

No. 13155

**FEDERAL REPUBLIC OF GERMANY
and
ICELAND**

**Agreement for the avoidance of double taxation with respect to taxes on income and fortune (with protocol).
Signed at Bonn on 18 March 1971**

Authentic texts: German and Icelandic.

Registered by the Federal Republic of Germany on 20 March 1974.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
ISLANDE**

Convention tendant à éviter les doubles impositions en matière d'impôts sur le revenu et la fortune (avec protocole). Signée à Bonn le 18 mars 1971

Textes authentiques : allemand et islandais.

Enregistrée par la République fédérale d'Allemagne le 20 mars 1974.

[TRANSLATION—TRADUCTION]

AGREEMENT¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY
AND THE REPUBLIC OF ICELAND FOR THE AVOIDANCE OF
DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME
AND FORTUNE

The Federal Republic of Germany and the Republic of Iceland,

Desiring to conclude an agreement for the avoidance of double taxation with respect to taxes on income and fortune,

Have for that purpose appointed as their plenipotentiaries:

The President of the Federal Republic of Germany:

Dr. Paul Frank, State Secretary, Ministry of Foreign Affairs;

Dr. Hans Georg Emde, State Secretary, Federal Ministry of Finance;

The President of the Republic of Iceland:

His Excellency Ambassador 'Arni Tryggvason,

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

Article 1. This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2. (1) This Agreement shall apply to taxes on income and on fortune imposed on behalf of each Contracting State or of its *Länder* 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, as well as taxes on capital appreciation.

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

a) In the case of the Federal Republic of Germany:

The income tax (*Einkommensteuer*);

The corporation tax (*Körperschaftsteuer*);

The tax on fortune (*Vermögensteuer*); and

The business tax (*Gewerbesteuer*),

including taxes supplementary to the above taxes and proportionate thereto (hereinafter referred to as "German tax");

b) In the case of Iceland:

The State income tax (*tekjuskattur til ríkisins*);

The State property tax (*eignarskattur til ríkisins*);

The communal income tax (*tekjuútsvar til sveitarfélaga*); and

¹ Came into force on 2 November 1973, i. e. the thirtieth day after the exchange of the instruments of ratification, which took place at Reykjavik on 3 October 1973, in accordance with article 29 (2).

The communal property tax (*eignarútsvar til sveitarfélaga*),

including taxes supplementary to the above taxes and proportionate thereto (hereinafter referred to as "Icelandic 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.

(5) The provisions of this Agreement concerning the taxation of income or fortune shall apply *mutatis mutandis* to German business tax not computed on the basis of income or fortune.

Article 3. (1) In this Agreement, unless the context otherwise requires:

a) The term "Federal Republic of Germany", when used in a geographical sense, means the territory in which the Basic Law for the Federal Republic of Germany is in force, as well as any area adjacent to the territorial waters of the Federal Republic of Germany designated, in accordance with international law as related to the rights which the Federal Republic of Germany may exercise with respect to the sea-bed and subsoil and their natural resources, as domestic area for tax purposes;

b) The term "Iceland", when used in a geographical sense, means the territory of the Republic of Iceland, as well as any area adjacent to the territorial waters of Iceland designated, in accordance with international law as related to the rights which Iceland may exercise with respect to the sea-bed and subsoil and their natural resources, as domestic area for tax purposes;

c) The terms "a Contracting State" and "the other Contracting State" mean the Federal Republic of Germany or Iceland, as the context requires;

d) The term "person" comprises an individual, a company and any other entity taxes as such; it also includes a partnership;

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 an enterprise carried on by a resident of the Federal Republic of Germany or an enterprise carried on by a resident of Iceland, as the context requires;

g) The terms "resident of a Contracting State" and "resident of the other Contracting State" mean a resident of the Federal Republic of Germany or a resident of Iceland, as the context requires;

h) The term "tax" means German tax or Icelandic tax, as the context requires;

i) The term "nationals" means:

aa) In respect of the Federal Republic of Germany: All Germans within meaning of article 116, paragraph 1, of the Basic Law for the Federal Republic of Germany and all legal persons, partnerships and associations deriving their status as such from the law in force in the Federal Republic of Germany;

bb) In respect of Iceland: All individuals possessing Icelandic nationality and all legal persons, partnerships and associations deriving their status as such from the law in force in Iceland;

j) The term "competent authority" means, in the case of the Federal Republic of Germany, the Federal Minister of Finance, and, in the case of Iceland, the Minister of Finance or his 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. (1) For the purposes of this Agreement, the term “resident of a Contracting State” means any person—other than a person to whom paragraph 4 applies—who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management of 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 a habitual abode;
- c) If he has a habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- d) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

(4) A partnership shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. However, articles 5 to 22 shall apply, only to such income or fortune of a partnership as is subject to taxation in the Contracting State of which it is a resident.

Article 5. (1) For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term “permanent establishment” shall include especially:

- a) A place of management;
- b) A branch;
- c) An office;
- d) A factory;
- e) A workshop;
- f) A mine, quarry or other place of extraction of natural resources;
- g) A building site or construction or assembly project which exists for more than twelve months.

(3) The term “permanent establishment” shall not be deemed to include:

- a) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

- c) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information for the enterprise;
- e) The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

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

(4) The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7. (1) The profits of an enterprise of a Contracting State shall be taxable only in that 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 with the enterprise of which it is a permanent establishment.

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

(4) In so far 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 Agreement, then the provisions of those articles shall not be affected by the provisions of this article.

Article 8. (1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) The provisions of paragraph 1 shall apply *mutatis mutandis* to participations in pools, in a joint business or in an international operation agency of any kind by enterprises engaged in the operation of ships or aircraft in international traffic.

(3) 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.

Article 9. Where

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

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

Article 10. (1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other 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) 5 per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) In all other cases, 15 per cent of the gross amount of the dividends.

(3) Notwithstanding the provisions of paragraph 2, German tax on dividends paid to a company which is a resident of Iceland by a company which is a resident of the Federal Republic of Germany, at least 25 per cent of the capital of which is owned directly or indirectly by the first-mentioned company, may be charged at a rate not exceeding 27.5 per cent of the gross amount of the dividends if the rate of German corporation tax on distributed profits is lower than that on undistributed profits and the difference between those two rates is 15 percentage points or more.

(4) Notwithstanding the provisions of paragraph 2, Icelandic tax on dividends paid to a company which is a resident of the Federal Republic of Germany by a company which is a resident of Iceland, at least 25 per cent of the capital of which is owned directly or indirectly by the first-mentioned company, may be charged at a rate not exceeding 36 per cent of the gross amount of the dividends in so far as such dividends have been deducted from the income of the Icelandic company for the purposes of Icelandic taxation on that company.

(5) The term "dividends" as used in this article means income from shares, 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, income derived by a sleeping partner from his participation as such, and distributions of investment trusts.

(6) The provisions of paragraphs 1 to 4 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.

(7) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by 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 paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. (1) Interest 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 "interest" as used in this article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation laws of the State in which the income arises.

(3) The provisions of paragraph 1 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of article 7 shall apply.

(4) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, one of its *Länder*, one of their local authorities, 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.

(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 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 Agreement.

Article 12. (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, 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, one of its *Länder*, one of their local authorities, 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 such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(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 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 Agreement.

Article 13. (1) Gains from the alienation of immovable property as defined in article 6, paragraph 2, 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 movable property of the kind referred to in article 22, paragraph 3, shall be taxable only in the Contracting State in which such movable property is taxable according to the said article.

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

Article 14. (1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that 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 so much of it as is attributable to that fixed base.

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

Article 15. (1) Subject to the provisions of articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that 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 calendar 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 in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

The provisions of this paragraph shall apply *mutatis mutandis* to remuneration in respect of an employment exercised aboard a fishing, sealing or whaling vessel, including remuneration paid in the form of a fixed share of the proceeds of the fishing, sealing or whaling activity.

(4) Notwithstanding the provisions of paragraph 1, remuneration in respect of an employment exercised wholly or mainly aboard an aircraft operated by an enterprise of a Contracting State shall be taxable only in the Contracting State of which the recipient is a resident.

Article 16. Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17. 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. (1) Subject to the provisions of article 19, remuneration paid by, or out of special funds created by, a Contracting State, a *Land* or a local authority thereof to any individual in respect of an employment may be taxed in that State. If the employment is exercised in the other Contracting State by a national of that State who is not a national of the first-mentioned State, the remuneration shall be taxable only in the other State.

(2) The provisions of articles 15, 16 and 17 shall apply to remuneration in respect of employment in connexion with any business carried on by a Contracting State, a *Land* or a local authority thereof for the purpose of profit.

(3) The provisions of paragraph 1 shall apply *mutatis mutandis* to remuneration paid by the Deutsche Bundesbank, the Deutsche Bundesbahn and the Deutsche Bundespost and by the Icelandic Central Bank and the Icelandic Postal and Telegraph Administration.

Article 19. (1) Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

(2) Pensions, annuities and other recurrent or non-recurrent payments made by a Contracting State, a *Land* or a local authority thereof to any individual as compensation for damage resulting from military action or political persecution shall be taxable only in that State.

Article 20. (1) Remuneration paid to a professor or teacher who is a resident of a Contracting State and who visits the other Contracting State for a period not exceeding two years for the purpose of carrying out advanced study or research or of teaching at a university, college, school, or other educational institution shall not be taxed in the other State.

(2) Payments which a student or business apprentice (including a "Volontär" or a "Praktikant") who is or was formerly a resident of a Contracting State and who is temporarily 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.

(3) A student attending a university or other higher educational institution in a Contracting State who exercises an employment in the other Contracting State for a period or periods not exceeding in the aggregate 100 days in a calendar year in order to acquire the practical experience necessary to his training shall not be taxed in that other State on the remuneration which he derives in respect of that employment.

Article 21. Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles of this Agreement shall be taxable only in that State.

Article 22. (1) Immovable property, as defined in article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

(2) Movable property forming part of the business property of a permanent establishment of an enterprise, or 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 shall be taxable only in that State.

Article 23. (1) Tax shall be determined in the case of a resident of the Federal Republic of Germany as follows:

a) Unless the provisions of subparagraph (*b*) apply, there shall be excluded from the basis upon which German tax is imposed, any item of income derived from and any element of fortune situated within Iceland which according to this Agreement, may be taxed in Iceland. The Federal Republic of Germany, however, retains the right to take into account in the determination of its rate of tax the items of income and elements of fortune so excluded. In the case of dividends, the foregoing provisions shall apply only to such dividends as are paid to a company being a resident of the Federal Republic of Germany by a company being a resident of Iceland, at least 25 per cent of the capital of which is owned directly by the German company. There shall also be excluded from the basis upon which German tax is imposed any shareholding the dividends of which, if paid, would be excluded from the basis upon which tax is imposed according to the immediately foregoing sentence.

b) Subject to the provisions of German tax law regarding credit for foreign tax, there shall be allowed as a credit against German income tax the Icelandic tax paid in accordance with this Agreement on:

aa) Dividends to which subparagraph (*a*) does not apply;

bb) Remuneration to which article 16 applies.

The credit shall not, however, exceed that part of the German tax, as computed before the credit is given, which is appropriate to such items of income.

(2) Tax shall be determined in the case of a resident of Iceland as follows:

a) Unless the provisions of subparagraph (*b*) apply, these shall be excluded from the basis upon which Icelandic tax is imposed any item of income derived from and any element of fortune situated within the Federal Republic of Germany which, according to this Agreement, may be taxed in the Federal Republic of Germany. Iceland, however, retains the right to take into account in the determination of its rate of tax the items of income and elements of fortune so excluded.

b) There shall be allowed as a credit against Icelandic income tax the German tax paid in accordance with this Agreement on:

aa) Dividends;

bb) Remuneration to which article 16 applies.

The credit shall not, however, exceed that part of the Icelandic tax, as computed before the credit is given, which is appropriate to such items of income.

Article 24. (1) The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

(2) 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.

(3) 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 25. (1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, 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.

(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 Agreement.

(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 Agreement. They also may consult together for the elimination of double taxation in cases not provided for in the Agreement.

(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. 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 26. (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 this Agreement in so far as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities, including courts, other than those concerned with assessment, collection or prosecution in respect of the taxes which are the subject of this Agreement.

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

Article 27. (1) Nothing in this Agreement 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) In so far as income and fortune are exempt from taxation in the receiving State by virtue of the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special intergovernmental treaties, the right of taxation shall rest with the sending State.

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

Article 28. This Agreement shall also apply to *Land Berlin*, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of Iceland within three months from the date of entry into force of this Agreement.

Article 29. (1) This Agreement shall be ratified and the instruments of ratification shall be exchanged at Reykjavik as soon as possible.

(2) This Agreement shall enter into force on the thirtieth day after the exchange of the instruments of ratification and shall have effect:

- a) In the Federal Republic of Germany:

In respect of taxes which are levied for the calendar year 1968 and subsequent calendar years:

- b) In Iceland:

In respect of taxes which are levied for the fiscal year 1968 and subsequent fiscal years.

(3) The Agreement concerning double taxation in the case of sea and air transport enterprises entered into by the two Governments in the notes of 8 October 1962 and 18 July 1963 shall cease to have effect after the entry into force of this Agreement, as from the date on which this Agreement becomes effective.

Article 30. This Agreement shall remain in force indefinitely, but either Contracting State may, on or before the thirtieth day of June of any calendar year after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through the diplomatic channel, written notice of termination; in such event, the Agreement shall cease to have effect:

- a) In the Federal Republic of Germany:

In respect of taxes which are levied for calendar years subsequent to the calendar year in which notice of termination is given;

- b) In Iceland:

In respect of taxes which are levied for fiscal years subsequent to the fiscal year in which notice of termination is given.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto by their Governments, have signed this Agreement.

DONE at Bonn on 18 March 1971, in two originals, each in the German and Icelandic languages, both texts being equally authentic.

For the Federal Republic of Germany:

PAUL FRANK

DR. EMDE

For the Republic of Iceland:

ARNI TRYGGVASON

PROTOCOL

On signing the Agreement concluded this day between the Republic of Iceland and the Federal Republic of Germany for the avoidance of double taxation with respect to taxes on income and fortune, the undersigned plenipotentiaries have signed the following Protocol, which shall form an integral part of the Agreement:

The provisions of article 23, paragraph 1 (a), shall apply only to dividends paid by a company whose income is derived exclusively or almost exclusively:

- a) From any of the following activities carried on within Iceland: the production or sale of goods or merchandise, renting or leasing, the provision of technical advice or technical services, or banking or insurance operations, or
- b) From dividends paid by one or more companies which are residents of Iceland and which in turn derive their income exclusively or almost exclusively from any of the following activities carried on within Iceland: the production or sale of goods or merchandise, renting or leasing, the provision of technical advice or technical services, or banking or insurance operations.

Where these conditions are not fulfilled, the provisions of article 23, paragraph 1 (b), shall apply.

For the Federal Republic of Germany:

PAUL FRANK

DR. EMDE

For the Republic of Iceland:

ARNI TRYGGVASON
