo:

i) the profit tax;
ii) the presumptive tax;
iii) the personal income tax;
iv) the property tax;

(hereinafter referred to as "Kosovo Taxes")

(b) In Albania:

i) the profit tax;
ii) the simplified profit tax;
iii) the personal income tax; and
iv) the property tax.

(hereinafter referred to as "Albanian Taxes")

4. This Agreement shall apply also to any identical or substantially similar taxes, which are imposed after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Parties shall notify each other of significant changes, which have been made in their respective tax legislation.

Article 3
General definitions

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

(a) The term “Kosovo” means the territory under the interim administration of UNMIK as defined in United Nations Security Council resolution 1244 (1999) of 10 June 1999;

(b) The term "Albania" means the Republic of Albania, and when used in geographical sense means the territory of the Republic of Albania including territorial waters and air space over them as well as any area beyond the territorial waters of the Republic of Albania which, under its laws and in accordance with international law, is an area within which the Republic of Albania may exercise its rights with respect to the seabed and subsoil and their natural resources;

(c) The term “person” includes an individual, a company or any other body of persons;

(d) The term "company" means any business organization or any other entity, which is treated as a legal person for tax purposes;

(e) The terms "enterprise of the territory of a Party" and "enterprise of the territory of the other Party" mean respectively an enterprise carried on by a resident of the territory of a Party and an enterprise carried on by a resident of the territory of the other Party;

(f) The term “tax” means Kosovo Taxes or Albanian Taxes as the context requires;

(g) The term "international traffic" means any transport by a ship, boat, aircraft or road transport vehicle operated by an enterprise, which has its place of effective management in the territory of a Party, except when the ship, boat, aircraft or road transport vehicle is operated solely between places in the territory of the other Party;

(h) The term "competent authority" means:

(i) In Kosovo, the Minister of Finance and Economy or his authorized representative in coordination with UNMIK;

(ii) In Albania, the General Taxation Department.

2. As regards the application of this Agreement at any time by a Party, any term not defined herein shall, unless the context otherwise requires, have the meaning which it has under the law of that Party concerning the taxes to which this Agreement applies.

Any meaning under the applicable tax laws of that Party prevails over a meaning given to the term under other laws of that Party.

Article 4
Resident

1. For the purposes of this Agreement, the term "resident of the territory of a Party" means any person who, under the laws applicable in the territory of that Party, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term, however, does not include any person who is liable to tax under the law applicable in the territory of that Party in respect only of income from sources in the territory of that Party or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of the territory of both Parties, then his status shall be determined as follows:

a) He shall be deemed to be a resident of the territory of a Party in the territory of which he has a permanent home available to him; if he has a permanent home available to him in the territories of both Parties, he shall be deemed to be a resident only of the territory of a Party with which his personal and economic relations are closer (center of vital interests);

b) If the territory in which he has his center of vital interests cannot be determined, or if he has not a permanent home available to him in the territory of either Party, he shall be deemed to be a resident only of the territory of the Party in which he has a habitual abode;

c) If according to the above sub-paragraphs a) and b) of this article the residence of the individual cannot be determined, the competent authorities of the Parties 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 the territories of both Parties, then it shall be deemed to be a resident only of the territory of the Party 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 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 farm or a plantation;
h) Any facility used as a store, warehouse or shop for the sale of goods or services.

3. The term "permanent establishment" likewise encompasses a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than nine months.

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

(a) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage 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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) The maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in the territory of a Party on behalf of an enterprise of the territory of the other Party, that enterprise shall be deemed to have a permanent establishment in the territory of the first-mentioned Party in respect of any activities which that person undertakes for the enterprise, if such a person has and habitually exercises in the territory of that Party an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise of the territory of a Party shall not be deemed to have a permanent establishment in the territory of the other Party merely because it carries on business in the territory of that other Party 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, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

Article 6
Income from immovable property

1. Income derived by a resident of the territory of a Party from immovable property (including income from agriculture or forestry) situated in the territory of the other Party may be taxed by that other Party.

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

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

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

Article 7
Business profits

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

2. Subject to the provisions of paragraph 3, where an enterprise of the territory of a Party carries on business in the territory of the other Party through a permanent establishment situated therein, there shall in the territory of each Party 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 territory of the Party in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in the territory of a Party to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Party from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods and merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

Article 8
Shipping, inland waterways, road and air transport

1. Profits from the operation of ships, boats, aircraft or road transport vehicles in international traffic shall be taxable only in the territory of the Party in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship or boat, then it shall be deemed to be situated in the territory of the Party in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the territory of the Party of which the operator of the ship is a resident.

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

Article 9
Associated enterprises

1. Where:

(a) an enterprise of the territory of a Party participates directly or indirectly in the management, control or capital of an enterprise of the territory of the other Party, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of the territory of a Party and an enterprise of the territory of the other Party,

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 Party includes in the profits of an enterprise of the territory of that Party - and taxes accordingly - profits on which an enterprise of the territory of the other Party has been charged to tax by that other Party and the profits so included are profits which would have accrued to the enterprise of the territory of the first-mentioned Party if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other Party 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 competent authorities of the Parties shall, if necessary, consult each other.

Article 10
Dividends

1. Dividends paid by a company which is a resident of the territory of a Party to a resident of the territory of the other Party may be taxed by that other Party.

2. However, such dividends may also be taxed in the territory of the Party of which the company paying the dividends is a resident and according to the law applicable in the territory of that Party, but if the beneficial owner of the dividends is a resident of the territory of the other Party, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends. The competent authorities of the Parties shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this article means income from shares of any kind, including mining shares, founders' 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 law applicable

in the territory of the Party 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 the territory of a Party, carries on business in the territory of the other Party of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in the territory of that other Party independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14, as the case may be, shall apply.

5. Where a company which is a resident of the territory of a Party derives profits or income from the territory of the other Party, that other Party may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of the territory of that other Party or in 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 the territory of that other Party, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in the territory of the other Party.

Article 11
Interest

1. Interest arising in the territory of a Party and paid to a resident of the territory of the other Party may be taxed by that other Party.

2. However, such interest may also be taxed by the Party in the territory of which it arises and according to the law applicable in the territory of that Party, but if the beneficial owner of the interest is a resident of the territory of the other Party, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Parties shall by mutual agreement settle the mode of application of this limitation.

3. 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. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of the territory of a Party, carries on business in the territory of the other Party in which the interest arises, through a permanent establishment situated therein, or performs in the territory of that other Party independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed

base. In such case the provisions of article 7 or article 14, as the case may be, shall apply.

5. Interest shall be deemed to arise in the territory of a Party when the payer is that Party itself, a political subdivision, a local authority or a resident of the territory of that Party. Where, however, the person paying the interest, whether he is a resident of the territory of a Party or not, has in the territory of a Party a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the territory of the Party in which the permanent establishment or fixed base is situated.

6. Where by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the 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 applicable in the territories of each Party, due regard being had to the other provisions of this Agreement.

Article 12
Royalties

1. Royalties arising in the territory of a Party and paid to a resident of the territory of the other Party may be taxed by that other Party.

2. However, such royalties may also be taxed by the Party in the territory of which they arise and according to the law applicable in the territory of that Party, but if the beneficial owner of the royalties is a resident of the territory of the other Party, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Parties shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

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

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

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

Article 13
Capital gains

1. Gains derived by a resident of the territory of a Party from the alienation of immovable property referred to in article 6 and situated in the territory of the other Party may be taxed by that other Party.

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

3. Gains from the alienation of ships, boats, aircraft or road transport vehicles operated in international traffic, or movable property pertaining to the operation of such ships, boats, aircraft or road transport vehicles, shall be taxable only by the Party in the territory of which the place of effective management of the enterprise is situated.

4. Gains derived by a resident of the territory of a Party from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the territory of the other Party may be taxed by that other Party.

5. Gains from the alienation of any property other than that referred in the previous paragraphs of this article shall be taxable only by the Party in the territory of which the alienator is a resident.

Article 14
Independent personal services

1. Income derived by a resident of the territory of a Party in respect of professional services or other activities of an independent character shall be taxable only by that Party except in the following circumstances, when such income may also be taxed by the other Party:

(a) If he has a fixed base regularly available to him in the territory of the other Party for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed by that other Party; or

(b) If his stay in the territory of the other Party is for a period or periods amounting to or exceeding in the aggregate 183 days within any twelve-month period commencing or ending in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in the territory of that other Party may be taxed by that other Party.

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 and 19, salaries, wages and other similar remuneration derived by a resident of the territory of a Party in respect of an employment shall be taxable only by that Party unless the employment is exercised in the territory of the other Party. If the employment is so exercised, such remuneration as is derived there from may be taxed by that other Party.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of the territory of a Party in respect of an employment exercised in the territory of the other Party shall be taxable only in the territory of the first-mentioned Party if all the following conditions are met:

(a) The recipient is present in the territory of the other Party for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned; and

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

(c) The remuneration is not borne by a permanent establishment or a fixed base, which the employer has in the territory of the other Party.

3. Notwithstanding the preceding provisions of this article, remuneration derived in respect of an employment exercised aboard a ship, boat, aircraft or road transport

vehicle operated in international traffic may be taxed by the Party in the territory of which the place of effective management of the enterprise is situated.

Article 16
Directors' fees and remuneration of top-level managerial officials

Directors' fees and other similar payments derived by a resident of the territory of a Party in his capacity as a member of the Board of Directors or of any other similar body of a company, which is a resident of the territory of the other Party may be taxed by that other Party.

Article 17
Artistes and Sportsmen

1. Notwithstanding the provisions of articles 14 and 15, income derived by a resident of the territory of a Party 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 territory of the other Party, may be taxed by that other Party.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed by the Party in the territory of which the activities of the entertainer or sportsman are exercised.

Article 18
Pensions

Subject to the provisions of paragraph 2 of article 19, pensions and other similar remuneration paid to a resident of the territory of a Party in consideration of past employment shall be taxable only in the territory of that Party.

Article 19
Government Service

1. (a) Salaries, wages and other similar remuneration, other than a pension, paid by a Party or a local authority thereof to an individual in respect of services rendered to that Party or local authority shall be taxable only by that Party.

   (b) However, such salaries, wages and other similar remuneration shall be taxable only by the other Party if the services are rendered in the territory of that Party and the individual is a resident of the territory of that Party.

2. (a) Any pension paid by, or out of funds created by, a Party or a local authority thereof to an individual in respect of services rendered to that Party or local authority shall be taxable only by that Party.

(b) However, such pension shall be taxable only by the other Party if the individual is a resident of the territory of that Party.

3. The provisions of articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Party or a local authority thereof.

Article 20
Students, apprentices, lecturers and scientific researchers

1. A resident of the territory of a Party, who is temporarily present in the territory of the other Party as a student at a University, College or School or as an apprentice, shall not be taxed by that other Party for any payment or remuneration received for living, education or training purposes, provided that such payments or remuneration derive from sources outside the territory of that other Party.

2. Payments or remuneration that students or apprentices, who are resident of the territory of a Party, receive from temporary employment in the territory of the other Party where they are present for education or training purposes, shall be subject to the same tax treatment as students or apprentices who are residents of the territory of that other Party.

3. Payments or remuneration received by a resident of the territory of a Party who is present in the territory of the other Party in the capacity of a lecturer or scientific researcher at a University or other scientific institution for a period not exceeding two calendar years, shall not be taxed by that other Party, provided that such payments or remuneration derive from sources outside the territory of that other Party.

4. The provisions of paragraph 3 of this article shall not apply to income derived from scientific research, which is not undertaken in the public interest but mainly in the interest of a particular person or persons.

Article 21
Other income

1. Items of income of a resident of the territory of a Party, wherever arising, not dealt with in the foregoing articles of this Agreement shall be taxable only in the territory of that Party.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of article 6, if the recipient of such income, being a resident of the territory of a Party, carries on business in the territory of the other Party through a permanent establishment situated therein, or performs in the territory of that other Party independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 or article 14, as the case may be, shall apply.

Article 22
Capital

1. Capital represented by immovable property referred to in article 6, owned by a resident of the territory of a Party and situated in the territory of the other Party, may be taxed by that other Party.

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

3. Capital represented by ships, boats, aircraft and road transport vehicles operated in international traffic, and by movable property pertaining to the operation of such ships, boats, aircraft and road transport vehicles, shall be taxable only in the territory of the Party in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of the territory of a Party shall be taxable only in the territory of that Party.

Article 23
Elimination of double taxation

1. Where a resident of the territory of a Party derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed by the other Party, the first-mentioned Party shall allow:

(i) as a deduction from the tax on the income of that resident an amount equal to the income tax paid to that other Party;

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid to that other Party.

Such deduction in either case shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income or the capital which may be taxed by that other Party.

2. Where, in accordance with any provision of this Agreement, income derived or capital owned by a resident of the territory of a Party is exempt from tax by that Party, the competent authority of such Party may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

Article 24
Non-discrimination

1. Residents of the territory of a Party shall not be subjected in the territory of the other Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which residents of the territory of that other Party in the same circumstances are or may be subjected.

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

3. Except where the provisions of paragraph 1 of article 9, paragraph 6 of article 11, or paragraph 6 of article 12 apply, interest, royalties and other disbursements paid by an enterprise of the territory of a Party to a resident of the territory of the other Party 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 territory of the first-mentioned Party. Similarly, any debts of an enterprise of the territory of a Party to a resident of the territory of the other Party shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the territory of the first-mentioned Party.

4. Enterprises of the territory of a Party, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the territory of the other Party, shall not be subjected by the first-mentioned Party 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 territory of the first-mentioned Party are or may be subjected.

5. 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 person considers that the actions of one or both of the competent authorities of the Parties 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 laws applicable in the territories of those Parties, present his case to the competent authority of the Party of which he is a resident. The case must be presented within three years from the first notification of the action resulting in taxation, which is alleged to be not in accordance with the provisions of this Agreement.

2. The competent authority shall endeavor, 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 Party, with a view to the avoidance of taxation, which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the laws applicable in the territories of the Parties.

3. The competent authorities of the Parties shall endeavor 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 the Agreement.

4. The competent authorities of the Parties may communicate with each other directly, including through a joint commission consisting of themselves or their representatives, for the purpose of reaching an agreement in the sense of the preceding paragraphs of this Article.

Article 26
Exchange of information

1. The competent authorities of the Parties shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the laws applicable in the territories of the Parties concerning taxes covered by this Agreement, in so far as the taxation thereunder is not contrary to this Agreement, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by articles 1 and 2. Any information received by a competent authority shall be treated as secret in the same manner as information obtained under the law applicable in the territory of a Party in which that competent authority is situated. However, if the information is originally regarded as secret by the transmitting competent authority, it 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 which are the subject of 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 Party the obligation:

(a) To carry out administrative measures at variance with the laws and administrative practice applicable in the territory of that or of the other Party;

(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 Party;

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

Article 27
Members of Diplomatic Missions and Consular Posts

Nothing in this Agreement shall affect the fiscal privileges of members of liaison offices of foreign Governments, diplomatic missions or consular posts in the territory of a Party, under the applicable law, the general rules of international law or under the provisions of special agreements, nor shall this Agreement prejudice the status, privileges and immunities of UNMIK and KFOR.

Article 28
Entry into force

This Agreement shall enter into force on the date of the receipt of the last notification on which the Parties inform each other that their respective legal procedures have been completed, and its provisions shall have effect from 1 January of the year following that of entry into force of the Agreement, and shall have no retroactive application.

Article 29
Termination

This Agreement shall remain in force until terminated by a Party. Either Party may terminate the Agreement by giving notice of termination in writing at least six months before the end of any calendar year after the year 2010. In such event, the Agreement shall cease to have effect with regard to income derived or capital owned on or after the 1st of January of the year following that in which the notice of termination was given.

IN WITNESS WHEREOF, the respective plenipotentiaries of the Parties have signed this Agreement.

DONE in _____, on _____ of _____ 2004 , in two original copies, each in the Albanian and English Languages, both texts being equally authentic. In case of divergence between the texts, the English text shall prevail.

Initialed by
Ali Sadriu, Minister of Finance and Economy,
Provisional Institutions of Self-Government of
Kosovo

_____
Date:
_____

For The United Nations Interim Administration Mission in Kosovo on behalf of the Provisional Institutions of Self-Government of Kosovo:	**For The Council of Ministers of Ministers of the Republic of Albania**
_____	_____
Charles Brayshaw Acting Special Representative of the Secretary-General	
Date:	Date:
_____	_____