No. 9367

BELGIUM
and
SWEDEN

Agreement for the avoidance of double taxation and the regulation of certain other matters with respect to taxes on income and fortune. Signed at Brussels, on 2 July 1965

Exchange of letters constituting an agreement amending the above-mentioned Agreement. Brussels, 7 March 1967

Official texts of the Convention: French, Dutch and Swedish.

Official text of the exchange of letters: French.

Official text of the amendments effected by the exchange of letters: French, Dutch and Swedish.

Registered by Belgium on 27 December 1968.

BELGIQUE
et
SUÈDE

Convention tendant à éviter les doubles impositions et à régler certaines autres questions en matière d'impôts sur les revenus et sur la fortune. Signé à Bruxelles, le 2 juillet 1965

Échange de lettres constituant un accord modifiant la Convention susmentionnée. Bruxelles, 7 mars 1967

Textes officiels de la Convention: français, néerlandais et suédois.

Texte officiel de l'échange de lettres: français.

Textes officiels des modifications effectuées par l'échange de lettres: français, néerlandais et suédois.

Enregistrés par la Belgique le 27 décembre 1968.

[TRANSLATION — TRADUCTION]

No. 9367. AGREEMENT[1] BETWEEN BELGIUM AND SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE REGULATION OF CERTAIN OTHER MATTERS WITH RESPECT TO TAXES ON INCOME AND FORTUNE. SIGNED AT BRUSSELS, ON 2 JULY 1965

His Majesty the King of the Belgians and

His Majesty the King of Sweden,

desiring to avoid double taxation and to regulate certain other matters with respect to taxes on income and fortune, have decided to conclude an Agreement and for that purpose have appointed as their Plenipotentiaries :

His Majesty the King of the Belgians :

Mr. Paul Henri Spaak, His Majesty's Minister for Foreign Affairs;

His Majesty the King of Sweden :

Mr. Stig Unger, His Majesty's Ambassador Extraordinary and Plenipotentiary at Brussels,

who, having exchanged their full powers, found in good and due form, have agreed as follows :

Article 1

This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2

1. This Agreement shall apply to taxes on income and on fortune imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

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

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

[1] Came into force on 11 January 1968, i.e., the fifteenth day following the exchange of the instruments of ratification, which took place at Stockholm on 27 December 1967, in accordance with article 29 of the Convention.

A. In the case of Sweden :

(1) The State income tax (*den statliga inkomstskatten*);
(2) The coupon tax (*kupongskatten*);
(3) The tax on undistributed income (*ersättningsskatten*);
(4) The tax on distributions (*utskiftningsskatten*);
(5) The State fortune tax (*den statliga förmögenhetsskatten*);
(6) The communal income tax (*den kommunala inkomstskatten*);
(7) The sailors' tax (*sjömansskatten*);
(8) The taxes on special privileges and advantages (*bevillningsavgifterna för särskilda förmåner och rättigheter*).

B. In the case of Belgium :

(1) The tax on individuals (*l'impôt des personnes physiques*);
(2) The company tax (*l'impôt des sociétés*);
(3) The tax on legal persons (*l'impôt des personnes morales*);
(4) The non-residents' tax (*l'impôt des non-résidents*);

including taxes collected in advance (*précomptes*) and supplements to taxes collected in advance (*compléments de précomptes*), surcharges (*centimes additionnels*) on the aforementioned taxes, and the additional communal tax (*taxe communale additionnelle*) to the tax on individuals.

4. The Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of any changes which have been made in their respective taxation laws.

5. If it is deemed expedient to adapt certain rules relating to the application of the Agreement, either in the case of an extension of the kind referred to in the preceding paragraph or owing to changes which do not affect the general principles of the taxation laws of a Contracting State as they exist on the date of signature of this Agreement, the necessary adjustments shall be the subject of supplementary agreements to be concluded in the spirit of the Agreement through an exchange of diplomatic notes.

Article 3

1. In this Agreement, unless the context otherwise requires :

(*a*) The terms " a Contracting State " and " the other Contracting State " mean Sweden or Belgium, as the context requires;

(*b*) The term " person " comprises an individual, a company and any other body of persons;

(*c*) The term " company " means any body corporate or any entity which is treated as a body corporate for tax purposes in the State of which it is a resident;

(*d*) 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;

(*e*) The term " competent authority " means :

(1) In the case of Sweden, the Minister of Finance or his duly authorized representative;

(2) In the case of Belgium, the authority which is competent under Belgian law.

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

Article 4

1. For the purposes of this Agreement, the term " resident of a Contracting State " means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules :

(*a*) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);

(*b*) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has a habitual abode;

(*c*) If he has a habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;

(*d*) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5

1. For the purposes of this Agreement, the term " permanent establishment " means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term " permanent establishment " shall include especially :

(*a*) A place of management;

(*b*) A branch;

(*c*) An office;

(*d*) A factory;

(*e*) A workshop;

(*f*) A mine, a quarry, and any other place of extraction of natural resources or forestry or agricultural operation;

(*g*) A building site or construction or assembly project which exists for more than twelve months.

3. 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 for collecting information, for the enterprise;

(*e*) The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of an independent status to whom paragraph 5 applies — shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

6. Notwithstanding the provisions of paragraphs 4 and 5, an insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in that other State or insures risks situated therein through a representative established in the last-mentioned State.

For the purposes of this provision, the term " representative " does not include an independent agent of the kind referred to in paragraph 5 unless he has, and habitually exercises, an authority to conclude contracts in the name of the enterprise.

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

Article 6

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

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

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

4. The provisions of paragraph 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 professional services.

Article 7

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 that permanent establishment.

2. Without prejudice of the application to paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment and with any other enterprise which controls or is controlled by, or is subject to the same control as, the first-mentioned enterprise.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred and charges which are borne for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Where there are no reliable and complete records indicating how much of the profits of an enterprise of a Contracting State is attributable to its permanent establishment situated in the other State, the tax in that other State may be levied on a presumptive amount of profits determined in accordance with the law of that other State, due regard being had to the normal profits of similar enterprises of the last-mentioned State; in the case of an insurance enterprise, the presumptive amount may be established on the basis of the gross premiums received by the enterprise through the said establishment.

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

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

7. Where the profits of an enterprise include items of income which are dealt with separately in other articles of this Agreement, then the provisions of this article shall not affect the provisions of those other articles as concerns the taxation of such items of income.

Article 8

1. Notwithstanding the provisions of article 7, profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State 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, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

Article 9

1. Where

(*a*) An enterprise of a Contracting State participates directly of 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 the profits so transferred include items of income which are dealt with separately in other articles of this Agreement, then the provisions of this article shall not affect the provisions of those other articles as concerns the taxation of such items of income.

Article 10

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed :

(*a*) In the case of dividends paid by a company which is a resident of Belgium, 15 per cent of the taxable amount of the dividends determined in accordance with Belgian law in force on the date of signature of this Agreement;

(*b*) In the case of dividends paid by a company which is a resident of Sweden, 15 per cent of the gross amount of the dividends.

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

In the case of companies which are residents of Belgium, this paragraph shall not preclude taxation at the rates provided for under Belgian law in force

on the date of signature of this Agreement in the event of redemption of their own stock or shares or division of the assets. In the case of companies which are residents of Sweden, it shall not preclude the levying of the tax on distributions at the rate provided for under Swedish law in force on the date of signature of this Agreement.

3. The term " dividends " as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subject to the same rules as income from shares under the taxation law of the State of which the company making the distribution is a resident. It also includes income, including interest, which is taxable as income from capital invested by partners in partnerships — other than partnerships limited by shares — which are residents of Belgium, and income from shares in economic associations (*ekonomiska föreningar*) which are residents of Sweden.

4. The rate limitations provided for in paragraph 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the last-mentioned State shall retain the right to tax the dividends in accordance with its own law.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not, solely by reason of that fact, impose any tax on the dividends distributed by that company, or subject the company's undistributed profits to any additional taxation, even if the dividends distributed or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the amount of the interest.

Interest arising in Belgium and paid to a resident of Sweden shall in any case be exempt from the supplement to the movable property tax collected in advance (*complément de précompte mobilier*) payable under Belgian law in force on the date of signature of this Agreement.

3. The term " interest " as used in this article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims or deposits of

every kind, as well as lottery bond prizes and other income assimilated to income from money lent or deposited by the taxation law of the State in which the income arises. It does not include interest which, in accordance with article 10, paragraph 3, last sentence, is treated as dividends, or interest which may be taxed as profits accruing to partners in or members of partnerships or bodies of persons which are residents of a Contracting State.

4. The rate limitation and the exemption provided for in paragraph 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim or deposit from which the interest arises is effectively connected. In such a case, the last-mentioned State shall retain the right to tax the interest in accordance with its own law.

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

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim or deposit for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the rate limitation and the exemption provided for in paragraph 2 shall apply only to the last-mentioned amount. In that case, the excess amount of the interest may be taxed in the Contracting State in which the interest arises, in accordance with the law of that State.

Article 12

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State.

2. 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, any patent, trade mark, design or 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.

3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the last-mentioned State shall retain the right to tax the royalties in accordance with its own law.

4. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connexion with which the contract giving rise to the royalties was concluded, and such royalties are borne directly by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

5. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the normal amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of paragraph 1 shall apply only to the last-mentioned amount. In that case, the excess amount of the royalties may be taxed in the Contracting State in which the royalties arise, in accordance with the law of that State.

6. If, in the case referred to in paragraph 5, the payer of the royalties is an enterprise which is effectively dependent on or controlled by the enterprise receiving the royalties or *vice versa,* or if both the said enterprises are effectively dependent on or controlled by a third enterprise or by enterprises which are juridically distinct but are dependent members of a single group, the normal amount of the royalties or other income may, in the absence of other criteria agreed upon between the competent authorities of the Contracting States, be specified as being the amount necessary to cover by degrees, up to the expiry of the term of the concession, the share normally attributable to the first-mentioned enterprise in the cost (plus a normal profit) of the acquisition, improvement and protection, by the enterprise receiving the royalties, of the rights or property giving rise to the said royalties.

Article 13

1. Gains from the alienation of immovable or movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of immovable or movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establish-

ment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. The rules laid down in article 7, paragraphs 2 and 3, shall apply to the determination of the amount of such gains. However, gains from the alienation of immovable or movable property pertaining to the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated

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

Article 14

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar 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 Contracting State but only so much of it as is attributable to the activities performed through 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

1. Subject to the provisions of articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable 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 fiscal year concerned, 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 directly by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

However, normal remuneration paid by such a company to a member of its board of directors for the exercise of a daily activity shall be assimilated to remuneration in respect of an employment in the service of the company and shall be subject to the rules laid down in article 15.

Article 17

Notwithstanding the provisions of articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 18

Subject to the provisions of article 19, paragraph 1, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual who is not a national of the other Contracting State in respect of services rendered to the first-mentioned State or the said subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in the first-mentioned State.

Pensions paid under the social legislation of a Contracting State shall likewise be taxable only in that State.

2. The provisions of articles 15, 16 and 18 shall apply to remuneration, and to pensions other than those referred to in paragraph 1, second sub-paragraph, in respect of services rendered in connexion with any trade or business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

1. Any remuneration paid to professors and teachers who are temporarily present in a Contracting State for the purpose of teaching, for a period not exceeding two years, at a university or other institution of higher education shall be taxable only in the other State if the persons concerned were residents of the last-mentioned State prior to the commencement of the said period.

2. Payments which a student, apprentice or business trainee who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

Article 21

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles and which arise in the other Contracting State shall not be taxed in that other Contracting State if they are liable to tax in the first-mentioned State.

Article 22

1. Fortune represented by immovable property, as defined in article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

2. Fortune represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic, and immovable or movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of fortune of a resident of a Contracting State shall be taxable only in that State.

Article 23

1. Without prejudice to the application of paragraph 6, where a resident of Sweden derives income or owns fortune which, in accordance with the other articles of this Agreement, may be taxed in both States, there shall be deducted from Swedish taxes on the income and fortune of that person an amount equal to the tax paid in Belgium in accordance with this Agreement.

For the purposes of the application of this provision, income derived by a resident of Sweden which is subject in Belgium to the rules laid down in article 10, paragraph 2, first and third sub-paragraphs, shall in every case be regarded in Sweden as having been charged with Belgian tax in the amount provided for in the said article 10, paragraph 2, first sub-paragraph.

The deduction shall not, however, exceed that part of the Swedish tax on income or on fortune, as computed before the deduction is given, which is appropriate, as the case may be, to the income which may be taxed in Belgium or to the elements of fortune which gave rise to the income and which in accordance with article 22 may be taxed in Belgium.

2. Where a resident of Belgium derives income or owns fortune which, in accordance with the other articles of this Agreement, may be taxed in both States, such income or fortune shall, subject to the provisions of paragraphs 5, 6 and 7, be exempt from tax in Belgium.

3. Where in accordance with this Agreement items of income or elements of fortune of a resident of a Contracting State are exempt from tax, that State may, in calculating tax on the remaining income or fortune of that person, apply the rate of tax which would have been applicable if the exempted items of income or elements of fortune had not been so exempted.

4. For the purposes of the application of this article, income — other than income regarded as dividends in accordance with article 10, paragraph 3 — which residents of a Contracting State derive or are deemed to derive in their capacity as partners in or members of partnerships or bodies of persons shall be treated in that State as if they were profits from an enterprise carried on by the partners or members themselves for their own account.

5. Where a resident of Belgium derives income which in accordance with article 10, paragraph 2, first and third sub-paragraphs, article 11, paragraphs 2 and 6, and article 12, paragraph 5, may be taxed in Sweden, Belgium shall, subject to the application of paragraph 6, allow as a deduction from the tax on the income of that person an amount which takes into account the tax paid in Sweden in respect of such income. Such deduction shall not, however, exceed that part of the Belgian tax, as computed before the deduction is given, which is appropriate to the income derived from Sweden.

Belgium shall apply this provision by deducting the fixed quota of Swedish tax at the rate provided for under Belgian law from the tax on individuals — not including the movable property tax collected in advance — in respect of dividends of companies being residents of Sweden which are subject to the rule laid down in article 10, paragraph 2, first sub-paragraph, or from the tax on individuals or the company tax — not including the movable property tax collected in advance — in respect of interest or royalties arising in Sweden which have actually been taxed in Sweden in accordance with article 11, para-

graphs 2 and 6, or article 12, paragraph 5. In so far as distributions upon liquidation of companies being residents of Sweden which are subject to the Swedish tax provided for in article 10, paragraph 2, third sub-paragraph, disclose capital appreciation which is subject in Belgium to the tax on individuals, the rate of the last-mentioned tax shall not exceed the rate which would be applicable to such income in accordance with Belgian law if it were taxable as earned income having been derived and taxed abroad.

6. Where a company which is a resident of a Contracting State owns stock or shares in a company which is a resident of the other State, dividends paid and distributions upon liquidation made to the first-mentioned company by the last-mentioned company which are liable to tax in that other State in accordance with the law of that other State and with article 10, paragraph 2, first and third sub-paragraphs, shall be exempt in the first-mentioned State from the taxes referred to in article 2, paragraph 3 A (1) and (6) and B (2), to the extent that exemption would be granted if both companies were residents of the same State.

Where the first-mentioned company is a resident of Belgium and has been the sole owner of stock or shares in a company which is a resident of Sweden throughout the financial year of the last-mentioned company, the first-mentioned company shall also be exempted from, or granted a reduction of, the movable property tax collected in advance payable under Belgian law in respect of the net amount of the dividends on the said stock or shares, provided that it makes written application for such exemption or reduction within the prescribed time for the submission of its annual tax return, it being understood that such dividends not charged with the movable property tax collected in advance may not, when they are passed on to the shareholders of the first-mentioned company, be deducted from the distributed dividends which are subject to the movable property tax collected in advance. This provision shall not apply if the first-mentioned company has elected to have its profits subjected to the tax on individuals.

7. Belgian taxes may be levied on income which Sweden is entitled to tax in so far as such income has not been taxed in Sweden because it was set off in Sweden against losses which have also been deducted, in respect of any financial year, from income taxable in Belgium.

Article 24

1. The 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 term " nationals " means :

(*a*) All individuals possessing the nationality of a Contracting State;

(*b*) All legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. Stateless persons shall not be subjected in a 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 State in the same circumstances are or may be subjected.

4. Individuals who are residents of a Contracting State and are liable to tax in the other State shall enjoy in that other State, for the purposes of the assessment of the taxes referred to in article 2, any exemptions, basic rebates, reliefs or other advantages which are granted on account of family responsibilities to individuals who are nationals of that other State but are not residents thereof.

Where a resident of Sweden has a dwelling available to him in Belgium, he shall be liable to tax in Belgium in the same way as a Belgian national who is not a resident of Belgium in respect of a minimum amount of income equal to twice the cadastral income of the said dwelling.

5. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be levied in that other State less favourably in the aggregate than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not, in the case of a permanent establishment of an enterprise carried on by a person other than an individual, preclude the permanent establishment's being treated in the State in which it is situated as a fiscal entity liable to tax in respect of its total income.

In application of this provision :

(*a*) Companies which are residents of Belgium and which have a permanent establishment in Sweden shall not be subjected in Sweden to the fortune tax so long as that tax is not levied in Sweden on similar companies which are residents of Sweden;

(*b*) Companies which are residents of Sweden and which have a permanent establishment in Belgium shall be subject in Belgium, in respect of the profits of that permanent establishment, to the rules which are applicable to similar foreign companies, but the rate of the tax which may be charged in respect of such profits shall not exceed the maximum rate (currently 36.75 per cent in principal and surcharges) of the company tax applicable to the profits of similar companies which are residents of Belgium.

6. 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 Contracting

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 that first-mentioned State are or may be subjected.

7. In this article the term " taxation " means taxes of every kind and description.

Article 25

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in double taxation not in accordance with this Agreement, he may, without prejudice to the remedies provided by the national laws of those States, make written application for a review of the said taxation, indicating his reasons, to the competent authority of the Contracting State of which he is a resident. Such application must be submitted within two years from the date of notification, or of deduction at the source, of the second tax.

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 an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of double 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. If one and the same term is interpreted differently by the laws of the respective Contracting States, the competent authorities may, in a spirit of reciprocity, agree on a common interpretation for the purposes of this Agreement.

5. The competent authorities of the Contracting States shall agree on the administrative measures required for the implementation of the provisions of this Agreement, and in particular on the evidence to be produced by residents of each State in order to enjoy in the other State the tax exemptions or reductions provided for in this Agreement.

6. The competent authorities of the Contracting States may also, by mutual agreement, apply the rules laid down in this Agreement to residents of a third State who have in a Contracting State a permanent establishment some of whose income arises in the other Contracting State; in such a case, the terms " resident of a Contracting State ", " enterprise of a Contracting State " and other similar terms shall be interpreted in the sense of " permanent establishment situated in a Contracting State " and other similar terms.

7. 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of equal numbers of representatives of the competent authorities of the Contracting States.

Article 26

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement and of the domestic laws of the Contracting States concerning taxes covered by this Agreement, in so far as the taxation thereunder is in accordance with the Agreement.

Any information so exchanged shall be treated as secret; it shall be disclosed — other than to the taxpayer or his agent — only to the persons or authorities concerned with the assessment or collection of the taxes which are the subject of the Agreement and with appeals relating thereto; it may not be used either directly or indirectly for purposes other than the assessment and collection of such taxes.

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 or the administrative practice of that or of the other Contracting State;

(*b*) To supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

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

Article 27

1. The Contracting States undertake to afford each other aid and assistance for the collection of the taxes referred to in article 2, namely, the principal, increases, surcharges, interest, costs and fines not of a criminal character.

2. Upon application by the competent authority of a Contracting State, indicating the reasons therefor, the tax claims referred to in paragraph 1 which are payable in that State shall be collected by the competent authority of the other Contracting State, in accordance with the laws and regulations applicable to the collection of tax claims of the last-mentioned State. The said claims shall not be

given precedence in the State applied to, and the latter shall not be required to levy execution by measures which are not authorized by the laws and regulations of the applicant State.

3. The applications referred to in paragraph 2 shall be accompanied by an official copy of the enforceable instruments, together with an official copy of any decisions which have acquired final effect.

4. If an application of the kind referred to in paragraphs 2 and 3 concerns nationals of the State applied to, that State shall not be required to collect any tax claims other than those relating to :

(1) Taxes from which such nationals have been wrongly exempted in the applicant State by reason of the existence of this Agreement, or

(2) Taxes owed in the applicant State by such nationals in respect of the period during which they were residents of that State.

5. Article 26, paragraph 1, second sub-paragraph, shall also apply to any information furnished pursuant to this article to the competent authority of the State applied to.

Article 28

1. Nothing in this Agreement shall restrict any rights and advantages accorded by the law of either Contracting State in respect of the taxes referred to in article 2.

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

3. Where under the provisions of this Agreement a resident of a Contracting State is entitled to exemption or relief from taxation in the other State, such exemption or relief shall not be applied to the undivided estates of deceased persons except in so far as the tax relates to that part of the taxable elements which is attributable to beneficiaries who are residents of the first-mentioned State.

Article 29

1. This Agreement shall be ratified in accordance with the respective constitutional provisions of the Contracting States. The instruments of ratification shall be exchanged at Stockholm as soon as possible.

2. This Agreement shall enter into force on the fifteenth day following the date of exchange of the instruments of ratification and its provisions shall apply :

(1) To taxes payable by deduction at the source in respect of income accruing or paid on or after the first day of January of the year following the year in which the instruments of ratification are exchanged;

(2) To other taxes levied on income for taxable periods ending on or after the thirty-first day of December of the year in which the instruments of ratification are exchanged;

(3) To Swedish taxes on fortune levied in respect of any fiscal year subsequent to the year in which the instruments of ratification are exchanged.

3. However :

(1) The provisions of articles 10 and 11 shall apply in Belgium to the taxes mentioned in article 2, paragraph 3 B, in respect of income accruing on or after 1 January 1963;

(2) Without prejudice to the application of article 8, paragraph 5 (2), of the Agreement of 1 April 1953[1] referred to in paragraph 5 of this article in respect of any period prior to the application of the present Agreement in accordance with paragraph 2 of this article, the provisions of article 23, paragraph 1, of the present Agreement shall apply in Sweden to income accruing on or after 1 January 1963 which is subject to the rules laid down in article 10, paragraph 2, first and third sub-paragraphs, article 11, paragraphs 2 and 6, and article 12, paragraph 5, of the present Agreement;

(3) The provisions of article 23, paragraph 5, second sub-paragraph, first sentence, and paragraph 6, first sub-paragraph, shall apply in Belgium to income for any taxable period in respect of which the tax on individuals or the company tax, as the case may be, is applicable;

(4) The provisions of article 24, paragraph 5, shall apply to income and fortune for any taxable period ending on or after 31 December 1962;

(5) In lieu of the rate of 15 per cent which in accordance with article 10, paragraph 2, first sub-paragraph, item (*b*), of this Agreement is applicable to the income referred to in that provision, the rate of 5 per cent laid down in article 8, paragraph 2, third sub-paragraph, of the aforementioned Agreement of 1 April 1953 shall continue to apply to such income accruing or paid before the expiry of the fifth year following the year in which the instruments of ratification are exchanged; if, however, in respect of any fiscal year beginning before the expiry of that period the rate of the principal sum of the Belgian company tax referred to in article 2, paragraph 3 B (2), on the profits of companies being residents

[1] United Nations, *Treaty Series*, Vol. 185, p. 260.

of Belgium which are allocated to the distribution of dividends reaches 40 per cent, the aforementioned rate of 15 per cent shall become applicable as from the first day of January of the year following the commencement of the said fiscal year.

4. The provisions of the Convention concluded between Belgium and Sweden on 31 May 1929[1] for the prevention of double taxation on profits accruing from the business of shipping shall not apply so long as article 8 of this Agreement is in force.

5. The Agreement between Belgium and Sweden for the avoidance of Double Taxation and for the Settlement of Certain Other Questions relating to Taxes on Income and Property, signed at Stockholm on 1 April 1953, shall terminate and cease to apply to any Belgian or Swedish tax in respect of any period for which the present Agreement has effect with regard to such tax in accordance with paragraphs 2 and 3 of this article; the provisions of the said Agreement of 1 April 1953 shall continue to apply to Belgian taxes referred to in article 2, paragraph 3 B, of the present Agreement which are payable in respect of periods prior to the entry into force of the present Agreement.

Article 30

This Agreement shall continue in effect indefinitely, but either of the Contracting States may, on or before the thirtieth day of June of any calendar year beginning with the fifth year after the year of its ratification, give written notice of termination, through the diplomatic channel, to the other Contracting State. In the event of notice of termination given before the first day of July of any such year, the Agreement shall apply for the last time :

(1) To taxes payable by deduction at the source in respect of income normally accruing or paid on or before the thirty-first day of December of the year in which notice of termination is given;

(2) To other taxes levied on income for taxable periods normally ending before the expiry of the same year;

(3) To Swedish taxes on fortune levied in respect of the fiscal year immediately following the year in which notice of termination is given.

IN WITNESS WHEREOF the aforenamed Plenipotentiaries have signed this Agreement and have thereto affixed their seals.

DONE at Brussels, on 2 July 1965, in duplicate in the French, Dutch and Swedish languages, the three texts being equally authentic.

For Belgium :
P. H. SPAAK

For Sweden :
Stig UNGER
Subject to ratification
with the consent of the Riksdag

[1] League of Nations, *Treaty Series*, Vol. III, p. 37.

[TRANSLATION — TRADUCTION]

EXCHANGE OF LETTERS CONSTITUTING AN AGREEMENT[1] BETWEEN BELGIUM AND SWEDEN AMENDING THE AGREEMENT[2] OF 2 JULY 1965 BETWEEN BELGIUM AND SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE REGULATION OF CERTAIN OTHER MATTERS WITH RESPECT TO TAXES ON INCOME AND FORTUNE. BRUSSELS, 7 MARCH 1967

I

MINISTRY OF FOREIGN AFFAIRS AND EXTERNAL TRADE

Brussels, 7 March 1967

Sir,

Article 10, paragraph 2, first sub-paragraph, item (*a*), of the Agreement between Belgium and Sweden for the Avoidance of Double Taxation and the Regulation of Certain Other Matters with respect to Taxes on Income and Fortune, signed at Brussels on 2 July 1965, allows Belgium to levy on dividends paid by Belgian companies to residents of Sweden Belgian tax amounting to 15 per cent of the taxable amount of the dividends determined in accordance with Belgian law in force on the date of signature of the Agreement.

Under the taxation law applicable on 2 July 1965, the movable property tax collected in advance in respect of dividends distributed by a Belgian company was computed at the rate of 15 per cent on the taxable amount of the dividends, that is to say, on eighty-five-seventieths of the gross amount thereof less any income received by the company which has already been taxed and which is deemed to be included therein. The application of the fraction eighty-five-seventieths raised the effective rate of the movable property tax collected in advance to 18.21 per cent.

The Belgian Act of 15 July 1966 changes the rules applicable to dividends accruing or paid on or after 1 January 1967 : henceforth, the movable property tax collected in advance will be computed at the rate of 20 per cent of the gross amount of the dividends less any income which has already been taxed. Consequently, it will not longer be necessary to apply the fraction eighty-five-seventieths in order to determine the taxable amount for the purposes of the said tax collected in advance.

[1] Came into force on 11 January 1968, i.e., the fifteenth day following the exchange of the instruments of ratification which took place at Stockholm on 27 December 1967, in accordance with the provisions of the said letters.

[2] See p. 379 of this volume.

In addition, the supplement to the movable property tax collected in advance, to which income from movable property was formerly subject, has been abolished.

In view of these changes, the Belgian Government would be prepared, in the case referred to in article 10, paragraph 2, first sub-paragraph, of the Agreement, to limit the Belgian tax to 15 per cent of the gross amount of dividends accruing or paid on or after 1 January 1967 by Belgian companies and received by residents of Sweden.

I therefore have the honour to propose to you, in pursuance of article 2, paragraph 5, of the aforementioned Agreement, that the following amendments should be made to the three authentic texts of the Agreement :

1. Replace article 10, paragraph 2, first sub-paragraph, by the following provision :

" However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends. ";

2. Amend the beginning of article 10, paragraph 4, to read as follows :

" The rate limitation provided for in paragraph 2 shall not apply . . . ";

3. Amend the beginning of article 29, paragraph 3 (5), to read as follows :

" In lieu of the rate of 15 per cent which in accordance with article 10, paragraph 2, first sub-paragraph, of this Agreement is applicable to dividends paid by a company which is a resident of Sweden, . . . ".

These amendments would enter into force at the same time as the aforesaid Agreement and would apply to dividends accruing or paid on or after 1 January 1967.

I should be grateful if you would inform me of your Government's agreement to the amendments envisaged above; your affirmative reply would constitute the agreement between the Contracting States.

Accept, Sir, etc.

P. HARMEL

His Excellency Mr. T. Grönwall
Ambassador of Sweden at Brussels

II

Brussels, 7 March 1967

By letter of today's date, you communicated to me the following :

[*See letter I*]

I have the honour to inform you that the Swedish Government has agreed to the amendments envisaged above; your letter and this reply shall, subject to ratification with the approval of the Riksdag, constitute an agreement between the Contracting States.

Accept, Sir, etc.

T. GRÖNWALL
Ambassador of Sweden

His Excellency Mr. P. Harmel
Minister for Foreign Affairs
Brussels