

**No. 13099**

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**DENMARK  
and  
PORTUGAL**

**Convention for the avoidance of double taxation with respect to taxes on income (with protocol). Signed at Copenhagen on 3 March 1972**

*Authentic text: English.*

*Registered by Denmark on 27 February 1974.*

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**DANEMARK  
et  
PORTUGAL**

**Convention tendant à éviter la double imposition en matière d'impôts sur le revenu (avec protocole). Signée à Copenhague le 3 mars 1972**

*Texte authentique : anglais.*

*Enregistré par le Danemark le 27 février 1974.*

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

The Government of Denmark and the Government of Portugal desiring to conclude a convention for the avoidance of double taxation with respect to taxes on income have agreed upon the following articles:

### Article 1. PERSONAL SCOPE

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

### Article 2. TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State or of its 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 Convention shall apply are:

a) In the case of Portugal:

- 1) the property tax (*contribuição predial*);
- 2) the agricultural tax (*imposto sobre a indústria agrícola*);
- 3) the industrial tax (*contribuição industrial*);
- 4) the tax on income from movable capital (*imposto de capitais*);
- 5) the professional tax (*imposto profissional*);
- 6) the complementary tax (*imposto complementar*);
- 7) the tax for overseas defence and development (*imposto para a defesa e valorização do ultramar*);
- 8) the tax on capital gains (*imposto de vais-valias*);
- 9) any surcharges on the preceding taxes;
- 10) other taxes charged by reference to the taxes referred to in heads 1) to 8) for the benefit of local authorities and the corresponding surcharges;

(hereinafter referred to as "Portuguese tax").

b) In the case of Denmark:

- 1) the income tax to the State (*indkomstskatten til staten*);
- 2) the municipal income tax (*den kommunale indkomstskat*);
- 3) the old age pension contribution (*folkepensionsbidraget*);
- 4) the seamen's tax (*sømandsskatten*);
- 5) the special income tax (*den særlige indkomstskat*);
- 6) the church tax (*kirkeskatten*); and
- 7) the dividends tax (*udbytteskatten*);

(hereinafter referred to as "Danish tax").

<sup>1</sup> Came into force on 22 December 1973, i. e. one month after the exchange of notes confirming that each of the Contracting States had completed the required constitutional procedures, in accordance with article 28 (1).

4. The Convention 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 to each other any substantial changes which have been made in their respective taxation laws during the preceding year.

#### Article 3. 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 Denmark, as the context requires;

b) The term “Portugal” means European Portugal comprising the continental territory and the archipelagoes of Açores and Madeira and includes any area outside the territorial sea of Portugal which in accordance with international law has been or may hereafter be designated under the laws of Portugal concerning the Continental Shelf, as an area within which the rights of Portugal with respect to the sea-bed and subsoil and their natural resources may be exercised;

c) The term “Denmark” means the Kingdom of Denmark, including any area within which, under the laws of Denmark and in accordance with international law, the sovereign rights of Denmark with respect to the exploration and exploitation of the natural resources of the Continental Shelf may be exercised; the term does not comprise the Faeroe Islands and Greenland;

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 (*Director-Geral das Contribuições e Impostos*) or their authorized representative;

2) in the case of Denmark, the Minister of Finance, or his authorized representative;

h) The term “international traffic” includes any voyage of a ship or aircraft operated by an enterprise of a Contracting State other than a voyage confined solely to the other Contracting State.

2. As regards the application of the Convention 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 Convention.

#### Article 4. 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 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 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. Where an individual has transferred his residence from a Contracting State to the other Contracting State the right of that first State to tax such individual on account of his residence is limited to the income regarding such period before that transfer of residence and the right of the other Contracting State to tax such individual on account of his residence is limited to the income regarding such period as after that transfer of residence.

#### *Article 5. 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 twelve months.

3. The term "permanent establishment" shall not be deemed to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- e) the maintenance of a fixed place of business solely for the purpose of advertis-

ing, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

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

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

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

#### *Article 6. 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. 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 treated as 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 dealing 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. Nothing in this paragraph shall however authorize a deduction for expenses which would not be deductible if the permanent establishment were a separate enterprise.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this article.

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

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

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

#### *Article 8. SHIPPING AND AIR TRANSPORT*

1. 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. Profits from the operation of ships or aircraft in international traffic made by an enterprise of a Contracting State and obtained through the participation in a pool, in a joint business or in an international operating agency shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

#### *Article 9. ASSOCIATED ENTERPRISES*

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 ac-

*Article 10. DIVIDENDS*

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

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

- a) 10 per cent of the gross amount of the dividends if the recipient is a company which holds directly at least 25 per cent of the capital of the company attributing the dividends;
- b) in all other cases, 15 per cent of the gross amount of the dividends.

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

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

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 under an arrangement for participation in profits (*conta em participação*).

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 attributed is effectively connected. In such a case, dividends may be taxed in that other State and according to its taxation law.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends attributed by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends attributed or the undistributed profits consist wholly or partly of profits or income arising in such other State; this provision shall not be construed as restricting the right of that other State to tax dividends having regard to a participation which is effectively connected with a permanent establishment carried on in that other State by a person who is not a resident of such State.

*Article 11. INTEREST*

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

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 other debt-claims of every 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. The term also includes any amount attributed for the suspension or reduction of particular industrial, commercial or

business activity carried on, or formerly carried on, by an enterprise of a Contracting State.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, interest may be taxed in that other State and according to its taxation law.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, 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 connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest attributed, having regard to the debt-claim for which it is attributed, 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 attributions shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

#### *Article 12. ROYALTIES*

1. Royalties arising in a Contracting State and attributed 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 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this article means remunerations of any kind attributed 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 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, royalties may be taxed in that other State, and according to its taxation law.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, 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 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 attributed, having regard to the use, right or information for which they are attributed, 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 attributions shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

#### *Article 13. CAPITAL GAINS*

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

2. Gains from the alienation of 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 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.

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

4. The provisions of this article shall not be construed as restricting the right of Portugal to levy tax on gains from the incorporation of reserves in the capital of companies with head office or effective management in Portugal or issue of shares with right of preference.

#### *Article 14. 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. However, in the following circumstances such income may be taxed in the other Contracting State, that is to say:

- a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the taxable year.

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

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c) the remuneration is not borne 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 16. DIRECTORS' FEES*

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors (in Portugal, *conselho de administração*) or shareholders' committee (in Portugal, *conselho fiscal* and in Denmark *representantskab*) of a company which is a resident of the other Contracting State may be taxed in that other State, provided that remuneration paid by that company to a member of its board of directors in respect of the exercise of a continuous activity shall be taxable according to the provisions of article 15.

#### *Article 17. ARTISTES 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 paragraph 1 of article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

#### *Article 19. PUBLIC REMUNERATION, ETC.*

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a local authority thereof to any individual, in respect of services rendered to that State or local authority thereof may be taxed in that State.

2. The provisions of articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a local authority thereof.

#### *Article 20. STUDENTS*

A person who is, or was formerly, resident of a Contracting State and who is temporarily present in the other Contracting State solely:

- a) as a student at a university, college or school, or
  - b) as a commercial, agricultural, forestry or technical apprentice for the purpose of training, or
  - c) as a recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation
- shall not be taxed in that other State in respect of remittances received for the pur-

poses of his maintenance, education or training or in respect of a scholarship grant. The same shall apply to any amount representing remuneration for services rendered in that other State, provided that such services are in connection with his studies or training or are necessary for the purpose of his maintenance. However, this clause shall not apply to such cases where the studies or training have a secondary character as compared with the services for which the remuneration is paid.

*Article 21. INCOME NOT EXPRESSLY MENTIONED*

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles of this Convention shall be taxable only in that State. However, if those items of income are not subject to tax according to the legislation of that State, they may be taxed in the other Contracting State in accordance with the legislation of that other State.

*Article 22. METHODS FOR ELIMINATION OF DOUBLE TAXATION*

1. Where a resident of Portugal derives income which, in accordance with the provisions of this Convention, may be taxed in Denmark, Portugal shall allow as a deduction from the tax on the income of that person an amount equal to the income tax paid in Denmark. Such deduction shall not, however, exceed that part of the Portuguese tax, as computed before the deduction is given, which is appropriate to the income taxed in Denmark.

2. Where a resident of Denmark derives income which, in accordance with the provisions of this Convention, may be taxed in Portugal, Denmark shall allow as a deduction from the income tax that part of the income tax which is appropriate to the income derived from Portugal.

3. Where a resident of Denmark derives income which, in accordance with the provisions of articles 10, 11 and 12 may be taxed in Portugal, Denmark shall, subject to the provisions of paragraphs 4 and 5, allow as a deduction from the tax on the income of that person an amount equal to the tax paid in Portugal. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income taxed in Portugal.

4. Notwithstanding the provisions of paragraph 3 of this article, dividends attributed or paid by a company which is a resident of Portugal to a company which is a resident of Denmark, shall be exempted from Danish tax to the extent to which, in accordance with the laws of Denmark, the dividends would have been exempted from Danish tax if the first-mentioned company had been a resident of Denmark and not a resident of Portugal, provided that such dividends are not deductible from the total net profits of the attributing or paying company for the purpose of computing all Portuguese income taxes.

5. The provisions of paragraph 3 shall also apply when the Portuguese income tax appropriate to dividends, interest and royalties has been wholly relieved or reduced as if no such relief had been given or no such reduction had been allowed.

*Article 23. 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 legal persons, partnerships and associations deriving their status as such from the law in force in 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 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.

#### *Article 24.* 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 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.

The claim has to be lodged within a period of two years from the date of notification of the tax giving rise to such claim or, in case of taxation in both States, of the tax ultimately imposed or in the case of withholding at source from the date of payment of the income subject to such withholding, even if this is 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 State shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting State may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

#### *Article 25.* EXCHANGE OF INFORMATION

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

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

*Article 26. DIPLOMATIC AND CONSULAR OFFICIALS*

1. 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.

2. Insofar as, due to fiscal privileges granted to diplomatic or consular officials under the general rules of international law or under the provisions of special international treaties, income is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

3. For the purposes of this Convention, persons who are members of a diplomatic or consular mission 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 as are residents of that State.

*Article 27. TERRITORIAL EXTENSION*

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any part of the territory of Portugal or Denmark which is implicitly excluded from the application of the Convention and which imposes taxes substantially similar in character to those to which the Convention 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 diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the denunciation of the Convention by one of them under article 29 shall terminate, in the manner provided for in that article, the application of the Convention to any part of the territory of Portugal or Denmark to which it has been extended under this article.

*Article 28. ENTRY INTO FORCE*

1. The Convention shall enter into force one month after the exchange of notes confirming that each of the Contracting States have completed the constitutional procedures required for such entry into force in the respective States and its provisions shall have effect for the first time:

- a) in respect of taxes withheld at source, the fact giving rise to them appearing on or after the 1st January in the calendar year next following that in which the Convention enters into force;
- b) in respect of other taxes on income, as to income arising in the calendar year next following that in which the Convention enters into force.

2. The provisions of article 8 shall be applicable for the first time to the taxes on profits from the operation of aircraft in international traffic arising in 1966.

3. The provisions of article 19 (1) shall be applicable for the first time to the income arising in 1970.

*Article 29.* TERMINATION

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1973. In such event, the Convention shall cease to have effect:

- a) in respect of taxes withheld at source, the fact giving rise to them appearing on or after the 1st January in the calendar year next following that in which the notice is given;
- b) in respect of other taxes on income, as to income arising on or after the 1st January in the calendar year next following that in which the notice is given.

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

DONE at Copenhagen this 3rd March, 1972, in duplicate, in the English language.

For the Government of Denmark:

K. B. ANDERSEN

For the Government of Portugal:

MARCUS DE FONTES PEREIRA DE MELLO FONSECA

PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation with respect to taxes on income, this day concluded between Denmark and Portugal, the undersigned Plenipotentiaries have agreed that the following provisions shall form an integral part of the Convention:

I. *Ad* articles 8 and 13

1. Where an enterprise engaged in the operation of ships or aircraft in international traffic is carried on by one or more partners jointly and severally responsible and resident in a Contracting State and by one or more partners jointly and severally responsible and resident in the other Contracting State, and the competent authorities of both States agree that it is not feasible to determine that the place of the effective management of the enterprise is situated in one of the Contracting States only, profits as mentioned in paragraph 1 of article 8 and gains as mentioned in paragraph 2 (second sentence) of article 13 shall be taxable in proportion to the share which each of the partners jointly and severally responsible is holding, only in the Contracting State of which that partner is a resident.

2. The provisions of paragraph 1 of article 8 and paragraph 2 (second sentence) of article 13 shall be applied respectively to profits or capital gains derived by the joint Norwegian, Danish and Swedish air transport organization Scandinavian Airlines System (SAS), but only in so far as profits and gains so derived by the Danish partner of the Scandinavian Airlines System (SAS) in proportion to its share in that organization.

II. *Ad* article 15

1. Remuneration as mentioned in paragraph 2 of article 15 may be taxed in the Contracting State where the employment is exercised if the recipient of such remuneration is present in that State for a period or periods exceeding in the aggregate 183 days in the calendar year concerned as from the outset of such period or periods.

2. Remuneration as mentioned in paragraph 3 of article 15 may be taxed in the Contracting State where the ship or aircraft is registered when derived in respect of an employ-

ment exercised aboard a ship or aircraft in international traffic operated by an enterprise which is carried on by one or more partners jointly and severally responsible and resident in a Contracting State and by one or more partners jointly and severally responsible and resident in the other Contracting State, and where it is not feasible to determine that the place of the effective management of the enterprise is situated in one of the Contracting States only.

3. Remuneration as mentioned in paragraph 3 of article 15 in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) and derived by a resident of Denmark shall be taxable only in that State.

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

DONE at Copenhagen, this 3rd March 1972, in duplicate, in the English language.

For the Government of Denmark:

K. B. ANDERSEN

For the Government of Portugal:

MARCUS DE FONTES PEREIRA DE MELLO FONSECA

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