

**No. 10946**

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**BELGIUM  
and  
DENMARK**

**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 16 October 1969**

*Authentic texts : French, Dutch and Danish.*

*Registered by Belgium on 11 February 1971.*

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**BELGIQUE  
et  
DANEMARK**

**Convention en vue d'éviter les doubles impositions et de régler  
certaines autres questions en matière d'impôts sur le revenu et  
sur la fortune. Signée à Bruxelles le 16 octobre 1969**

*Textes authentiques : français, néerlandais et danois.*

*Enregistrée par la Belgique le 11 février 1971.*

[TRANSLATION — TRADUCTION]

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

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His Majesty the King of the Belgians and

His Majesty the King of Denmark,

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 :

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

His Majesty the King of Denmark :

His Excellency Mr. P. Hartling, Minister for Foreign Affairs,

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

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.

*Article 2*

TAXES COVERED

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.

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<sup>1</sup> Came into force on 31 December 1970, i.e. the fifteenth day following the date on which the Contracting States notified each other that the necessary constitutional procedure had been completed, in accordance with article 30 (1).

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 Denmark :
- (a) The State income tax (*den statslige indkomstskat*);
  - (b) The company tax (*selskabsskatten*);
  - (c) The national pension fund contribution (*folkepensionsbidraget*);
  - (d) The seamen's tax (*sømandsskatten*);
  - (e) The special income tax (*den særlige indkomstskat*);
  - (f) Communal income tax (*den kommunale indkomstskat*);
  - (g) The church tax (*kirkeskatten*);
  - (h) The State tax on fortune (*den statslige formueskat*);
  - (i) Real property taxes (*ejendomsskatterne*), including taxes levied at the source, (hereinafter referred to as "Danish 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 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.

## 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; in the event of the adoption of Belgian legal provisions to that effect, it shall also refer to the sea-bed and subsoil in the North Sea, adjacent to the Belgian territorial sea, over which Belgium will

exercise sovereign rights of exploration and exploitation; the kingdom of Denmark shall in that event be notified of the boundary of the area in question, through the diplomatic channel, as soon as agreements with France, the Netherlands and the United Kingdom of Great Britain and Northern Ireland shall have rendered it possible to establish the said boundary;

(2) The term “Denmark”, when used in a geographical sense, means the Kingdom of Denmark, including any area adjacent to the territorial sea of Denmark within which Denmark may, pursuant to its legislation and in accordance with international law, exercise rights with respect to the exploration and exploitation of the natural resources of the continental shelf; the term does not include the Faroe Islands or Greenland;

(3) The terms “a Contracting State” and “the other Contracting State” mean Belgium or Denmark, as the context requires;

(4) The term “person” comprises an individual, a company and any other body of persons;

(5) The term “company” means any body corporate or any entity which is liable to taxation as such in respect of its income or its fortune in the State of which it is a resident;

(6) 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;

(7) The term “competent authorities” means :

- (a) In the case of Belgium, the authority which is competent under Belgian law, and
- (b) In the case of Denmark, the Minister of Finance or his duly authorized 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 :

- (1) 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);
- (2) 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;
- (3) 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;
- (4) 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 :

- (1) A place of management;
- (2) A branch;
- (3) An office;
- (4) A factory;
- (5) A workshop;
- (6) A mine, quarry or other place of exploitation of natural resources;
- (7) 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 :

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

- (2) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (3) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (4) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (5) 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. 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 State if it collects premiums in the territory of that State or insures risks situated in that territory through a representative to whom paragraph 4 applies or an agent of an independent status who 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.

### 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; 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.

### *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. Without prejudice to the application of 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 acting wholly independently.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions normal 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.

4. Where there are no regular accounts or other records from which it is possible to determine how much of the profits of an enterprise of a Contracting State is attributable to its permanent establishment situated in the other Contracting State, the tax in that other State may be determined in accordance with the law of that other State, in particular by taking as a basis the normal profits of similar enterprises of that other State carrying on the same or similar activities under the same or similar conditions. However, if this method results in double taxation of the same profits, the competent authorities of the two States shall consult together for the elimination of such double taxation.

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 under the terms of paragraph 1 the right to tax the profits of an enterprise carried on by a partnership other than a partnership limited by shares is accorded to one of the Contracting States, that provision shall not prevent that State from taxing such profits in the name of the partners in the said partnership.

8. Where profits 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 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.

3. The provisions of paragraph 1 shall also apply where an air transport enterprise of a Contracting State participates in a pool, in a joint business or in an international operating agency.

### *Article 9*

#### INTERDEPENDENT ENTERPRISES

Where :

- (1) An enterprise of a Contracting State participates directly or indirectly in the management, control or financing of an enterprise of the other Contracting State, or
- (2) The same persons participate directly or indirectly in the management, control 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 includes : 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.

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 provisions of article 7 shall apply; they shall not preclude the imposition of the tax payable by deduction at the source on such dividends, in accordance with the law of that other Contracting State.

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 for that reason alone 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*

## 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 :

- (1) Interest assimilated to dividends by article 10, paragraph 3, second sentence;
- (2) 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;
- (3) Interest on current accounts or advances between banking enterprises of the two Contracting States;
- (4) Interest on deposits of sums of money, not represented by bearer certificates, in banking enterprises, including public credit institutions.

Interest as referred to in items (2) to (4) of the preceding subparagraph shall be subject to the rules laid down in article 7 or article 21, as the case may be.

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 provisions of article 7 shall apply; they shall not preclude the imposition of the tax payable by deduction at the source on such interest, in accordance with the law of that other Contracting State.

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 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, not being immovable property within the meaning of article 6, 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 provisions of article 7 shall apply.

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 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.

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.

### 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 that fixed base.

2. The term “professional services” includes, *inter alia*, 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, 17, 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, and subject to the proviso contained therein, 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:

- (1) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year, and
- (2) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- (3) The remuneration is not borne as such by a permanent establishment or a fixed base which the employer has in the other State.

3. 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

##### DIRECTORS' FEES

1. Directors' fees and similar payments derived by a resident of Denmark in his capacity as a member of the board of directors of a company limited by shares which is a resident of Belgium may be taxed in the latter State. This provision shall also apply to remuneration derived by a general partner (*associé commandité*) in a limited partnership with share capital (*société en commandite par actions*) which is a resident of Belgium.

2. Directors' fees and similar payments derived by a resident of Belgium in his capacity as a member of the board of directors or similar organ of a company limited by shares which is a resident of Denmark may be taxed in the latter State.

3. Remuneration paid to a person referred to in paragraph 1 or in paragraph 2 in respect of a daily activity exercised in a permanent establishment situated in the Contracting State of which the company is not a resident may be taxed in that State if the remuneration is borne as such by the permanent establishment.

#### 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

1. Subject to the provisions 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 State.

2. Pensions and other recurring or non-recurring payments which are paid pursuant to the social legislation of a Contracting State by that State or a political subdivision, a local authority or a public corporation thereof 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 in respect of services rendered to that State or 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 it 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 local authority thereof.

### *Article 20*

#### TEACHERS AND STUDENTS, APPRENTICES OR BUSINESS TRAINEES

1. Professors and other teachers who are residents of a Contracting State and who are temporarily present in the other Contracting State for the purpose of teaching or carrying on scientific research at a university or other non-profit educational or research institution in that State for a period not exceeding two years shall be liable to tax only in the first-mentioned State in respect of any remuneration derived from the aforementioned activities.

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*

## INCOME NOT EXPRESSLY MENTIONED

A resident of a Contracting State shall not be liable to tax in the other Contracting State in respect of items of income which are of the other Contracting State in respect of items of income which are of a kind not mentioned in the foregoing articles or are derived from sources not mentioned therein if, under the law of the first-mentioned State, he is liable to tax in that first-mentioned State in respect of such items of income.

## IV. TAXATION OF FORTUNE

*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. Subject to the provisions of paragraph 3, 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 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—including a holding in an enterprise carried on by a company or partnership limited by shares—shall be taxable only in that State.

## V. METHODS FOR AVOIDANCE OF DOUBLE TAXATION

*Article 23*

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

- (1) Where a resident of Belgium derives income or owns fortune, not being income or fortune of the kinds referred to in subparagraphs (2) and (3) below, which, in accordance with the provisions of the Agreement, may be taxed in Denmark, Belgium shall exempt such income or fortune from tax but may, in calculating its taxes on the remaining income or fortune of that person, apply the rate of tax which would have been applicable if the exempted income or fortune had not been so exempted.
- (2) In the case of dividends which may be taxed in accordance with article 10, paragraph 2, in the case of interest which may be taxed in accordance with

article 11, paragraph 2 or 6, and in the case of royalties which may be taxed in accordance with article 12, paragraph 5, the fixed quota of foreign tax provided for under Belgian law shall be allowed as a deduction, under the conditions and at the rate laid down by the said law, from the tax on individuals in respect of dividends, interest or royalties or from the company tax in respect of interest or royalties.

- (3) Where a company being a resident of Belgium owns stock or shares in a company limited by shares which is a resident of Denmark and which is liable in that State to the company tax, any dividends paid to it by the last-mentioned company which, in accordance with article 10, paragraph 2, may be taxed in Denmark shall be exempt from the company tax in Belgium, 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 (*pré-compte mobilier*) payable under Belgian law.
- (4) Where stock or shares in a company limited by shares which is a resident of Denmark and which is liable to the company tax in that State 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 may also be exempted 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, the dividends so exempted may not, when they are passed on to the shareholders of the last-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 Belgian company has formally elected to have its profits subjected to the tax on individuals.

If the provisions of Belgian law exempting from the company tax the net amount of dividends which a company being a resident of Belgium receives from another company being a resident of Belgium are amended in such a way as to limit the exemption to dividends pertaining to holdings of a certain size in the capital of the last-mentioned company, then the provisions of the preceding subparagraph shall apply only to dividends paid by companies being residents of Denmark which pertain to holdings of the same size in the capital of the said companies.

- (5) Where, under Belgian law, losses sustained by a Belgian enterprise in a permanent establishment situated in Denmark 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 in Belgium 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 Denmark by reason of their being offset by the said losses.



2. In the case of Denmark, double taxation shall be avoided as follows :
- (1) Where a resident of Denmark derives income which, according to the provisions of the Agreement, is taxable in Belgium, Denmark shall allow as a deduction from Danish tax pertaining to the income of that person as referred to in article 2, paragraph 3, subparagraph (2), items (a) to (g), an amount equal to the Belgian tax pertaining to such income. Such deduction shall not, however, exceed that part of the aforementioned Danish tax, as computed before the deduction is given, which is proportionate to the income taxable in Belgium. The excess amount of Belgian tax, if any, shall be deductible from the Danish tax on fortune referred to in article 2, paragraph 3, subparagraph (2) (h), but such deduction shall not exceed that part of the said tax, as computed before the deduction is given, which is proportionate to the fortune from which the income taxable in Belgium is derived.
  - (2) Where a company being a resident of Denmark receives dividends from a company being a resident of Belgium, the deduction referred to in subparagraph (1) above shall take into account not only the Belgian tax payable on the dividends according to article 10 but also the Belgian tax payable by the last-mentioned company in respect of its profits, provided that the company which is a resident of Denmark was, throughout the taxable period during which it received the dividends, the owner of at least one quarter of the capital of the company which is a resident of Belgium.
  - (3) Where a resident of Denmark derives income or owns elements of fortune which, according to the provisions of the Agreement, are taxable only in Belgium, Denmark may nevertheless include such income or elements of fortune in the taxable base of that person but shall allow as a deduction from the tax payable by him that part of the said tax, as computed before the deduction is given, which is proportionate to such Belgian income or elements of fortune.

## VI. 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 companies 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. (1) Individuals being residents of a Contracting State who are liable to tax in the other State shall be entitled in that other State, for the purposes of assessment of the taxes referred to in article 2, to any exemptions, basic abatements, allowances or other advantages which are granted, on account of their family responsibilities, to individuals who are nationals of that other State but are not residents thereof.

(2) A resident of Denmark who has a dwelling available to him in Belgium shall be liable to tax in Belgium, in the same way as a Belgian national who is not a resident of Belgium, on a minimum amount of income equal to twice the cadastral income from that dwelling.

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 be construed so as to prevent a Contracting State from taxing in their entirety, at the rate prescribed by its national law, the profits attributable to the permanent establishment maintained in that State by a company which is a resident of the other State or by a body of persons having its place of effective management in that other State, provided that the principal rate applied does not exceed the maximum rate applicable to all or part of the profits of companies which are residents of the first-mentioned State.

6. Save where article 9, article 11, paragraph 6, or article 12, paragraph 5, 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 that enterprise, in the same way as if they had been paid to a resident of the first-mentioned State.

Similarly, debts owed 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 fortune of that enterprise, in the same way as if they had been contracted towards 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 every kind and description.

*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, 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. In order to be admissible, such application must be submitted within two years from the date of notification or of deduction at the source 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 State shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of the Agreement.

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 this 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:

(1) To carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

- (2) 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;
- (3) 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

#### ASSISTANCE FOR THE COLLECTION OF TAXES

1. The Contracting States undertake to afford each other aid and assistance for the notification and 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, notification and collection of the tax claims referred to in paragraph 1 which are payable in that State shall be undertaken by the competent authority of the other Contracting State, in accordance with the laws and regulations applicable to the notification and collection of like 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. In the case of tax claims which are still subject to appeal, the competent authority of a Contracting State may, in order to safeguard the rights of that State, request the competent authority of the other Contracting State to take the conservatory measures provided by the law of the last-mentioned State; the provisions of paragraphs 1 to 3 shall apply to such measures *mutatis mutandis*.

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

### Article 28

#### MISCELLANEOUS PROVISIONS

1. Nothing in this 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 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.

3. For the purposes of the Agreement, persons who are members of a diplomatic mission or consulate of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State shall be deemed to be residents of the sending State if they are submitted therein to the same obligations in respect of taxes on income and fortune as are the residents of that State.

4. The Agreement shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission or consulate of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income and fortune.

5. The Ministers of Finance of the Contracting States or their authorized deputies shall communicate with each other directly for the purposes of the application of the Agreement.

### *Article 29*

#### 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 Denmark 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 31 shall terminate, in the manner provided for in that article, the application of the Agreement to any part of the territory of Denmark to which it has been extended under this article.

## VII. FINAL PROVISIONS

### *Article 30*

#### ENTRY INTO FORCE AND SUSPENSION OF PREVIOUS AGREEMENTS

1. This Agreement shall enter into force on the fifteenth day following the date on which the Contracting States notify each other that the necessary constitutional procedure has been completed.

2. The provisions of the Agreement shall apply :

(1) To taxes payable by deduction at the source in respect of income normally accruing or paid after the thirty-first day of December of the year in which the Agreement has entered into force in accordance with paragraph 1;

(2) To other taxes levied on income for taxable periods ending after the thirty-first day of December of the same year.

3. The provisions of the Agreement for the Avoidance of Double Taxation of Shipping Profits, concluded between Belgium and Denmark on 21 December 1928,<sup>1</sup> and of the Convention for the Avoidance of Double Taxation of Income Derived from Air Transport, concluded between the two States on 23 October 1961,<sup>2</sup> shall cease to have effect during such time as article 8 of the present Agreement is in force.

### Article 31

#### TERMINATION

This Agreement shall continue in effect indefinitely, but either Contracting State may, on or before the thirtieth day of June of any calendar year beginning with the fifth year after the year of its entry into force, 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 ending on or before the thirty-first day of December of the same year.

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

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

For the Kingdom  
of Belgium :  
PIERRE HARMEL

For the Kingdom  
of Denmark :  
POUL HARTLING

[SEAL]

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<sup>1</sup> League of Nations, *Treaty Series*, vol. CVII, p. 363.

<sup>2</sup> United Nations, *Treaty Series*, vol. 425, p. 181.