

**No. 13818**

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**DENMARK  
and  
ZAMBIA**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Lusaka on 13 September 1973**

*Authentic texts: Danish and English.*

*Registered by Denmark on 27 March 1975.*

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**DANEMARK  
et  
ZAMBIE**

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signée à Lusaka le 13 septembre 1973**

*Textes authentiques : danois et anglais.*

*Enregistrée par le Danemark le 27 mars 1975.*

CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA 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 Republic of Zambia,

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

Have agreed as follows:

*Article I. PERSONAL SCOPE*

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

*Article II. TAXES COVERED*

1. The taxes which are the subject of this Convention are:

(a) in Zambia

- (i) the income tax;
  - (ii) the mineral tax;
  - (iii) the personal levy;
- (hereinafter referred to as "Zambian tax");

(b) in Denmark

- (i) the income taxes to the State:
  - 1) the ordinary income tax to the State;
  - 2) the old age pension contribution;
  - 3) the seamen tax;
  - 4) the special income tax;
  - 5) the tax on dividends;

(ii) the communal income taxes:

- 1) the ordinary municipal income tax;
- 2) the church tax;
- 3) the municipal income tax to the County;

(hereinafter referred to as "Danish tax").

2. This Convention shall also apply to any identical or substantially similar taxes which are imposed in addition to, or in place of, the existing taxes subsequent to the date of signature of this Convention.

3. At the end of each year the competent authorities of the Contracting States shall notify to each other any substantial changes which have been made in their respective taxation laws.

<sup>1</sup> Came into force on 18 October 1974, after the exchange of notes by which each of the two Contracting States confirmed to the other the completion of their requisite constitutional procedures, in accordance with article XXIX (1).

*Article III. GENERAL DEFINITIONS*

1. In this Convention, unless the context otherwise requires:
  - (a) The term “Zambia” means the Republic of Zambia;
  - (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 Zambia or Denmark as the context requires;
  - (d) The term “tax” means *Zambian tax* or *Danish tax*, as the context requires;
  - (e) The term “company” means any body corporate, or any entity which is treated as a body corporate for tax purposes;
  - (f) The term “person” includes an individual and any body of persons corporate or not corporate;
  - (g) The terms “resident of a Contracting State” and “resident of the other Contracting State” mean a person who is a resident of Zambia or a person who is a resident of Denmark as the context requires;
  - (h) The terms “Zambian enterprise” and “Danish enterprise” mean respectively an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking or any like enterprise or undertaking carried on by a resident of Zambia and an industrial, mining, commercial, plantation, agricultural or pastoral enterprise or undertaking or any like enterprise or undertaking carried on by a resident of Denmark;
  - (i) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean a *Zambian enterprise* or a *Danish enterprise*, as the context requires;
  - (j) The term “international traffic” means any voyage of a ship or aircraft operated by an enterprise of a Contracting State, except where the voyage is confined solely to places within the other Contracting State;
  - (k) The term “competent authority” means:
    - (i) in the case of Zambia, the commissioner of taxes or his authorised representative;
    - (ii) in the case of Denmark, the Minister of Finance or his authorised representative.
2. In the application of the provisions of this 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 this Convention.

*Article IV. FISCAL DOMICILE*

1. For the purposes of this Convention, the term “resident of a Contracting State” means, subject to the provisions of a paragraphs 2 and 3 of this article, 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. The terms “resident of Zambia” and “resident of Denmark” shall be construed accordingly.
2. Where by reason of the provisions of paragraph 1 of this article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 of this article 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 V.* PERMANENT ESTABLISHMENT

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

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

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, oil well, 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. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on supervisory activities in that other Contracting State for more than six months in connection with a con-

struction, installation, or assembly project which is being undertaken in that other Contracting State.

5. 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 Contracting State, if he has and habitually exercises in that Contracting 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.

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 Contracting State through a broker, general commission agent, or any other agent of independent status, where such person is acting in the ordinary course of his 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the other.

#### *Article VI.* INCOME FROM IMMOVABLE PROPERTY

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

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

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

4. In the determining of the income from immovable property which a resident of a Contracting State has in the other Contracting State expenses (including interest on debt-claims) which are incurred for the purposes of such property shall be allowed as deductions on the same conditions as are provided for residents of that other Contracting State.

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

#### *Article VII.* BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that Contracting 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 Contracting 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 Contracting State in which the permanent establishment is situated or elsewhere. If the information available to the competent authorities concerned is inadequate to determine the profits to be attributed to the permanent establishment, nothing in this paragraph shall affect the application of the law of either Contracting State in relation to the liability of the permanent establishment to pay tax on an amount determined by the making of an estimate by the competent authorities of that Contracting State; provided that each estimate shall be made so far as the information available to the competent authorities permits, in accordance with the principles stated in paragraph 4.

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

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

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

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

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

1. Notwithstanding the provisions of articles V and VII, profits of an enterprise from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

#### *Article IX.* 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 X. 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 Contracting 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 Contracting State, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. This paragraph shall not effect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" means income from 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 law of the Contracting State of which the company making the distribution is a resident.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other Contracting 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 Contracting State.

#### *Article XI. INTEREST*

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that Contracting State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to the Government of the other Contracting State or local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that Government or local authority shall be exempt from tax in the first-mentioned Contracting State.

4. The term "interest" means income from Government securities, from bonds or debentures, whether or not secured by mortgage and whether or not carrying a

right to participate in profits, and from debt-claims of every kind, and any excess of the amount repaid in respect of such debt-claims over the amount lent, as well as all other income assimilated to income from money lent by the 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 VII shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or a resident of that Contracting 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.

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

#### *Article XII. ROYALTIES*

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

2. However, such royalties may be taxed in the Contracting State in which they arise, and in accordance with the law of that Contracting State, but tax so charged shall not exceed 15 per cent of the gross amount of the royalties. The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" 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, video tapes for use in connection with television or tapes for use in connection with radio), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of article VII shall apply.

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

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

#### *Article XIII. CAPITAL GAINS*

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

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such fixed base, may be taxed in that other Contracting State.

3. Notwithstanding the provisions of paragraph 2, gains derived by an enterprise of a Contracting State from the alienation of ships or 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. Gains from the alienation of any property other than those mentioned in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

#### *Article XIV. INDEPENDENT PERSONAL SERVICES*

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that Contracting 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 Contracting 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 XV. DEPENDENT PERSONAL SERVICES*

1. Subject to the provisions of articles XVI, XVIII, XIX and XX, 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 Contracting 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 Contracting 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 Contracting State if:

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

3. Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

#### *Article XVI. 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 of a company which is a resident of the other Contracting State may be taxed in that other Contracting State.

#### *Article XVII. ARTISTES AND ATHLETES*

Notwithstanding anything contained in 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.

#### *Article XVIII. PENSIONS*

Subject to the provisions of paragraph 1 of article XIX, any pension or similar remuneration derived from sources within a Contracting State in consideration of past employment by an individual who is a resident of the other Contracting State and subject to tax in respect of that other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

#### *Article XIX. GOVERNMENTAL FUNCTIONS*

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

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

#### *Article XX. RESEARCH PERSONNEL AND STUDENTS*

1. The remuneration which an individual who is or was formerly a resident of a Contracting State receives for undertaking study or research at a high level during a period of temporary residence not exceeding two years at a university, research institute, school, college or other similar establishment in the other Contracting State shall not be taxable in that other Contracting State.

2. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is 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 Contracting State, provided that such payments are made to him from sources outside that other Contracting State.

3. Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State shall not be taxed in that other Contracting State provided that such employment is directly related to his studies or training or is undertaken for the sole purpose of his maintenance.

*Article XXI. INCOME NOT EXPRESSLY MENTIONED*

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

*Article XXII. PERSONAL ALLOWANCES*

1. Individuals who are residents of Denmark may claim the same personal allowances, reliefs and reductions for the purposes of tax as Zambian nationals who are not residents of Zambia.

2. Individuals who are residents of Zambia may claim the same personal allowances, reliefs and reductions for the purposes of Danish tax as Danish nationals who are not residents of Denmark.

*Article XXIII. ELIMINATION OF DOUBLE TAXATION (CREDIT METHOD)*

1. (a) Where a resident of Zambia derives income from Denmark which may be taxed in Denmark in accordance with the laws of Denmark and the provisions of this Convention, the amount of Danish tax payable in respect of that income shall be allowed as a credit against Zambian tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Zambian tax payable under the laws of Zambia which is appropriate to that income, before allowing the credit.

(b) Where the income derived from Denmark is a dividend paid by a company which is a resident of Denmark, the credit shall take into account the Danish tax payable in respect of its profits by the company paying the dividend.

2. (a) Where a resident of Denmark derives income from Zambia which may be taxed in Zambia in accordance with the laws of Zambia and the provisions of this Convention, the amount of Zambian tax payable in respect of that income shall be allowed as a credit against Danish tax imposed on that resident. The amount of credit, however, shall not exceed that part of the Danish tax payable under the laws of Denmark which is appropriate to that income, before allowing the credit.

(b) Where the income derived from Zambia is a dividend paid by a company which is a resident of Zambia, the credit shall take into account the Zambian tax payable in respect of its profits by the company paying the dividend.

3. For the purposes of paragraph 2 the term "may be taxed in Zambia" shall be deemed to include any amount which would have been payable as Zambian tax, but for an exemption or reduction for tax granted under the Pioneer Industries (Relief from Income Tax) Act, 1965, or any other Zambian law of similar purpose and effect.

*Article XXIV. 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 Contracting State in the same circumstances are or may be subjected.

2. The term “nationals” means:

- (a) all individuals possessing the nationality of a Contracting State;
- (b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

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

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Contracting State are or may be subjected.

5. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident, nor as obliging Zambia to grant to non-nationals the relief available to Zambian nationals under section 42 C of the Zambian Income Tax Act 1966.

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

#### *Article XXV. 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 Contracting 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 be justified and if it is not 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 this 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 this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

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

#### *Article XXVI. 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 not be disclosed to any persons or authorities other than persons, including a court or other adjudicating authority, concerned with the

assessment or collection of those taxes or the determination of appeals in relation thereto.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State 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 XXVII. DIPLOMATIC AND CONSULAR OFFICIALS*

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

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

3. An individual who is a member of a diplomatic or consular mission (except honorary consuls) or permanent delegation of a Contracting State which is situated in the other Contracting State or a third State, shall for the purposes of this Convention be deemed to be a resident of the sending State if:

- (a) he is not a national of the receiving State; and
- (b) in accordance with international law he cannot be taxed in the receiving State on any income from sources outside that State.

#### *Article XXVIII. 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 excepted from the scope of this Convention under the provisions of subparagraph (b) of paragraph 1 of article III, 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 XXX shall also terminate the application of this Convention to any territory to which it has been extended under this article.

#### *Article XXIX. ENTRY INTO FORCE*

1. 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:

- (a) in Zambia

as respects income for any charge year beginning on or after 1st April 1972;

(b) in Denmark

as respects income for any income year (charge year) beginning on or after 1st January 1972.

2. Upon the entry into force of this Convention, the Convention between the Government of Denmark and the Government of the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on 27th March 1950<sup>1</sup> extended with certain modifications to the former Federation of Rhodesia and Nyasaland by an Exchange of Notes, dated 17th January 1959,<sup>2</sup> and to the former Protectorate of Northern Rhodesia by an Exchange of Notes, dated 21st January 1964,<sup>3</sup> and continued by Zambia, shall cease to have effect.

*Article XXX. TERMINATION*

1. This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30th June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination.

2. In such event, the Convention shall cease to have effect:

(a) in Zambia

as respects income for any charge year beginning on or after 1st April of the calendar year following the year in which such notice is given;

(b) in Denmark

as respects income for any income year (charge year) beginning on or after 1st January of the calendar year following the year in which such notice is given.

IN WITNESS WHEREOF the undersigned being duly authorised thereto have signed this Convention and have affixed thereto their seals.

DONE at Lusaka this thirteenth day of September, 1973, in duplicate in the Danish and English languages, both texts being equally authentic.

For the Government of the Kingdom of Denmark:  
E. SKOV

For the Government of the Republic of Zambia:  
J. M. MWANAKATWE

**PROTOCOL**

At the moment of signing the Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, this day concluded between Denmark and Zambia, the undersigned Plenipotentiaries have agreed that the following provisions shall form an integral part of the Convention.

*I. Ad Articles VIII and XIII*

The provisions of Article VIII and paragraph 3 of article XIII shall be applied respectively to profits or capital gains derived by the joint Danish, Norwegian and

<sup>1</sup> United Nations, *Treaty Series*, vol. 68, p. 117.

<sup>2</sup> *Ibid.*, vol. 351, p. 382.

<sup>3</sup> *Ibid.*, vol. 492, p. 338.

Swedish air transport organisation the Scandinavian Airlines System (SAS), but only insofar as profits and gains so derived by Det Danske Luftfartsselskab A/S (DDL), the Danish partner of the Scandinavian Airlines System (SAS), are in proportion to its share in that organisation.

## II. *Ad Article XI*

The provisions of paragraph 3 of article XI shall apply to the following financial institution wholly financed by the Danish Government: The Industrialization Fund for Developing Countries, Copenhagen (Industrialiseringsfonden for udviklingslandene, København).

## III. *Ad Article XV*

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

2. Remuneration as mentioned in paragraph 3 of article XV in respect of an employment exercised aboard an aircraft operated in international traffic by the joint Danish, Norwegian and Swedish air transport organisation the Scandinavian Airlines System (SAS), and derived by a resident of Denmark shall be taxable only in Denmark.

## IV. *Ad Article XXX*

The termination of the present Convention as provided for in paragraph 2 of article XXX shall not revive the Convention referred to in paragraph 2 of article XXIX.

DONE at Lusaka this thirteenth day of September, 1973, in duplicate in the Danish and English languages, both texts being equally authentic.

For the Government of the Kingdom of Denmark:  
E. SKOV

For the Government of the Republic of Zambia:  
J. M. MWANAKATWE

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