

**No. 11925**

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**BRAZIL  
and  
PORTUGAL**

**Convention for the avoidance of double taxation with respect to  
taxes on income. Signed at Lisbon on 22 April 1971**

*Authentic text : Portuguese.*

*Registered by Brazil on 18 August 1972.*

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**BRÉSIL  
et  
PORTUGAL**

**Convention tendant à éviter la double imposition en matière  
d'impôts sur le revenu. Signée à Lisbonne le 22 avril 1971**

*Texte authentique : portugais.*

*Enregistrée par le Brésil le 18 août 1972.*

[TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE FEDERATIVE REPUBLIC OF  
BRAZIL AND PORTUGAL FOR THE AVOIDANCE OF  
DOUBLE TAXATION WITH RESPECT TO TAXES ON  
INCOME

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The Federative Republic of Brazil and Portugal,  
Considering the special links between the two countries and  
Desiring to conclude a Convention for the avoidance of double taxation  
with respect to taxes on income,  
Have agreed as follows :

CHAPTER I

SCOPE OF THE CONVENTION

*Article I*

PERSONS COVERED

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

*Article II*

TAXES COVERED

1. The existing taxes to which this Convention shall apply are :

(a) In the case of Portugal :

- (1) The property tax;
- (2) The agricultural tax;
- (3) The industrial tax;
- (4) The tax on income from movable capital;
- (5) The professional tax;
- (6) The complementary tax;
- (7) The tax for overseas defence and development;

(8) The tax on capital gains;

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<sup>1</sup> Came into force on 10 October 1971, i.e. one month after the exchange of the instruments of ratification, which took place at Brasília on 10 September 1971, in accordance with article XXVIII (2).

(9) Any surcharges on the taxes referred to in heads 1 to 8 of this subparagraph;

(10) Other taxes charged by reference to the taxes referred to in heads 1 to 8 of this subparagraph for the benefit of local authorities and the corresponding surcharges

hereinafter referred to as “ Portuguese tax ”.

(b) In the case of the Federative Republic of Brazil :

Federal tax on income and gains of whatever nature, with the exception of excess remittance taxes and taxes on activities of minor importance,

hereinafter referred to as “ Brazilian tax ”.

2. The Convention shall also apply to any identical or similar future taxes which are imposed in addition to, or in place of, the existing taxes.

## CHAPTER II

## DEFINITIONS

### *Article III*

#### GENERAL DEFINITIONS

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

(a) The terms “ a Contracting State ” and “ the other Contracting State ” mean Portugal or the Federative Republic of Brazil, as the context requires;

(b) The term “ Portugal ” means European Portugal comprising the continental territory and the archipelagoes of Azores and Madeira;

(c) The term “ Brazil ” means the Federative Republic of Brazil;

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

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

(f) 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;

(g) The term “ competent authorities ” means :

(1) In the case of Portugal : the Minister of Finance, the Director-General of Taxation or their authorized representatives;

(2) In the case of the Federative Republic of Brazil : the Minister of Finance, the Secretary of Federal Revenue or their authorized representatives.

2. As regards the application of the Convention by a Contracting State any term not 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 Convention.

#### *Article IV*

##### FISCAL DOMICILE

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

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status 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 an habitual abode;
- (c) If he has an 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 endeavour to 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.

4. An individual enterprise situated in Brazil and carried on by an individual who is a resident of Portugal may be deemed by the latter State, for the purposes of this Convention, to be its resident.

*Article V*

## PERMANENT ESTABLISHMENT

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

2. The term “ permanent establishment ” shall include especially :

- (a) A place of management;
- (b) A branch;
- (c) An office;
- (d) A factory;
- (e) A workshop;
- (f) A mine, quarry or other place of extraction of natural resources;
- (g) A building site or construction or assembly project which exists for more than six 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, provided that the enterprise does not derive any income from such activities;

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State, other than an agent of an independent status to whom paragraph 5 applies, shall be deemed to be a permanent establishment 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 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.

7. An enterprise of one Contracting State which carries on in the other Contracting State an activity consisting of the provision of the services of the persons referred to in article XVI shall be deemed to have a permanent establishment in the latter State.

### CHAPTER III

## TAXATION OF INCOME

### *Article VI*

#### INCOME FROM IMMOVABLE PROPERTY

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

2. (a) The term “immovable property” shall, subject to subparagraph (b) below, be defined in accordance with the law of the Contracting State in which the property in question is situated.

(b) The term “immovable property” shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from direct use, letting, or use in any other form of immovable property. Those provisions shall also apply to income from property which, under the taxation law of the Contracting State in which the property in question 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 VII*

## 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 doing business 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.

4. 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.

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

*Article VIII*

## SHIPPING AND AIR TRANSPORT

1. Notwithstanding the provisions of article VII, paragraphs 1 to 4, 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 effective management of a shipping enterprise is situated aboard a ship, the effective management shall be deemed to be situated in the Contracting State in which the home port of the ship is situated or, if there is no such home port in the Contracting State of which the operator of the ship is a resident.

3. For the purposes of this Convention, the term "international traffic" includes any trip of a ship or aircraft other than a trip only between points in the Contracting State which is not the Contracting State of which the person receiving the profit from the operation of the ship or aircraft is a resident.

*Article IX*

Where

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

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

*Article X*

## DIVIDENDS

1. Dividends attributed or 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 dividends.

The competent authorities of the Contracting States shall by mutual agreement determine the mode of application of this limitation.

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 assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident. The term also includes profits attributed to the dormant partner under an arrangement for participation in profits.

4. Profits remitted or paid by a permanent establishment situated in one Contracting State to the enterprise of the other Contracting State to which such permanent establishment belongs shall likewise be deemed to be dividends, the provisions of paragraph 2 applicable in such case.

Profits of a permanent establishment situated in Brazil and belonging to a Portuguese enterprise shall, if reinvested in the first-mentioned State, be subject to the tax treatment applied to profits of Brazilian enterprises incorporated

in the capital, the taxation of such profits, however, not to exceed the limit laid down in paragraph 2.

5. The provisions of paragraphs 2 and 4 shall not affect the taxation of the company or the permanent establishment in respect of the profits out of which the dividends are paid in respect of the reinvested part of such profits.

6. 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 VII shall apply.

### *Article XI*

#### INTEREST

1. Interest arising in a Contracting State and attributed or 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 gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement determine the mode of application of this limitation.

3. The limitation established in paragraph 2 shall not be applied to interest arising in a Contracting State attributed or paid to a permanent establishment of a resident of the other Contracting State situated in a third State.

4. Notwithstanding the provisions of paragraphs 1 and 2, interest arising in a Contracting State and attributed or paid to the other Contracting State, a political subdivision or a local authority thereof or any agency or institution wholly owned by that other State shall not be taxed in either of the Contracting States.

5. 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 other debt-claims of whatever kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

6. 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 Contract-

ing State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of article VII shall apply.

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

8. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

## *Article XII*

### ROYALTIES

1. Royalties arising in a Contracting State and attributed or 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 :

- (a) 10 per cent of the gross amount of royalties in respect of literary, artistic or scientific works, including cinematograph films and films or tapes for radio or television broadcasting, provided that such films or tapes are produced by enterprises of either of the Contracting States;
- (b) 15 per cent of the gross amount of royalties not covered by the foregoing subparagraph. The competent authorities of the Contracting States shall by mutual agreement determine the mode of application of these limitations.

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

or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

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 States 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 VII shall apply.

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 connexion with which the obligation to pay the royalties was incurred, and the royalties are borne by the permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

### *Article XIII*

#### CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article VI, 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 in its entirety alone or together with the whole enterprise or of such a fixed base, may be taxed in the other State.

3. Notwithstanding the provisions of paragraph 2, gains from the alienation of ships and aircraft operated in international traffic and movable property

pertaining to the operation thereof shall be taxable only in the Contracting State in which the effective management of the enterprise is situated.

4. Gains from the alienation of any property or rights other than those mentioned in paragraphs 1, 2 and 3 shall be taxable in both Contracting States.

5. The provisions of this article shall not preclude Portugal from taxing under the capital gains tax in force on the date of signature of this Convention any gains arising from the incorporation of reserves into the capital of companies having their headquarters or effective management in Portugal or from the issue of shares where preference is given to the shareholders of such companies.

#### *Article XIV*

##### INDEPENDENT PERSONAL 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 Contracting 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 if the payer is that State, a political subdivision or a local authority thereof or a resident of that State or the payment of such income is borne by a permanent establishment situated in that State.

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 XV*

##### EMPLOYMENT

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

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised

in the other Contracting State shall be taxable only in the first-mentioned State if :

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

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

### *Article XVI*

#### ARTISTES AND ATHLETES

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

### *Article XVII*

#### PENSIONS

1. Subject to the provisions of paragraph 2 of article XVIII, any pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State shall be taxable only in that State.

2. Pensions not covered by paragraph 1 shall be governed by the provisions of article XX.

### *Article XVIII*

#### GOVERNMENTAL FUNCTIONS

1. Remuneration 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 subdivision or local authority in the discharge of functions of a governmental nature, may be taxed in that State.

2. Notwithstanding the provisions of paragraph 1, remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual who has the nationality of that State in respect of services rendered to that State or subdivision or local authority in the discharge of functions of a governmental nature, may be taxed only in that State.

3. The provisions of articles XV and XVII shall apply to remuneration and pensions in respect of services rendered in connexion with any trade or business carried on by one of the Contracting States or a political subdivision or a local authority thereof.

### *Article XIX*

#### TEACHERS AND STUDENTS

1. A person who is or was formerly a resident of one Contracting State and who is present in the other Contracting State, at the invitation of the Government of that other State or of a non-profit body or of a university or other educational or scientific research establishment belonging to that State or that body, solely for the purpose of teaching or engaging in scientific research in such establishments for a period not exceeding two years, shall be exempt from taxation in both Contracting States on the remuneration received in respect of such teaching or research.

2. A person who is or was formerly a resident of one Contracting State and who is temporarily present in the other Contracting State solely to pursue his studies or training there :

- (a) as a student in a university, college or school; or
- (b) as a business apprentice; or
- (c) as a recipient of a subsidy, allowance, grant or scholarship from a religious, charitable, scientific or educational organization,

shall not be taxed in that other State in respect of the sums received for the purpose of his maintenance, studies or training, provided that they are derived from sources outside that State.

3. Students attending a university, higher educational establishment or establishment for technical instruction in a Contracting State who take employment in the other Contracting State, for a period not exceeding one year, shall not be taxed in that other Contracting State on remuneration derived from such employment, provided that the purpose of such employment is to enable them to obtain practical experience related to their studies.

*Article XX*

## LIFE ANNUITIES

1. Life annuities paid to a resident of a Contracting State may be taxed only in that State.
2. If the gross amount of such annuities exceeds, during one fiscal year, the equivalent in the national currency of the Contracting State in which they arise of \$US6,000.00 (six thousand dollars in the currency of the United States of America), the portion which is in excess of the sum in question may be taxed in that State.
3. The competent authorities of the two Contracting States may, at the request of either of them, and by mutual agreement, proceed in January of each year to revise the limit referred to in paragraph 2.

*Article XXI*

## INCOME NOT EXPRESSLY MENTIONED

1. Income of a resident of a Contracting State not expressly mentioned in the foregoing articles of this Convention and arising in the other Contracting State may be taxed in that other State.
2. Without prejudice to the provisions of previous articles, income of a resident of a Contracting State derived from sources outside both of the Contracting States may be taxed only in that State.

However, this provision shall not be construed as affecting the taxation of income attributable to a permanent establishment which a resident of one Contracting State has in the other Contracting State.

## CHAPTER IV

## METHOD FOR ELIMINATION OF DOUBLE TAXATION

*Article XXII*

1. Where a resident of a Contracting State derives income which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of such resident an amount equal to the tax paid in the other Contracting State. Such deduction shall not, however, exceed that part of the tax of the first State, as computed before the deduction is given, which is appropriate to the income taxed in the other State.
2. The provisions of paragraph 1 shall not be applicable to the interest referred to in article XI, paragraph 3.

CHAPTER V  
SPECIAL PROVISIONS

*Article XXIII*

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 :

- (a) All individuals possessing the nationality of a Contracting State;
- (b) All bodies corporate deriving their status as such from the law in force in a Contracting State;
- (c) All entities which, not being bodies corporate, are treated as such, for tax purposes, by the legislation of a Contracting State.

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

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

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirements 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.

5. In this article the term “taxation” means taxes of every kind and description.

*Article XXIV*

MUTUAL AGREEMENT

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not

in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case 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 tax which has given rise to the objection, or, in the case of taxation in both States, 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 income which has been taxed, even if the objection relates to the second taxation.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation not in accordance with the Convention.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

### *Article XXV*

#### EXCHANGE OF INFORMATION

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

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

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

3. The competent authorities of the Contracting States shall notify to each other, at the beginning of each year, any changes which have been made in their respective taxation laws during the preceding year.

4. For the purposes of promoting mutual assistance and enabling the two Contracting States to gain knowledge of each other's fiscal policy and taxation system, the respective competent authorities may consult each other and make arrangements for the exchange of qualified personnel, information, technical studies and studies on administrative organization in respect of taxation.

#### *Article XXVI*

#### DIPLOMATIC AND CONSULAR OFFICIALS

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

#### *Article XXVII*

The area of application of this Convention may be extended by agreement between the Contracting States, in notes to be exchanged through the diplomatic channel or in accordance with another procedure conforming to the respective constitutional provisions.

#### CHAPTER VI

#### FINAL PROVISIONS

#### *Article XXVIII*

#### ENTRY INTO FORCE

1. This Convention shall be ratified by the Contracting States in conformity with their respective constitutional requirements and the instruments of ratification shall be exchanged at Brasília as soon as possible.

2. The Convention shall enter into force one month after the exchange of instruments of ratification and its provisions shall apply, for the first time :

(a) In Portugal :

(1) To taxes payable by deduction at the source resulting from operations effected on or after 1 January of the calendar year following that in which the Convention enters into force;

- (2) To other taxes on income, in the case income arising in the calendar year following that in which the Convention enters into force;

(b) In Brazil :

To income derived during the fiscal year beginning on or after 1 January of the calendar year following that in which the Convention enters into force.

3. Notwithstanding the provisions of paragraph 2, the provisions of article VIII and of article XIII, paragraph 3, shall be applicable to taxes in respect of the year 1963 and following years.

*Article XXIX*

TERMINATION AND REVISION

1. This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year. In such event, the Convention shall cease to apply :

(a) In Portugal :

- (1) To taxes payable by deduction at the source resulting from operations effected on or after 1 January of the year following that in which the notice is given;
- (2) To other taxes on income, in the case of income arising on or after 1 January of the calendar year following that in which the notice is given;

(b) In Brazil :

To income derived during the fiscal year beginning on or after 1 January of the year following that in which the notice is given.

2. Without prejudice to the provisions of paragraph 1, the Convention shall be reviewed every three years.

DONE at Lisbon, in duplicate in the Portuguese language, on 22 April 1971.

For the Government  
of the Federative Republic  
of Brazil :

LUIS ANTONIO DA GAMA E SILVA

For the Government  
of Portugal :

RUI MANOEL D'ESPINEY PATRÍCIO