

No. 13220

**DENMARK
and
SWEDEN**

**Agreement for the avoidance of double taxation with
respect to taxes on income and fortune. Signed at
Stockholm on 16 November 1973**

Authentic texts: Danish and Swedish.

Registered by Denmark on 10 April 1974.

**DANEMARK
et
SUÈDE**

**Convention tendant à éviter la double imposition en
matière d'impôts sur le revenu et sur la fortune.
Signée à Stockholm le 16 novembre 1973**

Textes authentiques : danois et suédois.

Enregistrée par le Danemark le 10 avril 1974.

[TRANSLATION—TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE

The Government of the Kingdom of Denmark and the Government of the Kingdom of Sweden,

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

Have agreed as follows:

Article 1. PERSONS COVERED BY THE AGREEMENT

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

Article 2. TAXES COVERED BY THE AGREEMENT

1. This Agreement shall apply to taxes on income and fortune imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. The following shall be regarded as taxes on income and fortune: all taxes imposed on total income, on total fortune or on elements of income or of fortune, including taxes on profits from the alienation of movable or immovable property and taxes on capital appreciation.

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

(a) In the case of Denmark:

- (1) The ordinary State income tax (*almindelig indkomstskat til staten*);
 - (2) The national pension fund contribution (*folkepensionsbidrag*);
 - (3) The contribution to the sickness payment fund (*bidrag til dagpengefonden*);
 - (4) The seamen's tax (*sømandsskat*);
 - (5) The special income tax (*særlig indkomstskat*);
 - (6) The tax on dividends (*udbytteskat*);
 - (7) The communal income tax (*kommunal indkomstskat*);
 - (8) The church tax (*kirkeskat*);
 - (9) The county communal income tax (*amtskommunal indkomstskat*); and
 - (10) The State tax on fortune (*formueskat til staten*);
- (hereinafter referred to as "Danish tax").

¹ Came into force on 21 December 1973, the date when the Contracting States notified each other, by an exchange of notes, that they had ratified it or had completed the other constitutional procedures prescribed, in accordance with article 29 (1).

(b) In the case of Sweden:

- (1) The State income tax (*den statliga inkomstskatten*), including the seamen's tax (*sjömansskatten*) and the coupon tax (*kupongskatten*);
- (2) The license tax (*bevillningsavgiften*) for certain public performances;
- (3) The tax on undistributed profits (*ersättningsskatten*);
- (4) The tax on distributed profits (*utskiftningskatten*);
- (5) The communal income tax (*den kommunala inkomstskatten*); and
- (6) The State tax on fortune (*den statliga förmögenhetsskatten*); (hereinafter referred to as "Swedish tax").

4. This Agreement shall also apply to any identical or substantially similar taxes which are imposed after the signature of the Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any significant changes which have been made in their respective taxation laws.

5. The Agreement shall not apply, in the case of either Contracting State, to special taxes on lottery winnings and wagers or to inheritance or gift taxes.

Article 3. GENERAL DEFINITIONS

1. In this Agreement, unless the context requires otherwise, the following expressions shall have the meanings given below:

(a) "Denmark" means the Kingdom of Denmark and includes all areas over which Denmark may, pursuant to its legislation and in accordance with international law, exercise rights of sovereignty with respect to the exploration and exploitation of the natural resources of the continental shelf; the term does not include the Faroe Islands or Greenland;

(b) "Sweden" means the Kingdom of Sweden and includes all areas situated outside of Sweden's territorial waters within which Sweden may, pursuant to Swedish legislation and in accordance with international law, exercise its rights with respect to the natural resources on the sea floor or in its subsoil;

(c) "Person" includes an individual, a company or any other body of persons;

(d) "Company" means any body corporate or any entity treated as such for tax purposes;

(e) "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;

(f) "Competent authority" means:

- (1) In the case of Denmark: the Minister of Finance or his authorized representative;
- (2) In the case of Sweden: the Minister of Finance or the authority entrusted with dealing with matters relating to this Agreement;

(g) "National" means any individual who is a national of a Contracting State and any body corporate or other body of persons established in accordance with the laws in force in a Contracting State;

(h) "International traffic" includes any trip made by a vessel or aircraft operated by an enterprise whose actual management is carried on in a Contracting State, except for trips made solely between points in the other Contracting State.

2. In the application of this Agreement by a Contracting State, any term not otherwise defined shall, unless the context requires otherwise, have the meaning

which it has under the laws of that Contracting State relating to the taxes which are the subject of the Agreement.

Article 4. FISCAL DOMICILE

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

2. Where under the provisions of paragraph 1 an individual is a resident of both Contracting States, his domicile 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 such a home in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (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 no 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 settle the question by agreement.

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

4. The estate of a deceased person shall be deemed to be resident in the Contracting State of which the deceased person is deemed under paragraphs 1 and 2 of this article to have been a resident at the time of death.

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business in which the activity 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 the duration of which exceeds 12 months.

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

- (a) The use of facilities solely for 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 or refining 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 one Contracting State on behalf of an enterprise of the other Contracting State—other than an independent agent 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 one 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 other independent agent where such persons are acting the ordinary course of their business.

6. The fact that a company which is a resident of one Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in the 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. (a) The term “immovable property” shall—unless otherwise provided in subparagraph (b)—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, however, in all cases include property accessory to immovable property, livestock and equipment of agricultural and forestry enterprises, rights to which the provisions of private law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or for the right to work, mineral deposits, mineral springs 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 income from the 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, its profits may be taxed in the other State, but only to the extent that they are attributable to the permanent establishment.

2. Where an enterprise of a Contracting State carried 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 have been expected to make if it had been an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing quite independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, deductions shall be allowed for expenses, including executive and general administrative expenses, which are incurred for the purposes of the permanent establishment, whether in the State in which the permanent establishment is situated or elsewhere. However, no provision in this paragraph shall imply the right to make any deduction that could not have been made if the permanent establishment had been an independent enterprise.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to the permanent establishment on the basis of an apportionment of the total profits of the enterprise among its various parts, nothing in paragraph 2 shall preclude such Contracting State from determining the profits to be taxed by such a customary apportionment. 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 a special reason to the contrary.

7. Where profits include items of income which are dealt with separately in other articles of this Agreement, the provisions of such articles shall not be affected by the provisions of this article. The provisions of this article shall not prevent either Contracting State from including in the determination of income attributable to the permanent establishment income from stocks, shares, claims, property or other rights which have a real connexion with the activity carried on from the permanent establishment.

Article 8. INCOME FROM SHIPPING AND AIR TRANSPORT

1. Income derived from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of actual management of the enterprise is situated.

2. If the place of actual management of a shipping enterprise is on board a ship, 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 earned by the consortium known as Scandinavian Airlines System (SAS) shall be taxable in each Contracting State in proportion to the share of the consortium held by the shareholder that is a resident of that State.

Article 9. ASSOCIATED ENTERPRISES

Where

- a) An enterprise of one 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 one Contracting State and an enterprise of the other Contracting State,

the following provisions shall be taken into account.

In so far as 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, any profits which but for those conditions would have accrued to one of the enterprises but which by reason of those conditions have not so accrued may be included in the profits of that enterprise and taxed accordingly.

Where a question dealt with in this article arises in one of the Contracting States, the competent authority of the other Contracting State shall be informed with a view to making the necessary adjustment in connexion with the calculation of the profits of the enterprise which is a resident of that other State. Where necessary, the competent authorities may conclude a special agreement concerning the apportionment of the profits.

Article 10. DIVIDENDS

1. Dividends paid by a company which is a resident of one 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 charged shall not exceed:

- (a) 5 percent of the gross amount of the dividends if the recipient is a company (other than a commercial company) which directly or indirectly controls at least 25 per cent of all the voting stock of the company paying the dividends;
- (b) 15 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall determine by agreement the detailed rules for the application of this restriction.

The provisions of this paragraph shall not affect the taxation of the company in respect of the profits on which the dividends are paid.

3. The term "dividends" means income from stock, share certificates or — apart from debt-claims — other rights participating in profits and income from other corporate rights assimilated to income from stock by the taxation law of the State of which the company making the distribution is a resident.

4. Notwithstanding the provisions of paragraph 1, dividends paid by a company which is a resident of one Contracting State to a company which is a resident of the other Contracting State shall be exempt from taxation in the last-mentioned State to the extent to which they would have been exempt under the law of that other State if both companies had been residents of that State.

However, to the extent that the amount of the dividends paid for one income year by a company which is a resident of Denmark corresponds to the dividends which that company, directly or through the intermediary of a body corporate, has received during the same income year or earlier income years from stock or shares in a company which is a resident of a third State, exemption from Swedish tax shall be granted in accordance with the preceding subparagraph only if the dividends received from stock or shares in a company which is a resident of a third State are subject to the company tax in Denmark or, where this is not the case, the dividends would have

been exempt from Swedish tax if the stock or shares were owned directly by the Swedish company.

5. Notwithstanding the provisions of paragraph 2, the competent authorities of the Contracting State may agree that dividends allotted to an institution which is named in the agreement referred to in that paragraph and which, in accordance with the law of the Contracting State of which the institution is a resident, is exempt by reason of its purpose or activity from taxation on dividends, shall, in the other Contracting State, be exempt from taxation on dividends derived from companies in that other State.

6. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of one Contracting State, has a permanent establishment in the other Contracting State, of which the company paying the dividends is a resident, provided that the holding by virtue of which the dividends are paid is directly connected with the activity carried on from the permanent establishment. In such cases, the provisions of article 7 shall apply.

7. Where a company which is a resident of one Contracting State receives income from the other Contracting State, the said other State may not levy any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company to a tax on undistributed income, even if the dividends paid or the undistributed income consists wholly or partly of income arising in that other State.

Article 11. INTEREST

1. Interest arising in one 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, other bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits. The term also includes income from debt-claims of any other kind as well as all other income assimilated to income from money lent by the taxation law of the Contracting 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 one Contracting State, has a permanent establishment in the other Contracting State, in which the interest arises, provided that the debt-claim from which the interest arises is directly connected with the activity carried on from the permanent establishment. In such cases, the provisions of article 7 shall apply.

4. Where, owing to a special relationship between the payer and the recipient or between both of them and a third 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 between the parties in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such cases, the excess part of the payments shall be taxable according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12. ROYALTIES

1. Royalties arising in one 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 consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematographic films and films or tape for

radio or television broadcasts), or 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 one Contracting State, has a permanent establishment in the other Contracting State, in which the royalties arise, provided that the right or property giving rise to the royalties is directly connected with the activities carried on from the permanent establishment. In such cases, the provisions of article 7 shall apply.

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

Article 13. CAPITAL GAINS

1. Profits derived from the alienation of immovable property of the kind referred to in article 6, paragraph 2, shall be taxable in the Contracting State in which such property is situated.

2. Profits derived from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of one Contracting State has in the other Contracting State, or from the alienation of movable property pertaining to a fixed base which a resident of one Contracting State has in the other Contracting State for the practice of a profession, including also profits derived from the alienation of the permanent establishment itself (either alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other State. However, profits derived from the alienation of movable property of the kind referred to in article 23, paragraph 3, shall be taxable only in the Contracting State in which such property is taxable under the said article.

3. Profits derived from the alienation of any property other than that specified in paragraphs 1 and 2 shall be taxable only in the Contracting State of which the alienator is a resident.

4. The provisions of paragraph 3 shall not affect the right of a Contracting State to levy according to its own law a tax on capital gains derived by a person resident in the other Contracting State from the alienation of stock or shares in a company whose essential business property consists of immovable property, provided that the person in question has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation.

Article 14. PROFESSIONS

1. Income derived by a resident of one Contracting State from the practice of a profession or from 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, only the portion of his income attributable to it shall be taxable in that other State.

2. The term "profession" includes independent scientific, literary or artistic

activities, educational or teaching activities and the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15. EMPLOYMENT

1. Subject to the provisions of articles 16, 18, 19 and 20, wages, salaries and similar remuneration derived by a resident of one Contracting State from 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, the remuneration derived by a resident of one Contracting State from employment 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 that other State, and
- (c) The remuneration is not borne by a permanent establishment or fixed base which the employer has in that other State.

3. Notwithstanding the preceding provision of this article,

- (a) Remuneration for services rendered on board a Swedish or Danish vessel other than those referred to in subparagraph (b) shall be taxable only in the Contracting State whose nationality the vessel possesses; in the application of this provision, a foreign vessel chartered on a so-called bareboat basis by an enterprise which has its actual place of management in Denmark or Sweden shall be assimilated to a Danish or Swedish vessel respectively;
- (b) Remuneration for services rendered on board a fishing or sealing vessel shall be taxable only to the Contracting State of which the person receiving the remuneration is a resident, even if the remuneration is paid in the form of a fixed share or portion of the profits from the fishing or sealing activity;
- (c) Remuneration for services rendered on board aircraft in international traffic and aircraft used by the consortium known as Scandinavian Airlines System (SAS) shall be taxable only in the Contracting State of which the recipient of the remuneration is a resident.

4. Notwithstanding the provisions of paragraphs 1 and 2, income received by so-called frontier travelers who are residents of one Contracting State for services rendered in the other Contracting State shall be taxable only in the first-mentioned State. In the application of this provision, an employed person who regularly stays at his permanent home in the Contracting State of which he is a resident but normally renders his services in the other Contracting State shall be deemed to be a frontier traveler.

Article 16. DIRECTORS' FEES

Directors' fees and similar payments received by a resident of one Contracting State solely 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. ARTISTS AND ATHLETES

1. Notwithstanding the provisions of articles 14 and 15, income received by theatre or motion picture actors, radio or television artists, musicians, professional

athletes and similar workers for their personal activities as shall be taxable in the Contracting State in which the activities are performed.

2. Where the income derived from the personal services rendered by an artist or a professional athlete is payable not to the artist or athlete himself but to another person, the said income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the Contracting State in which the artist or athlete renders his services.

Article 18. PENSIONS

1. Pensions (with the exception of pensions covered by the provisions of article 19, paragraph 2) and similar remuneration, as well as annuities, paid to a resident of a Contracting State shall be taxable only in that State.

2. Payments made under the social security law of a Contracting State may, notwithstanding the provisions of paragraph 1, be taxed in that State.

3. The term “annuity” means a stated amount which is to be paid periodically at stated times, during the lifetime of the person concerned or during a specified or specifiable period of time, under an obligation to make such payments in return for adequate and full consideration in money or money’s worth.

Article 19. GOVERNMENTAL FUNCTIONS

1. (a) Remuneration (not including pensions) paid by a Contracting State or a political subdivision or local authority thereof to any individual in respect of work done in the service of that State or its political subdivisions or local authorities shall be taxable only in that State.

(b) Such remuneration shall, however, be taxable only in the other Contracting State if the work is done in that other State and the recipient is a resident of that State who

- I. Is a national of that State, or
- II. Is not resident there solely for the purpose of doing the said work, or
- III. Is not liable to taxation in respect of the remuneration in the State from which the remuneration is paid.

2. (a) Pensions paid by—or out of funds created by—a Contracting State or a political subdivision or local authority thereof to any individual in respect of work done in the service of that State or its political subdivisions or local authorities shall be taxable only in that State.

(b) Such a pension shall, however, be taxable only in the other Contracting State if the recipient of the pension is a national and resident of that State.

Article 20. STUDENTS, APPRENTICES AND TRAINEES

1. A student, apprentice or trainee who is staying in a Contracting State solely for the purposes of his education or training and who is, or immediately before his stay was, a resident of the other Contracting State shall not be taxed in the first-mentioned State in respect of remittances which he receives for his maintenance, education or training, provided that the remittances are paid to him from sources outside of the first-mentioned State.

2. A student at a university or other institution of learning in one Contracting State who, while temporarily staying in the other Contracting State, is employed in that other State for not more than 100 days during the same calendar year for the purpose of obtaining practical experience supplementary to his studies shall be subject to taxation in the last-mentioned Contracting State only in respect of that por-

tion of his income from his employment which exceeds 1,500 Swedish crowns per calendar month or the equivalent in Danish crowns. The amount exempted from taxation in accordance with this paragraph shall not, however, exceed in the aggregate 4,500 Swedish crowns or the equivalent in Danish crowns. In connexion with taxation in Denmark the aforementioned amount shall include the personal deduction for the calendar year in question.

3. The competent authorities of the Contracting States shall reach agreement concerning the application of the provisions of paragraph 2. The competent authorities may also reach agreement on such modification of the amount specified therein as may be found to be reasonable in relation to changes in currency values, changes in the legislation of the Contracting States or other similar circumstances.

Article 21. INCOME OR PROFITS EARNED IN CONNEXION WITH THE CONSTRUCTION AND OPERATION OF FIXED TRANSPORT LINKS ACROSS THE ÖRESUND

1. Notwithstanding the provisions of article 7, article 10, paragraph 6, article 11, paragraph 3, and article 12, paragraph 3, income earned by an enterprise of a Contracting State in connexion with the construction and operation of fixed transport links across the Öresund shall be taxable only in that State.

2. Notwithstanding the provisions of article 13, paragraph 2, profits earned by an enterprise or resident of a Contracting State from the alienation of property referred to therein which is used in the construction and operation of fixed transport links across the Öresund shall be taxable only in that State.

3. Notwithstanding the provisions of article 14, paragraph 1, article 15, paragraph 1, article 19, paragraph 1, and article 20, paragraph 2, income earned by a resident of a Contracting State in connexion with the construction and operation of fixed transport links across the Öresund shall be taxable only in that State.

Article 22. OTHER INCOME

Unless otherwise specified by the provisions of the foregoing articles, income earned by a resident of a Contracting State shall be taxable only in that State irrespective of whether or not the income arises from a source in a Contracting State.

Article 23. FORTUNE

1. Fortune represented by immovable property of the kind referred to in article 6, paragraph 2, may be taxed in the Contracting State in which the property is situated.

2. Fortune represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the practice of a profession, 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 actual management of the enterprise is situated.

4. Notwithstanding the provisions of paragraph 2, fortune referred to therein which is owned by an enterprise or resident of a Contracting State and used in the construction and operation of fixed transport links across the Öresund shall be taxable only in that State.

5. All other elements of fortune owned by a resident of a Contracting State shall be taxable only in that State.

Article 24. METHODS FOR THE ELIMINATION OF DOUBLE TAXATION

1. Where a person resident in one Contracting State receives income or owns fortune which, under the provisions of this Agreement, may be taxed in the other Contracting State, the first-mentioned Contracting State shall, except as otherwise provided in paragraphs 2 and 3,

- (a) Allow as a deduction from the income tax of the person in question an amount corresponding to the income tax paid in the other Contracting State;
- (b) Allow as a deduction from the fortune tax of the person in question an amount corresponding to the fortune tax paid in the other Contracting State.

The amount of the deduction shall, however, in no case exceed that part of the income tax or fortune tax, calculated in the absence of such deduction, which corresponds to the income or fortune that may be taxed in the other Contracting State.

2. Where a resident of one Contracting State receives income or owns fortune which, under the provisions of this Agreement, may be taxed only in the other Contracting State, the first-mentioned Contracting State may include the income or fortune in the amount used as the basis for calculating the tax but shall allow as a deduction from the income tax or fortune tax that part of the income tax or fortune tax which corresponds to the income or fortune that may be taxed in the other Contracting State.

3. Where a person resident in one Contracting State receives profits of the kind referred to in article 13, paragraph 4, which may be taxed in the other Contracting State, the said other State shall allow as a deduction from the income tax of the person in question an amount corresponding to the tax paid in the first-mentioned Contracting State on the profits. The amount of the deduction may not, however, exceed that part of the tax in the other Contracting State, calculated in the absence of such deduction, which corresponds to the profits in question.

Article 25. PROHIBITION OF DISCRIMINATION

1. Nationals of one Contracting State, whether or not they are residents of a Contracting State, shall not be subjected in the other Contracting State to any taxation or any tax requirement connected therewith which is other or more burdensome than the taxation and connected tax requirements to which nationals of the other State are or may be subjected.

2. The taxation on a permanent establishment or fixed base which an enterprise or resident of one Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises or residents of that other State carrying on the same activities.

This provision shall not be construed as obliging either Contracting State to grant to residents of the other Contracting State any personal tax allowances, reliefs or reductions in respect of civil status or family responsibilities which are granted to residents of the first-mentioned Contracting State. The provision also does not imply the right to exemption in a Contracting State from taxation on dividends paid or other payments made to a company which is a resident of the other Contracting State.

The provision of paragraph 1 also shall not prevent a Contracting State from taxing income derived from a permanent establishment, in accordance with the rules of that State's own legislation, where the permanent establishment belongs to a joint-stock company or company assimilated thereto in the other Contracting State. The taxation shall, however, correspond to the tax on undistributed profits levied on

joint-stock companies and companies assimilated thereto which are residents of the first-mentioned Contracting State.

3. Enterprises of one Contracting State whose capital 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 tax requirement connected therewith which is other or more burdensome than the taxation and connected tax requirements to which similar enterprises of the first-mentioned State are or may be subjected.

4. For the purposes of this article, the term "taxation" means taxes of every kind and description.

Article 26. PROCEDURE FOR REACHING AGREEMENT

1. Where a resident of a Contracting State considers that measures taken by one or both of the Contracting States are resulting or will result for him in taxation not in accordance with the Agreement, he may, without affecting his right to resort to the remedies available under 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 a satisfactory solution, to resolve the case by agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation not in accordance with this Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by agreement any difficulties or doubts arising in the interpretation or application of this Agreement. They may also consult together with a view to the avoidance of double taxation in cases not provided for in this Agreement. The competent authorities may also reach reasonable agreement in respect of questions which, without being provided for in this Agreement, may arise in connexion with direct taxes on income and fortune by reason of differences in the principles followed by the two States in calculating the taxes or for other reasons.

4. The competent authorities of the Contracting States may communicate with each other direct for the purpose of reaching agreement in the cases referred to in the preceding paragraphs. If it appears desirable, in order to reach agreement, to have an oral exchange of opinions, such exchange may take place through a commission composed of representatives of the competent authorities of the Contracting States.

Article 27. DIPLOMATIC AND CONSULAR OFFICIALS

This Agreement shall not affect the tax privileges of diplomatic or consular officials under the general rules of international law or the provisions of special agreements.

Article 28. TERRITORIAL EXTENSION

1. This Agreement may be extended, either in its entirety or with any necessary modifications, to any part of the territory of Denmark which has been excluded from the scope of the Agreement under the provisions of article 3, paragraph 1, provided that taxes substantially similar to those to which the Agreement applies are imposed there. Any such extension shall take effect from such date, and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through the diplomatic channel.

2. If this Agreement ceases to have effect in accordance with article 30, it shall

also, unless otherwise agreed between the Contracting States, cease to have effect in respect of any territory to which the Agreement has been extended in accordance with this article.

Article 29. ENTRY INTO FORCE

1. This Agreement shall enter into force when notice has been given, by an exchange of notes, that each Contracting State has ratified it or has completed the other constitutional procedures prescribed for such entry into force in the respective State.

2. The provisions of the Agreement shall apply to income earned on 1 January of the year immediately following the entry into force or later, and in respect of fortune on which taxation is imposed on the basis of an assessment during the second calendar year following the entry into force or later.

3. The Agreement of 21 July 1958¹ between the Kingdom of Denmark and the Kingdom of Sweden for the avoidance of double taxation with respect to taxes on income and fortune and the Additional Agreement of 13 May 1959² to the said Agreement shall cease to have effect and shall no longer apply in respect of the taxes on income and fortune to which this Agreement is applicable in accordance with paragraph 2.

Article 30. TERMINATION

1. This Agreement shall remain in force until it is denounced by one of the Contracting States.

2. Either Contracting State may — not later than 30 June in any calendar year, but not earlier than five years after the date of the entry into force of the Agreement — denounce the Agreement through the diplomatic channel by giving notice in writing to the other Contracting State. In the event of such denunciation, the Agreement shall cease to have effect:

- (a) In respect of income earned on 1 January of the year immediately following the year during which denunciation takes place or later, and
- (b) In respect of taxes on fortune imposed on the basis of an assessment during the second calendar year following the year during which denunciation takes place or later.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement and have thereto affixed their seals.

DONE at Stockholm on 16 November 1973, in duplicate in the Swedish and Danish languages, both texts being equally authentic.

For the Government of the Kingdom of Denmark:
E. SCHRAM-NIELSEN

For the Government of the Kingdom of Sweden:
SVEN ANDERSSON

¹ United Nations, *Treaty Series*, vol. 320, p. 163.

² *Ibid.*, vol. 427, p. 394.