

No. 10513

BELGIUM
and
JAPAN

Convention for the avoidance of double taxation with respect to taxes on income (with protocol). Signed at Tokyo on 28 March 1968

Authentic text : English.

Registered by Belgium on 2 June 1970.

BELGIQUE
et
JAPON

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu (avec protocole). Signée à Tokyo le 28 mars 1968

Texte authentique : anglais.

Enregistrée par la Belgique le 2 juin 1970.

CONVENTION¹ BETWEEN THE KINGDOM OF BELGIUM
AND JAPAN FOR THE AVOIDANCE OF DOUBLE TAXA-
TION WITH RESPECT TO TAXES ON INCOME

The Government of the Kingdom of Belgium and the Government of Japan,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income,

Have agreed as follows :

Article 1

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

Article 2

1. The taxes which are the subject of this Convention are :

(a) In Japan :

- (i) the income tax;
- (ii) the corporation tax; and
- (iii) the local inhabitant taxes
(hereinafter referred to as "Japanese tax").

(b) In Belgium :

- (i) the individual income tax (*l'impôt des personnes physiques*);
- (ii) the corporate income tax (*l'impôt des sociétés*);
- (iii) the income tax on legal entities (*impôt des personnes morales*);
- (iv) the income tax on non-residents (*l'impôt des non-résidents*);
- (v) the prepayments and additional prepayments (*les précomptes et compléments de précomptes*); and
- (vi) the surcharges (*centimes additionnels*) on any of the taxes referred to in (i) to (v) above including the communal supplement to the individual income tax (*taxe communale additionnelle à l'impôt des personnes physiques*)
(hereinafter referred to as "Belgian tax").

¹ Came into force on 16 April 1970, the thirtieth day after the date of the exchange of the instruments of ratification, which took place at Brussels on 17 March 1970, in accordance with article 28.

2. This Convention shall also apply to any other taxes of a character substantially similar to those referred to in the preceding paragraph introduced in either Contracting State after the date of signature of this Convention.

3. With respect to enterprises of shipping and air transport, this Convention shall also apply to the enterprise tax in Japan referred to in paragraph 2 of Article 8.

Article 3

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

(a) the term “Japan”, when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are in force;

(b) the term “Belgium”, when used in a geographical sense, means the territory of the Kingdom of Belgium;

(c) the terms “a Contracting State” and “the other Contracting State” mean Belgium or Japan, as the context requires;

(d) the term “tax” means Belgian tax or Japanese tax, as the context requires;

(e) the term “person” comprises individuals and companies;

(f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

(g) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(h) the term “competent authority” means, in the case of Belgium the competent authority according to Belgian legislation, and in the case of Japan the Minister of Finance or his authorized representative.

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

Article 4

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who is resident in that Contracting State for the purposes of tax of that Contracting State and who is not considered as

a resident of the other Contracting State for the purposes of tax of that other Contracting State.

2. Where a person is a resident of both Contracting States according to their respective domestic laws, then the competent authorities shall determine by mutual agreement the Contracting State of which that person shall be deemed to be a resident for the purposes of this Convention.

Article 5

1. For the purposes of this Convention, 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, quarry or other place of extraction of natural resources;
- (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 Contracting State if he has, and habitually exercises in that first-mentioned Contracting 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 Contracting 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. 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute for 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 laws 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 immovable 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 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 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 professional services.

Article 7

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.

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

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

4. Insofar as it has been customary in a Contracting State 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 Contracting State 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 laid down 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 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 profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8

1. Profits from the operation of ships or aircraft in international traffic carried on by an enterprise of a Contracting State shall be taxable only in that Contracting State.

2. In respect of the operation of ships or aircraft in international traffic by an enterprise carried on by a resident of Belgium, that enterprise shall be exempt from the enterprise tax in Japan.

Article 9

Where

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

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

Article 10

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 Contracting 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 laws of that Contracting State, but the tax so charged shall not exceed 15 percent of the gross amount of the dividends.

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation laws of the Contracting State of which the company making the distribution is a resident.

4. The limitation on the rate of tax for which paragraph 2 provides shall not apply if the recipient of the dividends, being a resident of a Contracting State, has if 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.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company outside that other Contracting State to persons who are not residents of that other Contracting State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other Contracting 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 Contracting State.

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

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 of every kind as well as all other income assimilated to income from money lent by the taxation laws of the Contracting State in which the income arises.

4. The provisions of paragraphs 1 and 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 from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.

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

Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of the Contracting State in which the interest arises.

Article 12

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

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the laws of that Contracting State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

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, 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, as well as income from a bare boat charter of a ship or aircraft.

4. The provisions of paragraphs 1 and 2 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 provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or a resident of that Contracting 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 connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties 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 royalties paid, 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 recipient in the absence of such relationship, the provisions

of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of the Contracting State in which the royalties arise.

Article 13

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

2. Gains from the alienation of any property (other than immovable 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 any property (other than immovable 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 establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting State. However, gains derived by a resident of a Contracting State from the alienation of ships and aircraft operated in international traffic and any property (other than immovable property) pertaining to the operation of such ships and aircraft shall be exempt from tax of the other Contracting State.

3. Gains derived by a resident of a Contracting State from the alienation of any property other than those mentioned in the provisions of paragraphs 1 and 2 of this Article shall be exempt from tax of the other Contracting State.

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 Contracting 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 that other Contracting State but only so much of it as is attributable to that fixed base.

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

Article 15

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting 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 Contracting 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 Contracting State, if :

- (a) the recipient is present in that other Contracting State for a period or periods not exceeding in the aggregate 183 days in the calendar year concerned, and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other Contracting State, and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other Contracting State.

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that Contracting State.

Article 16

Fees and other remuneration 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 Contracting State.

Article 17

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

2. Notwithstanding any provisions of this Convention, where the services of a public entertainer or an athlete mentioned in paragraph 1 are provided in a Contracting State by an enterprise of the other Contracting State, the profits derived from providing those services by such enterprise may be taxed in the first-mentioned Contracting State.

Article 18

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

Article 19

1. Remuneration, including pensions, paid by, or out of funds to which contributions are made by, a Contracting State or a local authority thereof to a national of that Contracting State in respect of services rendered to that Contracting State or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in that Contracting State.

2. The provisions of Articles 15, 16, 17 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any business carried on by a Contracting State or a local authority thereof for the purpose of profits.

Article 20

Notwithstanding the provisions of Article 15, a professor or teacher who makes a temporary visit to a Contracting State for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution, and who is, or immediately before such visit was, a resident of the other Contracting State shall be taxable only in that other Contracting State in respect of remuneration for such teaching.

Article 21

Payments received for the purpose of his maintenance, education or training by a student or business apprentice who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State shall be exempt from tax of the first-mentioned Contracting State, provided that such payments are made to him from outside that first-mentioned Contracting State.

Article 22

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that Contracting State.

Article 23

1. Subject to the existing provisions of the laws of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan and to any subsequent modification of those provisions — which, however, shall not affect the principle hereof — Belgian tax payable, whether directly or by deduction, in accordance with the provisions of this Convention shall be allowed as a credit against Japanese tax, and where the income is a dividend paid by a company which is a resident of Belgium to a company resident of Japan which owns not less than 25 per cent of the shares or the capital in the distributing company, the Belgian tax payable by that distributing company in respect of its profits shall be also taken into account for the purpose of the credit.

2. In the case of income derived from sources in Japan which has been taxed in Japan in accordance with this Convention, whether directly or by deduction, and which is liable to tax in Belgium according to Belgian law :

(a) (i) When a company which is a resident of Belgium owns shares in a company which is a resident of Japan the dividends paid thereon to the former company which have not been dealt with in accordance with paragraph 4 of Article 10 shall be exempted in Belgium from the tax referred to in paragraph 1 (b) (ii) of Article 2 to the extent that exemption would have been accorded if the two companies had been residents of Belgium.

A company which is a resident of Belgium and which owns directly shares in a company which is a resident of Japan during the whole of the accounting period of the latter company shall likewise be exempted or granted relief from the prepayment on income from movable property (*précompte mobilier*) chargeable in accordance with Belgian law on the net amount of the dividends referred to above which are paid to it by the said company which is a resident of Japan and is liable to the tax referred to in paragraph 1 (a) (ii) of Article 2, provided that it so requests in writing not later than the time limited for the submission of its annual return, on the understanding that, on redistribution to its own shareholders of dividends not charged to the said prepayment, the income then distributed and chargeable to the said prepayment shall not be reduced by the amount of such

dividends, notwithstanding Belgian law. This exemption shall not apply when the first-mentioned company has elected that its profits be charged to the individual income tax.

However, the application of this provision will be limited to dividends paid by a company which is a resident of Japan to a company which is a resident of Belgium which controls directly or indirectly not less than 25 per cent of the voting power in the former company, in cases where, in regard to the exemption of the tax referred to in paragraph 1 (b) (ii) of Article 2, a similar limitation would be imposed by Belgian legislation in respect of dividends paid by companies not residents of Belgium.

(ii) In cases not covered by sub-paragraph (a) (i), when a resident of Belgium receives income dealt with in accordance with paragraph 2 of Article 10, paragraphs 2 and 6 of Article 11 and paragraphs 2 and 6 of Article 12, Belgium shall reduce the Belgian tax charged thereon by a deduction in respect of the tax borne in Japan. The deduction shall be allowed against the tax chargeable on the net amount of the dividends from the company which is a resident of Japan as well as of interest and royalties arising in Japan which have been taxed there: the deduction shall be the fixed proportion of the foreign tax for which provision is made in existing Belgian law, subject to any subsequent modification — which, however, shall not affect the principle hereof.

(b) (i) When a resident of Belgium receives income other than that mentioned in sub-paragraph (a) above which is chargeable to tax in Japan in accordance with the provisions of this Convention, Belgium shall exempt such income from tax, but may in calculating the amount of the tax on the remaining income of that resident apply the rate of tax which would have been applicable if the income in question had not been exempted.

(ii) Income chargeable as business profits in accordance with Belgian law in the hands of members of companies and bodies of persons shall be treated as though it were profits arising from a business carried on by the members themselves on their own account.

(iii) Notwithstanding sub-paragraph (b) (i) above, Belgian tax may be charged on income chargeable in Japan to the extent that this income has not been charged in Japan because of the set-off of losses also deducted, in respect of any accounting period, from income taxable in Belgium.

3. For the purposes of this Article the term “resident of Japan” means any person who is considered as a resident of Japan for the purposes of

Japanese tax, and the term “resident of Belgium” means any person who is considered as a resident of Belgium for the purposes of Belgian tax.

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 Contracting State in the same circumstances are or may be subjected.

2. The term “nationals” means :

- (a) in respect of Japan : all individuals possessing the nationality of Japan and all juridical persons created or organized under the laws of Japan and all organizations without juridical personality treated for the purposes of Japanese tax as juridical persons created or organized under the laws of Japan :
- (b) in respect of Belgium : all individuals possessing the nationality of Belgium and all legal persons, partnerships and associations deriving their status as such from the law in force in Belgium.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. 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 Contracting State are or may be subjected.

5. 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 taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the laws of those Contracting States, present his case to the competent authority of the Contracting State of which he is a resident.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not 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 taxation not in accordance with this Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of this Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

Article 26

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes to which this Convention applies.

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.

Article 27

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

Article 28

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Brussels as soon as possible.

2. This Convention shall enter into force on the thirtieth day after the date of the exchange of the instruments of ratification and shall have effect :

In Japan :

as respects income derived during the taxable years beginning on or after the first day of January in the calendar year in which this Convention enters into force;

In Belgium :

(a) as respects all tax due at source on income credited or payable on income credited or payable on or after the first day of January in the calendar year in which this Convention enters into force;

(b) as respects all tax other than tax due at source, on income of any accounting period ending on or after the 31st day of December of the calendar year in which this Convention enters into force.

Article 29

Either of the Contracting States may terminate this Convention after a period of five years from the date on which this Convention enters into force by giving to the other Contracting State, through the diplomatic channels, written notice of termination, provided that any such notice shall be given only on or before the thirtieth day of June in any calendar year, and, in such event, this Convention shall cease to be effective :

In Japan :

as respects income derived during the taxable years beginning on or after the first day of January in the calendar year next following that in which the notice of termination is given;

In Belgium :

(a) as respects all tax due at source on income credited or payable on or after the first day of January in the calendar year next following that in which the notice of termination is given;

(b) as respects all tax other than tax due at source, on income of any accounting period ending on or after the 31st day of December of the year next following the calendar year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorized for the purpose, have signed this Convention.

DONE in duplicate at Tokyo on March 28, 1968 in the English language.

For the Gouvernement of the Kingdom of Belgium :

[*Illegible — Illisible*] ¹

[SEAL]

For the Government of Japan :

[*Illegible — Illisible*] ²

[SEAL]

PROTOCOL

At the moment of signature of the Convention between the Kingdom of Belgium and Japan for the Avoidance of Double Taxation with respect to Taxes on Income, the undersigned have agreed on the following provisions which shall be an integral part of the Convention.

1. With reference to Article 5, an enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other Contracting State for more than twelve months in connection with a building site or construction or assembly project which is being undertaken in that other Contracting State.

2. With reference to paragraph 3 of Article 10, in the case of a Belgian company other than a company with share capital, the term "dividends"

¹ A. Hupperts.

² Takeo Miki.

means also payments to members of the company by way of income on invested capital.

3. With reference to Article 16, in relation to remuneration of a director of a company derived from the company in respect of the discharge of day-to-day functions of a managerial or technical nature, the provisions of Article 15 shall apply as if the remuneration were remuneration of an employee in respect of an employment and as if references to "employer" were references to the company.

4. Nothing in this Convention shall prevent Belgium from imposing :

- (a) the special levy due under Belgian law on the whole or a portion of the sums paid out in the event of a distribution of the assets of a company resident in Belgium;
- (b) the special levy due from such a company under Belgian law in the event of the repurchase of its own shares (actions ou parts).

IN WITNESS WHEREOF, the undersigned, being duly authorized for the purpose, have signed this Protocol.

DONE in duplicate at Tokyo on March 28, 1968 in the English language.

For the Gouvernement of the Kingdom of Belgium :

[*Illegible — Illisible*] ¹

For the Government of Japan :

[*Illegible — Illisible*] ²

¹ A. Hupperts.

² Takeo Miki.