No. 13828

DENMARK
and
BRAZIL

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Copenhagen on 27 August 1974

Authentic texts: Danish, Portuguese and English.
Registered by Denmark on 27 March 1975.

DANEMARK
et
BRÉSIL

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signée à Copenhague le 27 août 1974

Textes authentiques : danois, portugais et anglais.
Enregistrée par le Danemark le 27 mars 1975.

CONVENTION[1] BETWEEN THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the Kingdom of Denmark and the Government of the Federative Republic of Brazil;

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

Have agreed as follows:

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. The existing taxes to which the Convention shall apply are:

a) in the case of Brazil:

— the federal income tax, excluding the tax on excess remittances and on activities of minor importance;

(hereinafter referred to as "Brazilian tax").

b) in the case of Denmark:

I. the income taxes to the State and

II. the communal income taxes;

hereinafter referred to as ("Danish tax").

2. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the above-mentioned taxes. The competent authorities of the Contracting States shall notify to each other any substantial changes which have been made in their respective taxation laws.

Article 3. GENERAL DEFINITIONS

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

a) The term "Brazil" means the Federative Republic of Brazil;

b) 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;

c) The terms "a Contracting State" and "the other Contracting State" mean Brazil or Denmark as the context requires;

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

[1] Came into force on 5 December 1974, the date of the exchange of notes confirming that each of the Contracting States had completed the constitutional procedures required, in accordance with article 30.

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 "nationals" means:

I. all individuals possessing the nationality of a Contracting State;

II. all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State;

h) The term "international traffic" includes traffic between places in one country in the course of a journey which extends over more than one country;

i) The term "competent authority" means:

I. In Brazil: the Minister of Finance, the Secretary of the Federal Revenue or their authorised representatives;

II. In Denmark: the Minister of Finance or his authorised representative.

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 I an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);

b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall de deemed to be a resident of the Contracting State in which he has an 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 mutual agreement.

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

Article 5. PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" shall include especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop;

f) a mine, quarry or other place of extraction of natural resources;

g) a building site or construction or assembly project which exists for more than six months.

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

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

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

c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of independent status to whom paragraph 6 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 insurance company of a Contracting State shall furthermore be deemed to have a permanent establishment in the other State provided that, through a representative, it receives premiums or secures risks in that other State.

6. 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 independent status, where such persons are acting in the ordinary course of their business.

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

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*) Subject to the provisions of sub-paragraphs *b* and *c* the term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated;

b) the term shall, however, 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 immovable 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;

c) 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. 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 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.

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

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

Article 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 enteprise 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 internatinal traffic made by an enterprise of a Contracting State and obtained through the participation in a

pool or in a joint business 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 accordingly.

Article 10. DIVIDENDS

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

2. However, such dividends may also 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 25 per cent of the gross amount of the dividends.

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

3. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of article 7 shall apply.

4. 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.

5. Where a company resident of Denmark has a permanent establishment in Brazil, that permanent establishment may be subject to a tax withheld at source in accordance with Brazilian law. However, such a tax shall not exceed 25 per cent of the gross amount of the profits of that permanent establishment determined after the payment of the corporation tax related to such profits.

Article 11. INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraphs 1 and 2:

a) interest arising in a Contracting State and paid to the Government of the other Contracting State, a political subdivision thereof or any agency (including a financial institution) wholly owned by that Government or political subdivision, shall be exempt from tax in the first-mentioned Contracting State;

b) interest arising from securities, bonds or debentures issued by the Government of a Contracting State, a political subdivision thereof or by any agency (including a financal institution) owned by that Government shall be taxable only in that State.

4. 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 other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

5. 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, the provisions of article 7 shall apply.

6. The limitation established in paragraph 2 shall not apply to interest arising in a Contracting State and paid to a permanent establishment of an enterprise of the other Contracting State which is situated in a third State.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in 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.

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

Article 12. ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the laws of that State, but the tax so charged shall not exceed:

a) 25 per cent of the gross amount of royalties arising from the use of, or the right to use, trade marks;

b) 15 per cent in all other cases.

3. 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, films or tapes for

television or broadcasting), any patent, trade mark, design or model, plan, secret formula or process, as well as 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 tax rate limitation foreseen in paragraph 2 *b* shall not apply to royalties paid or remitted to a resident of a Contracting State which holds directly or indirectly at least 50 per cent of the voting capital of the company paying or remitting such royalties.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State.

Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred and such royalties are borne by the permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. 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, the provisons of article 7 shall apply.

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

Article 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 the immovable 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 or right other than those mentioned in paragraphs 1 and 2 may be taxed in both Contracting States.

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 nature shall be taxable

only in that State, unless the payment of such services and activities is borne by a permanent establishment situated in the other Contracting State or by a company resident therein. In such a case, the income may be taxed in that other State.

2. The term "professional services" includes, especially, independent scientific, technical, 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, 20 and 21, 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 or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. When it is not feasible to determine that the place of effective management of a shipping enterprise is in one of the Contracting States alone, such remuneration may be taxed in the Contracting State in which the ship is registered.

4. In cases where the employment wholly or mainly is exercised aboard an aircraft belonging to or chartered by the Scandinavian Airlines System remuneration as referred to in paragraph 1 of this article is taxable only in the Contracting State of which the recipient is a resident.

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 or of any council of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17. ARTISTES AND ATHLETES

1. Notwithstanding any other provision of this Convention, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

2. Where the services mentioned in paragraph 1 of this article are provided in a Contracting State by an enterprise of the other Contracting State, then the income derived from providing those services by such an enterprise may, notwithstanding any other provision of this Convention, be taxed in the first-mentioned Contracting State.

Article 18. PENSIONS

Pensions and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State in consideration of past employment shall be taxable only in the first-mentioned State.

Article 19. GOVERNMENTAL PAYMENTS

1. Remuneration, including pensions, paid by or out of funds created by a Contracting State, a political subdivision or a local authority thereof to any individual in respect of services rendered to that State, to a political subdivision or to a local authority thereof in the discharge of functions of a governmental or other public nature shall be taxable only in that State.

2. Pensions paid under the Social Security Scheme of a Contracting State shall be taxable only in that State.

3. The provision of paragraph 1 shall not apply when the recipient of such income is a national of the other Contracting State. In this case such an income may be taxed in both Contracting States.

4. 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, a political subdivision or a local authority thereof.

Article 20. TEACHERS AND RESEARCHERS

An individual who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who, at the invitation of the first-mentioned Contracting State or a university, college, school, museum or other cultural institution in that first-mentioned Contracting State or under an official program of cultural exchange, is present in that State for a period not exceeding two years solely for the purpose of teaching, giving lectures or carrying out research at such institution shall be exempt from tax in that State on his remuneration for such activity, provided he is subject to tax thereon in the other Contracting State.

Article 21. STUDENTS

1. An individual who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is temporarily present in the first-mentioned State solely

a) as a student at a university, college or school in that first-mentioned Contracting State,

b) as a trainee, or

c) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organization, shall be exempt from tax in that first-mentioned Contracting State in respect of remittances from abroad for the purposes of his maintenance, education or training.

2. A student or trainee who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training shall be exempt from tax in that first-mentioned Contracting State for a period not exceeding three consecutive calendar years in respect of remuneration from employment in that State provided that the remuneration in Brazilian or Danish currency does not exceed in the calendar year an amount equivalent to US $4000.

Article 22. 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 may be taxed in both Contracting States.

Article 23. METHODS FOR THE ELIMINATION OF DOUBLE TAXATION

1. Where a resident of Brazil derives income which, in accordance with the provisions of this Convention, may be taxed in Denmark, Brazil shall allow as a deduction from the tax on the income of that person, an amount equal to the income tax paid in Denmark.

The deduction shall not, however, exceed that part of the income tax as computed before the deduction is given, which is appropriate to the income which may be taxed in Denmark.

2. Where a resident of Denmark derives income not mentioned in paragraph 3 which, in accordance with the provisions of this Convention, Brazil has a right to tax, Denmark shall allow as a deduction from the income tax that part of the tax which is appropriate to the income which Brazil has a right to tax.

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

4. For the deduction indicated in paragraph 3, Brazilian tax shall always be considered as having been paid at a rate of 25 per cent.

5. Non-distributed profits of a corporation 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 taxable in the last-mentioned State.

6. The value of the shares issued by a corporation 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 subject to income tax in the last-mentioned State.

Article 24. NON-DISCRIMINATION

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

2. The 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.

4. In this article the term "taxation" means taxes of every kind and description.

Article 25. MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in 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.

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

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorites 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.

5. Whether the Contracting State should undertake to lend assistance and support to each other in the collection of taxes which are the subject of the present Convention and if so, to which extent, may be agreed, when it is feasible, between the Contracting States through a future exchange of notes.

Article 26. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this 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 (including a court) 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 trade process, or information, the disclosure of which would be contrary to public policy.

Article 27. DIPLOMATIC AND CONSULAR OFFICIALS

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

Article 28. METHODS OF APPLICATION

The competent authorities of the Contracting States shall settle by mutual agreement the methods of application of this Convention.

Article 29. TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any area of the territory of Denmark which has expressly been excluded from the scope of this Convention under the provisions of subparagraph *b*) of paragraph 1 of article 3, in which taxes are imposed, identical or substantially similar in character to those to which this Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions 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 termination of this Convention by one of the Contracting States under article 31 shall also terminate the application of this Convention to any territory to which it has been extended under this article.

Article 30. ENTRY INTO FORCE

The Convention shall enter into force after the exchange of notes confirming that each of the Contracting States has completed the constitutional procedures required for such entry into force in the respective States and the Convention shall then have effect for the first time:

I. as respects taxes withheld at source, to amounts paid on or after the first day of January of the calendar year immediately following the year in which the Convention enters into force;

II. as respects other taxes on income, to amounts received during the taxable year beginning on or after the first day of January of the calendar year immediately following the year in which the Convention enters into force.

Article 31. TERMINATION

Either Contracting State may terminate this Convention after a period of three years from the date on which this Convention enters into force by giving to the other Contracting State, through diplomatic channels, a written notice of termination, provided that any such notice shall be given only on or before the thirtieth day of June in any calendar year.

In such a case this Convention shall apply for the last time:

I. as respects taxes withheld at source, to amounts paid before the expiration of the calendar year in which the notice of termination is given;

II. as respects other taxes on income, to amounts received during the taxable year beginning in the calendar year in which the notice of termination is given.

TIL BEKRÆFTELSE HERAF har de befuldmægtigede for de to stater underskrevet overenskomsten og forsynet den med deres segl.

UDFÆRDIGET i 2 eksemplarer i København, den 27. august 1974 på det danske, portugisiske og engelske sprog, således at alle tekster har lige gyldighed undtagen i tilfælde af tvivl, hvor den engelske tekst skal gælde.

EM TESTEMUNHO DO QUE, os Plenipotenciários dos dois Estados Contratantes assinaram a presente Convenção e nela apuseram seus respectivos selos.

FEITO em duplicata, em Copenhague, no dia 27 de agôsto de 1974, nas línguas dinamarquesa, portuguesa e inglesa, sendo todos os textos igualmente autênticos, exceto em caso de divergência de interpretação, quando prevalecerá o texto em inglês.

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

DONE in duplicate at Copenhagen this day of the 27th August 1974, in the Danish, Portuguese and English languages, all texts being equally authentic except in the case of doubt when the English text shall prevail.

For Danmarks regering:
Pelo Governo da Dinamarca:
For the Government of Denmark:

[*Signed — Signé*]
OVE GULDBERG

For Brasiliens regering:
Pelo Governo do Brasil:
For the Government of Brazil:

[*Signed — Signé*]
M. LAURO ESCOREL DE MORAES

PROTOCOL

At the moment of the signature of the Convention for the avoidance of double taxation with respect to taxes on income, between the Kingdom of Denmark and the Federative Republic of Brazil, the undersigned, being duly authorised thereto, have agreed upon the following provisions which constitute an integral part of the present Convention.

1. Ad *article 8*

The provisions of article 8 shall be applied to profits derived by the joint Danish, Norwegian and Swedish air transport organisation, the Scandinavian Airlines System (SAS), but only to such part of the profits as corresponds to the shareholding in that organization held by Det Danske Luftfartsselskab A/S (DDL), the Danish partner of the Scandinavian Airlines System (SAS).

2. Ad *article 11, paragraph 3*a)

Loans granted by "The Industrialization Fund for Developing Countries, Copenhagen", in its quality of public organization of financing, shall be treated as loans granted by the Danish government mentioned in paragraph 3*a*) of article 11.

3. Ad *article 12, paragraph 3*

The expression "for information concerning industrial, commercial or scientific experience" mentioned in paragraph 3 of article 12 includes income derived from the rendering of technical assistance and technical services.

4. Ad *article 14*

It is understood that the provisions of article 14 shall apply even if the activities are exercised by a company or a civil society.

5. Ad *article 23, paragraph 5*

The term "corporation" as used in paragraph 5 of article 23 corresponds to the Danish "Aktieselskab", to the Brazilian "Sociedade Anônima" and to the French "Société Anonyme".

6. Ad *article 23, paragraph 6*

The provisions of paragraph 6 of article 23 shall not prevent a Contracting State of taxing capital gains derived by a resident of that State from the selling of those shares.

7. Ad *article 23, paragraph 6*

The shares referred to in paragraph 6 of article 23 are those received by a resident of a Contracting State as a consequence of the increase of the capital of a corporation of the other Contracting State by the incorporation of reserves to its capital.

8. Ad *article 24, paragraph 2*

It is understood that the provisions of paragraph 5 of article 10 are not in conflict with the provisions of paragraph 2 of article 24.

9. Ad *article 24, paragraph 3*

The provisions of the Brazilian law which do not allow that royalties as defined in paragraph 3 of article 12, paid by a company resident of Brazil to a resident of Denmark which holds at least 50 per cent of the voting capital of that company, be deductible at the moment of the determination of the taxable income of the company resident of Brazil, are not in conflict with the provisions of paragraph 3 of article 24 of the present Convention.

TIL BEKRÆFTELSE HERAF har de befuldmægtigede for de to stater underskrevet protokollen og forsynet den med deres segl.

UDFÆRDIGET i 2 eksemplarer i København, den 27. august 1974 på det danske, portugisiske og engelske sprog, således at alle tekster har lige gyldighed undtagen i tilfælde af tvivl, hvor den engelske tekst skal gælde.

EM TESTEMUNHAO DO QUE os Plenipotenciários dos dois Estados firmaram a presente Protocolo e aqui apuseram os seus respectivos selos.

FEITO em duplicata em Copenhague no dia 27 de agôsto de 1974, nas línguas dinamarquesa, portuguesa e inglesa, sendo todos os textos igualmente autênticos, exceto em caso de divergência de interpretação, quando prevalecerá o texto em inglês.

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

DONE in duplicate at Copenhagen, this 27th day of August 1974, in the Danish, Portuguese and English languages, all texts being equally authentic except in the case of doubt when the English text shall prevail.

For Danmarks regering:
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[*Signed — Signé*]
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M. LAURO ESCOREL DE MORAES