

**No. 11193**

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**BELGIUM  
and  
PORTUGAL**

**Agreement for the avoidance of double taxation and the regulation of certain other matters with respect to taxes on income (with final protocol). Signed at Brussels on 16 July 1969**

*Authentic texts: French, Dutch and Portuguese.*

*Registered by Belgium on 2 July 1971.*

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**BELGIQUE  
et  
PORTUGAL**

**Convention en vue d'éviter les doubles impositions et de régler certaines autres questions en matière d'impôts sur le revenu (avec protocole final). Signée à Bruxelles le 16 juillet 1969**

*Textes authentiques: français, néerlandais et portugais.*

*Enregistrée par la Belgique le 2 juillet 1971.*

[TRANSLATION — TRADUCTION]

AGREEMENT<sup>1</sup> BETWEEN BELGIUM AND PORTUGAL  
FOR THE AVOIDANCE OF DOUBLE TAXATION AND  
THE REGULATION OF CERTAIN OTHER MATTERS  
WITH RESPECT TO TAXES ON INCOME

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His Majesty the King of the Belgians and

The President of the Portuguese Republic,

Desiring to avoid double taxation and to regulate certain other matters  
with respect to taxes on income,

Have decided to conclude an agreement and for that purpose have appointed  
as their Plenipotentiaries:

His Majesty the King of the Belgians:

His Excellency Mr. P. Harmel, Minister for Foreign Affairs;

The President of the Portuguese Republic:

His Excellency Mr. Armando Ramos de Paula Coelho,

Ambassador Extraordinary and Plenipotentiary of Portugal at Brussels,

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

CHAPTER I

SCOPE OF THE AGREEMENT

*Article 1*

PERSONAL SCOPE

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

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<sup>1</sup> Came into force on 19 February 1971, i.e. the fifteenth day following the date of the exchange of the instruments of ratification, which took place at Lisbon on 4 February 1971, in accordance with article 29 (1) and (2).

## Article 2

## TAXES COVERED

1. This Agreement shall apply to taxes on income 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 all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

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

1. In the case of Belgium:

- (a) The tax on individuals (*l'impôt des personnes physiques*);
- (b) The company tax (*l'impôt des sociétés*);
- (c) The tax on legal persons (*l'impôt des personnes morales*);
- (d) 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 advance collections, and the additional communal tax (*taxe communale additionnelle*) to the tax on individuals

(hereinafter referred to as "Belgian tax");

2. In the case of Portugal:

- (a) The land tax (*contribuição predial*);
- (b) The tax on agriculture (*imposto sobre a indústria agrícola*);
- (c) The industrial tax (*contribuição industrial*);
- (d) The tax on income from capital (*imposto de capitais*);
- (e) The professional tax (*imposto profissional*);
- (f) The supplementary tax (*imposto complementar*);
- (g) The tax for overseas defence and development (*imposto para a defesa e valorização do ultramar*);
- (h) The tax on capital appreciation (*imposto de mais-valias*);
- (i) Surcharges on the taxes referred to in subparagraphs (a) to (h);

- (j) Other taxes imposed on behalf of local authorities the amount of which is determined on the basis of the taxes referred to in subparagraphs (a) to (h), and surcharges on those other taxes (hereinafter referred to as “Portuguese tax”).

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 beginning 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 during the preceding year.

## CHAPTER II

### DEFINITIONS

#### *Article 3*

#### GENERAL DEFINITIONS

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

- (1) The term “Belgium”, when used in a geographical sense, means the territory of the Kingdom of Belgium; the term “Portugal”, when used in the same sense, means European Portugal, comprising the mainland territory and the Azores and Madeira archipelagos;
- (2) The terms “a Contracting State” and “the other Contracting State” mean Belgium or Portugal, as the context requires;
- (3) The term “person” comprises an individual, a company and any other body of persons;
- (4) The term “company” means any body corporate or any entity which is liable to taxation as such in respect of its income in the State of which it is a resident;
- (5) 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;
- (6) The term “competent authority” means:
  - (a) In the case of Belgium, the authority which is competent under Belgian law, and
  - (b) In the case of Portugal, the Minister of Finance or his representative.

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

##### FISCAL DOMICILE

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. It also means any company or partnership under Belgian law—other than a company or partnership limited by shares (*société par actions*)—which has elected to have its profits subjected to the tax on individuals.

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*

## PERMANENT ESTABLISHMENT

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, quarry or other place of extraction of natural resources;
  
- (g) A building site or construction or assembly project which exists for more than 12 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—other than an agent of an independent status to whom paragraph 5 applies—acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of the enterprise 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. The fact that a company which is a resident of a Contracting State controls 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.

### CHAPTER III

## TAXATION OF INCOME

### *Article 6*

#### INCOME FROM IMMOVABLE PROPERTY

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. Debt-claims secured by mortgages on the aforementioned property, as well as 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. They shall also apply to any income from movable property which, under the taxation law of the Contracting State in which the said property is situated, is assimilated to income from 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*

## BUSINESS PROFITS

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

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 State in which the permanent establishment is situated or elsewhere, but excluding expenses which would not be deductible if the permanent establishment were an enterprise of the said State.

4. Where there are no regular accounts from which it is possible to determine the profits of an enterprise of one of the Contracting States which are attributable to a permanent establishment situated in the other State, that other State may determine the said profits by the methods established under its own laws, provided that such methods are 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 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 articles as concerns the taxation of such items of income.



*Article 8*

## SHIPPING AND AIR TRANSPORT ENTERPRISES

1. Notwithstanding the provisions of article 7, paragraphs 1 to 6, 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 engaged in international traffic 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*

## INTERDEPENDENT ENTERPRISES

Where:

An enterprise of a Contracting State participates directly or indirectly in the management, control, capital or financing of an enterprise of the other Contracting State, or the same persons participate directly or indirectly in the management, control, capital or financing 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*

## DIVIDENDS

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 15 per cent of the gross amount of the said 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, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights treated in the same way as income from shares under the taxation law of the State of which the company making the distribution is a resident.

The said term also includes:

- (a) Income—even if paid in the form of interest—which is taxable as income from capital invested by partners in partnerships, other than partnerships limited by shares, which are residents of Belgium;
- (b) Profits paid by a resident of Portugal to a sleeping partner in a special partnership.

4. The provisions of paragraphs 1 and 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 dividends may be taxed in that other State in accordance with its laws.

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 impose any tax on the dividends paid by that company to a resident of the first-mentioned State, 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; this provision shall not prevent such other State from taxing dividends pertaining to a holding which is effectively connected with a permanent establishment maintained in that other State by a resident of the first-mentioned State.

## Article 11

### INTEREST

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.

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, subject to the provisions of the following subparagraph, debt-claims or deposits of every kind, as well as lottery bond prizes and all other income treated in the same way as income from money lent or deposited under the taxation law of the State in which the income arises.

The said term does not include:

- (a) Interest assimilated to dividends by article 10, paragraphe 3, second sentence, item (a);
- (b) Interest on commercial debt-claims—including those represented by bills of exchange—resulting from payment in instalments for goods, merchandise or services by an enterprise of a Contracting State to a resident of the other Contracting State;
- (c) Interest on current accounts or advances between banking enterprises of the two Contracting States.

Interest as referred to in items (b) and (c) of the preceding subparagraph shall be subject to the rules laid down in article 7.

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 or deposit from which the interest arises is effectively connected. In such a case, the interest may be taxed in that other State in accordance with its laws.

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 the interest is borne as such by the 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, 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 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*

#### ROYALTIES

1. Royalties 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 royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 5 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, not being property of the kind referred to in article 6, or for information concerning industrial, commercial or scientific experience.

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 royalties may be taxed in that other State in accordance with its laws.

5. 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 connection with which the contract giving rise to the royalties was concluded, and the royalties are borne as such by the 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, 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 rate limitation provided for in paragraph 2 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.

### *Article 13*

#### CAPITAL GAINS

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

2. Gains from the alienation of 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 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 establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

However, gains from the alienation of ships or aircraft operated in international traffic and of movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which income from the operation of such ships or aircraft is taxable according to article 8.

3. Gains from the alienation of any other property, including a holding—not forming part of the business property of a permanent establishment as referred to in paragraph 2, first subparagraph—in a company or partnership limited by shares, shall be taxable only in the Contracting State of which the alienator is a resident.

### *Article 14*

#### PROFESSIONAL SERVICES

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 State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to 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*

#### DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 16, 18, 19, paragraph 1, 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 and subject to the proviso contained therein, remuneration derived by a resident of a Contracting State in respect of an employment, not being of the kind referred to in paragraph 3, exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- (a) It is paid in respect of an activity exercised in the other State for a period or periods not exceeding in the aggregate 183 days—including normal interruptions of work—in the calendar year, 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 as such by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the provisions of paragraph 1, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be deemed to pertain to an activity exercised in the Contracting State in which the place of effective management of the enterprise is situated and may be taxed in that State.

*Article 16*

## COMPANY DIRECTORS

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

2. Remuneration derived by persons of the kind referred to in paragraph 1 in any other capacity may be taxed in accordance with article 15.

*Article 17*

## ARTISTS AND ATHLETES

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*

## PENSIONS

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*

## PUBLIC REMUNERATION AND PENSIONS

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 in respect of services rendered to that State or a political subdivision or local authority thereof shall be taxable only in that State.

This provision shall not apply if the recipient of such income is a national of the other Contracting State but is not at the same time a national of the first-mentioned State.

2. Paragraph 1 shall not apply to remuneration or pensions 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*

#### STUDENTS

A student or business apprentice 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 shall not be liable to tax in that other State in respect of:

- Payments which he receives from sources outside that other State for the purpose of his maintenance, education or training;
- Remuneration derived by him in respect of an employment exercised in that other State for a period or periods not exceeding in the aggregate 183 days—including normal interruptions of work—in the calendar year, provided that the total amount of such payments and remuneration does not exceed 10,000 Belgian francs per month or the equivalent thereof in escudos at the official rate of exchange.

### *Article 21*

#### INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are of a kind not mentioned in the foregoing articles of the Agreement or are derived from sources not mentioned therein and which are liable to tax in that State shall be taxable only in that State.

### *Article 22*

#### LIMITATION OF THE EFFECTS OF THE AGREEMENT

1. Nothing in the Agreement shall have the effect of limiting the taxation



of a company which is a resident of Belgium in the event of redemption of its own stock or shares or division of its assets.

2. Nothing in the Agreement shall prevent Portugal from levying tax on gains from the incorporation of reserves into the capital of companies which are residents of Portugal or on gains from the issuance of shares where preference is given to the shareholders of such companies.

#### CHAPTER IV

### METHODS FOR AVOIDANCE OF DOUBLE TAXATION

#### *Article 23*

1. In the case of residents of Portugal, double taxation shall be avoided as follows:

(1) Where a resident of Portugal derives income which, in accordance with the provisions of the Agreement, may be taxed in Belgium, Portugal shall allow as a deduction from the tax on the income of that person an amount equal to the Belgian tax on the same income.

The deduction shall not, however, exceed:

(a) That part of the Belgian tax which is appropriate to the part of the aforementioned income which is taxed in Portugal, the said part of the Belgian tax being computed, as regards the excess amounts of interest and royalties referred to in article 11, paragraph 6, and article 12, paragraph 6, at the rates provided for in article 11, paragraph 2, and article 12, paragraph 2, respectively;

(b) That part of the Portuguese tax, as computed before the deduction is given, which is appropriate to the income taxed in Belgium.

(2) Notwithstanding the provisions of subparagraph (1), Portugal shall exempt from tax any remuneration as referred to in article 20 which is derived by a resident of Portugal in respect of an employment exercised in Belgium.

2. In the case of residents of Belgium, double taxation shall be avoided as follows:

(1) Where a resident of Belgium derives income other than that referred to in subparagraphs (2) to (4) below which, in accordance with the provisions of the Agreement, may be taxed in Portugal, Belgium shall exempt such

income from tax but may, in calculating its taxes on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

Where the said person is a partnership—other than a partnership limited by shares—the exemption provided for above shall apply to its partners to the extent that the income in question may, in accordance with Belgian law, be taxed in the name of the said partners otherwise than as income from capital invested in the partnership.

- (2) Where a resident of Belgium derives income which in accordance with article 10, paragraph 2, article 11, paragraphs 2 and 6, or article 12, paragraphs 2 and 6, may be taxed in Portugal, Belgium shall allow as a deduction from the tax on individuals in respect of dividends or from the tax on individuals or the company tax in respect of other income as referred to above the fixed quota of foreign tax determined under the conditions and at the rate laid down by Belgian law, provided that that rate shall not be lower than the rate of the tax levied in Portugal on the said income in accordance with article 10, paragraph 2, article 11, paragraph 2, or article 12, paragraph 2, as the case may be.

Notwithstanding the provisions of Belgian law, Belgium shall also grant such deductions in respect of income as referred to above which may be taxed in Portugal under the Agreement and under the general provisions of Portuguese law, where such income is temporarily exempted from tax in that country by special statutory provisions designed to encourage investments necessary to the development of the economy of the Portuguese Republic. The competent authorities of the Contracting States shall by mutual agreement determine the items of income which are to enjoy the benefit of this provision.

- (3) Where a company being a resident of Belgium owns stock or shares in a company which is a resident of Portugal and which is liable in that State to the industrial tax, dividends paid to it by the last-mentioned company shall be exempted in Belgium from the company tax, to the extent that such exemption would be granted if both companies were residents of Belgium. This provision shall not preclude the levying, in respect of such dividends, of the movable property tax collected in advance (*précompte mobilier*) payable under Belgian law, but the rate of such tax collected in advance shall not exceed the difference between the maximum rate of the company tax applicable to all or part of the profits of companies which are residents of Belgium and the rate provided for in article 10, paragraph 2.

- (4) Where stock or shares in a company limited by shares which is a resident of Portugal and which is liable in that State to the industrial tax has or have been held throughout the said company's financial year by a company which is a resident of Belgium, as sole owner, the last-mentioned company shall also be exempt from the movable property tax collected in advance which is payable under Belgian law in respect of dividends on the said stock or shares, provided that it makes written application for such exemption within the prescribed time for the submission of its annual tax return; however, such dividends not subject to the movable property tax collected in advance may not, when they are passed on the shareholders of the last-mentioned company, be deducted from the distributed dividends which are subject to the said tax. This provision shall not apply if the Belgian company has formally elected to have its profits subjected to the tax on individuals.
- (5) Where, under Belgian law, losses sustained by an enterprise of Belgium in a permanent establishment situated in Portugal have been effectively deducted from the profits of such enterprise for the purpose of its taxation in Belgium, the exemption provided for in subparagraph (1) shall not apply to the profits for other taxable periods which are attributable to such establishment, to the extent that such profits have also been exempted from tax in Portugal, for any taxable period, by reason of their being offset by the said losses.

#### CHAPTER V

### SPECIAL PROVISIONS

#### *Article 24*

#### NON-DISCRIMINATION

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:

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

(2) 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. Nothing in this Agreement shall be construed:

(1) 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;

(2) As preventing Belgium from taxing nationals of Portugal who are not residents of Belgium, but who have a dwelling available to them in that State, on the minimum amount of income laid down by its laws in the case of non-residents of that State, whether or not they are nationals of Belgium, who have a dwelling available to them in that State.

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

This provision shall not prevent the profits attributable to the permanent establishment maintained in a Contracting State by a company which is a resident of the other Contracting State or by any other body of persons having its place of effective management in that other State from being taxed in their entirety in the first-mentioned State at the rate prescribed by its national law, provided that that rate does not exceed the maximum rate of the tax applicable to all or part of the profits of companies which are residents of the first-mentioned State.

6. Save where article 9 is applicable, interest, royalties and other moneys paid by an enterprise of a Contracting State to a resident of the other Contracting State shall be deductible for the purpose of determining the taxable profits of the enterprise, in the same way as if they had been paid to a resident of the first-mentioned State.

7. 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.

8. In this article the term "taxation" means taxes of the kind referred to in article 2.

### *Article 25*

#### MUTUAL AGREEMENT PROCEDURE

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, notwithstanding 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 of the second taxation or, in the case of a tax payable by deduction at the source, from the date of payment of the second taxation.

2. The competent authority referred to in paragraph 1 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 application of the Agreement. Where it seems advisable in order to reach agreement to have an oral exchange of opinions, the competent authorities may meet for that purpose.

4. The competent authorities of the Contracting States shall agree on the administrative measures required for the implementation of the provisions of the 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.

### *Article 26*

#### EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of the Agreement and of the

domestic laws of the Contracting States concerning taxes covered by the Agreement, in so far as the taxation thereunder is in accordance with the Agreement.

Any information so obtained 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, and to the judicial authorities for the purpose of criminal prosecution.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

- (a) To carry out administrative measures at variance with the laws of 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

#### DIPLOMATIC AND CONSULAR OFFICIALS

Nothing in this Agreement shall affect the fiscal privileges of members of diplomatic missions and consulates under the general rules of international law or under the provisions of special agreements.

### Article 28

#### TERRITORIAL EXTENSION

1. This Agreement may be extended, either in its entirety or with any necessary modifications, to all or part of the territory of Portugal not included in the scope of the Agreement which imposes taxes substantially similar in character to those to which the Agreement applies. Any such extension shall take effect from such date and subject to such modifications and conditions—including conditions as to termination—as may be specified and agreed

between the Contracting States in notes to be exchanged through the diplomatic channel or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the denunciation of the Agreement by one of them under article 30 shall terminate, in the manner provided for in that article, the application of the Agreement to any part of the territory of Portugal to which it has been extended under this article.

#### CHAPTER VI

### FINAL PROVISIONS

#### *Article 29*

##### ENTRY INTO FORCE

1. The Agreement shall be ratified and the instruments of ratification shall be exchanged at Lisbon as soon as possible.

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

A. In the case of Belgium:

- (1) To taxes payable by deduction at the source resulting from operations effected on or after the first day of January of the year following that in which the Agreement enters into force;
- (2) To other taxes levied on income for taxable periods ending on or after the thirty-first day of December of the year following that in which the Agreement enters into force;
- (3) Notwithstanding the provisions of subparagraphs (1) and (2), as regards article 8, to taxes levied on profits earned during financial years ending on or after 31 December 1963.

B. In the case of Portugal:

- (1) To taxes payable by deduction at the source resulting from operations effected on or after the first day of January of the year following that in which the Agreement enters into force;
- (2) To other taxes levied on income accruing during the calendar year

following that in which the Agreement enters into force and subsequent years;

- (3) Notwithstanding the provisions of subparagraphs (1) and (2), as regards article 8, to taxes levied on profits accruing during the calendar year 1963 and subsequent years.

### Article 30

#### TERMINATION

This Agreement shall continue in effect indefinitely, but either Contracting State may, beginning with the third year after the year in which the instruments of ratification are exchanged, denounce it by giving written notice of termination, through the diplomatic channel, to the other Contracting State at least six months before the end of any calendar year. In such event, the Agreement shall apply for the last time:

A. In the case of Belgium:

- (1) To taxes payable by deduction at the source resulting from operations effected 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 ending on or before the thirty-first day of December of the year in which notice of termination is given.

B. In the case of Portugal:

- (1) To taxes payable by deduction at the source resulting from operations effected 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 accruing during the year in which notice of termination is given.

IN WITNESS WHEREOF the Plenipotentiaries of the two States have signed this Agreement and have thereto affixed their seals.

DONE at Brussels, on 16 July 1969, in duplicate in the French, Dutch and Portuguese languages, the three texts being equally authentic.

For the Kingdom  
of Belgium:

PIERRE HARMEL

For the Portuguese  
Republic:

A. RAMOS DE PAULA COELHO



## FINAL PROTOCOL

On signing the Agreement concluded this day between Belgium and Portugal for the avoidance of double taxation and the regulation of certain other matters with respect to taxes on income, the undersigned Plenipotentiaries have agreed upon the following provisions, which form an integral part of this Agreement.

## 1. COMPANY DIRECTORS

*Ad* article 16, paragraph 1

1. The companies referred to in this provision are:
  - (a) Companies which are residents of Belgium and which are subject to the tax régime for companies limited by shares;
  - (b) Companies or partnerships which are residents of Portugal and which have the form of a limited-liability company, a limited partnership with share capital or a company limited by quotas (*sociedade por quotas*).
2. The payments referred to in this provision are payments made to the persons concerned otherwise than in respect of the exercise of actual and permanent functions.

2. DIVIDENDS OF COMPANIES WHICH ARE RESIDENTS OF PORTUGAL RECEIVED  
BY COMPANIES WHICH ARE RESIDENTS OF BELGIUM

*Ad* article 23, paragraph 2, subparagraphs (3) and (4)

If, as a result of changes made in Belgian law subsequent to the signing of the Agreement, exemption from the company tax applicable in Belgium to dividends of companies which are residents of Belgium received by another company which is a resident of Belgium is limited to certain holdings, then the application of article 23, paragraph 2, subparagraphs (3) and (4), of the Agreement shall be limited to dividends from similar holdings in companies which are residents of Portugal. In such event, double taxation of dividends not pertaining to such holdings shall be avoided in accordance with article 23, paragraph 2, subparagraph (2).

DONE at Brussels, on 16 July 1969, in duplicate in the French, Dutch and Portuguese languages.

For the Kingdom  
of Belgium:

PIERRE HARMEL

For the Portuguese  
Republic:

A. RAMOS DE PAULA COELHO

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