

No. 27079

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**SWEDEN  
and  
INDIA**

**Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Signed at Stockholm on 7 June 1988**

*Authentic text: English.*

*Registered by Sweden on 29 January 1990.*

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**SUÈDE  
et  
INDE**

**Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Signée à Stockholm le 7 juin 1988**

*Texte authentique : anglais.*

*Enregistrée par la Suède le 29 janvier 1990.*

**CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

The Government of the Republic of India and the Government of the Kingdom of Sweden

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

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 India:

- (i) the income tax and any surcharge thereon;
- (ii) the surtax; and
- (iii) the wealth-tax;

(hereinafter referred to as "Indian tax");

(b) in Sweden:

- (i) the State income tax, including the sailors' tax and the 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;

(iv) the communal income tax;

(v) the profit sharing tax; and

(vi) the State capital tax;

(hereinafter referred to as "Swedish tax").

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

**Article 3**

*General definitions*

1. For the purposes of this Convention, unless the context otherwise requires:

(a) the term "India" means the territory of India and includes the territorial sea and the air space above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction, according to the Indian law and in accordance with international law;

(b) the term "Sweden" means the Kingdom of Sweden and includes any area outside the territorial sea of Sweden within which under the laws of Sweden and in accordance with international law the rights of Sweden with respect to the exploration and exploitation of the natural resources on the sea bed or in its subsoil may be exercised;

<sup>1</sup> Came into force on 12 December 1988, the date of the last of the notifications (of 12 October and 12 December 1988) by which the Contracting Parties informed each other of the completion of the required constitutional procedures, in accordance with article 30 (1).

(c) the term “person” includes an individual, a company and any other body of persons or any entity which is treated as a taxable unit under the tax laws in force in the respective Contracting States;

(d) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

(e) 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;

(f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(g) the term “national” means:

- (i) any individual possessing the nationality of a Contracting State;
- (ii) any legal person, partnership and association deriving its status as such from the laws in force in a Contracting State;

(h) the term “competent authority” means:

- (i) in India, the Central Government in the Ministry of Finance (Department of Revenue) or their authorized representative;
- (ii) in Sweden, the Minister of Finance or his authorized representative;

(i) the term “fiscal year” means:

- (i) in the case of India, “previous year” as understood under the laws concerning taxes on income in force in India; and
- (ii) in the case of Sweden, the calendar year.

2. As regards the application of this Convention by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes to which the Convention applies.

## Article 4

### *Resident*

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax 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 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

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

(b) if the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

(d) if he is a national of both 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 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 through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

- (a) a place of management;

- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) a warehouse in relation to a person providing storage facilities for others;
- (h) premises used as a sales outlet or for receiving or soliciting orders; and

(i) an installation or structure used for the exploration of natural resources.

3. The term "permanent establishment" likewise encompasses a building site, a construction, assembly or installation project or the like or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than 6 months or where such project or supervisory activity, being incidental to the sale of machinery or equipment, continues for a period not exceeding 6 months but the charges payable for the project or supervisory activity exceed 10 per cent of the sale price of the machinery and equipment.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage or display 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 or display;

(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 of 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 or for scientific research, being activities solely of a preparatory or auxiliary character in the trade or business of the enterprise.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person:

(a) has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise itself or for that enterprise and other enterprises controlling, controlled by, or subject to the same common control as, that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph but in such cases the provisions of paragraph 5 shall apply.

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 derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include buildings, 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. 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 independent personal 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 (a) that permanent establishment; (b) sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or (c) other business activities carried on in that other State of the same or similar

kind as those effected through that permanent establishment.

2. Subject to the provisions of paragraph 3, 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 business of the permanent establishment, including such executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, as are allowed under the provisions of the domestic law of the Contracting State in which the permanent establishment is situated. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys

lent to the head office of the enterprise or any of its other offices.

Nothing contained in this paragraph shall be construed as obliging a Contracting State to allow in the case of an enterprise of the other Contracting State any deduction in respect of expenses which under the laws of the first-mentioned State would not be allowed to be deducted in the case of an enterprise of that State.

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. 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 contained in this Article.

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 8

### *Air transport*

1. Profits derived by an enterprise of a Contracting State from the operation of aircraft in international traffic shall be taxable only in that State.

2. With respect to profits derived by the Swedish, Danish and Norwegian air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 1 shall apply, but only to such part of the prof-

its as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

3. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

4. For the purposes of this Article:

(a) interest on funds connected with the operation of aircraft in international traffic shall be regarded as profits from the operation of such aircraft and the provisions of Article 12 shall not apply in relation to such interest; and

(b) the term "operation of aircraft" shall include the business of transportation by air of passengers, livestock, goods or mail, carried on by the owners or lessees or charterers of aircraft, including the sale of tickets for such transportation on behalf of other enterprises, the incidental lease of aircraft on a charter basis and any other activity directly connected with such transportation.

## Article 9

### *Shipping*

1. Profits derived by an enterprise of a Contracting State from the operation of ships in international traffic shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1 such profits may also be taxed in the other Contracting State and according to the laws of that other State if the operation of ships in international traffic is carried on in that other State, but for the purposes of the calculation of the tax:

(a) such profits shall be deemed to be an amount not exceeding seven and a half per cent of the full amount received by the enterprise on account of the carriage of passengers or freight embarked in that other State;

(b) the tax chargeable in that other State shall be reduced by fifty per cent.

3. For the purposes of paragraph 2, income derived by an enterprise of a Contract-

ing State from the operation of ships in international traffic carried on in the other Contracting State shall mean income from the carriage of passengers, mail, livestock or goods shipped from that other State.

4. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

#### Article 10

##### *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 11

##### *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 laws of that State, but if the recipient is the beneficial owner of the

dividends the tax so charged shall not exceed:

(a) 15 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends and to the extent the dividends are attributable to a new contribution;

(b) 25 per cent of the gross amount of the dividends in all other cases.

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

3. The term "dividends" as used in this Article means income from shares, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, 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, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or

the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. As used in paragraph 2 of this Article, the term “new contribution” means any share capital, other than bonus shares, issued after the date of entry into force of this Convention by a company which is a resident of a Contracting State, and beneficially owned by a resident of the other Contracting State.

## Article 12

### *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 also be taxed in the Contracting State in which it arises and according to the laws of that State, provided that where the resident of the other Contracting State is the beneficial owner of the interest and it is paid in respect of a loan or debt first created after the date of entry into force of this Convention, the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 of this Article:

(a) where the interest is paid to a financial institution carrying on a bona fide banking business which is a resident of the other Contracting State and is the beneficial owner of the interest, the tax charged in the Contracting State in which the interest arises shall not exceed 10 per cent of the gross amount of the interest;

(b) where the interest arises in a Contracting State and is paid to the Government or a political subdivision or a local authority, or the Central Bank of the other Contracting State, or, in the case of Sweden, the National Debt Office, the interest shall be exempt from tax in the first-mentioned Contracting State; and

(c) where the interest arises in a Contracting State and is paid to a resident of the other Contracting State, the interest shall be exempt from tax in the first-mentioned Con-

tracting State, provided that the loan or credit for which the interest is paid is made or allowed by any person in respect of whom the competent authorities agree to grant such exemption.

4. The term “interest” as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor’s profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payments shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 (a) shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base, or with business activities referred to under (c) of paragraph 1 of Article 7. In such cases the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some



other person, the amount of the interest, 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such 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 Convention.

#### Article 13

##### *Royalties and fees for technical services*

1. Royalties and fees for technical services 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 and fees for technical services may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties or fees for technical services the tax so charged shall not exceed 20 per cent of the gross amount of the royalties or fees for technical services.

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 video tapes for use in connection with television or tapes for use in connection with radio broadcasting, 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 term "fees for technical services" as used in this Article means payments of any kind to any person, other than payments to an employee of the person making the payments and to any individual for independent personal services mentioned in Article 15, in consideration for services of a managerial,

technical or consultancy nature, including the provision of services of technical or other personnel.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties or fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties or fees for technical services arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property or contract in respect of which the royalties or fees for technical services are paid is effectively connected with such permanent establishment or fixed base or with business activities referred to under (c) of paragraph 1 of Article 7. In such case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

6. Royalties and fees for technical services 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 or fees for technical services, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties or fees for technical services was incurred, and such royalties or fees for technical services are borne by such permanent establishment or fixed base, then such royalties or fees for technical services shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties or fees for technical services, 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 beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In

such 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 Convention.

#### Article 14

##### *Capital gains*

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

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 independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

With respect to gains derived by the Swedish, Danish and Norwegian air transport consortium Scandinavian Airlines System (SAS), the provisions of this paragraph shall apply only to such proportion of the gains as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

4. Gains derived by a resident of a Contracting State from the alienation of any property other than that referred to in paragraphs 1, 2 and 3, may be taxed in both Contracting States.

#### Article 15

##### *Independent personal services*

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

(a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

(b) if his stay in the other Contracting State is for a period or periods exceeding in the aggregate 90 days in the fiscal year of that other State; in that case only so much of the income as is derived from his activities performed in that other State may be taxed in that other State.

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

#### Article 16

##### *Dependent personal services*

1. Subject to the provisions of Articles 17, 18, 19, 20, 21 and 22, 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 em-

ployment 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 fiscal year of that other State;

(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 derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State, may be taxed in that State. Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

#### Article 17

##### *Directors' fees and remuneration of top-level managerial officials*

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

2. Salaries, wages and other similar remuneration derived by a resident of a Contracting State in his capacity as an official in a top-level managerial position of a company which is a resident of the other Contracting State may be taxed in that other State.

#### Article 18

##### *Income earned by entertainers and athletes*

1. Notwithstanding the provisions of Articles 15 and 16, income derived by a resident

of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2, income derived from such activities as defined in paragraph 1 shall be exempt from tax in the Contracting State in which these activities are performed if the visit of the entertainer or the athlete is within the framework of cultural exchange between the Contracting States, or is directly or indirectly supported, wholly or substantially, from the public funds of the other Contracting State, including a political subdivision or local authority of that other State.

#### Article 19

##### *Pensions, social security Payments and annuities*

1. Subject to the provisions of paragraph 2 of Article 20, pensions and other similar remuneration in consideration of past employment, annuities and payments under the social security legislation arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned 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.

## Article 20

### *Government service*

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

- (i) is a national of that State; or
- (ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 16, 17 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

## Article 21

### *Students and trainees*

An individual who is resident of a Contracting State or was a resident of that State immediately before visiting the other Contracting State and who is temporarily present in that other State for the primary purpose of:

(a) studying in that other State at a university or other educational institution approved by the appropriate educational authority of that State,

(b) securing training required to qualify him to practice a profession or for acquiring a vocation or a professional or technical speciality; or

(c) studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary or educational organisation, or as a participant in other programmes sponsored by such an organisation, shall be exempt from tax in that other State in respect of:

- (i) remittances from abroad for the purposes of his maintenance, education, research or training;
- (ii) remuneration for personal services performed in that other State, provided the remuneration does not exceed Fifteen Thousand Swedish Kronor or the equivalent in Indian currency for any fiscal year of that other State; and
- (iii) the amount of such grant, allowance or award.

The benefits under sub-paragraph (ii) above shall extend only for such period of time as may be reasonably or customarily required to complete the education, research or training undertaken but shall in no event exceed a period of five consecutive years.

## Article 22

### *Teaching and research*

1. An individual who is a resident of a Contracting State or was a resident of that State immediately before visiting the other Contracting State and who, at the invitation of the Government of that other State or of a university or other educational institution situated in that other State and approved by the appropriate educational authority of that State, visits that other State for the primary purpose of teaching or engaging in research, or both, at such university or other educational institution shall be exempt from tax by

that other State on his income from personal services for teaching or research at such university or other educational institution for a period less than one year from the date of his arrival in that State.

2. The exemption granted under paragraph 1 shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or specific persons.

#### Article 23

##### *Other income*

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

3. Notwithstanding the provisions of paragraphs 1 and 2, items of income of a resident of a Contracting State not dealt with in the foregoing Articles of this Convention and arising in the other Contracting State may be taxed in that other State.

#### Article 24

##### *Capital*

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated

in the other Contracting State, may be taxed in that other State.

2. Capital represented by 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 by 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 independent personal services, may be taxed in that other State.

3. Capital represented by ships or aircraft, operated in international traffic and by movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State of which the enterprise owning such property is a resident.

4. All other elements of capital of a resident of a Contracting State may be taxed in both Contracting States.

#### Article 25

##### *Elimination of double taxation*

1. The laws in force in either of the Contracting States shall continue to govern the taxation of income and capital in the respective Contracting State except where express provision to the contrary is made in this Convention.

2. (a) Where a resident of India derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Sweden, India shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Sweden, whether directly or by deduction; and as a deduction from the tax on the capital of that resident an amount equal to the capital tax paid in Sweden. Such deduction in either case shall not, however, exceed that part of the income tax or capital tax (as computed before the deduction is given) which is attributable, as the case may be, to the income or the capital which may be taxed in Sweden. Further, where such resident is a company by which surtax is payable in India,

the deduction in respect of income tax paid in Sweden shall be allowed in the first instance from income tax payable by the company in India and as to the balance, if any, from surtax payable by it in India.

(b) Where a resident of India derives income which, in accordance with the provisions of this Convention, shall be taxable only in Sweden, India may include this income in the tax base but shall allow as a deduction from the income tax that part of the income tax which is attributable to the income derived from Sweden.

3. (a) Where a resident of Sweden derives income which, in accordance with the provisions of this Convention, may be taxed in India, Sweden shall allow - subject to the provisions of the law of Sweden concerning credit for foreign tax (as it may be amended from time to time without changing the general principle hereof) - as a deduction from the tax on such income, an amount equal to the income tax paid in India in respect of such income.

(b) For the purposes of the deduction referred to in sub-paragraph (a), the term "income tax paid in India" shall be deemed to include any amount which would have been payable as Indian tax under the laws of India and in accordance with this Convention for any year but for an exemption from, or reduction of, tax granted for that year under:

- (i) sections 10(4), 10(4A), 10(4B), 10(6)(vii), 10(15)(iv), 10A and 80 I of the Income-tax Act, 1961 (43 of 1961), so far as they were in force on, and have not been modified since, the date of the signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or
- (ii) any other provision which may be enacted after 1 November 1986 granting a deduction in computing the taxable income or an exemption or reduction from tax which the competent authorities of the Contracting States agree to

be for the purposes of the economic development of India, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

(c) For the purposes of deduction referred to in sub-paragraph (a), Indian tax on interest and royalties and fees for technical services shall in no case be considered as having been paid at a rate of less than -

- (i) 15 per cent in the case of interest; and
- (ii) 20 per cent in the case of royalties and fees for technical services.

(d) Where a resident of Sweden owns capital which, in accordance with the provisions of this Convention, may be taxed in India, Sweden shall allow as a deduction from the tax on the capital of that resident an amount equal to the capital tax paid in India. Such deduction shall not, however, exceed that part of the Swedish capital tax, as computed before the deduction is given, which is appropriate to the capital which may be taxed in India.

(e) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, where a resident of Sweden derives income which, in accordance with the provisions of Article 7, paragraph (2) of Article 14 or paragraph (1)(a) of Article 15 may be taxed in India, Sweden shall exempt such income from tax provided that the principal part of the income arises from independent personal services or business activities, other than the management of securities and other similar property. This exemption shall not apply unless the income has been subjected to the normal tax prevailing in India at the time of signature of this Convention or a tax comparable thereto.

(f) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, dividends paid by a company which is a resident of India to a company which is a resident of Sweden shall be exempt from Swedish tax to the extent that the dividends would have

been exempt under Swedish law if both companies had been Swedish companies. This exemption shall not apply unless

- (i) the profits out of which the dividends are paid have been subjected to the normal corporate tax prevailing in India at the time of signature of this Convention or an income tax comparable thereto, or
- (ii) the dividends paid by the company which is a resident of India consist wholly or almost wholly of dividends which that company has received, in the year or previous years, in respect of shares held by it in a company which is a resident of a third State and which would have been exempt from Swedish tax if the shares in respect of which they are paid had been held directly by the company which is a resident of Sweden.

(g) The provisions of sub-paragraphs (b) and (c) of this paragraph shall apply for the first 10 years for which this Convention is effective but the competent authorities of the Contracting States may consult each other to determine whether this period shall be extended.

(h) Where a resident of Sweden derives income which, in accordance with the provisions of Article 20, shall be taxable only in India, or income which, in accordance with the provisions of sub-paragraph (e) of this paragraph, shall be exempt from Swedish tax, Sweden may, when determining the graduated rate of Swedish tax, take into account the income which shall be taxable only in India or income which shall be exempt from Swedish tax, respectively.

## Article 26

### *Non-discrimination*

1. 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 bur-

densome than the taxation and connected requirements to which nationals of that other State in the same circumstances and under the same conditions are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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 in the same circumstances and under the same conditions. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which an enterprise of the other Contracting State has in the first-mentioned State at a rate of tax which is higher than that imposed on the profits of a similar enterprise of the first-mentioned Contracting State.

3. Nothing contained in this Article shall be construed as obliging a Contracting State to grant to individuals not resident in that State any personal allowances, reliefs and reductions for taxation purposes which are by law available only to individuals who are so resident.

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 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 State are or may be subjected.

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

6. Except where the provisions of Article 10, paragraph 7 of Article 12, or paragraph 7 of Article 13, apply, interest, royalties and fees for technical services, and other disbursements paid by an enterprise of a Con-

tracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

#### Article 27

##### *Mutual agreement procedure*

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 26, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws of the Contracting States.

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 tax-

ation in cases not provided for in the 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. The competent authorities shall through consultations develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article.

#### Article 28

##### *Exchange of information*

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, insofar as the taxation thereunder is not contrary to the Convention, in particular for the prevention of fraud or evasion of such taxes. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State. However, if the information is originally regarded as secret in the transmitting State it shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes but may disclose the information in public court proceedings or in judicial decisions. The competent authorities shall, through consultation, develop appropriate conditions, methods and techniques concerning the matters in respect of which such exchanges of information shall be made, including, where appropriate, exchanges of information regarding tax avoidance.



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 and administrative practice of that or of the other Contracting State;

(b) to supply information which is 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 29

##### *Diplomatic agents and consular officers*

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

#### Article 30

##### *Entry into force*

1. Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. The Convention shall enter into force on the date of the later of these notifications and shall thereupon have effect:

(a) In Sweden:

in respect of income derived on or after 1 January next following the calendar year in which the Convention enters into force and in respect of capital which is held at the expiry of the calendar year next following that in which the Convention enters into force or subsequent years;

(b) In India:

in respect of income arising in any fiscal year beginning on or after 1 April next following the calendar year in which the Convention enters into force and in respect of capital which is held at the expiry of any fiscal year beginning on or after 1 April next following the calendar year in which the Convention enters into force.

2. The Agreement between the Royal Government of Sweden and the Government of India for the avoidance of double taxation of income, signed at Stockholm on 30 July, 1958,<sup>1</sup> shall cease to have effect at the time when the provisions of this Convention shall be effective in accordance with the provisions of paragraph 1.

#### Article 31

##### *Termination*

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30 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. In such event, the Convention shall cease to have effect:

(a) In Sweden:

in respect of income derived on or after 1 January next following the calendar year in which the notice of termination is given and in respect of capital which is held at the expiry of the calendar year next following that in which the notice of termination is given or any subsequent year;

(b) In India:

in respect of income arising in any fiscal year beginning on or after 1 April next following the calendar year in which the notice

<sup>1</sup> United Nations, *Treaty Series*, vol. 369, p. 211.

of termination is given and in respect of capital which is held at the expiry of any fiscal year beginning on or after 1 April next following the calendar year in which the notice of termination is given.

IN WITNESS whereof, the undersigned, being duly authorised thereto, have signed this Convention.

DONE at Stockholm this 7th day of June 1988 in duplicate in the English language.

For the Government  
of the Republic of India:

SHRI B. M. OZA

For the Government  
of the Kingdom of Sweden:

STEN ANDERSSON

## Protocol

At the signing of the Convention between the Government of the Republic of India and the Government of the Kingdom of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and on Capital, the undersigned have agreed upon the following provisions which shall be an integral part of the Convention:

(1) With reference to paragraph 4 of Article 12, it is understood that income from debt-claims, and in particular bonds and debentures, which carry a right to participate in the debtor's profits shall be regarded as interest if the contract by its general character clearly evidences a loan at interest, but income derived from the participation in profits where such participation rests upon a provision of funds that is subject to the hazards of the enterprise's business shall not be regarded as interest within the meaning of that paragraph.

(2) With reference to paragraph 2 of Article 26, in the event that pursuant to a Convention concluded with a State which is a member of the Organisation for Economic Co-operation and Development after the date of signature of this Convention India would accept that the profits of a permanent establishment of an enterprise of that State in India would be chargeable to tax at the same rate as is applicable in the case of a similar enterprise in India, it is understood that the same rate will automatically be applied for the taxation of the profits of permanent establishments of Swedish enterprises as from the date of entry into force of the Convention with that State.

In WITNESS whereof, the undersigned, being duly authorised thereto, have signed this Protocol.

DONE at Stockholm this 7th day of June 1988 in duplicate in the English language.

For the Government  
of the Republic of India:

SHRI B. M. OZA

For the Government  
of the Kingdom of Sweden:

STEN ANDERSSON

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