

No. 14613

**SWEDEN
and
MALAYSIA**

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Kuala Lumpur on 21 November 1970

Authentic text: English.

Registered by Sweden on 1 March 1976.

**SUÈDE
et
MALAISIE**

Accord visant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signé à Kuala Lumpur le 21 novembre 1970

Texte authentique : anglais.

Enregistré par la Suède le 1^{er} mars 1976.

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF SWEDEN AND THE GOVERNMENT OF MALAYSIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

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

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

Article I. 1. The taxes which are the subject of this Agreement are:

(a) in Malaysia: the income tax, the supplementary income tax and the petroleum income tax hereinafter referred to as “Malaysian tax”);

(b) in Sweden:

- (i) the State income tax, including sailors tax and coupon tax,
- (ii) the tax on the undistributed profits of companies and the tax on distribution in connection with reduction of share-capital or the winding up of a company;
- (iii) the tax on public entertainers; and
- (iv) the communal income tax (hereinafter referred to as “Swedish tax”).

2. This Agreement shall also apply to any other taxes of a substantially similar character to those referred to in the preceding paragraph imposed in either Contracting State after the signature of this Agreement.

Article II. 1. In this Agreement, unless the context otherwise requires:

(a) The term “Malaysia” means the Federation of Malaysia, and includes any area adjacent to the territorial waters of Malaysia which in accordance with international law has been or may hereafter be designated under the laws of Malaysia concerning the Continental Shelf, as an area within which the rights of Malaysia with respect to the seabed and sub-soil and their natural resources may be exercised;

(b) The term “Sweden” means the Kingdom of Sweden, including any area adjacent to the territorial waters of Sweden within which under the laws of Sweden, and in accordance with international law, the rights of Sweden with respect to the seabed and sub-soil and their natural resources may be exercised;

(c) The terms “one of the Contracting States” and “the other Contracting State” mean Malaysia or Sweden, as the context requires;

(d) The term “tax” means Malaysian tax or Swedish tax, as the context requires;

¹ Came into force on 31 May 1971, the date of the last of the notifications (exchanged at Kuala Lumpur on 28 April and 31 May 1971) by which the Parties informed each other of the completion of their constitutional requirements, in accordance with article XXIV.

(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, a company, a Hindu joint family, a Malaysian corporation sole and a body of persons not including, in the case of Malaysia, a partnership;

(g) The terms “enterprise of one of the Contracting States” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of one of the Contracting States and an enterprise carried on by a resident of the other Contracting State;

(h) The term “competent authority” means, in the case of Malaysia, the Minister of Finance or his authorised representative; and, in the case of Sweden, the Minister of Finance or his authorised representative.

2. In the application of this Agreement by one of the Contracting States, 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 Agreement.

Article III. 1. In this Agreement, unless the context otherwise requires:

(a) The term “resident of Malaysia” means:

- (i) an individual who is ordinarily resident in Malaysia; or
- (ii) a person other than an individual who is resident in Malaysia, for the basis year for a year of assessment for the purposes of Malaysian tax;

(b) The term “resident of Sweden” means any person who is resident in Sweden for the purposes of Swedish tax.

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 citizen.
- (d) If he is a citizen 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 IV. 1. For the purposes of this Agreement, the term “permanent establishment” means a fixed place of business in which the business of an 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;
- (h) a farm or plantation;
- (i) a place of extraction of timber or forest produce.

3. The term “permanent establishment” shall not 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 one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if:

- (a) it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction or assembly project which is being undertaken in that other Contracting State; or
- (b) it carries on a business which wholly or partly consists of providing the services of public entertainers of the kind referred to in paragraph 1 of Article XIV in that other Contracting State.

5. Subject to the provisions of paragraph 6 of this Article, a person acting in one of the Contracting States on behalf of an enterprise of the other Contracting State, shall be deemed to be a permanent establishment in the first-mentioned Contracting State if:

- (a) he has, and habitually exercises in that first-mentioned 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; or

(b) he maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.

6. An enterprise of one of the Contracting States 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 acting in the ordinary course of his business.

7. The fact that a company which is a resident of one of the Contracting States 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 either company a permanent establishment of the other.

Article V. 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 rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, oil wells, quarries and other natural resources or timber or forest produce; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 of this Article 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 of this Article shall also apply to the income from immovable property of an enterprise.

Article VI. 1. The income of an enterprise of one of the Contracting States 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, tax may be imposed in that other Contracting State on the income of the enterprise which is attributable to that permanent establishment.

2. Where an enterprise of one of the Contracting States 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 income 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 determining the income of a permanent establishment, there shall be allowed as deductions all expenses including executive and general administrative expenses which would be deductible if the permanent establishment were an independent enterprise, in so far as they are reasonably allocable to the permanent establishment, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

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

5. Where any item of income is dealt with separately in another Article of this Agreement, the provisions of that other Article shall not be affected by the provisions of this Article.

Article VII. Where

- (a) an enterprise of one of the Contracting States 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 of the Contracting States and of 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 income 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 income of that enterprise and taxed accordingly.

Article VIII. 1. Income of an enterprise of one of the Contracting States derived from the other Contracting State from the operation of ships or aircraft in international traffic may be taxed in that other Contracting State, but the tax chargeable in that other Contracting State on such income shall be reduced by an amount equal to fifty per cent of such tax.

2. For the purposes of paragraph 1 of this Article income derived from the other Contracting State shall mean income from the carriage of passengers, mails, livestock or goods shipped or loaded into an aircraft in that other Contracting State: Provided that there shall be excluded the income accruing from passengers, mails, livestock or goods which are brought to that other Contracting State solely for transshipment, or for transfer from one aircraft to another or from an aircraft to a ship or from a ship to an aircraft, or income from a casual call at that other Contracting State.

3. Where income from the operation of ships or aircraft in international traffic is derived by an enterprise of one of the Contracting States from a State other than the Contracting States, such income shall be taxable only in the Contracting State of which the enterprise is a resident.

4. The provisions of paragraphs 1, 2 and 3 of this Article shall likewise apply to income arising from participation in shipping or aircraft pools of any kind by such enterprise engaged in shipping or aircraft transport operations.

Article IX. 1. Dividends paid by a company resident in Sweden to a resident of Malaysia shall be exempt from any tax in Sweden which is chargeable on dividends in addition to the tax chargeable in respect of the income of the company.

2. Dividends paid by a company resident in Malaysia to a resident of Sweden shall be exempt from any tax in Malaysia which is chargeable on dividends in addition to the tax chargeable in respect of the income of the company: Provided that nothing in this paragraph shall affect the provisions of the Malaysian law under which the tax in respect of a dividend paid by a company resident in Malaysia from which Malaysian tax has been, or has been deemed to be, deducted may be adjusted by reference to the rate of tax appropriate to the

Malaysian year of assessment immediately following that in which the dividend was paid.

3. Dividends paid by a company which is a resident of Malaysia to a company which is a resident of Sweden shall be exempt from Swedish tax, provided that in accordance with the laws of Sweden the dividends would have been exempt from Swedish tax if the first-mentioned company had been a resident of Sweden and not a resident of Malaysia. However, this exemption shall apply only if the income of the company paying the dividends wholly or mainly arises, directly or indirectly, from business activities, other than the management of securities and other similar movable property, and such activities are carried on within Malaysia by the company paying the dividends or by a company in which it owns at least twenty-five per cent of the share capital.

4. Where a company which is a resident of one of the Contracting States derives profits or income from the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the company to persons not resident in that other Contracting State, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

5. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient of the dividends, being a resident of one of the Contracting States, has in the other Contracting State, in which the company paying the dividends is 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 VI shall apply.

6. If the system of taxation applicable in either of the Contracting States to the income and distributions of companies is altered, the competent authorities may consult each other in order to determine whether it is necessary for this reason to amend the provisions of paragraphs 1, 2 and 3 of this Article.

Article X. 1. Interest derived from one of the Contracting States may be taxed in that Contracting State.

2. Notwithstanding the provisions of paragraph 1 of this Article, interest derived from one of the Contracting States by a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State, if the loan or other indebtedness in respect of which the interest is paid is approved after the signature of this Agreement by the Government of the first-mentioned Contracting State.

3. Interest shall be deemed to be derived from a Contracting State if the payer is the Government, a State Government, a political subdivision, 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 one of the Contracting States 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 be derived from the Contracting State in which the permanent establishment is situated.

Article XI. 1. Royalties derived from one of the Contracting States by a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State, provided that such royalties, where derived from Malaysia, are approved after the signature of this Agreement by the Government of Malaysia.

2. The term “royalties” as used in this Article means a periodical or lump sum payment of any kind received as consideration for the use of, or the right to use, any copyright of scientific work, 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, but does not include any royalty or other amount paid in respect of literary or artistic copyrights or of motion picture films or of tapes for television or broadcasting or of the operation of a mine, oil well, quarry or other places of extraction of natural resources or of timber or forest produce.

3. The provisions of paragraph 1 of this Article shall not apply if the recipient of the royalties, being a resident of one of the Contracting States, has in the other Contracting State from which the royalties are derived 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 VI shall apply.

4. Where owing to a special relationship between the payer and the recipient or both of them and some other person, the amount of the royalties paid, having regard to the use, right, property 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 laws of each Contracting State, due regard being had to the other provisions of this Agreement.

5. Royalties of the kind mentioned in paragraph 2 of this Article shall be deemed to be derived from a Contracting State if the payer is the Government, a State Government, a political subdivision, a local authority or a 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 one of the Contracting States a permanent establishment by which the royalties are paid, then such royalties shall be deemed to be derived from the Contracting State in which the permanent establishment is situated.

Article XII. 1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article V, 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 one of the Contracting States has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise), may be taxed in that other Contracting State. However, gains from the alienation of ships and aircraft operated by an enterprise of one of the Contracting States in international traffic and assets other than immovable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State of which the enterprise is a resident.

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

Article XIII. 1. Subject to the provisions of this Article and Articles XIV, XV, XVI, XVII and XVIII, salaries, wages and other similar remuneration derived by a resident of one of the Contracting States 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 of this Article, an individual who is a resident of one of the Contracting States shall be exempt from tax in the other Contracting State on income in respect of an employment exercised in that other Contracting State in any calendar year if:

- (a) he is present within that other Contracting State for a period or periods not exceeding in the aggregate 183 days during that year; and
- (b) any period for which he is present within that other Contracting State during that year does not form part of a continuous period of more than 183 days throughout which he is present within that other Contracting State; and
- (c) the services are performed for or on behalf of an employer who is a resident of the first-mentioned Contracting State; and
- (d) the income is subject to tax in that first-mentioned Contracting State; and
- (e) the income is not directly deductible from the income for tax purposes of a permanent establishment of the employer in that other Contracting State.

3. In relation to remuneration of a director of a company derived from the company, the provisions of paragraphs 1 and 2 of this Article shall apply as if the remuneration were remuneration of an employee in respect of an employment. However, directors' fees and similar payments derived by a resident of one of the Contracting States 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.

4. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic operated by an enterprise of one of the Contracting States may be taxed in that Contracting State.

Article XIV. 1. The provisions of paragraph 2 of Article XIII shall not apply to the income derived from one of the Contracting States from an employment exercised by a public entertainer (such as stage, motion picture, radio or television artiste, musician, and athlete) being a resident of the other Contracting State whose visit to that first-mentioned Contracting State is not directly or indirectly supported, wholly or substantially from public funds of the Government of that other Contracting State.

2. Notwithstanding anything contained in this Agreement where the services mentioned in paragraph 1 of this Article are provided in one of the Contracting States by an enterprise of the other Contracting State then the income derived from providing those services by such enterprise shall be exempt from tax in

the first-mentioned Contracting State if the enterprise is directly or indirectly supported, wholly or substantially, from public funds of the Government of that other Contracting State in connection with the provision of such services.

3. For the purposes of this Article the term "Government" shall include any State Government, a political subdivision, or a local or statutory authority of either Contracting State.

Article XV. 1. Remuneration paid by the Government of one of the Contracting States to any individual in respect of an employment may be taxed in that Contracting State. Where such remuneration is paid to a citizen of that Contracting State who is not a citizen of the other Contracting State, such remuneration shall be taxable only in the first-mentioned Contracting State.

2. Any pension paid by the Government of one of the Contracting States to any individual may be taxed in that Contracting State.

3. The provisions of paragraph 2 of this Article shall likewise apply to payments made under the provisions of a public social security scheme in either Contracting State.

4. The provisions of paragraphs 1 and 2 of this Article shall not apply to remuneration or pensions in respect of an employment or past employment in connection with any business carried on by the Government of a Contracting State. In such a case, the provisions of Articles XIII, XIV, XVI, XVII and XVIII shall apply.

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

Nevertheless, each Contracting State reserves the right to tax its own diplomatic or consular officials, regardless of the provisions of this Agreement.

6. For the purposes of this Article, the term "Government" shall have the same meaning as in paragraph 3 of Article XIV.

Article XVI. 1. Any pension (other than a pension of the kinds referred to in paragraphs 2 and 3 of Article XV) or any annuity derived by an individual who is a resident of one of the Contracting States from the other Contracting State shall be taxable only in the first-mentioned Contracting State.

2. The term "annuity" means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

3. The term "pension" means a periodical payment made, whether voluntarily or otherwise, in consideration for services rendered or by way of compensation for injuries received.

Article XVII. An individual who is a resident of one of the Contracting States immediately before making a visit to the other Contracting State, and who makes such visit at the invitation of a university, college, school or other similar recognised educational institution in that other Contracting State, solely for the purposes of teaching or research or both at such educational institution for a period not exceeding two years from the date of his arrival in that other Contracting State, shall be exempt from tax in that other Contracting State on

his remuneration for such teaching or research, provided that he is subject to tax on such remuneration in the first-mentioned Contracting State.

Article XVIII. 1. An individual who is a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as a student at a recognised university, college, school or other similar recognised educational institution in that other Contracting State or as a business or technical apprentice therein, shall be exempt from tax in that other Contracting State for a period not exceeding three consecutive years from the date of his arrival in that other Contracting State on:

- (a) any income not derived from that other Contracting State; and
- (b) any income derived from that other Contracting State in respect of services rendered in that other Contracting State with a view to supplementing the resources available to him for such purposes, provided that such income does not exceed a sum of 4,500 Malaysian Dollars or the equivalent in Swedish currency during any calendar year.

2. An individual who is a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from the Government of either of the Contracting States or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either of the Contracting States shall be exempt from tax in that other Contracting State for a period not exceeding three consecutive years from the date of his arrival in that other Contracting State on:

- (a) the amount of such grant, allowance or award; and
- (b) any income derived from that other Contracting State in respect of services in that other Contracting State, provided that the services are performed in connection with his study, research, training or incidental thereto and such income does not exceed a sum of 4,500 Malaysian Dollars or the equivalent in Swedish currency during any calendar year.

3. For the purposes of this Article the term "Government" shall have the same meaning as in paragraph 3 of Article XIV.

Article XIX. 1. The Government of one of the Contracting States shall be exempt from tax in the other Contracting State in respect of any income derived from that other Contracting State.

2. For the purpose of paragraph 1 of this Article, the term "Government" shall mean:

- (a) in the case of Malaysia:
 - (i) the Government of Malaysia,
 - (ii) the Governments of the States,
 - (iii) the Bank Negara Malaysia,
 - (iv) any local or statutory authority,

- (v) such institutions as may be agreed from time to time between the two Contracting States;
- (b) in the case of Sweden:
- (i) the Government of Sweden,
 - (ii) the Central Bank of Sweden,
 - (iii) the National Debt Office,
 - (iv) any local or statutory authority,
 - (v) such institutions as may be agreed from time to time between the two Contracting States.

Article XX. 1. The laws of each Contracting State shall continue to govern the taxation of income in that Contracting State except where express provision to the contrary is made in this Agreement. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

2. Subject to the provisions of the law of Malaysia regarding the allowance as a credit against Malaysian tax of tax payable in any country other than Malaysia, Swedish tax payable, whether directly or by deduction, in respect of income derived from Sweden shall be allowed as a credit against Malaysian tax payable in respect of that income. Where such income is a dividend paid by a company which is a resident of Sweden to a resident of Malaysia the credit shall take into account Swedish tax payable on the income of the company paying the dividend.

3. Where income derived from Malaysia under the laws of Malaysia and in accordance with this Agreement is subject to tax in Malaysia, whether directly or by deduction, Malaysian tax payable in respect of such income shall be allowed as a credit against any Swedish tax payable in respect of that income: Provided that where such income is a dividend paid by a company which is a resident of Malaysia to a resident of Sweden, not being a company which is exempt from Swedish tax according to the provisions of paragraph 3 of Article IX, Swedish tax shall be charged on such a sum as would after deduction of the Malaysian tax at the appropriate rate correspond to the amount received, but that amount of the Malaysian tax appropriate to the dividend shall be allowed as a credit against any Swedish tax payable in respect of the dividend.

The deduction in either case shall not, however, exceed that part of the Swedish tax as computed before the deduction is given, which is appropriate, as the case may be, to the income which is subject to tax in Malaysia or to the dividend.

4. In the case of royalties, as defined in paragraph 2 of Article XI, or in the case of any interest on any loan or other indebtedness of the kind mentioned in paragraph 2 of Article X, there shall, where such income is derived from:

- (a) Sweden, be allowed as a credit against any Malaysian tax payable in respect of that income,
- (b) Malaysia, be allowed as a credit against any Swedish tax payable in respect of that income,

an amount equal to fifty per cent of the tax which would have been payable but for paragraph 1 of Article XI or paragraph 2 of Article X.

The deduction given in either Contracting State shall not exceed that part of the tax payable in that Contracting State, as computed before the deduction is given, which is appropriate to the royalty or interest derived from the other Contracting State.

The provisions of this paragraph shall apply only for the first five years for which this Agreement is effective. The competent authorities shall consult each other in order to determine whether this period shall be extended.

5. For the purposes of paragraph 3 of this Article, the term "Malaysian tax payable" shall be deemed to include the amount of Malaysian tax which would have been paid if the Malaysian tax had not been exempted in accordance with the provisions of sections 21, 22 and 26 respectively of the Investment Incentives Act, 1968, of Malaysia. After the expiration of the first five years for which this Agreement is effective the competent authorities may consult each other in order to determine whether the provisions of this paragraph shall continue to apply.

6. The provisions of paragraph 5 of this Article shall apply equally to any law in Malaysia which may subsequently be made granting an exemption which is agreed by the competent authorities of the Contracting States to be of a substantially similar character to the provisions referred to in paragraph 5 of this Article, if they have not been modified thereafter or have been modified only in minor respects so as not to affect their general character.

7. The graduated rate of Swedish tax to be imposed on residents of Sweden may be calculated as though income which under this Agreement is exempted from Swedish tax were included in the amount of total income.

Article XXI. 1. The competent authorities of the Contracting States shall exchange such information (being information which is available under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Agreement for the prevention of fraud or underpayment of taxes by reasons other than fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons, including a court, concerned with the assessment and collection of those taxes or the determination of appeals in relation thereto or to persons with respect to whom the information relates.

2. In no case shall the provisions of paragraph 1 of this Article 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 any 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 XXII. 1. Citizens of one of the Contracting States 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 citizens of that other Contracting State in the same circumstances are or may be subjected. This provision shall not be construed as obliging one of the Contracting States to grant to citizens of the other Contracting State not resident in the first-mentioned Contracting State those personal allowances, reliefs and reductions for tax purposes which are by law available only to citizens of that first-mentioned Contracting State and to such other persons as may be specified in such law who are not resident in that first-mentioned Contracting State.

2. The term "citizens" means:

- (a) in the case of Malaysia, all individuals possessing the citizenship of Malaysia and all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in Malaysia;
- (b) in the case of Sweden, all individuals possessing the citizenship of Sweden and all legal persons, partnerships, associations and other entities deriving their status as such from the laws in force in Sweden.

3. The taxation on a permanent establishment which an enterprise of one of the Contracting States 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 or similar activities.

4. Enterprises of one of the Contracting States, 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 the first-mentioned Contracting State are or may be subjected.

5. In this Article the term "taxation" means taxes which are the subject of this Agreement.

Article XXIII. 1. Where a resident of one of the Contracting States considers that the actions of one or both of the Contracting States result or will result in taxation not in accordance with this Agreement he may, notwithstanding the remedies provided by the taxation laws in force in the Contracting States, appeal to the competent authority of the first-mentioned Contracting State.

2. The competent authority of the first-mentioned Contracting State shall endeavour, if it is proved to his satisfaction that the appeal is justified and he is not himself able to arrive at an appropriate solution, to come to an agreement with the competent authority of the other Contracting State with a view to avoidance of taxation which is not in accordance with this Agreement.

3. The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to this Agreement and for resolving any difficulty or doubt as to the application or interpretation of this Agreement or for the exchange of information within the meaning of Article XXI.

Article XXIV. 1. This Agreement shall come into force on the date when the last of all such things shall have been done in Malaysia and Sweden as are necessary to give the Agreement the force of law in Malaysia and Sweden respectively.

2. The Contracting States shall notify each other of the completion of the requirements mentioned in paragraph 1 of this Article. Such notification shall take place in Kuala Lumpur as soon as possible.

3. Upon the exchange of such notification this Agreement shall have effect;

- (a) in Malaysia: as respects Malaysian tax for the year of assessment beginning on 1st January, 1968, and subsequent years of assessment;
- (b) in Sweden:
- (i) as respects coupon tax payable on or after 1st January, 1968,
 - (ii) as respects sailors tax and tax on public entertainers on income which is derived on or after 1st January, 1968, and
 - (iii) as respects other taxes on income which is assessed in the year 1969 and subsequent years.

Article XXV. 1. This Agreement shall continue in effect indefinitely, but the Government of either Contracting State may, on or before 30th June in any calendar year not earlier than the year 1971, give to the Government of the other Contracting State, through diplomatic channels, written notice of termination and in such event this Agreement shall cease to be effective:

- (a) in Malaysia: as respects Malaysian tax for the second year of assessment following that in which such notice is given and subsequent years of assessment;
- (b) in Sweden: as respects Swedish tax on income which is derived on or after 1st January in the calendar year next following that in which such notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Kuala Lumpur this 21st day of November of the year 1970 in the English language.

For the Government of the Kingdom of Sweden:

ARNOLD WILLÉN
Chargé d'Affaires

For the Government of Malaysia:

TUN TAN SIEW SIN
Minister of Finance

PROTOCOL

At the time of signing the Agreement between the Government of the Kingdom of Sweden and the Government of Malaysia for the Avoidance of

Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed that the following provisions shall form an integral part of the Agreement:

1. Where a dividend was paid by a company which was resident in both Malaysia and Singapore and the meeting at which the dividend was declared was held in Malaysia, or where a dividend was paid by a company which was resident in Singapore and at the time of payment of that dividend the company declared itself to be a resident of Malaysia for the purposes of Article VII of the Agreement between the Government of Malaysia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in Singapore on 26th December, 1968, the dividend shall be deemed to have been paid by a company resident in Malaysia.

2. Where a dividend was paid by a company which was resident in both Malaysia and Singapore and the meeting at which the dividend was declared was held in Singapore, or where a dividend was paid by a company which was resident in Malaysia and at the time of payment of that dividend the company declared itself to be a resident of Singapore for the purposes of Article VII of the Agreement between the Government of Malaysia and the Government of the Republic of Singapore for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed in Singapore on 26th December, 1968, the dividend shall be deemed to have been paid by a company not resident in Malaysia.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Protocol.

DONE in duplicate at Kuala Lumpur this 21st day of November of the year 1970 in the English language.

For the Government of the Kingdom of Sweden:

ARNOLD WILLÉN
Chargé d'Affaires

For the Government of Malaysia:

TUN TAN SIEW SIN
Minister of Finance
