No. 28990

UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND
and
ICELAND

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital gains. Signed at Reykjavik on 30 September 1991

Authentic texts: English and Icelandic.

Registered by the United Kingdom of Great Britain and Northern Ireland on 16 June 1992.

ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD
et
ISLANDE

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur les gains en capital. Signée à Reykjavik le 30 septembre 1991

Textes authentiques : anglais et islandais.

Enregistrée par le Royaume-Uni de Grande-Bretagne et d'Irlande du Nord le 16 juin 1992.

CONVENTION[1] BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE REPUBLIC OF ICELAND FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL GAINS

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Iceland;

Desiring to conclude a Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains;

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 taxes which are the subject of this Convention are:

(a) in the United Kingdom of Great Britain and Northern Ireland:

(i) the income tax;

(ii) the corporation tax;

(iii) the capital gains tax;

(hereinafter referred to as " United Kingdom tax ");

(b) in Iceland:

(i) the national income tax;

(ii) the municipal income tax;

(hereinafter referred to as " Icelandic tax ").

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the taxes of that Contracting State referred to in paragraph (1) of this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which are made in their respective taxation laws.

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[1] Came into force on 19 December 1991, the date of receipt of the last of the notifications by which the Contracting Parties informed each other of the completion of the procedures required by their laws for giving effect to this Convention, in accordance with article 27 (1) and (2).

ARTICLE 3

General definitions

(1) In this Convention, unless the context otherwise requires:

(a) the term " United Kingdom " means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;

(b) the term " Iceland " means the Republic of Iceland, including any area adjacent to the territorial sea of Iceland within which, under the laws of Iceland and in accordance with international law, Iceland has sovereign rights for the purpose of exploring and exploiting the natural resources of the sea bed and sub-soil;

(c) the term " national " means:

(i) in relation to the United Kingdom, any British citizen or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;

(ii) in relation to Iceland, any individual possessing Icelandic nationality and any legal person, partnership, association or other entity deriving its status as such from the law in force in Iceland;

(d) the term " tax " means United Kingdom tax or Icelandic tax, as the context requires;

(e) the terms " a Contracting State " and " the other Contraeting State " mean the United Kingdom or Iceland, as the context requires;

(f) the term " person " comprises an individual, a company and any other body of persons but does not include partnerships which are not treated as bodies corporate for tax purposes in either Contracting State;

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

(h) 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;

(i) the term " international traffic " means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term " political subdivision " in relation to the United Kingdom, includes Northern Ireland;

(k) the term " competent authority " means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and, in the case of Iceland, the Minister of Finance or his authorised representative.

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

ARTICLE 4

Fiscal domicile

(1) In 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. But this term does not include any person who is liable to tax in that State in respect only of income or capital gains from sources in that State.

(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 as follows:

(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 closer (centre of vital interests);

(b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

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

(d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

ARTICLE 5

Permanent establisbment

(1) In 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) an installation or structure used for the exploration of natural resources;

(g) a mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources.

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts for more than twelve months.

(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, 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 of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) of this paragraph, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(5) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, where a person—other than an agent of an independent status to whom paragraph (6) of this Article applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) of this Article 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.

(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.

(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 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) 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 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 that permanent establishment.

(2) Subject to the provisions of paragraph (3) of this Article, 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 determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, and which are reasonably connected with profits attributable to the permanent establishment.

(4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) shall preclude that

Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

(7) Where profits include items of income or capital gains which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

Shipping and air transport

(1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

(3) Where profits within paragraph (1) of this Article are derived by an enterprise of a Contracting State from participation in a pool, a joint business or an international operating agency, the profits attributable to that enterprise shall be taxable only in the Contracting State in which the place of effective management of that enterprise is situated.

(4) Notwithstanding the provisions of Article 7 of this Convention profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in the Contracting State in which the place of effective management of that enterprise is situated except insofar as those containers or trailers and related equipment are used for transport solely between places within the other Contracting State.

ARTICLE 9

Associated enterprises

(1) 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 by a Contracting State in the profits of that enterprise and taxed accordingly.

(2) Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

ARTICLE 10

Dividends

(1) (a) (i) Dividends derived from a company which is a resident of the United Kingdom by a resident of Iceland may be taxed in Iceland.

(ii) Where a resident of Iceland is entitled to a tax credit in respect of such a dividend under sub-paragraph (b) of this paragraph, tax may also be charged in the United Kingdom and according to the laws of the United Kingdom on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.

(iii) Except as provided in sub-paragraph (a) (ii) of this paragraph dividends derived from a company which is a resident of the United Kingdom by a resident of Iceland who is the beneficial owner of the dividends shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

(b) A resident of Iceland who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (c) of this paragraph and provided he is the beneficial owner of the dividends, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received those dividends and to the payment of any excess of that tax credit over his liability to United Kingdom tax.

(c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the beneficial owner of the dividends is, or is associated with, a company which, either alone or together with one or more associated companies, controls, directly or indirectly, at least 10 per cent of the voting power in the company paying the dividends. For the purposes of this sub-paragraph, two companies shall be deemed to be associated if one controls, directly or indirectly, more than 50 per cent of the voting power in the other company, or a third company controls more than 50 per cent of the voting power in both of them.

(d) (i) Notwithstanding the provisions of sub-paragraphs (b) and (c) of this paragraph, no tax credit shall be payable where the beneficial owner of the dividends is a company other than a company whose shares are officially

quoted on a stock exchange in Iceland unless the company shows that it is not controlled by a person or two or more associated or connected persons together, who or any of whom would not have been entitled to a tax credit if he had been the beneficial owner of the dividends.

(ii) For the purposes of this sub-paragraph a person or two or more associated or connected persons together shall be treated as having control of a company if under the laws of the United Kingdom relating to the taxes covered by this Convention he or they could be treated as having control of it for any purposes, and persons shall be treated as associated or connected if under those laws they could be so treated for any purpose. However, where an individual is treated as having control of a company by reason only of the fact that he holds ordinary shares in the company carrying full voting and dividend rights and that individual holds not more than 10 per cent of the total number of such shares in the company, the shares held by him shall be left out of aceount in determining whether the company is controlled by a person or two or more associated or connected persons together, who or any of whom would not have been entitled to a tax credit if he had been the beneficial owner of the dividends payable to the company, provided that not more than 25 per cent of the total of such shares in the company may be left out of account.

(2) Dividends derived from a company which is a resident of Iceland by a resident of the United Kingdom may be taxed in the United Kingdom. Such dividends may also be taxed in Iceland and according to the laws of Iceland, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(a) 5 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;

(b) in all other cases 15 per cent of the gross amount of the dividends.

(3) Notwithstanding the provisions of paragraph (2), sub-paragraph (a) of this Article, dividends derived from a company which is a resident of Iceland by a company which is a resident of the United Kingdom may be taxed in Iceland at a rate not exceeding 15 per cent on that part of the dividends which have, according to the laws of Iceland, been allowed as a deduction from the profits of, or as a carry forward as an operating loss of, the Icelandic company paying the dividends.

(4) The term "dividends" for United Kingdom tax purposes includes any item which under the law of the United Kingdom is treated as a distribution and for Icelandic tax purposes includes any item which under the law of Iceland is treated as a distribution.

(5) The provisions of paragraphs (1) or, as the case may be, (2) and (3) of this Article 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 14 of this Convention, as the case may be, shall apply.

(6) 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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

(7) If the beneficial owner of a dividend, being a resident of a Contracting State, owns 10 per cent or more of the class of shares in respect of which the dividend is paid then the provisions of paragraph (1) or, as the case may be, (2) and (3) of this Article shall not apply to the dividend to the extent that it can have been paid only out of profits which the company paying the dividends earned or other income which it received in a period ending 12 months or more before the relevant date. For the purposes of this paragraph the term " relevant date " means the date on which the beneficial owner of the dividend became the owner of 10 per cent or more of the class of shares in question.

Provided that this paragraph shall not apply if the beneficial owner of the dividend shows that the shares were acquired for bona fide commercial reasons and not primarily for the purposes of securing the benefit of this Article.

ARTICLE 11

Interest

(1) Interest arising in a Contracting State which is derived and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

(2) The term " interest " for United Kingdom tax purposes includes any item which under the law of the United Kingdom is treated as interest and for Icelandic tax purposes includes any item which under the law of Iceland is treated as interest, but shall not include any item which is treated as a dividend under the provisions of Article 10 of this Convention.

(3) The provisions of paragraph (1) of this Article 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. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

(4) 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 exceeds, for whatever reason, 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.

(5) Any provision in the laws of either Contracting State relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a company

which is a resident of the other Contracting State to be treated as a distribution or dividend by the company paying such interest. The preceding sentence shall not apply to interest paid to a company which is a resident of one of the Contracting States in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons who are residents of the other Contracting State.

(6) The provisions of this Article shall not apply if the debt-claim in respect of which the interest is paid was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

(7) The provisions of paragraph (1) of this Article shall not apply where the beneficial owner of the interest is a company other than a quoted company, unless the company shows that it is not controlled by a person, or two or more associated or connected persons together, who or any of whom would not have been entitled to relief under paragraph (1) of this Article if he had been the beneficial owner of the interest.

(8) For the purposes of paragraph (7) of this Article:

(a) a quoted company is any company the shares in which are officially quoted on a stock exchange in the Contracting State of which it is a resident;

(b) subject to paragraph (9) of this Article, a person or two or more associated or connected persons together shall be treated as having control of a company if, under the laws of the Contracting State in which the interest arises relating to the taxes covered by this Convention, they could be treated as having control of it for any purpose and persons shall be treated as associated or connected if, under those laws, they could be so treated for any purpose.

(9) Where an individual is treated in paragraph (8)(b) of this Article as having control of a company by reason only of the fact that he holds ordinary shares in the company carrying full voting and dividend rights, and that individual holds not more than 10 per cent of the total number of such shares in the company, the shares held by him shall be left out of account in determining whether the company is controlled by a person or two or more associated or connected persons together, provided that not more than 25 per cent of the total of such shares in the company may be left out of account in this manner.

ARTICLE 12

Royalties

(1) Royalties derived and beneficially owned by a resident of a Contracting State shall be taxable only in that State.

(2) 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, and films or tapes for radio or television 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.

(3) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the royalties, 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 royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

(4) 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 exceeds, for whatever reason, 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.

(5) The provisions of this Article shall not apply if the right or property giving rise to the royalties was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

(6) The provisions of paragraph (1) of this Article shall not apply where the beneficial owner of the royalties is a company other than a quoted company, unless the company shows that it is not controlled by a person, or two or more associated or connected persons together, who or any of whom would not have been entitled to relief under paragraph (1) of this Article if he had been the beneficial owner of the royalties.

(7) For the purposes of paragraph (6) of this Article:

(a) a quoted company is any company the shares in which are officially quoted on a stock exchange in the Contracting State of which it is a resident;

(b) subject to paragraph (8) of this Article, a person or two or more associated or connected persons together shall be treated as having control of a company if, under the laws of the Contracting State in which the royalties arise relating to the taxes covered by this Convention, they could be treated as having control of it for any purpose and persons shall be treated as associated or connected if, under those laws, they could be so treated for any purpose.

(8) Where an individual is treated under paragraph (7)(b) of this Article as having control of a company by reason only of the fact that he holds ordinary shares in the company carrying full voting and dividend rights, and that individual holds not more than 10 per cent of the total number of such shares in the company, the shares held by him shall be left out of account in determining whether the company is controlled by a person or two or more associated or connected persons together, provided that not more than 25 per cent of the total of such shares in the company may be left out of account in this manner.

ARTICLE 13

Capital gains

(1) Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 of this Convention 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 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 the Contracting State in which the place of effective management of the enterprise is situated.

(4) Gains derived by an enterprise of a Contracting State from the alienation of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in the Contracting State in which the place of effective management of that enterprise is situated except insofar as those containers or trailers and related equipment are used for transport solely between places within the other Contracting State.

(5) Gains from the alienation of any property other than that referred to in the preceding paragraphs of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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

ARTICLE 15

Dependent personal services

(1) Subject to the provisions of Articles 16, 18 and 19 of this Convention, 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) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any period of 12 months; and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 16

Directors' fees

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.

ARTICLE 17

Artistes and athletes

(1) Notwithstanding the provisions of Article 14 and Article 15 of this Convention, 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, 14 and 15 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

ARTICLE 18

Pensions, annuities, alimony and social security payments

(1) Subject to the provisions of paragraph (2) of Article 19 of this Convention, pensions and other similar remuneration, alimony and annuities as well as pensions and other payments under the Social Security system paid to a resident of a Contracting State shall be taxable only in that 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) Notwithstanding the provisions of paragraph (1) of this Article, any alimony or other maintenance payment paid by a resident of one of the Contracting States to a resident of the other Contracting State, shall, if it is not allowable as a relief to the payer, be taxable only in the first-mentioned State.

ARTICLE 19

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) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, 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) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, such pension shall be taxable only in the other Contracting State if the individual is a resident and a national of that State.

(3) The provisions of Articles 15, 16 and 18 of this Convention 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 20

Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that first-mentioned State, provided that such payments arise from sources outside that State.

ARTICLE 21

Other income

(1) Items of income beneficially owned by a resident of a Contracting State, wherever arising, other than income paid out of trusts or the estates of deceased persons in the course of administration, which are not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

(2) Income paid out of trusts or the estates of deceased persons in the course of administration may be taxed in both Contracting States.

(3) The provisions pf paragraph (1) of this Article shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 6 of this Convention, 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 14 of this Convention, as the case may be, shall apply.

ARTICLE 22

Elimination of double taxation

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof):

(a) Icelandic tax payable under the laws of Iceland and in accordance with the provisions of this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Iceland (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Icelandic tax is computed;

(b) in the case of a dividend paid by a company which is a resident of Iceland to a company which is a resident of the United Kingdom and which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend, the credit shall take into account (in addition to any Icelandic tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Icelandic tax payable by the company in respect of the profits out of which such dividend is paid.

(2) (a) Where a resident of Iceland derives income which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom, Iceland shall, subject to the provisions of sub-paragraph (b) of this paragraph, exempt such income from tax but may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

(b) Where a resident of Iceland derives income which, in accordance with the provisions of Articles 10, 16, 17 or paragraph (2) of Article 21 of this Convention may be taxed in the United Kingdom, Iceland shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in the United Kingdom. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from the United Kingdom.

(3) For the purposes of paragraphs (1) and (2) of this Article, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

ARTICLE 23

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 burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

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

(3) Except where the provisions of paragraph (1) of Article 9, paragraphs (4) and (5) of Article 11, or paragraph (4) of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting 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.

(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 subject 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 subject.

(5) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.

(6) The provisions of this Article shall apply to the taxes which are the subject of this Convention.

ARTICLE 24

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 law of those States, present his case to the competent authority of the Contracting State of which he is a resident.

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

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together to consider measures to counteract improper use of the provisions of 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.

ARTICLE 25

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 this Convention insofar as the taxation thereunder is not contrary to this Convention, in particular, to prevent fraud and to facilitate the administration of statutory provisions against avoidance. 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 and 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 covered by this Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

(2) In no case shall the provisions of paragraph (1) of this Article 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 (*ordre public*).

ARTICLE 26

Members of diplomatic or permanent missions and consular posts

Nothing in this Convention shall affect any fiscal privileges accorded to members of diplomatic or permanent missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 27

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.

(2) This Convention shall enter into force on the date of receipt of the later of these notifications[1] and shall thereupon have effect:

(a) in the United Kingdom

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 April;

(b) in Iceland:

in respect of taxes on income and capital gains derived on or after 1 January, including any accounting periods ending in that period;

in either case in the calendar year following that in which the later of these notifications is received, and subsequent years.

(3) The Agreement between the United Kingdom and Iceland for the Exemption of Shipping Profits from Double Taxation signed at London on 27 April 1928,[1] shall terminate and cease to be effective from the date upon which this Convention has effect in respect of the taxes to which this Convention applies in accordance with the provisions of paragraph (2) of this Article.

ARTICLE 28

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate this Convention by giving notice of termination, through the diplomatic channel, at least six months before the end of any calendar year after the year 1995. In such event, this Convention shall cease to have effect:

(a) in the United Kingdom:

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given, and subsequent years;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given, and subsequent years;

(b) in Iceland:

in respect of taxes on income and capital gains for any year of assessment of taxes chargeable on income and capital gains of the calendar year (including accounting periods ending in any such year) next following that in which the notice of termination is given, and subsequent years.

In witness whereof the undersigned, duly authorised thereto by their respective Governments, have signed this Convention.

Done in duplicate at Reykjavík this 30th day of September 1991 in the English and Icelandic languages, both texts being equally authoritative.

For the Government
of the United Kingdom of Great Britain
and Northern Ireland:

PATRICK WOGAN

For the Government
of the Republic of Iceland:

SIGURBJORN THORBJORNSSON

[1] League of Nations, *Treaty Series*, vol. LXXX, p. 253.

[ICELANDIC TEXT — TEXTE ISLANDAIS]

SAMNINGUR MILLI RÍKISSTJÓRNAR SAMEINAÐA KONUNGSRÍKISINS STÓRA-BRETLANDS OG NORÐUR-ÍRLANDS OG RÍKISSTJÓRNAR LÝÐVELDISINS ÍSLANDS TIL AÐ KOMAST HJÁ TVÍSKÖTTUN OG KOMA Í VEG FYRIR UNDANSKOT FRÁ SKATTLAGNINGU Á TEKJUR OG SÖLUHAGNAÐ AF EIGNUM

Ríkisstjórn Sameinaða konungsríkisins Stóra-Bretlands og Norður-Írlands og ríkisstjórn Lýðveldisins Íslands,

sem óska að gera með sér samning til að komast hjá tvísköttun og koma í veg fyrir undanskot frá skattlagningu á tekjur og söluhagnað af eignum,

hafa komið sér saman um eftirfarandi:

1. GR

Aðilar sem samningurinn tekur til

Samningur Þessi tekur til aðila sem eru heimilisfastir í öðru eða báðum aðildarríkjunum.

2. GR

Skattar sem samningurinn tekur til

(1) Þeir skattar sem samningur þessi tekur til eru:

(a) í Sameinaða konungsríkinu Stóra-Bretlandi og Norður-Írlandi:

(i) tekjuskatturinn;

(ii) félagaskatturinn;

(iii) skattur af söluhagnaði eigna;

(hér eftir nefndir " skattur Sameinaða konungs-ríkisins");

(b) á Íslandi:

(i) tekjuskattur til ríkisins;

(ii) tekjuútsvar til sveitarfélaga;

(hér eftir nefndir " íslenskur skattur").

(2) Samningurinn skal einnig taka til allra þeirra skatta, sömu eða svipaðrar tegundar, sem lagðir verða á af öðru hvoru aðildarríkjanna eftir undirskrift hans til viðbótar eða í staðinn fyrir þá skatta aðildarríkisins sem um ræðir í (1) tl. þessarar greinar. Bær stjórnvöld í aðildarríkjunum skulu gefa hvort öðru upplýsingar um allar meiri háttar breytingar sem gerðar eru á skattalöggjöf rikjanna.

3. GR

Almennar skilgreiningar

(1) Í samningi þessum merkja neðangreind hugtök eftir-farandi, nema annað leiði af samhenginu:

(a) "Sameinaða konungsríkið" merkir Stóra-Bretland og Norður-Írland þar með talið sérhvert það svæði utan landhelgi Sameinaða konungsríkisins sem í samræmi við þjóðarétt hefur verið eða gæti síðar verið skilgreint, samkvæmt löggjöf Sameinaða konungsríkisins varðandi landgrunnið, sem svæði þar sem réttindum Sameinaða konungsríkisins verður beitt að því er varðar hafsbotninn og botnlög hans og náttúruauðlindir þeirra;

(b) "Ísland" merkir Lýðveldið Ísland þar með talið sérhvert það svæði sem liggur að landhelgi Íslands þar sem, samkvæmt íslenskum lögum og í samræmi við þjóðarétt, Ísland hefur fullveldis-réttindi að því er varðar rannsóknir og hagnýtingu náttúruauðlinda hafsbotnsins og botnlaga hans;

(c) "ríkisborgari" merkir:

(i) að því er Sameinaða konungsríkið varðar, sérhvern breskan ríkisborgara eða sérhvern breskan þegn sem ekki hefur ríkisborgara-réttindi í neinu öðru samveldislandi eða yfirráðasvæði, þó að því tilskildu að hann hafi dvalarleyfi í Sameinaða konungsríkinu; og sérhverja persónu að lögum, sameignar-félag, samtök eða stofnun sem byggir réttarstöðu sína sem slíka á gildandi lögum í Sameinaða konungsríkinu;

(ii) að því er Ísland varðar, sérhvern mann sem hefur íslenskt ríkisfang og sérhverja persónu að lögum, sameignarfélag, samtök eða stofnun sem byggir réttarstöðu sína sem slíka á gildandi lögum á Íslandi;

(d) "skattur" merkir skatt Sameinaða konungsríkisins eða íslenskan skatt eftir því sem efnið gefur til kynna;

(e) "aðildarríki" og "hitt aðildarríkið" merkja Sameinaða konungsríkið eða Ísland eftir því sem efnið gefur til kynna;

(f) "aðili" merkir mann, félag og sérhver önnur samtök aðila en felur ekki í sér sameignarfélög sem ekki eru talin persónur að lögum að því er skatta varðar í öðru hvoru aðildarríkjanna;

(g) "félag" merkir sérhverja persónu að lögum eða sérhverja aðra stofnun sem telst persóna að lögum að því er skatta varðar;

(h) "fyrirtæki í aðildarríki" og "fyrirtæki í hinu aðildarríkinu" merkir fyrirtæki sem rekið er af aðila, heimilisföstum í aðildarríki, og fyrir-tæki sem rekið er af aðila, heimilisföstum í hinu aðildarríkinu;

(i) "flutningar á alþjóðaleiðum" merkir flutninga með skipi eða loftfari sem rekið er af fyrirtæki sem hefur raunverulega framkvæmdastjórn í aðildarríki, nema því aðeins að skipið eða loftfarið sé eingöngu notað milli staða í hinu aðildarríkinu;

(j) "stjórn landshluta" í sambandi við Sameinaða konungsríkið felur í sér Norður-Írland;

(k) "bær stjórnvöld" merkir, að því er Sameinaða konungsríkið varðar, forstöðumenn ríkisskatt-stofunnar eða umboðsmenn þeirra og, að því er Ísland varðar, fjármálaráðherra eða umboðsmann hans.

(2) Við framkvæmd aðildarríkis á ákvæðum samnings þessa skulu, nema annað leiði af efninu, öll hugtök, sem ekki eru skilgreind í samningnum, hafa sömu merkingu og í lögum við-komandi aðildarríkis að því er varðar skatta þa sem samningurinn tekur til.

4. GR

Heimilisfesti að því er skattskyldu varðar

(1) Í samningi þessum merkir hugtakið "aðili heimilis-fastur í aðildarríki" sérhvern þann aðila sem að lögum þess ríkis er skattskyldur þar vegna heimilisfesti, búsetu, stjórnaraðseturs eða af öðrum svipuðum ástæðum. Hugtakið felur ekki í sér neinn þann aðila sem eingöngu er skattskyldur í þessu ríki af tekjum eða söluhagnaði af eignum sem eiga uppruna sinn í því ríki.

(2) Þegar maður telst heimilisfastur í báðum aðildar-ríkjunum samkvæmt (1) tl. þessarar greinar skal úrskurða málið eftir neðangreindum reglum:

(a) maður telst heimilisfastur í því aðildarríki þar sem hann á fast heimili. Eigi hann fast heimili í báðum aðildarríkjunum telst hann heimilis-fastur í því aðildarríki sem hann er nánar tengdur persónulega og fjárhagslega (miðstöð persónuhagsmuna);

(b) ef ekki er unnt að ákvarða í hvoru aðildarríkinu maður hefur miðstöð persónuhagsmuna sinna, eða ef hann á í hvorugu aðildarríkinu fast heimili, telst hann heimilisfastur í því aðildarríki þar sem hann dvelst að jafnaði;

(c) ef maður dvelst að jafnaði í báðum aðildar-ríkjunum eða í hvorugu þeirra, telst hann heimilisfastur í því aðildarríki þar sem hann á ríkisfang;

(d) ef maður á ríkisfang í báðum eða hvorugu aðildarríkjanna skulu bær stjórnvöld í aðildar-ríkjunum leysa málið með gagnkvæmu samkomulagi.

(3) Þegar aðili, annar en maður, telst eiga heimilis-festi í báðum aðildarríkjunum samkvæmt (1) tl. þessarar greinar telst hann heimilisfastur í því ríki þar sem raun-veruleg framkvæmdastjórn hans hefur aðsetur.

5. GR

Föst atvinnustöð

(1) Í samningi þessum merkir hugtakið "föst atvinnustöð" fasta atvinnustofnun þar sem starfsemi fyrirtækisins fer að nokkru eða öllu leyti fram.

(2) Hugtakið "föst atvinnustöð" merkir einkum:

(a) aðsetur framkvæmdastjórnar;

(b) útibú;

(c) skrifstofu;

(d) verksmiðju;

(e) verkstæði;

(f) búnað eða mannvirki notað til rannsókna á náttúruauðlindum;

(g) námu, olíu- eða gaslind, grjótnámu eða sérhvern annan stað til náms eða hagnýtingar náttúruauðæfa.

(3) Byggingarframkvæmd eða samsetningar- eða uppsetningarvinna telst því aðeins föst atvinnustöð að framkvæmdir standi yfir lengur en tólf mánuði.

(4) Þrátt fyrir framangreind ákvæði þessarar greinar tekur hugtakið "föst atvinnustöð" ekki til:

(a) nýtingar aðstöðu sem einskorðuð er við geymslu, sýningu eða afhendingu á vörum í eigu fyrirtækisins;

(b) birgðahalds á vörum í eigu fyrirtækisins sem eingöngu eru ætlaðar til geymslu, sýningar eða afhendingar;

(c) birgðahalds á vörum í eigu fyrirtækisins sem eingöngu eru ætlaðar til vinnslu hjá öðru fyrirtæki;

(d) fastrar atvinnustofnunar sem eingöngu er notuð í sambandi við vörukaup eða öflun upplýsinga fyrir fyrirtækið;

(e) fastrar atvinnustofnunar sem eingöngu er notuð til að annast sérhverja aðra undirbúnings- eða aðstoðarstarfsemi fyrir fyrirtækið;

(f) fastrar atvinnustofnunar sem nýtt er eingöngu til að samhæfa starfsemi sem fellur undir stafliði (a)–(e) þessarar greinar, enda felist sú starfsemi sem fram fer í þessari föstu atvinnustofnun vegna þessarar samhæfingar í heild sinni í undirbúnings- eða aðstoðarstörfum.

(5) Ef aðili sem ekki er óháður umboðsaðili samkvæmt ákvæðum (6) tl. þessarar greinar hefur á hendi starfsemi fyrir fyrirtæki og hefur heimild í aðildarríki til að gera samninga fyrir fyrirtækið, og beitir þessari heimild að jafnaði, er fyrirtæki þetta—þrátt fyrir ákvæði (1) og (2) tl. þessarar greinar—talið hafa fasta atvinnustöð í því ríki vegna hvers konar starfsemi sem aðilinn gegnir fyrir fyrirtækið. Þetta á þó ekki við ef starfsemi þessa aðila er takmörkuð við þá starfsemi sem um ræðir í (4) tl. þessarar greinar og sem myndi ekki, þótt innt væri af hendi á fastri atvinnustofnun, gera þessa föstu atvinnustofnun að fastri atvinnustöð samkvæmt ákvæðum þess töluliðar.

(6) Fyrirtæki telst ekki hafa fasta atvinnustöð í aðildarríki eingöngu vegna þess að það rekur þar viðskipti fyrir milligöngu miðlara, umboðsmanns eða annars óháðs umboðsaðila, svo framarlega sem þessir aðilar koma fram innan marka venjulegs atvinnurekstrar síns.

(7) Þótt félag sem er heimilisfast í aðildarríki stjórni eða sé stjórnað af félagi sem er heimilisfast í hinu aðildarríkinu eða rekur viðskipti í síðarnefnda ríkinu (annaðhvort fyrir milligöngu fastrar atvinnustöðvar eða á annan hátt), leiðir það í sjálfu sér ekki til þess að annað hvort þessara félaga sé föst atvinnustöð hins.

6. GR

Tekjur af fasteign

(1) Tekjur sem aðili heimilisfastur í aðildarríki hefur af fasteign (þar með taldar tekjur af landbúnaði og nýtingu skógar) sem staðsett er í hinu aðildarríkinu má skattleggja í síðarnefnda ríkinu.

(2) Hugtakið "fasteign" skal skýra í samræmi við lög þess aðildarríkis þar sem fasteignin er. Í öllum tilvikum felur hugtakið í sér fylgifé með fasteign, áhöfn og tæki, sem notuð eru í landbúnaði og við skógarnytjar, réttindi varðandi landeignir samkvæmt reglum einkamálaréttarins, afnotarétt af fasteign og rétt til fastrar eða breytilegrar þóknunar sem endurgjald fyrir hagnýtingu eða rétt til að hagnýta námur, lindir og aðrar náttúruauðlindir. Skip, bátar og loftför teljast ekki til fasteigna.

(3) Ákvæði (1) tl. þessarar greinar gilda um tekjur af beinni hagnýtingu, leigu og hvers konar öðrum afnotum fasteignar.

(4) Ákvæði (1) og (3) tl. þessarar greinar gilda einnig um tekjur af fasteign í eigu fyrirtækis og um tekjur af fasteign sem hagnýtt er við sjálfstæða starfsemi.

7. GR

Tekjur af atvinnurekstri

(1) Hagnaður fyrirtækis í aðildarríki er skattskyldur einungis í því ríki nema fyrirtækið hafi með höndum atvinnurekstur í hinu aðildarríkinu frá fastri atvinnustöð þar. Ef fyrirtækið hefur slíkan atvinnurekstur með höndum má leggja skatt á hagnað fyrirtækisins í síðarnefnda ríkinu, en þó einungis að því marki sem hagnaðurinn stafar frá nefndri fastri atvinnustöð.

(2) Þegar fyrirtæki í aðildarríki hefur með höndum atvinnurekstur í hinu aðildarríkinu frá fastri atvinnustöð þar, skal hvort aðildarríkið um sig—nema annað leiði af ákvæðum (3) tl. þessarar greinar—telja föstu atvinnustöðinni þann hagnað sem ætla má að fallið hefði í hennar hlut ef hún hefði verið sérstakt og sjálfstætt fyrirtæki sem hefði með höndum sams konar eða svipaðan atvinnurekstur við sömu eða svipaðar aðstæður og kæmi sjálfstætt fram í skiptum við fyrirtæki það sem hún er föst atvinnustöð fyrir.

(3) Við ákvörðun hagnaðar fastrar atvinnustöðvar skal leyfa sem frádrátt útgjöld, þar með talinn kostnað við framkvæmdastjórn og venjulegan stjórnunarkostnað sem leiða af því að hún er föst atvinnustöð og sem með sannsýni geta talist tengd þeim hagnaði sem ákvarðaður er föstu atvinnustöðinni. Þetta gildir hvort heldur útgjöldin eru til orðin í því ríki þar sem fasta atvinnustöðin er eða annars staðar.

(4) Að því leyti sem venja hefur verið í aðildarríki að ákvarða hagnað fastrar atvinnustöðvar á grundvelli skiptingar heildarhagnaðar fyrirtækisins á hina ýmsu hluta þess skal ekkert í (2) tl. útiloka það aðildarríki frá því að ákveða skattskyldan hagnað eftir þeirri skiptingu sem tíðkast hefur. Áðferð sú, sem notuð er við skiptinguna, skal samt sem áður vera slík að niðurstaðan verði í samræmi við þær meginreglur sem felast í þessari grein.

(5) Engan hagnað skal telja fastri atvinnustöð eingöngu vegna vörukaupa hennar fyrir fyrirtækið.

(6) Við beitingu ákavæða framangreindra töluliða skal hagnaður, sem talinn er fastri atvinnustöð, ákvarðast eftir sömu reglum frá ári til árs nema fullnægjandi ástæða sé til annars.

(7) Þegar hagnaðurinn felur í sér tekjur eða söluhagnað af eignum sem sérstök ákvæði eru um í öðrum greinum samnings þessa, skulu ákvæði þessarar greinar ekki hafa áhrif á gildi þeirra ákvæða.

8. GR

Siglingar og loftferðir

(1) Hagnaður af rekstri skipa eða loftfara í flutningum á alþjóðaleiðum skal einungis skattlagður í því, aðildarríki þar sem raunveruleg framkvæmdastjórn fyrirtækisins hefur aðsetur.

(2) Ef aðsetur raunverulegrar framkvæmdastjórnar útgerðarfyrirtækis er um borð í skipi, skal hún teljast hafa aðsetur í því aðildarríki þar sem heimahöfn skipsins er, eða ef ekki er um slíka heimahöfn að ræða þá í því aðildarríkiþar sem útgerðarmaður skipsins er heimilisfastur.

(3) Þegar fyrirtæki í aðildarríki hlotnast hagnaður samkvæmt (1) tl. þessarar greinar af þáttöku í rekstrarsamvinnu ("pool"), sameiginlegu fyrirtæki eða alþjóðlegum rekstrarsamtökum, skal hagnaðurinn sem telst til þessa fyrirtækis einungis skattlagður í því aðildarríki þar sem raunveruleg framkvæmdastjórn þessa fyrirtækis hefur aðsetur.

(4) Þrátt fyrir ákvæði (7) Gr. samnings þessa skal hagnaður fyrirtækis í aðildarríki af notkun, viðhaldi eða útleigu gáma (þ.m.t. tengivagnar og tengdur útbúnaður til flutnings á gámum) sem notaðir eru til flutnings á vörum einungis skattlagður í því aðildarríki þar sem raunveruleg framkvæmdastjórn þessa fyrirtækis hefur aðsetur, nema að því leyti sem þessir gámar eða tengivagnar og tengdur útbúnaður er eingöngu notaður til flutnings milli staða í hinu aðildarríkinu.

9. GR

Tengd fyrirtæki

(1) Þegar

(a) fyrirtæki í aðildarríki tekur beinan eða óbeinan þátt í stjórn, yfirráðum eða fjármagni fyrirtækis í hinu aðildarríkinu, eða

(b) sömu aðilar taka beinan eða óbeinan þátt í stjórn, yfirráðum eða fjámagni fyrirtækis í aðildarríki og fyrirtækis í hinu aðildarríkinu,

og í öðru hvoru tilvikinu hlutaðeigandi fyrirtæki semja eða ákveða skilmála um innbyrðis samband sitt á viðskipta- eða fjármálasviðinu sem eru frábrugðnir því sem væri ef fyrirtækin væru hvort öðru óháð, má allur hagnaður, sem án þessara skilmála hefði runnið til annars fyrirtakisins, en rennur ekki til þess vegna skilmálanna, teljast sem hagnaður þess fyrirtækis og skattleggjast samkvæmt því af hlutaðeigandi aðildarríki.

(2) Þegar aðildarríki telur með í hagnaði fyrirtækis í því ríki—og skattleggur samkvæmt því—hagnað sem fyrirtæki í hinu aðildarríkinu hefur verið skattlagt af í því ríki og hagnaðurinn sem þannig er innifalinn er hagnaður sem hefði runnið til fyrirtækisins í fyrrnefnda ríkinu ef skilmálarnir sem samið var um milli þessara tveggja fyrirtækja hefðu verið þeir sömu og samið hefði verið um milli óháðra fyrirtækja, þá skal hitt ríkið framkvæma viðeigandi leiðréttingu á fjárhæð álagðs skatts þar á þennan hagnað. Við ákvörðun slíkar leiðréttingar skal fullt tillit tekið til annarra ákvæða samnings þessa og bær stjórnvöld aðildarríkjanna skulu, ef nauðsyn krefur, ráðgast sín á milli.

10. Gr

Agóðahlutir

(1) (a) (i) Agóðahluti móttekna frá félagi sem er heimilisfast í Sameinaða konungsríkinu af aðila heimilisföstum á Íslandi má skattleggja á Íslandi.

(ii) Þegar aðili heimilisfastur á Íslandi á rétt til skattainneignar að því er varðar slíkan ágóðahlut samkvæmt stafliið b. þessa töluliðar, má einnig skattleggja í Sameinaða konungsríkinu samkvæmt löggjöf Sameinaða konungsríkisins samanlagða fjárhæð eða verðmæti þessa ágóðahlutar og fjárhæð skattainneignarinnar með skattstigi sem ekki má hærra vera en 15 af hundraði.

(iii) Að undanskildum ákvæðum stafliðar a. ii. þessa töluliðar skulu ágóðahlutir mótteknir frá félagi heimilisföstu í Sameinaða konungsríkinu af aðila heimilisföstum á Íslandi, sem er raunverulegur rétthafi ágóðahlutanna, undanþegnir sérhverjum skatti af ágóðahlutum í Sameinaða konungsríkinu.

(b) Aðili heimilisfastur á Íslandi sem móttekur ágóðahluti frá félagi sem er heimilisfast í Sameinaða konungsríkinu skal, háð skilyrðum stafliðar c. þessa töluliðar og að því tilskildu að hann sé raunverulegur rétthafi ágóðahlutanna, eiga rétt til skattainneignar þar á sama hátt og maður sem er heimilisfastur í Sameinaða konungsríkinu hefði haft rétt til hefði hann verið móttakandi ágóðahlutanna og rétt til greiðslu á þeirri fjárhæð sem skattainneigninni nemur umfram skyldu hans til greiðslu skatts í Sameinaða konungsríkinu.

(c) Akvæði stafliðar (b) þessa töluliðar skulu ekki gilda þegar raunverulegur rétthafi ágóðahlutanna er félag eða er tengdur félagi sem eitt sér eða ásamt einu eða fleirum tengdum félögum hefur yfir að ráða, beint eða óbeint, a.m.k. 10 hundraðshlutum af atkvæðamagni í félaginu sem greiðir ágóðahlutina. Við beitingu þessa stafliðar skulu tvö félög teljast tengd ef annað þeirra ræður beint eða óbeint yfir meiru en 50 hundraðshlutum af atkvæamagni í hinu félaginu eða þriðja félag ræður yfir meiru en 50 hundraðshlutum af atkvæamagni þeirra beggja.

(d) (i) Þrátt fyrir ákvæði stafliða (b) og (c) þessa töluliðar, skal engin skattainneign greidd þegar raunverulegur rétthafi ágóðahlutanna er félag, að undanskildu félagi sem er með hlutabréf sín opinberlega skráð á verðbréfaþingi á Íslandi, nema félagið sýni fram á að yfirráð þess sé ekki í höndum aðila eða tveggja eða fleiri tengdra eða samtengdra aðila sem hefðu ekki átt rétt til skattainneignar ef han eða þeir hefðu verið raunverulegir rétthafar ágóðahlutanna.

(ii) Við beitingu þessa stafliðar skal talið að aðili eða tveir eða fleiri tengdir eða samtengdir aðilar hafi yfirráð félags ef hann eða þeir gætu talist hafa yfirráð þess í sérhverjum tilgangi samkvæmt löggjöf Sameinaða konungsríkisins varðandi þá skatta sem samningur þessi tekur til og aðilar skulu taldir tengdir eða samtengdir ef þeir gætu talist svo í sérhverjum tilgangi samkvæmt þessari

löggjöf. Samt sem áður, þegar maður er talinn hafa yfirráð í félagi eingöngu vegna þeirrar staðreyndar að hann á almennan flokk hlutabréfa í félaginu sem bera full atkvæðis- og arðsréttindi og þessi maður á ekki meira en 10 hundraðshluta af heildarfjölda slíkra hlutabréfa í félaginu, skulu hlutabréfin í eigu hans ekki talin með við ákvörðun á því hvort yfirráð félagsins eru á hendi aðila eða tveggja eða fleiri tengdra eða samtengdra aðila sem hefðu ekki átt rétt til skattainneignar ef hann eða þeir hefðu verið raunverulegir rétthafar ágóðahlutanna sem runnu til félagsins, þó að því tilskildu að ekki skal skilja undan meira en 25 hundraðshluta af heildarfjölda slíkra hlutabréfa í félaginu.

(2) Ágóðahluti móttekna frá félagi sem er heimilisfast á Íslandi af aðila heimilisföstum í Sameinaða konungsríkinu má skattleggja í Sameinaða konungsríkinu. Slíka ágóðahluti má einnig skattleggja á Íslandi í samræmi við íslenska löggjöf, en sé móttakandinn raunverulegur rétthafi ágóðahlutanna má skatturin sem þannig er á lagður eigi vera hærri en:

(a) 5 af hundraði af vergri fjárhæð ágóðahlutanna ef raunverulegi rétthafinn er félag (undanskilið er þó sameignarfélag) sem á beint að minnsta kosti 10 af hundraði eignarhlutdeild í félaginu sem ágóðahlutina greiðir;

(b) 15 af hundraði af vergri fjárhæð ágoðahlutanna í öllum öðrum tilvikum.

(3) Ágóðahluti móttekna frá félagi sem er heimilisfast á Íslandi af félagi heimilisföstu í Sameinaða konungsríkinu, má, þrátt fyrir ákvæði stafliðar (a)(2) tl. þessarar greinar, skattleggja á Íslandi með skattstigi sem ekki má hærra vera en 15 af hundraði af þeim hluta ágóðahlutanna sem hefur samkvæmt íslenskum lögum verið leyfður sem frádráttur frá hagnaði félagsins sem ágóðahlutina greiddi eða sem yfirfæranlegt rekstrartap þess.

(4) Hugtakið " ágóðahlutir " skal við ákvörðun skatts Sameinaða konungsríkisins fela í sér sérhverjar tekjur sem farið er með sem úthlutun samkvæmt lögum Sameinaða konungsríkisins og við ákvörðun íslensks skatts fela í sér sérhverjar tekjur sem farið er með sem úthlutun samkvæmt íslenskum lögum.

(5) Ákvæði (1) tl. eða, eftir því sem við á, (2) og (3) tl. þessarar greinar gilda ekki þegar raunverulegur rétthafi ágóðahlutanna er heimilisfastur í aðildarríki og hann rekur starfsemi í gegnum fasta atvinnustöð í hinu aðildarríkinu þar sem félagið sem greiðir ágóðahlutina er heimilisfast, eða hann leysir af hendi sjálfstæða starfsemi frá fastri stofnun staðsettri í síðarnefnda ríkinu og hlutareignin sem ágóðahlutirnir eru greiddir af er raunverulega bundin við slíka fasta atvinnustöð eða fasta stofnun. Í því tilviki skulu, eftir því sem við á, ákvæði (7) gr. eða (14) gr. samnings þessa gilda.

(6) Ef félag sem er heimilisfast í aðildarríki fær hagnað eða tekjur frá hinu aðildarríkinu getur síðarnefnda ríkið hvorki skattlagt ágóða hlutina sem félagið greiðir nema að því leyti sem ágóðahlutirnir eru greiddir aðila heimilisföstum í síðarnefnda ríkinu eða að því leyti sem hlutareignin sem af eru greiddir ágóðahklutirnir er raunverulega bundin við fasta atvinnustöð eða fasta stofnun í síðarnefnda ríkinu né heldur lagt á óúthlutaðan hagnað félagsins skatt vegna óúthlutaðs hagnaðar. Þetta gildir jafnt þótt ágóðahlutirnir eða óúthlutaði hagnaðurinn séu að öllu eða nokkru leyti hagnaður eða tekjur sem hafa myndast í síðarnefnda ríkinu.

(7) Ef raunverulegur rétthafi ágóðahlutar, sem er heimilisfastur í aðildarríki, á 10 hundraðshluta eða meira af þeim flokki hlutabréfa sem af er greiddur ágóðahluturinn, þá skulu ákvæði (1) tl. eða, eftir því sem við á (2) og (3) tl. þessarar greinar ekki gilda varðandi ágóðahlutinn að svo miklu leyti sem hann gæti einungis hafa verið greiddur af hagnaði sem

félagið sem ágóðahlutina greiðir aflaðir eða af öðrum tekjum sem það móttók á tímabili sem lokið var 12 mánuðum eða meira fyrir hlutaðeigandi dagsetningu. Við beitingu þessa töluliðar merkir hugtakið " hlutaðeigadi dagsetning " þann dag sem raunverulegur rétthafi ágóðahlutarins varð eigandi 10 hundraðshluta eða meira af þeim flokki hlutabréfa sem um er að ræða.

Ákvæði þessa töluliðar skulu þó ekki gilda ef raunverulegur rétthafi ágóðahlutarins sýnir fram á að hlutabréfanna var aflað vegna raunverulegra viðskiptalegra ástæðna en ekki fyrst og fremst í þeim tilgangi að verða sér úti um hagsbætur þessarar greinar.

11. Gr

Vextir

(1) Vextir, sem myndast í aðildarríki, sem mótteknir eru af aðila sem er raunverulegur rétthafi þeirra og er heimilisfastur í hinu aðildarríkinu skulu einungis skattlagðir í síðarnefnda ríkinu.

(2) Hugtakið " vextir " skal við ákvörðun skatts Sameinaða konungsríkisins fela í sér sérhverjar tekjur sem farið er með sem vexti samkvæmt lögum Sameinaða konungsríkisins og við ákvörðun íslensks skatts fela í sér sérhverjar tekjur sem farið er með sem vexti samkvæmt íslenskum lögum, en skal ekki fela í sér neinar tekjur sem farið er með sem ágóðahlut samkvæmt ákvæðum (10) gr. samnings þessa.

(3) Ákvæði (1) tl. þessarar greinar gilda ekki þegar raunverulegur rétthafi vaxtanna er heimilisfastur í aðildarríki og hann rekur starfsemi í gegnum fasta atvinnustöð í hinu aðildarríkinu þar sem vextirnir mynduðust, eða hann leysir af hendi sjálfstæða starfsemi frá fastri stofnun staðsettri í síðarnefnda ríkinu, og skuldakrafan sem vextirnir eru greiddir af er raunverulega bundin við slíka fasta atvinnustöð eða fasta stofnun. Í því tilviki skulu, eftir því sem við á, ákvæði (7) gr. eða (14) gr. samnings þessa gilda.

(4) Þegar, vegna sérstaks sambands milli greiðanda og raunverulegs rétthafa eða milli þeirra beggja og þriðja aðila, vaxtafjárhæðin er hærri, hver svo sem ástæðan er, en sú vaxtafjárhæð sem greiðandi og raunverulegur rétthafi hefðu samið um ef þetta sérstaka samband hefði ekki verið fyrir hendi, þá skulu ákvæði þessarar greinar einungis gilda um síðarnefndu fjárhæðina. Þegar þannig stendur á skal fjárhæðin sem umfram er vera skattskyld í samræmi við löggjöf hvors aðildarríkis um sig að teknu tilliti til annarra ákvæða samnings þessa.

(5) Sérhverju ákvæði í lögum annars hvors aðildarríkis sem eingöngu lýtur að vöxtum greiddum félagi án heimilisfesti í aðildarríki skal ekki beita þannig að krafist verði að slíkir vextir greiddir félagi heimilisfóstu í hinu aðildarríkinu verði með farnir sem úthlutun eða ágóðahlutur hjá því félagi sem greiddi vextina. Framangreind setning skal ekki gilda varðandi vexti greidda félagi með heimilisfesti í öðru hvoru aðildarríkjanna ef yfirráð meira en 50 hundraðshluta atkvæðisréttar í því eru beint eða óbeint í höndum eins eða fleiri aðila sem eru heimilisfastir í hinu aðildarríkinu.

(6) Akvæði þessarar greinar skulu ekki gilda ef skuldakrafan sem af eru greiddir vextirnir var mynduð eða framseld aðallega í þeim tilgangi að njóta hagræðis þessarar greinar, en ekki vegna raunverulegra viðskiptalegra ástæðna.

(7) Ákvæði (1) tl. þessarar greinar skulu ekki gilda þegar raunverulegur rétthafi vaxtanna er félag, að undanskildu skráðu félagi, nema félagið sýni fram á að yfirráð þess séu ekki í höndum aðila eða tveggja eða fleiri tengdra eða samtengdra aðila, sem einn eða fleiri hefðu ekki átt rétt til ívilnunar samkvæmt (1) tl. þessarar greinar, ef hann hefði verið raunverulegur rétthafi vaxtanna.

(8) Í sambandi við beitingu (7) tl. þessarar greinar:

(a) er skráð félag sérhvert félag sem er með hlutabréf sín opinberlega skráð á verðbréfaþingi í því aðildarríki þar sem það er heimilisfast;

(b) nema annað leiði af ákvæðum (9) tl. þessarar greinar, skal talið að aðili eða tveir eða fleiri tengdir eða samtengdir aðilar hafi yfirráð félags ef þeir gætu talist hafa yfirráð þess í sérhverjum tilgangi samkvæemt löggjöf þess aðildarríkis þar sem vextirnir mynduðust varðandi þá skatta sem samningur þessi tekur til og aðilar skulu taldir tengdir eða samtengdir ef þeir gætu talist svo í sérhverjum tilgangi samkvæmt þessari löggjöf.

(9) Þegar maður er talinn samkvæmt staflið (b)(8) tl. þessarar greinar hafa yfirráð í félagi eingöngu vegna þeirrar staðreyndar að hann á almennan flokk hlutabréfa í félaginu sem bera full atkvæðis—og arðsréttindi og þessi maður á ekki meira en 10 hundraðshluta af heildarfjölda slíkra hlutabréfa í félaginu, skulu hlutabréfin í eigu hans ekki talin með við ákvörðun á því hvort yfirráð félagsins eru á hendi aðila eða tveggja eða fleiri tengdra eða sam-tengdra aðila, þó að því tilskildu að ekki skal skilja undan meira en 25 hundraðshluta af heildarfjölda slíkra hlutabréfa í félaginu á þennan hátt.

12. Gr

Þóknanir

(1) Þóknanir mótteknar af aðila sem er raunverulegur rétthafi þeirra og er heimilisfastur í aðildarríki skulu einungis skattlagðar í því ríki.

(2) Hugtakið "þóknanir" í þessari grein merkir hvers konar greiðslur sem tekið er við sem endurgjaldi fyrir afnot eða rétt til að hagnýta hvers konar höfundarrétt á bókmennta-, lista- eða vísindasviðinu (þar með taldar kvik-myndir og mynd- eða hljóðsegulbönd fyrir hljóðvarps- eða sjónvarpssendingar), hvers konar einkaleyfi, vörumerki, mynstur eða líkön, áætlanir, leynilega formúlu eða fram-leiðsluaðferð, eða fyrir afnot eða rétt til að hagnýta iðnaðar-, viðskipta- eða vísindabúnað eða fyrir upplýsingar um reynslu á sviði iðnaðar, viðskipta eða vísinda.

(3) Ákvæði (1) tl. þessarar greinar gilda ekki þegar raunverulegur rétthafi þóknananna er heimilisfastur í aðild-arríki og hann rekur starfsemi í gegnum fasta atvinnustöð í hinu aðildarríkinu, eða hann leysir af hendi sjálfstæða starfsemi frá fastri stofnun staðsettri í síðarnefnda rikinu, og réttindin eða eignin sem þóknanirnar stafa frá er raunverulega bundin við slíka fasta atvinnustöð eða fasta stofnun. Í því tilviki skulu, eftir því sem við á, ákvæði (7) gr. eða (14) gr. samnings þessa gilda.

(4) Þegar, vegna sérstaks sambands milli greiðanda og raunverulegs rétthafa eða milli þeirra beggja og þriðja aðila, fjárhæð þóknananna er hærri, hver svo sem ástæðan er, en sú fjárhæð sem greiðandi og raunverulegur rétthafi hefðu samið um ef þetta sérstaka samband hefði ekki verið fyrir hendi, þá skulu ákvæði þessarar greinar einungis gilda um síðarnefndu fjárhæðina. Þegar þannig stendur á skal fjárhæðin sem umfram er vera

skattskyld í samræmi við löggjöf hvors aðildarríkis um sig að teknu tilliti til annarra ákvæða samnings þessa.

(5) Ákvæði þessarar greinar skulu ekki gilda ef réttindin eða eignin sem myndar rétt til þóknananna var mynduð eða framseld aðallega í þeim tilgangi að njóta hagræðis þessarar greinar, en ekki vegna raunverulegra viðskiptalegra ástæðna.

(6) Ákvæði (1) tl. þessarar greinar skulu ekki gilda þegar raunverulegur rétthafi þóknananna er félag, að undanskildu skráðu félagi, nema félagið sýni fram á að yfirráð þess sé ekki í höndum aðila eða tveggja eða fleiri tengdra eða samtengdra aðila sem hefðu ekki átt rétt til ívilnunar samkvæmt (1) tl. þessarar greinar ef hann eða þeir hefðu verið raunverulegir rétthafar þóknananna.

(7) Í sambandi við beitingu (6) tl. þessarar greinar:

(a) er skráð félag sérhvert félag sem er með hlutabréf sín opinberlega skráð á verðbréfaþingi í því aðildarríki þar sem það er heimilisfast;

(b) nema annað leiði af ákvæoum (8) tl. þessarar greinar, skal talið að aðili eða tveir eða fleiri tengdir eða samtengdir aðilar hafi yfirráð félags ef þeir gætu talist hafa yfirráð þess í sérhverjum tilgangi samkvæmt löggjöf þess aðildarríkis þar sem þóknanirnar mynduðust varðandi þá skatta sem samningur þessi tekur til og aðilar skulu taldir tengdir eða samtengdir ef þeir gætu talist svo í sérhverjum tilgangi samkvæmt þessari löggjöf.

(8) Þegar maður er talinn samkvæmt staflið (b)(7) tl. þessarar greinar hafa yfirráð í félagi eingöngu vegna þeirrar staðreyndar að hann á almennan flokk hlutabréfa í félaginu sem bera full atkvæðis- og arðsréttindi og þessi maður á ekki meira en 10 hundraðshluta af heildarfjölda slíkra hlutabréfa í félaginu, skulu hlutabréfin í eigu hans ekki talin með við ákvörðun á því hvort yfirráð félagsins eru á hendi aðila eða tveggja eða fleiri tengdra eða samtengdra aðila, þó að því tilskildu að ekki skal skilja undan meira en 25 hundraðshluta af heildarfjölda slíkra hlutabréfa í félaginu á þennan hátt.

13. Gr

Söluhagnaður af eignum

(1) Hagfnað, sem aðili heimilisfastur í aðildarríki hlýtur af sölu fasteignar sem nánar er skilgreind í (6) gr. samnings þessa, sem staðsett er í hinu aðildarríkinu, má skattleggja í síðarnefnda ríkinu.

(2) Hagnað, sem hlýst af sölu lausafjár sem er hluti atvinnurekstrareigna fastrar atvinnustöðvar sem fyrirtæki í aðildarríki hefur í hinu aðildarríkinu, eða lausafjár sem tilheyrir fastri stofnun sem aðili heimilisfastur í aðildarríki hefur til þess að leysa af hendi sjálfstæða starfsemi í hinu aðildarríkinu, má skattleggja í síðarnefnda ríkinu. Sama gildir um slíkan hagnað af sölu á slíkri fastri atvinnustöð (einni sér eða ásamt fyrirtækinu í heild) eða slíkri fastri stofnun.

(3) Hagnað, sem hlýst af sölu skips eða loftfars sem notað er í flutningnm á alþjóðaleiðm, eða lausafjár sem tengt er notkun slíks skips eða loftfars, skal einungis skattleggja í því aðildarríki þar sem raunveruleg framkvæmdastjórn fyrirtækisins hefur aðsetur.

(4) Hagnað, sem fyrirtæki í aðildarríki hlýtur af sölu gáma (þ.m.t. tengivagnar og tengdur útbúnaður til flutnings á gámum) sem notaðir eru til flutnings á vörum, skal einungis skattleggja í því aðildarríki þar sem raunveruleg framkvæmdastjórn þessa fyrirtækis hefur aðsetur, nema að því leyti sem þessir gámar eða tengivagnar og tengdur útbúnaður er eingöngu notaður til flutnings milli staða í hinu aðildarríkinu.

(5) Hagnað, sem hlýst af sölu annarra eigna en getið er í fyrri töluliðum þessarar greinar, skal einungis skattleggja í því aðildarríki þar sem seljandinn er heimilisfastur.

14. Gr

Sjálfstæð starfsemi

(1) Tekjur, sem aðili heimilisfastur í aðildarríki hefur af sjálfstæðri starfsemi eða öðru sjálfstæðu starfi, skulu einungis vera skattskyldar í því ríki, nema hann hafi að jafnaði í hinu aðildarríkinu fasta stofnun til þess að leysa af hendi þessi störf sín. Ef hann hefur slíka fasta stofnun má leggja skatt á tekjurnar í hinu ríkinu, en þó einungis þann hluta þeirra sem rekja má til þessarar föstu stofnunar.

(2) Hugtakið "sjálfstæð starfsemi" merkir einkum sjálfstæð störf á sviði vísinda, bókmennta, lista, kennslu- og uppeldismála, svo og sjálfstæð störf lækna, lögfræðinga, verkfræðinga, arkitekta, tannlækna og endurskoðenda.

15. Gr

Launað starf

(1) Með þeim undantekningum, sem um ræðir í (16), (18) og (19) gr. samnings þessa, skulu starfslaun, vinnulaun og annað svipað endurgjald, sem aðili heimilisfastur í aðildarríki fær fyrir starf sitt, einungis skattskyld í því ríki, nema starfið sé innt af hendi í hinu aðildarríkinu. Ef starfið er innt af hendi þar má skattleggja endurgjaldið fyrir það í síðarnefnda ríkinu.

(2) Þrátt fyrir ákvæði (1) tl. þessarar greinar skal endurgjald, sem aðili heimilisfastur í aðildarríki fær fyrir starf sem hann innir af hendi í hinu aðildarríkinu, einungis vera skattskylt í fyrrnefnda ríkinu ef:

(a) viðtakandinn dvelur í hinu ríkinu í eitt eða fleiri skipti, þó ekki lengur en 183 daga samtals á sérhverju tólf mánaða tímabili; og

(b) endurgjaldið er innt af hendi af eða fyrir hönd vinnuveitanda sem ekki er heimilisfastur í hinu ríkinu; og

(c) endurgjaldið er ekki gjaldfært hjá fastri atvinnustöð eða fastri stofnun sem vinnuveitandinn rekur í hinu ríkinu.

(3) Þrátt fyrir framangreind ákvæði þessarar greinar má skattleggja endurgjald fyrir starf unnið um borð í skipi eða loftfari í flutningum álþjóðaleiðum í því aðildarríki þar sem raunveruleg framkvæmdastjórn fyrirtækisins hefur aðsetur.

16. GR

Stjórnarlaun

Stjórnarlaun og aðrar svipaðar greiðslur, sem aðili heimilisfastur í aðildarríki fær fyrir setu í stjórn í félagi sem heimilisfast er í hinu aðildarríkinu, ma skattleggja í síðarnefnda ríkinu.

17. GR

Listamenn og íþróttamenn

(1) Þrátt fyrir ákvæði (14) og (15) gr. samnings þessa má skattleggja aðila heimilisfastan í aðildarríki af tekjum sem hann aflar í hinu aðildarríkinu af persónulegum störfum sem listamaður, svo sem leikhús- eða kvikmyndaleikari, listamaður í hljóðvarpi eða sjónvarpi eða tónlistarmaður, eða sem íþróttamaður, í síðarnefnda ríkinu.

(2) Þegar tekjur af starfi, sem framkvæmt er af listamanni eða íþróttamanni sem slíkum, renna ekki til listamannsins eða íþróttamannsins sjálfs heldur til annars aðila, má, þrátt fyrir ákvæðoi (7), (14) og (15) gr. samnings þessa, skattleggja tekjurnar í því aðildarríki þar sem starfsemi listamannsins eða íþróttamannsins fer fram.

18. GR

Eftirlaun, lífeyrir, framfærslueyrir og greiðslur almannatrygginga

(1) Með þeim undantekningum sem um ræðir í (2) tl. (19) gr. samnings þessa, skulu eftirlaun og aðrar svipaðar greiðslur, framfærslueyrir og lífeyrir, svo og eftirlaun og aðrar greiðslur frá almannatryggingum greiddar aðila heimilisföstum í aðildarríki, einungis skattlagðar í því ríki.

(2) Hugtakið "lífeyrir" merkir tiltekna fjárhæð, sem greidd er manni með vissu millibili á tilteknum tímum í lifanda lífi eða yfir tiltekið tímabil eða tímabil sem unnt er að ákvarða, samkvæmt skuldbindingu um að inna þessar greiðslur af hendi gegn fullnægjandi eða fullu endurgjaldi í peningum eða ígildi peninga.

(3) Þrátt fyrir ákvæði (1) tl. þessarar greinar, skal sérhver greiðsla framfærslueyris eða annarra meðlaga, sem innt er af hendi af aðila heimilisföstum í aðildarríki til aðila heimilisfasts í hinu aðildarríkinu, einungis skattlögð í fyrrnefnda ríkinu, ef greiðandinn hefur ekki notið ívilnunar í skatti vegna greiðslunnar.

19. GR

Opinbert starf

(1) (a) Endurgjald, að undanteknum eftirlaunum, sem greitt er af aðildarríki, stjórn landshluta eða sveitarstjórn þess til manns fyrir störf hans í þjónustu þessa ríkis, stjórnar landshluta eða sveitarstjórnar, skal einungis skattleggja í því ríki.

(b) Þrátt fyrir ákvæði stafliðar a. þessa töluliðar skal þó einungis skattleggja slíkt endurgjald í hinu aðildarríkinu ef starfið er innt af hendi þar og maðurinn er heimilisfastur í því ríki og:

(i) er ríkisborgari þess ríkis; eða

(ii) tók ekki upp heimilisfesti í því ríki einvörðungu í þeim tilgangi að inna þetta starf af hendi.

(2) (a) Eftirlaun, sem greidd eru af eða úr sjóðum stofnuðum af aðildarríki, stjórn landshluta eða sveitarstjórn þess til manns fyrir störf hans í þjónustu þessa ríkis, stjórnar landshluta eða sveitarstjórnar, skal einungis skattleggja í því ríki.

(b) Þrátt fyrir ákvæði stafliðar a. Þessa töluliðar skal þó einungis skattleggja slík eftirlaun í hinu aðildarríkinu ef maðurinn er þar heimilisfastur og er ríkisborgari þess ríkis.

(3) Ákvæði (15), (16) og (18) gr. samnings þessa skulu gilda um endurgjald og eftirlaun greidd fyrir störf innt af hendi í sambandi við starfsemi sem rekin er af aðildarríki, stjórn landshluta eða sveitarstjórn þess.

20. Gr

Námsmenn og starfsnemar

Námsmaður eða starfsnemi, sem er eða var síðast fyrir komu sína til aðildarríkis heimilisfastur í hinu aðildarríkinu og sem dvelur í fyrrnefnda ríkinu einungis vegna náms síns eða þjálfunar, skal ekki vera skattlagður í fyrrnefnda ríkinu af greiðslum sem hann fær til að standa straum af framfærslu sinni, námi eða þjálfun, enda séu slíkar greiðslur til hans runnar frá aðilum utan þess ríkis.

21. Gr

Aðrar tekjur

(1) Tekjur, aðrar en tekjur sem greiddar eru út úr fjárvörslustofnunum eða dánarbúum undir skiptum, sem aðili sem er raunverulegur rétthafi þeirra og er heimilisfastur í aðildarríki aflar og ekki er fjallað um í fyrri greinum samnings þessa, skal einungis skattleggja í því ríki og skiptir ekki máli hvar þeirra er aflað.

(2) Tekjur greiddar út úr fjárvörslustofnunum eða dánarbúum undir skiptum má skattleggja í báðum aðildarríkjunum.

(3) Ákvæði (1) tl. þessarar greinar gilda ekki um tekjur, aðrar en tekjur af fasteign, sbr. skilgreiningu í (2) tl. (6) gr. samnings þessa, þegar móttakandi teknanna er heimilisfastur í aðildarríki og hann rekur starfsemi í gegnum fasta atvinnustöð í hinu aðildarríkinu, eða hann leysir af hendi sjálfstæða starfsemi frá fastri stofnun staðsettri í síðarnefnda ríkinu og réttindin eða eignin sem tekjurnar stafa frá er raunverulega bundin við slíka fasta atvinnustöð eða fasta stofnun. Í því tilviki skulu, eftir því sem við á, ákvæði (7) gr. eða (14) gr. samnings þessa gilda.

22. Gr

Áðferð til að komast hjá tvísköttun

(1) Í samræmi við ákvæði laga Sameinaða konungsríkisins varðandi veitingu frádráttar frá skatti Sameinaða konungsríkisins á greiðsluskyldum skatti á landssvæðum utan Sameinaða konungsríkisins (sem ekki skulu hafa áhrif hér á almennar grundvallarreglur):

(a) skal íslenskur skattur sem greiðsluskyldur er samkvæmt íslenskum lögum og í samræmi við ákvæði samnings þessa, hvort heldur beint eða sem frádráttur, af

hagnaði, tekjum eða skattskyldum söluhagnaði sem myndast hefur á Íslandi (undantekning gildir þó varðandi ágóðahlut að því er tekur til greiðsluskyldu skatts af þeim hagnaði sem varið er til greiðslu ágóðahlutarins) leyfður sem frádráttur frá sérhverjum skatti Sameinaða konungsríkisins reiknuðum með hliðsjón af sama hagnaði, tekjum eða skattskyldum söluhagnaði sem er grunnurinn að útreikningi íslenska skattsins;

(b) sé um að ræða ágóðahlut greiddan af félagi með heimilisfesti á Íslandi til félags með heimilisfesti í Sameinaða konungsríkinu sem hefur yfir að ráða beint eða óbeint a.m.k. 10 hundraðshlutum af atkvæðamagni í félaginu sem greiðir ágóðahlutinn, skal taka með í reikningi frádráttarins (í viðbót við sérhvern íslenskan skatt sem veita má sem frádrátt samkvæmt ákvæðum stafliðar a. þessa töluliðar) íslenska skattinn sem greiðsluskyldur er af félaginu af þeim hagnaði sem af var greiddur slíkur ágóðahlutur.

(2) (a) Þegar aðili heimilisfastur á Íslandi hefur tekjur sem samkvæmt ákvæðum samnings þessa má skattleggja í Sameinaða konungsríkinu, skal Ísland—nema annað leiði af ákvæðum stafliðar b. þessa töluliðar—undanþiggja þessar tekjur skattlagningu, en má, þegar reiknaður er skattur af öðrum tekjum þessa aðila, nota þann skattstiga sem notaður hefði verið ef undanþegnu tekjurnar hefðu ekki verið þannig undanþegnar.

(b) Þegar aðili heimilisfastur á Íslandi hefur tekjur sem skattleggja má í Sameinaða konungsríkinu samkvæmt ákvæðum (10), (16) og (17) gr. og (2) tl. (21) gr. samnings þessa skal Ísland leyfa sem frádrátt frá skatti af tekjum þessa aðila fjárhæð jafna skatti greiddum í Sameinaða konungsríkinu. Frádráttur þessi skal þó ekki nema hærri fjárhæð en þeim hluta skattsins reiknaðs áður en frádráttur er veittur sem svarar til teknanna frá Sameinaða konungsríkinu.

(3) Við beitingu (1) og (2) tl. þessarar greinar skal hagnaður, tekjur og söluhagnaður eigna sem aðili heimilisfastur í aðildarríki aflar og sem skattleggja má í hinu aðildarríkinu samkvæmt samningi þessum talinn eiga uppruna sinn í síðarnefnda aðildarríkinu.

23. Gr

Jafnrétti

(1) Ríkisborgarar aðildarríkis skulu ekki sæta annarri eða þyngri skattlagningu eða kröfum í því sambandi í hinu aðildarríkinu en ríkisborgarar þess ríkis sæta eða gætu sætt við sömu aðstæður.

(2) Skattlagning fastrar atvinnustöðvar sem fyrirtæki í aðildarríki hefur í hinu aðildarríkinu skal ekki vera óhagstæðari í síðarnefnda ríkinu en skattlagning á fyrirtæki þar sem hafa sams konar starfsemi með höndum.

(3) Eigi ákvæði (1) tl. (9) gr., (4) og (5) tl. (11) gr. eða (4) tl. (12) gr. ekki við skulu vextir, þóknun og aðrar greiðslur frá fyrirtæki í aðildarríki til aðila heimilisfasts í hinu aðildarríkinu vera frádráttarbærar við ákvörðun skattskyldra tekna slíks fyrirtækis eftir sömu reglum og greiðslur til aðila heimilisfasts í fyrrnefnda ríkinu.

(4) Þótt fjármagn fyrirtækja í aðildarríki sé að öllu eða nokkru leyti, beint eða óbeint, í eigu eða stjórnað af einum eða fleirum aðilum, sem eru heimilisfastir í hinu aðildarríkinu, skulu þau ekki vera háð annarri eða þyngri skattlagningu eða öðrum skyldum í því sambandi í fyrrnefnda ríkinu en fyrirtæki svipaðrar tegundar í því ríki eru eða gætu orðið háð.

(5) Engin ákvæði þessarar greinar skal skýra þannig að þau skyldi annað hvort aðildarríkið til að veita mönnum án heimilisfesti í því ríki neina þá persónufrádrætti, ivilnanir og lækkun skatta sem það veitir mönnum þar heimilisföstum.

(6) Ákvæði þessarar greinar skulu gilda um þá skatta sem um er að ræða samkvæmt samningi þessum.

24. GR

Framkvæmd gagnkvæms samkomulags

(1) Þegar aðili telur að ráðstafanir sem gerðar eru af öðru hvoru eða báðum aðildarríkjunum leiði til eða muni leiða til skattlagningar að því er hann varðar sem ekki er í samræmi við ákvæði samnings þessa, getur hann, án þess að það raski rétti hans til að færa sér í nyt réttarvernd sem löggjöf þessara ríkja kveður á um, lagt málið fyrir bært stjórnvald í því aðildarríki þar sem hann er heimilisfastur.

(2) Ef bært stjórnvald telur að mótmælin séu á rökum reist en getur þó ekki sjálft leyst málið á viðunandi hátt skal það leitast við að leysa málið með gagnkvæmu samkomulagi við bært stjórnvald í hinu aðildarríkinu í því skyni að komist verði hjá skattlagningu sem ekki er í samræmi við ákvæði samnings þeesa.

(3) Bær stjórnvold í aðildarríkjunum skulu með gagnkvæmu samkomulagi leitast við að leysa sérhvern vanda eða vafaatriði varðandi skýringu eða beitingu ákvæða samningsins. Þau geta einnig ráðgast sín á milli til íhugunar ráðstafana til að sporna við óviðeigandi notkun ákvæða samnings þessa.

(4) Bær stjórnvold í aðildarríkjunum geta haft beint samband sín á milli í því akyni að gera samkomulag í samræmi við það sem um er rætt i þessari grein.

25. GR

Skipti á upplýsingum

(1) Bær stjórnvold í aðildarríkjunum skulu skiptast á þeim upplýsingum sem nauðsynlegar eru vegna framkvæmdar ákvæða samnings þessa eða innlendrar löggjafar aðildarríkjanna varðandi þá skatta sem samningurinn tekur til að því leyti sem viðkomandi skattlagning er í samræmi við samninginn, einkum til að koma í veg fyrir svik og til að auðvelda framkvæmd lagaákvæða sem sporna við því að komist verði hjá skattlagningu. Allar upplýsingar móttenkrar af aðildarríki skal með fara sem trúnaðarmál á sama hátt og upplýsingar sem aflað er samkvæmt innlendri löggjöf þess ríkis og skal eingöngu gera kunnar aðilum eða stjórnvöldum (þar með töldum dómstólum og framkvæmdaraðilum) sem hafa með höndum ákvörðun eða innheimtu á þeim sköttum eða fullnustueða ákæruvald varðandi þá skatta sem samningurinn tekur til. Þessir aðilar eða stjórnvöld skulu nota upplýsingarnar eingöngu í greindum tilgangi. Þeir mega þó gera þessar upplýsingar. opinberar við málarekstur fyrir dómstólum eða í dómsniðurstöðum.

(2) Akvæði (1) tl. þessarar greinar skal í engu tilviki skýra þannig að þau leggi á aðildarríki skyldu til:

(a) að framkvæma stjórnarráðstafanir sem víkja frá löggjöf eða stjórnvenju þess sjálfs eða hins aðildarríkisins,

(b) að láta í té upplýsingar sem ekki er unnt að afla samkvæmt löggjöf eða eðlilegri stjórnvenju þess sjálfs eða hins aðildarríkisins,

(c) að láta í té upplýsingar sem mundu ljóstra upp leyndarmálum eða framleiðsluaðferðum á sviði atvinnumála, viðskipta, iðnaðar, verslunar eða annarrar starfsemi, svo og upplýsingar sem gagnstætt er almenningshagsmunum (ordre public) að gefa.

26. GR

Sendiráðsmenn eða starfsmenn fastanefnda og ræðisstofnana

Akvæði samnings þessa skulu ekki hafa áhrif á neinar þær skattaivilnanir sem sendiráðsmenn eðo starfsmenn fastanefnda eða ræðisstofnana hjóta samkvæmt almennum þjóðréttarreglum eða ákvæðum sérstakra samninga.

27. GR

Gildistaka

(1) Hvort aðildarríkjanna um sig skal tilkynna hinu aðildarríkinu að nauðsynlegri málsmeðferð samkvæmt löggjöf þess að því er varðar gildistöku samningsins hafi verið lokið.

(2) Samningurinn skal taka gildi á þeim degi sem síðari tilkynningin hefur verið móttekin og skal að svo búnu beitt:

(a) í Sameinaða konungsríkinu:

(i) að því er varðar tekjuskatt og skatt af söluhagnaði eigna, fyrir sérhvert álagningarár sem hefst 6. apríl eða síðar;

(ii) að því er varðar félagaskatt fyrir sérhvert fjárhagsár sem hefst 1. apríl eða síðar;

(b) á Íslandi:

að því ee varðar skatta af tekjum og söluhagnaði eigna sem aflað er frá og með 1. janúar, par með talið sérhvert reikningsár sem lýkur á því tímabili;

í báðum tilvikum á því almanaksári sem fylgir næst á eftir því ári sem síðari tilkynningin var móttekin og síðarí ár.

(3) Samkomulag milli Sameinaða konungsríkisins og Íslands um gagnkvæma undanþágu frá tekjuskatti af skipaútgerð sem undirritað var í Lundúnum 27. apríl 1928 skal falla úr gildi og skal ekki beitt frá og með þeim degi sem beita skal ákvæðum samnings þessa að því er tekur til þeirra skatta sem samningur þessi tekur til samkvæmt ákvæðum (2) tl. þessarar greinar.

28. GR

Uppsögn

Samningur þessi skal gilda þar til honum er sagt upp af öðru hvoru aðildarríkjanna. Eftir árið 1995 getur hvort aðildarríkjanna um sig sagt upp, samningi þessum með tilkynningu um uppsögn eftir diplomatískum leiðum eigi síðar en sex mánuðum fyrir lok sérhvers almanaksárs. Í slíku tilviki skal samningnum ekki beitt:

(a) í Sameinaða konungsríkinu:

(i) að því er varðar tekjuskatt og skatt af söluhagnaði eigna, fyrir sérhvert álagningarár sem hefst 6. apríl á því almanaksári sem fylgir næst á eftir því ári sem tilkynningin var send eða síðar;

(ii) að því er varðar félagaskatt fyrir sérhvert fjárhagsár sem hefst 1. apríl á því almanaksári sem fylgir næst á eftir því ári sem tilkynningin var send eða síðar;

(b) á Íslandi:

að því er varðar skatta af tekjum og söluhagnaði eigna fyrir sérhvert álagningarár skatta álagðra á tekjur og söluhagnað eigna á því almanaksári (þar með talið reikningsár sem lýkur á slíku ári) sem fylgir næst á eftir því ári sem tilkynning um uppsögn var send og síðari ár.

Þessu til staðfestu hafa fulltrúar, sem til þess höfðu fullt umboð ríkisstjórna sinna, undirritað samning þennan.

Gjört í tvíriti í Reykjavík 30. september 1991 á ensku og íslensku og skulu báðir textarnir jafngildir.

Fyrir hönd ríkisstjórnar
Sameinaða konungsríkisins
Stóra-Bretlands og Norður-Írlands:

PATRICK WOGAN

Fyrir hönd ríkisstjórnar
Lýðveldisins Íslands:

SIGURBJORN THORBJORNSSON

[TRADUCTION — TRANSLATION]

CONVENTION[1] ENTRE LE GOUVERNEMENT DU ROYAUME-UNI DE GRANDE-BRETAGNE ET D'IRLANDE DU NORD ET LE GOUVERNEMENT DE LA RÉPUBLIQUE D'ISLANDE TENDANT À ÉVITER LA DOUBLE IMPOSITION ET À PRÉVENIR L'ÉVASION FISCALE EN MATIÈRE D'IMPÔTS SUR LE REVENU ET SUR LES GAINS EN CAPITAL

Le Gouvernement du Royaume-Uni de Grande-Bretagne et d'Irlande du Nord et le Gouvernement de la République d'Islande,

Désireux de conclure une nouvelle Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et d'impôts sur les gains en capital,

Sont convenus de ce qui suit :

Article premier. PERSONNES VISÉES

La présente Convention s'applique aux personnes qui sont des résidents de l'un des Etats contractants ou des deux.

Article 2. IMPÔTS VISÉS

1) Les impôts qui font l'objet de la présente Convention sont les suivants :

a) Au Royaume-Uni de Grande-Bretagne et d'Irlande du Nord :

i) L'impôt sur le revenu;

ii) L'impôt sur les sociétés;

iii) L'impôt sur les gains en capital;

(ci-après dénommés « impôt du Royaume-Uni »);

b) En Islande :

i) L'impôt d'Etat sur le revenu;

ii) L'impôt municipal sur le revenu;

(ci-après dénommés « impôt islandais »).

2) La présente Convention s'applique également à tout impôt de nature identique ou analogue que l'un ou l'autre des Etats contractants peut, après la date de signature de la Convention, ajouter ou substituer aux impôts visés au paragraphe 1 du présent article. Les autorités compétentes des Etats contractants se communiquent toutes modifications de fond apportées à leurs législations fiscales respectives.

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[1] Entrée en vigueur le 19 décembre 1991, date de réception de la dernière des notifications par lesquelles les Parties contractantes se sont informées de l'accomplissement des procédures requises par leur législation pour la mise en application de la présente Convention, conformément aux paragraphes 1 et 2 de l'article 27.

Article 3. DÉFINITIONS GÉNÉRALES

1) Aux fins de la présente Convention, à moins que le contexte n'impose une interprétation différente :

a) Le terme « Royaume-Uni » s'entend de la Grande-Bretagne et de l'Irlande du Nord, y compris toute région située en dehors des eaux territoriales du Royaume-Uni qui, conformément au droit international, a été ou peut être désignée, en application de la législation du Royaume-Uni relative au plateau continental, comme constituant une région à l'intérieur de laquelle le Royaume-Uni peut exercer ses droits sur les fonds marins et leur sous-sol et leurs ressources naturelles;

b) Le terme « Islande » s'entend de la République d'Islande, y compris toute région adjacente aux eaux territoriales de l'Islande, à l'intérieur de laquelle et conformément à la législation islandaise et au droit international l'Islande possède des droits souverains aux fins de prospection et d'exploitation des ressources naturelles des fonds marins et de leur sous-sol;

c) Le terme « ressortissant » s'entend :

i) En ce qui concerne le Royaume-Uni, de tout citoyen britannique et de tout sujet britannique ne possédant pas la citoyenneté d'un autre pays ou territoire du Commonwealth, pourvu que l'intéressé ait le droit de séjourner au Royaume-Uni, et de toute personne juridique, société de personnes, association ou autre entité qui tient son statut du droit en vigueur au Royaume-Uni;

ii) En ce qui concerne l'Islande, de tout individu possédant la nationalité islandaise et de toute personne morale, société de personnes, association ou autre entité qui tient son statut du droit en vigueur en Islande;

d) Le terme « impôt » s'entend, selon le contexte, de l'impôt du Royaume-Uni ou de l'impôt islandais;

e) Les expressions « l'un des Etats contractants » et « l'autre Etat contractant » s'entendent, selon le contexte, du Royaume-Uni ou de l'Islande;

f) Le terme « personne » couvre une personne physique, une société et tout autre groupement de personnes, à l'exception des sociétés de personnes qui ne sont pas traitées comme étant des personnes morales aux fins d'imposition dans l'un ou l'autre Etat contractant;

g) Le terme « société » désigne une personne morale ou toute entité qui est traitée comme une personne morale aux fins d'imposition;

h) Les expressions « entreprise de l'un des Etats contractants » et « entreprise de l'autre Etat contractant » s'entendent, respectivement, d'une entreprise exploitée par un résident de l'un des Etats contractants et d'une entreprise exploitée par un résident de l'autre Etat contractant;

i) L'expression « trafic international » s'entend de tout transport effectué par un navire ou un aéronef exploité par une entreprise dont le siège de direction effective est situé dans l'un des Etats contractants, sauf lorsque le navire ou l'aéronef n'est exploité qu'entre des points situés dans l'autre Etat contractant;

j) L'expression « subdivision politique » désigne, en ce qui concerne le Royaume-Uni, l'Irlande du Nord;

k) L'expression « autorité compétente » s'entend, dans le cas du Royaume-Uni, des « Commissioners of Inland Revenue » ou de leur représentant autorisé et, dans le cas de l'Islande, du Ministre des finances ou de son représentant autorisé.

2) Aux fins de l'application de la Convention par l'un des Etats contractants, une expression non définie dans la Convention aura, à moins que le contexte n'impose une interprétation différente, le sens que lui attribue le droit de cet Etat au regard des impôts auxquels s'applique la Convention.

Article 4. DOMICILE FISCAL

1) Aux fins de la présente Convention, l'expression « résident de l'un des Etats contractants » s'entend de toute personne qui, en vertu de la législation de cet Etat, est assujettie à l'impôt dans ledit Etat en raison de son domicile, de sa résidence, de son siège de direction ou de tout autre critère du même ordre. N'est pas couverte par cette expression une personne assujettie à l'impôt dans cet Etat exclusivement au regard du revenu dont la source est dans cet Etat ou au regard du capital qui y est situé.

2) Si, par application des dispositions du paragraphe 1, une personne physique se trouve être un résident des deux Etats contractants, sa situation est réglée de la manière suivante :

a) La personne est réputée être un résident de l'Etat où elle dispose d'un foyer d'habitation permanent : si elle dispose d'un foyer d'habitation permanent dans les deux Etats, elle est réputée être un résident de l'Etat avec lequel elle a les liens personnels et économiques les plus étroits (centre des intérêts vitaux);

b) Si l'on ne peut déterminer dans quel Etat se trouve le centre de ses intérêts vitaux ou si elle ne dispose de foyer d'habitation permanent dans aucun des deux Etats, la personne est réputée être un résident de l'Etat où elle séjourne habituellement;

c) Si elle séjourne habituellement dans les deux Etats ou si elle ne séjourne habituellement dans aucun d'eux, la personne est réputée être un résident de l'Etat dont elle est un ressortissant;

d) Si la personne est un ressortissant des deux Etats ou ne l'est d'aucun des deux, les autorités compétentes des Etats contractants règlent la question d'un commun accord.

3) Si, par application des dispositions du paragraphe 1, une personne autre qu'une personne physique est un résident des deux Etats contractants, elle est réputée être un résident de l'Etat où le siège de direction effective est situé.

Article 5. ETABLISSEMENT STABLE

1) Aux fins de la présente Convention, l'expression « établissement stable » s'entend d'une installation fixe d'affaires par l'intermédiaire de laquelle une entreprise exerce tout ou partie de son activité.

2) L'expression « établissement stable » couvre en particulier :

a) Un siège de direction;

b) Une succursale;

c) Un bureau;

d) Une usine;

e) Un atelier;

f) Une installation ou structure utilisée pour la prospection des ressources naturelles;

g) Une mine, un puits de pétrole ou de gaz, une carrière ou tout autre lieu d'extraction de ressources naturelles.

3) Un chantier de construction, d'installation ou de montage ne constitue un établissement stable qu'au-delà de 12 mois d'existence.

4) Nonobstant les dispositions précédentes du présent article, l'expression « établissement stable » n'est pas réputée couvrir :

a) L'usage d'installations aux seules fins de stockage, d'exposition ou de livraison de produits ou marchandises appartenant à l'entreprise;

b) L'entreposage de produits ou marchandises appartenant à l'entreprise aux seules fins de stockage, d'exposition ou de livraison;

c) L'entreposage de produits ou marchandises appartenant à l'entreprise aux seules fins de transformation par une autre entreprise;

d) Le maintien d'une installation fixe d'affaires aux seules fins d'acheter des produits ou marchandises ou de recueillir des renseignements pour l'entreprise;

e) Le maintien d'une installation fixe d'affaires aux seules fins d'exercer, pour l'entreprise, d'autres activités de caractère préparatoire ou auxiliaire;

f) Le maintien d'une installation fixe d'affaires aux seules fins d'exercer, selon quelque combinaison que ce soit, des activités visées aux alinéas *a* à *e*, pourvu que l'activité cumulée de l'installation fixe d'affaires ait un caractère préparatoire ou auxiliaire.

5) Nonobstant les dispositions des paragraphes 1 et 2 du présent article, lorsqu'une personne — autre qu'un agent jouissant d'un statut indépendant et auquel s'applique le paragraphe 6 du présent article — agit pour le compte d'une entreprise et dispose dans l'un des Etats contractants de pouvoirs qu'elle y exerce habituellement et qui lui permettent de conclure des contrats au nom de l'entreprise, celle-ci est réputée avoir un établissement stable dans cet Etat au regard de toutes les activités que cette personne exerce pour l'entreprise, à moins que les activités de la personne dont il s'agit ne soient limitées à celles visées au paragraphe 4 du présent article qui, si elles étaient exercées par l'intermédiaire d'une installation fixe d'affaires, ne conféreraient pas à ladite installation le caractère d'un établissement stable au sens dudit paragraphe 4.

6) Une entreprise n'est pas réputée avoir un établissement stable dans l'un des Etats contractants du seul fait qu'elle y exerce une activité par l'entremise d'un courtier, d'un commissionnaire général ou d'un autre agent jouissant d'un statut indépendant, à condition que ce dernier agisse dans le cadre ordinaire de son activité.

7) Le fait qu'une société qui est un résident de l'un des Etats contractants contrôle une société ou est contrôlée par une société qui est un résident de l'autre Etat contractant ou qui y exerce son activité, que ce soit par l'intermédiaire d'un établissement stable ou autrement, ne suffit pas, en soi, à faire de l'une quelconque de ces sociétés un établissement stable de l'autre.

Article 6. REVENUS IMMOBILIERS

1) Les revenus qu'un résident de l'un des Etats contractants tire de biens immobiliers (y compris les revenus des exploitations agricoles ou forestières) situés dans l'autre Etat contractant peuvent être imposés dans ce dernier.

2) L'expression « biens immobiliers » a le sens que lui attribue le droit de l'Etat contractant où les biens considérés sont situés. L'expression couvre en tout état de cause les accessoires, le cheptel mort ou vif des exploitations agricoles et forestières, les droits régis par les dispositions du droit commun de la propriété foncière, l'usufruit des biens immobiliers et les droits donnant lieu au paiement de rémunérations variables ou fixes en contrepartie de l'exploitation, ou du droit d'exploitation, de gisements minéraux, de sources et d'autres ressources naturelles; les navires, les bateaux et les aéronefs ne sont pas réputés constituer des biens immobiliers.

3) Les dispositions du paragraphe 1 du présent article s'appliquent aux revenus provenant tant de l'exploitation directe que de la location ou d'une quelconque autre forme d'exploitation des biens immobiliers.

4) Les dispositions des paragraphes 1 et 3 du présent article s'appliquent aussi aux revenus provenant de biens immobiliers d'une entreprise et aux revenus provenant de biens immobiliers servant à l'exercice d'une profession indépendante.

Article 7. BÉNÉFICES DES ENTREPRISES

1) Les bénéfices d'une entreprise de l'un des Etats contractants ne sont imposables que dans cet Etat, à moins que l'entreprise n'exerce son activité dans l'autre Etat contractant par l'intermédiaire d'un établissement stable qui y est situé. Dans ce cas, lesdits bénéfices ne peuvent être imposés dans l'autre Etat que dans la mesure où ils sont imputables audit établissement stable.

2) Sous réserve des dispositions du paragraphe 3 du présent article, lorsqu'une entreprise de l'un des Etats contractants exerce son activité dans l'autre Etat contractant par l'intermédiaire d'un établissement stable qui y est situé, il est imputé à cet établissement stable, dans chaque Etat contractant, les bénéfices qu'il aurait pu réaliser s'il avait eu le statut d'entreprise distincte et séparée exerçant des activités identiques ou analogues dans des conditions elles-mêmes identiques ou analogues et traitant en toute indépendance avec l'entreprise dont il constitue un établissement stable.

3) Pour déterminer les bénéfices d'un établissement stable, sont admises en déduction les dépenses encourues aux fins poursuivies par cet établissement, y compris les dépenses de direction et les frais généraux d'administration, que ce soit dans l'Etat où est situé l'établissement stable ou ailleurs, et qui sont, de manière suffisamment plausible, liées aux bénéfices imputables à l'établissement stable.

4) S'il est d'usage, dans un Etat contractant, de déterminer les bénéfices imputables à un établissement stable sur la base d'une répartition des bénéfices totaux de l'entreprise entre ses diverses parties, aucune disposition du paragraphe 2 n'empêche cet Etat contractant de déterminer les bénéfices imposables selon la répartition en usage; la méthode de répartition adoptée doit cependant être telle que le résultat obtenu soit conforme aux principes contenus dans le présent article.

5) Aucun bénéfice n'est imputé à un établissement stable du seul fait qu'il a acheté des produits ou marchandises pour l'entreprise.

6) Aux fins des paragraphes précédents, les bénéfices à imputer à l'établissement stable sont déterminés chaque année selon la même méthode, à moins qu'il n'existe des motifs valables et suffisants de procéder autrement.

7) Lorsque les bénéfices comprennent des éléments de revenu ou de gains en capital traités séparément dans d'autres articles de la présente Convention, les dispositions du présent article s'entendent sans préjudice des dispositions de ces autres articles.

Article 8. NAVIGATION MARITIME ET AÉRIENNE

1) Les bénéfices provenant de l'exploitation en trafic international de navires ou d'aéronefs ne sont imposables que dans l'Etat contractant où le siège de direction effective de l'entreprise est situé.

2) Si le siège de direction effective d'une entreprise de navigation maritime est situé à bord d'un navire, ce siège est réputé être situé dans l'Etat contractant où se trouve le port d'attache du navire ou, à défaut de port d'attache, dans celui des Etats contractants dont l'exploitant du navire est un résident.

3) Lorsque les bénéfices visés au paragraphe 1 du présent article proviennent de la participation d'une entreprise d'un Etat contractant à un pool, une exploitation en commun ou un organisme international d'exploitation, les bénéfices imputables à cette entreprise ne sont imposables que dans l'Etat contractant où est situé son siège de direction effective.

4) Nonobstant les dispositions de l'article 7 de la présente Convention, les bénéfices qu'une entreprise d'un Etat contractant tire de l'exploitation, de l'entretien ou de la location de conteneurs (y compris les remorques et les matériels accessoires destinés au transport des conteneurs) utilisés pour le transport de marchandises ne sont imposables que dans l'Etat contractant où est situé le siège de direction effective de cette entreprise, sauf si ces conteneurs ou ces remorques et ces matériels accessoires sont utilisés pour des transports uniquement entre des lieux situés dans l'autre Etat contractant.

Article 9. ENTREPRISES ASSOCIÉES

1) Lorsque :

a) Une entreprise de l'un des Etats contractants participe directement ou indirectement à la direction, au contrôle ou au capital d'une entreprise de l'autre Etat contractant, ou bien

b) Les mêmes personnes participent directement ou indirectement à la direction, au contrôle ou au capital d'une entreprise de l'un des Etats contractants et d'une entreprise de l'autre Etat contractant,

et que, dans l'un ou l'autre cas, les deux entreprises sont, dans leurs relations commerciales ou financières, liées par des conditions convenues ou imposées qui diffèrent de celles qui seraient convenues entre entreprises indépendantes, les bénéfices qui, n'étaient ces conditions, auraient été imputés à l'une de ces entreprises mais ne l'ont pas été du fait de ces conditions peuvent être inclus dans les bénéfices ou les pertes de l'entreprise considérée et imposés en conséquence.

2) Lorsqu'un Etat contractant inclut dans les bénéfices d'une entreprise de cet Etat — et impose en conséquence — des bénéfices sur lesquels une entreprise de l'autre Etat contractant a été imposée dans cet autre Etat, et que les bénéfices ainsi inclus sont des bénéfices qui auraient été réalisés par l'entreprise du premier Etat si les conditions convenues entre les deux entreprises avaient été celles qui auraient été convenues entre des entreprises indépendantes, l'autre Etat procède à un ajustement approprié du montant de l'impôt qui y a été perçu sur ces bénéfices. Pour déterminer cet ajustement, il est tenu compte des autres dispositions de la Convention et, si c'est nécessaire, les autorités compétentes des Etats contractants se consultent.

Article 10. DIVIDENDES

1. *a*) i) Les dividendes provenant d'une société qui est un résident du Royaume-Uni dont le bénéficiaire est un résident de l'Islande sont imposables en Islande.

ii) Lorsqu'un résident de l'Islande a droit à un crédit d'impôt au titre d'un tel dividende en application de l'alinéa *b* du présent paragraphe, l'impôt peut également être perçu au Royaume-Uni, conformément à la législation de ce dernier, sur l'ensemble du montant ou de la valeur de ce dividende et du montant de ce crédit d'impôt, à un taux n'excédant pas 15 p. 100.

iii) Sous réserve des dispositions de l'alinéa *a*, ii du présent paragraphe, les dividendes provenant d'une société qui est un résident du Royaume-Uni et dont le bénéficiaire effectif est un résident de l'Islande sont exonérés au Royaume-Uni de tout impôt applicable aux dividendes.

b) Un résident de l'Islande qui perçoit des dividendes d'une société qui est un résident du Royaume-Uni a droit, à ce titre, sous réserve des dispositions de l'alinéa *c* du présent paragraphe et à condition d'être le bénéficiaire effectif de ces dividendes, au même crédit d'impôt que celui dont bénéficierait une personne physique résidente du Royaume-Uni si cette personne avait perçu ces dividendes, ainsi qu'au remboursement de tout crédit d'impôt qui excéderait les montants dus au titre de l'impôt au Royaume-Uni.

c) Les dispositions de l'alinéa *b* du présent paragraphe ne s'appliquent pas si le bénéficiaire effectif des dividendes est une société qui, seule ou en association avec une ou plusieurs sociétés, contrôle directement ou indirectement 10 p. 100 au moins des voix attribuées dans la société attributrice des dividendes. Au sens du présent alinéa, deux sociétés sont réputées associées si l'une contrôle directement ou indirectement plus de 50 p. 100 des voix attribuées dans l'autre ou si une troisième société contrôle plus de 50 p. 100 des voix attribuées dans les deux premières.

d) i) Nonobstant les dispositions des alinéas *b* et *c* du présent paragraphe, aucun crédit d'impôt n'est accordé lorsque le bénéficiaire effectif des dividendes est une société, autre qu'une société dont les actions sont officiellement cotées dans une bourse islandaise de valeurs, à moins que la société prouve qu'elle n'est pas contrôlée par une personne, ou par deux ou plusieurs personnes associées ou liées entre elles, qui n'aurait pas, ou dont l'une n'aurait pas, eu droit à un crédit d'impôt si elle avait été le bénéficiaire effectif des dividendes.

ii) Aux fins du présent alinéa, une personne, ou deux ou plusieurs personnes associées ou liées entre elles, est réputée ou sont réputées contrôler une société si,

conformément à la législation du Royaume-Uni relative aux impôts visés par la présente Convention, elle peut, ou elles peuvent, être considérées comme la contrôlant à une fin quelconque, et des personnes sont réputées associées ou liées entre elles si, conformément à ladite législation, elles peuvent être ainsi considérées à une fin quelconque. Toutefois, lorsqu'une personne physique est réputée contrôler une société du seul fait qu'elle détient des actions ordinaires de cette société donnant droit de vote et droit à des dividendes et qu'elle ne détient pas plus de 10 p. 100 du nombre total desdites actions de la société, il n'est pas tenu compte des actions qu'elle détient pour déterminer si la société est contrôlée par une personne, ou par deux ou plusieurs personnes associées ou liées entre elles, qui n'aurait pas, ou dont l'une n'aurait pas, eu droit à un crédit d'impôt si elle avait été le bénéficiaire effectif des dividendes payables à la société, étant entendu que le nombre des actions dont il n'est pas tenu compte ne peut excéder 25 p. 100 du nombre total desdites actions de la société.

2) Les dividendes versés par une société qui est un résident de l'Islande à un résident du Royaume-Uni sont imposables au Royaume-Uni. Ces dividendes sont également imposables en Islande et conformément à la législation de l'Islande mais, lorsque la personne qui reçoit les dividendes en est le bénéficiaire effectif, l'impôt ainsi prélevé ne peut excéder :

a) 5 p. 100 du montant brut des dividendes si le bénéficiaire effectif est une société (autre qu'une société de personnes) qui contrôle directement 10 p. 100 au moins des voix de la société distributrice des dividendes;

b) Dans tous les autres cas, 15 p. 100 du montant brut des dividendes.

3) Nonobstant les dispositions de l'alinéa *a* du paragraphe 2 du présent article, les dividendes versés par une société qui est un résident de l'Islande à une société qui est un résident du Royaume-Uni sont imposables en Islande, à un taux qui n'excède pas 15 p. 100, sur la portion des dividendes qui, selon la législation islandaise, est autorisée en déduction des bénéfices ou à être reportée en tant que perte d'exploitation de la société islandaise qui paie les dividendes.

4) Aux fins de l'impôt du Royaume-Uni, le terme « dividendes » comprend tout élément qui, en vertu de la législation du Royaume-Uni, est assimilé à un bénéfice distribué et, aux fins de l'impôt islandais, comprend tout élément qui, en vertu de la législation de l'Islande, est assimilé à un bénéfice distribué.

5) Les dispositions du paragraphe 1 ou, selon le cas, des paragraphes 2 ou 3 du présent article ne s'appliquent pas lorsque le bénéfice effectif des dividendes, résident de l'un des Etats contractants, exerce, dans l'autre Etat contractant dont la société distributrice des dividendes est un résident, une activité industrielle ou commerciale par l'intermédiaire d'un établissement stable qui y est situé, ou exerce dans ledit Etat une profession indépendante à partir d'une base fixe qui y est située, et que la participation génératrice des dividendes se rattache effectivement à l'établissement stable ou à la base fixe. En pareil cas, les dispositions de l'article 7 ou éventuellement de l'article 14 sont applicables.

6) Lorsqu'une société qui est un résident de l'un des Etats contractants tire des bénéfices ou des revenus de l'autre Etat contractant, cet autre Etat ne peut prélever aucun impôt sur les dividendes payés par la société, sauf dans la mesure où ces dividendes sont payés à un résident de cet autre Etat ou bien dans la mesure où la participation génératrice des dividendes se rattache effectivement à un établissement stable ou à une base fixe situés dans cet autre Etat; l'autre Etat ne peut pas non

plus prélever un impôt, au titre de l'imposition des bénéfices non distribués en tant que telle, sur les bénéfices correspondants de la société, même si les dividendes payés ou les bénéfices non distribués consistent en tout ou en partie en bénéfices ou revenus provenant de cet autre Etat.

7) Si le bénéficiaire effectif des dividendes qui est un résident de l'un des Etats contractants détient 10 p. 100 au moins de la catégorie des actions génératrices de dividendes, les dispositions du paragraphe 1 ou, selon le cas, les paragraphes 2 et 3 du présent article ne s'appliquent pas auxdits dividendes dans la mesure où ils n'ont pu être prélevés que sur des bénéfices que la société distributrice a réalisés ou sur d'autres revenus qu'elle a perçus au cours de la période ayant pris fin 12 mois au moins avant la date de référence. Aux fins du présent paragraphe, les mots « date de référence » désignent la date à laquelle le bénéficiaire effectif des dividendes est devenu propriétaire de 10 p. 100 au moins des actions de la catégorie considérée.

Toutefois, les dispositions du présent paragraphe ne s'appliquent pas si le bénéficiaire effectif des dividendes prouve que les actions ont été acquises pour des raisons authentiquement commerciales et non dans le but principal de s'assurer le bénéfice des dispositions du présent article.

Article 11. INTÉRÊTS

1) Les intérêts provenant de l'un des Etats contractants et dont le bénéficiaire effectif est un résident de l'autre Etat contractant ne sont imposables que dans cet autre Etat.

2) Le terme « intérêts » comprend, aux fins de l'impôt du Royaume-Uni, tous éléments assimilés à des intérêts par la législation du Royaume-Uni et, aux fins de l'impôt islandais, tous éléments assimilés à des intérêts par la législation islandaise mais ne s'applique pas à tout élément assimilé à des dividendes en vertu des dispositions de l'article 10 de la présente Convention.

3) Les dispositions du paragraphe 1 du présent article ne s'appliquent pas lorsque le bénéficiaire effectif des intérêts, résident de l'un des Etats contractants, exerce, dans l'autre Etat contractant d'où proviennent les intérêts, une activité industrielle ou commerciale par l'intermédiaire d'un établissement stable qui y est situé, ou exerce dans ledit Etat une profession indépendante à partir d'une base fixe qui y est située, et que la créance génératrice des intérêts se rattache effectivement à l'établissement ou à la base. En pareil cas, les dispositions de l'article 7 ou éventuellement de l'article 14 sont applicables.

4) Lorsque, en raison de relations spéciales existant entre le débiteur et le bénéficiaire effectif ou entre tous deux et une tierce personne, le montant des intérêts excède, pour une raison quelconque, celui dont le débiteur et le bénéficiaire effectif seraient convenus en l'absence de pareilles relations, les dispositions du présent article ne s'appliquent qu'à ce dernier montant. En pareil cas, la partie excédentaire des paiements reste imposable, conformément à la législation de chaque Etat contractant, compte dûment tenu des autres dispositions de la présente Convention.

5) Les dispositions de la législation d'un Etat contractant qui ont exclusivement trait aux intérêts payés à une société non résidente ne peuvent être interprétées comme signifiant que les intérêts payés à une société qui est un résident de l'autre Etat contractant doivent être assimilés à des revenus distribués ou à des dividendes

par la société ayant ces intérêts. La disposition énoncée à la phrase précédente ne s'applique pas aux intérêts payés par une société qui est un résident d'un des Etats et dans laquelle plus de 50 p. 100 des voix sont contrôlées, directement ou indirectement, par une ou plusieurs personnes qui sont des résidents de l'autre Etat contractant.

6) Les dispositions du présent article ne s'appliquent pas si la créance génératrice des intérêts a été créée ou cédée essentiellement dans le but de tirer profit des dispositions du présent article et non pour des raisons authentiquement commerciales.

7) Les dispositions du paragraphe 1 du présent article ne s'appliquent pas lorsque le bénéficiaire effectif des intérêts est une société autre qu'une société cotée en bourse, à moins que la société ne soit en mesure de démontrer qu'elle n'est pas contrôlée par une personne, ou par deux ou plusieurs personnes associées ou liées entre elles, qui, ensemble ou l'une quelconque d'entre elles, n'aurait pas eu droit à dégrèvement en vertu du paragraphe 1 du présent article si elle avait été le bénéficiaire effectif des intérêts.

8) Aux fins du paragraphe 7 du présent article :

a) Une société cotée est une société dont les actions sont officiellement cotées en bourse dans un Etat contractant dont elle est un résident;

b) Sous réserve du paragraphe 9 du présent article, une personne, ou deux ou plusieurs personnes associées ou liées entre elles sont considérées comme détenant le contrôle d'une société si, aux termes de la législation de l'Etat contractant d'où proviennent les intérêts relative aux impôts visés par la présente Convention, lesdites personnes pourraient être considérées comme détenant le contrôle de ladite société à quelque fin que ce soit et elles seront considérées comme étant associées ou liées si, en vertu de ladite législation, elles peuvent être ainsi considérées à quelque fin que ce soit.

9) Lorsque, aux termes de l'alinéa *b* du paragraphe 8 du présent article, un individu est considéré comme détenant le contrôle d'une société uniquement du fait de la détention par lui de parts ordinaires de la société avec tous droits de voter et de toucher des dividendes alors que ledit individu ne détient pas plus de 10 p. 100 de la totalité desdites actions de la société, il n'est pas tenu compte desdites actions détenues par lui lorsqu'il s'agit de déterminer si la société est contrôlée par une personne ou par deux ou plusieurs personnes associées ou liées entre elles, étant entendu que le nombre des actions dont il n'est pas tenu compte de cette manière n'excède pas 25 p. 100 du nombre total desdites actions de la société.

Article 12. REDEVANCES

1) Les redevances touchées par un résident de l'un des Etats contractants à titre de bénéficiaire effectif ne sont imposables que dans cet Etat.

2) Au sens du présent article, l'expression « redevances » s'entend des rémunérations de toute nature perçues en contrepartie de l'usage ou de la cession de l'usage d'un droit d'auteur sur une œuvre littéraire, artistique ou scientifique (y compris les films cinématographiques et les films ou enregistrements pour la télévision ou la radiodiffusion), d'un brevet, d'une marque de fabrique ou d'un procédé secrets; ou en contrepartie de l'usage ou de la cession de l'usage d'un matériel

industriel, commercial ou scientifique, ou encore en contrepartie de la communication de données d'expérience d'ordre industriel, commercial ou scientifique.

3) Les dispositions du paragraphe 1 du présent article ne s'appliquent pas lorsque le bénéficiaire effectif des redevances, résident de l'un des Etats contractants, exerce, dans l'autre Etat contractant, une activité industrielle ou commerciale par l'intermédiaire d'un établissement stable qui y est situé, ou exerce dans cet Etat une profession indépendante à partir d'une base fixe qui y est située, et que le droit ou le bien générateur des redevances se rattache effectivement à l'établissement ou à la base. En pareil cas, les dispositions de l'article 7 ou éventuellement de l'article 14 sont applicables.

4) Lorsque, en raison de relations spéciales existant entre le débiteur et le bénéficiaire effectif ou entre tous deux et une tierce personne, le montant des redevances payées excède, pour une raison quelconque, celui dont le débiteur et le bénéficiaire effectif seraient convenus en l'absence de pareilles relations, les dispositions du présent article ne s'appliquent qu'à ce dernier montant. En pareil cas, la partie excédentaire des paiements reste imposable conformément à la législation de chaque Etat contractant, compte dûment tenu des autres dispositions de la présente Convention.

5) Les dispositions du présent article ne s'appliquent pas si le droit ou le bien générateur des redevances a pris naissance ou a été cédé principalement aux fins de bénéficier des dispositions du présent article et non pour des raisons véritablement commerciales.

6) Les dispositions du paragraphe 1 du présent article ne s'appliquent pas lorsque le bénéficiaire effectif des redevances est une société autre qu'une société cotée en bourse, à moins que la société ne soit en mesure de démontrer qu'elle n'est pas contrôlée par une personne, ou par deux ou plusieurs personnes associées ou liées entre elles, qui, ensemble ou l'une quelconque d'entre elles, n'aurait pas eu droit à dégrèvement en vertu du paragraphe 1 du présent article si elle avait été le bénéficiaire effectif des redevances.

7) Aux fins du paragraphe 6 du présent article :

a) Une société cotée est une société dont les actions sont officiellement cotées en bourse dans un Etat contractant dont elle est un résident;

b) Sous réserve du paragraphe 8 du présent article, une personne, ou deux ou plusieurs personnes associées ou liées entre elles sont considérées comme détenant le contrôle d'une société si, aux termes de la législation de l'Etat contractant d'où proviennent les redevances relatives aux impôts visés par la présente Convention, lesdites personnes pourraient être considérées comme détenant le contrôle de ladite société à quelque fin que ce soit et elles seront considérées comme étant associées ou liées si, en vertu de ladite législation, elles peuvent être ainsi considérées à quelque fin que ce soit.

8) Lorsque, aux termes de l'alinéa *b* du paragraphe 7 du présent article, un individu est considéré comme détenant le contrôle uniquement du fait de la détention par lui de parts ordinaires de la société avec tous droits de voter et de toucher des dividendes, alors que ledit individu ne détient pas plus de 10 p. 100 de la totalité desdites actions de la société, il n'est pas tenu compte desdites actions détenues par lui lorsqu'il s'agit de déterminer si la société est contrôlée par une personne ou par deux ou plusieurs personnes associées ou liées entre elles, étant entendu que le

nombre des actions dont il n'est pas tenu compte de cette manière n'excède pas 25 p. 100 du nombre total desdites actions de la société.

Article 13. GAINS EN CAPITAL

1) Les gains qu'un résident de l'un des Etats contractants tire de l'aliénation de biens immobiliers visés à l'article 6 et situés dans l'autre Etat contractant peuvent être imposés dans cet autre Etat.

2) Les gains provenant de l'aliénation de biens mobiliers qui font partie de l'actif d'un établissement stable qu'une entreprise de l'un des Etats contractants a dans l'autre Etat contractant, ou de l'aliénation de biens mobiliers attachés à une base fixe dont un résident de l'un des Etats contractants dispose dans l'autre Etat contractant pour l'exercice d'une profession indépendante, y compris les gains provenant de l'aliénation de cet établissement stable (pris isolément ou dans l'ensemble de l'entreprise) ou de cette base fixe, peuvent être imposés dans l'autre Etat.

3) Les gains provenant de l'aliénation de navires ou d'aéronefs exploités en trafic international, ou de biens mobiliers affectés à l'exploitation de ces navires ou aéronefs, ne sont imposables que dans l'Etat contractant où le siège de direction effective de l'entreprise est situé.

4) Les gains qu'une entreprise d'un Etat contractant tire de l'aliénation de conteneurs (y compris les remorsques et les matériels accessoires destinés au transport des conteneurs) utilisés pour le transport de marchandises ne sont imposables que dans l'Etat contractant où le siège de direction effective de cette entreprise est situé sauf si ces conteneurs, ces remorques et ces matériels accessoires sont utilisés pour des transports uniquement entre des lieux situés sur le territoire de l'autre Etat contractant.

5) Les gains provenant de l'aliénation de tout bien autre que celui visé au paragraphe précédent du présent article ne sont imposables que dans l'Etat contractant dont le cédant est un résident.

Article 14. PROFESSIONS INDÉPENDANTES

1) Les revenus qu'un résident de l'un des Etats contractants tire d'une profession libérale ou d'autres activités de caractère indépendant ne sont imposables que dans cet Etat, à moins que l'intéressé ne dispose de façon habituelle dans l'autre Etat contractant d'une base fixe pour l'exercice de ses activités. S'il dispose d'une telle base fixe, les revenus peuvent être imposés dans l'autre Etat, mais uniquement dans la mesure où ils sont imputables à cette base fixe.

2) L'expression « profession libérale » couvre notamment les activités indépendantes d'ordre scientifique, littéraire, artistique, éducatif ou pédagogique ainsi que les activités indépendantes des médecins, avocats et assimilés, ingénieurs, architectes, dentistes et comptables.

Article 15. PROFESSIONS SALARIÉES

1) Sous réserve des dispositions des articles 16, 18 et 19 de la présente Convention, les salaires, traitements et autres rémunérations similaires qu'un résident de l'un des Etats contractants perçoit au titre d'un emploi salarié ne sont imposables que dans cet Etat, à moins que l'emploi ne soit exercé dans l'autre Etat contractant.

Dans ce dernier cas, les rémunérations perçues au titre de l'emploi peuvent être imposées dans cet autre Etat.

2) Nonobstant les dispositions du paragraphe 1 du présent article, les rémunérations qu'un résident de l'un des Etats contractants perçoit au titre d'un emploi salarié exercé dans l'autre Etat contractant ne sont imposables que dans le premier Etat si :

a) Le bénéficiaire séjourne dans cet autre Etat pendant une ou des périodes n'excédant pas au total 183 jours au cours de l'année d'imposition considérée;

b) Les rémunérations sont payées par un employeur ou pour le compte d'un employeur qui n'est pas un résident de cet autre Etat; et

c) La charge des rémunérations n'est pas supportée par un établissement stable ou une base fixe de l'employeur dans cet autre Etat.

3) Nonobstant les dispositions précédentes du présent article, les rémunérations perçues au titre d'un emploi salarié exercé à bord d'un navire ou d'un aéronef exploité en trafic international peuvent être imposées dans l'Etat contractant où le siège de direction effective de l'entreprise est situé.

Article 16. TANTIÈMES

Les tantièmes, jetons de présence et autres rétributions similaires qu'un résident de l'un des Etats contractants perçoit en sa qualité de membre du conseil d'administration d'une société qui est un résident de l'autre Etat contractant peuvent être imposés dans cet autre Etat.

Article 17. ARTISTES ET SPORTIFS

1) Nonobstant les dispositions des articles 14 et 15 de la présente Convention, les revenus qu'un résident de l'un des Etats contractants tire des activités personnelles qu'il exerce dans l'autre Etat contractant en tant qu'artiste du spectacle (artiste de théâtre, de cinéma, de radio ou de télévision) ou musicien ou en tant que sportif peuvent être imposés dans l'autre Etat.

2) Lorsque les revenus d'activités qu'un artiste du spectacle ou un sportif exerce personnellement et en cette qualité ne reviennent pas à l'artiste ou au sportif lui-même mais à une autre personne, ces revenus peuvent être imposés, cela nonobstant les dispositions des articles 7, 14 et 15 de la présente Convention, dans l'Etat contractant où l'artiste ou le sportif exerce ses activités.

Article 18. PENSIONS, RENTES, PENSIONS ALIMENTAIRES ET ALLOCATIONS DE SÉCURITÉ SOCIALE

1) Sous réserve des dispositions du paragraphe 2 de l'article 19 de la présente Convention, les pensions et les autres rémunérations similaires, les pensions alimentaires et les rentes ainsi que les pensions et les autres allocations au titre d'un régime de sécurité sociale payées à un résident d'un Etat contractant ne sont imposables que dans cet Etat.

2) Le terme « rente » désigne une somme fixe payable périodiquement à échéances fixes, à titre viager ou pendant une période déterminée ou qui peut l'être, en vertu d'une obligation d'effectuer ces versements en contrepartie d'un capital suffisant intégralement versé en espèces ou en valeur appréciable en espèces.

3) Nonobstant les dispositions du paragraphe 1 du présent article, toute pension alimentaire ou toute autre allocation d'entretien payée par un résident d'un Etat contractant à un résident de l'autre Etat contractant est, si elle n'est pas admise en déduction de l'impôt dû par la personne qui la verse, imposable dans le premier Etat.

Article 19. FONCTIONS PUBLIQUES

1) *a*) Les rémunérations, autres que les pensions, payées par un Etat contractant ou l'une de ses subdivisions politiques ou collectivités locales à une personne physique, au titre de services rendus à cet Etat ou à cette subdivision ou collectivité, ne sont imposables que dans cet Etat.

b) Nonobstant les dispositions de l'alinéa *a* du paragraphe 1 du présent article, ces rémunérations ne sont imposables que dans l'autre Etat contractant si les services sont rendus dans cet Etat et si la personne physique est un résident de cet Etat qui :

i) Possède la nationalité de cet Etat; ou

ii) N'est pas devenu un résident de cet Etat à seule fin de rendre les services.

2) *a*) Les pensions payées par un Etat contractant ou l'une de ses subdivisions politiques ou collectivités locales, soit directement soit par prélèvement sur des fonds qu'ils ont constitués, à une personne physique au titre de services rendus à cet Etat ou à cette subdivision ou collectivité ne sont imposables que dans cet Etat.

b) Nonobstant les dispositions de l'alinéa *a* du paragraphe 2 du présent article, ces pensions ne sont imposables que dans l'autre Etat contractant si la personne physique est un résident de cet Etat et en possède la nationalité.

3) Les dispositions des articles 15, 16 et 18 de la présente Convention s'appliquent aux rémunérations et pensions payées au titre de services rendus dans le cadre d'une activité industrielle ou commerciale exercée par un Etat contractant ou l'une de ses subdivisions politiques ou collectivités locales.

Article 20. ETUDIANTS

Les sommes qu'un étudiant ou un stagiaire qui est, ou qui était immédiatement avant de se rendre dans un Etat contractant, un résident de l'autre Etat contractant et qui séjourne dans le premier Etat à seule fin d'y poursuivre ses études ou sa formation reçoit pour couvrir ses frais d'entretien, d'études ou de formation ne sont pas imposables dans cet Etat, à condition qu'elles proviennent de sources situées en dehors de cet Etat.

Article 21. AUTRES REVENUS

1) Les éléments du revenu dont un résident de l'un des Etats contractants est le bénéficiaire effectif, d'où qu'ils proviennent, à l'exception des revenus provenant d'une fiducie ou d'un legs sous administration, qui ne sont pas traités dans les articles précédents de la présente Convention, ne sont imposables que dans cet Etat.

2) Les revenus provenant d'une fiducie ou d'un legs sous administration sont imposables dans les deux Etats contractants.

3) Les dispositions du paragraphe 1 du présent article ne s'appliquent pas aux revenus autres que les revenus provenant de biens immobiliers, au sens du para-

graphe 2 de l'article 6, lorsque le bénéficiaire de tels revenus, résident de l'un des Etats contractants, exerce dans l'autre Etat contractant une activité industrielle ou commerciale par l'intermédiaire d'un établissement stable qui y est situé, ou exerce dans cet Etat une profession indépendante à partir d'une base fixe qui y est située, et que le droit ou le bien générateur des revenus se rattache effectivement à l'établissement ou à la base. En pareil cas, les dispositions de l'article 7 ou éventuellement de l'article 14 sont applicables.

Article 22. ELIMINATION DES DOUBLES IMPOSITIONS

1) Sous réserve des dispositions du droit du Royaume-Uni pour ce qui est de l'imputation sur l'impôt du Royaume-Uni de l'impôt exigible dans des territoires situés hors du Royaume-Uni (et cela sans préjudice du principe général ici en cause) :

a) L'impôt islandais exigible en vertu de la législation islandaise et conformément aux dispositions de la présente Convention, directement ou par voie de retenue, sur les bénéfices, revenus ou gains imposables provenant de sources situées en Islande (à l'exclusion, dans le cas d'un dividende, de l'impôt exigible au titre des bénéfices affectés au paiement du dividende) est admis en déduction de l'impôt du Royaume-Uni calculé en fonction des bénéfices, revenus ou gains imposables sur lesquels est calculé l'impôt islandais.

b) Dans le cas d'un dividende distribué par une société qui est un résident de l'Islande à une société qui est un résident du Royaume-Uni et qui contrôle directement ou indirectement 10 p. 100 au moins des voix attribuées dans la société payant le dividende, l'imputation tient compte (en plus, éventuellement, du crédit d'impôt islandais visé à l'alinéa *a*, de l'impôt islandais que la société doit payer sur les bénéfices affectés au paiement du dividende en question.

2) *a*) Lorsqu'un résident de l'Islande tire des revenus qui, conformément aux dispositions de la présente Convention, sont imposables au Royaume-Uni, l'Islande, sous réserve des dispositions de l'alinéa *b* du présent paragraphe, exonère d'impôt lesdits revenus, mais elle peut, aux fins du calcul du montant de l'impôt dû en ce qui concerne les autres éléments de revenu dudit résident, appliquer le taux de l'impôt qui aurait été applicable si lesdits revenus n'avaient pas été exonérés d'impôt.

b) Lorsqu'un résident de l'Islande tire des revenus qui, conformément aux dispositions des articles 10, 16 et 17 et du paragraphe 2 de l'article 21 de la présente Convention, sont imposables au Royaume-Uni, l'Islande défalque de l'impôt frappant les revenus dudit résident un montant égal à l'impôt acquitté au Royaume-Uni. Toutefois, le montant à défalquer ne peut excéder la fraction de l'impôt calculé avant la déduction, qui correspond aux revenus tirés de sources situées dans le Royaume-Uni.

3) Aux fins des paragraphes 1 et 2 du présent article, les bénéfices, revenus et gains en capital perçus par un résident de l'un des Etats contractants qui peuvent être imposés dans l'autre Etat contractant, conformément à la présente Convention, sont réputés avoir leur source dans cet autre Etat.

Article 23. NON-DISCRIMINATION

1) Les ressortissants de l'un des Etats contractants ne sont soumis dans l'autre Etat contractant à aucune imposition ou obligation connexe autre ou plus

lourde que celle à laquelle sont ou pourraient être assujettis, dans les mêmes circonstances, les ressortissants de cet autre Etat.

2) L'établissement stable qu'une entreprise de l'un des Etats contractants a dans l'autre Etat contractant n'est pas imposé selon des modalités moins favorables dans cet autre Etat que les entreprises de ce dernier qui exercent les mêmes activités.

3) Sauf applicabilité des dispositions du paragraphe 1 de l'article 9, des paragraphes 4 et 5 de l'article 11 et du paragraphe 4 de l'article 12, les intérêts, redevances et autres sommes payés par une entreprise de l'un des Etats contractants à un résident de l'autre Etat contractant sont déductibles, aux fins du calcul des bénéfices imposables de cette entreprise, dans les mêmes conditions que s'ils avaient été payés à un résident du premier Etat.

4) Les entreprises de l'un des Etats contractants dont le capital est, en totalité ou en partie, directement ou indirectement, détenu ou contrôlé par un ou plusieurs résidents de l'autre Etat contractant ne sont assujetties dans le premier Etat à aucune imposition ou obligation fiscale connexe autre ou plus lourde que celle à laquelle sont ou pourraient être assujetties les autres entreprises similaires du premier Etat.

5) Aucune disposition du présent article ne peut être interprétée comme obligeant l'un ou l'autre des Etats contractants à accorder à des personnes qui ne sont pas des résidents de cet Etat les déductions personnelles, abattements ou réductions d'impôt qu'il accorde aux personnes qui sont des résidents de cet Etat.

6) Les dispositions du présent article s'appliquent aux impôts de toute nature ou dénomination.

Article 24. PROCÉDURE AMIABLE

1) Quiconque estime que les mesures prises par l'un des Etats contractants ou par les deux entraînent ou entraîneront pour lui une imposition non conforme aux dispositions de la présente Convention peut, sans préjudice des voies de recours internes, soumettre son cas à l'autorité compétente de l'Etat contractant dont il est un résident.

2) L'autorité compétente s'efforce, si la réclamation lui paraît fondée et faute de pouvoir elle-même apporter une solution satisfaisante, de régler l'affaire par voie d'accord amiable avec l'autorité compétente de l'autre Etat contractant en vue d'éviter une imposition non conforme à la Convention.

3) Les autorités compétentes des Etats contractants s'efforcent, par voie d'accord amiable, de résoudre toute difficulté ou tout doute éventuels quant à l'interprétation ou l'application de la Convention. Elles peuvent aussi se concerter pour examiner les mesures à prendre en vue de faire échec à l'usage abusif de la Convention.

4) Les autorités compétentes des Etats contractants peuvent communiquer directement entre elles en vue de parvenir à un accord dans le sens prévu au paragraphe précédent.

Article 25. ECHANGE DE RENSEIGNEMENTS

1) Les autorités compétentes des Etats contractants échangent les renseignements nécessaires aux fins d'application des dispositions de la présente Convention

ou des dispositions du droit interne des Etats contractants qui ont trait aux impôts visés dans la Convention, dans la mesure où l'imposition prévue par ces dispositions ne contrevient pas à la Convention, aux fins notamment d'éviter la fraude et de faciliter l'administration des dispositions statutaires relatives à l'évasion fiscale. Les renseignements reçus par l'un des Etats contractants sont tenus secrets dans les mêmes conditions que les renseignements obtenus en application du droit interne de l'Etat considéré et ils sont exclusivement communiqués aux personnes ou autorités (tribunaux et organes administratifs compris) qui participent à l'établissement ou au recouvrement des impôts visés dans la Convention, aux procédures d'exécution, aux poursuites et aux décisions sur recours connexes. Les personnes ou autorités intéressées n'utilisent ces renseignements qu'aux seules fins susmentionnées. Elles peuvent en faire état dans le cadre d'audiences publiques des tribunaux ou dans des décisions judiciaires.

2) Les dispositions du paragraphe 1 du présent article ne peuvent en aucun cas être interprétées comme imposant à l'un des Etats contractants l'obligation de :

a) Mettre en œuvre des mesures administratives dérogeant à sa législation et à sa pratique administrative ou à celles de l'autre Etat contractant;

b) Fournir des renseignements auxquels sa législation ou sa pratique administrative normale ou celles de l'autre Etat contractant ne permettent pas d'avoir accès;

c) Fournir des renseignements qui reviendraient à révéler un secret commercial, industriel, professionnel ou un procédé commercial ou dont la révélation serait contraire à l'ordre public.

Article 26. AGENTS DIPLOMATIQUES ET FONCTIONNAIRES CONSULAIRES

Les dispositions de la présente Convention ne portent pas atteinte aux privilèges fiscaux dont bénéficient les membres des missions diplomatiques ou permanentes ou des postes consulaires en vertu soit des règles générales du droit international, soit des dispositions d'accords particuliers.

Article 27. ENTRÉE EN VIGUEUR

1) Chacun des Etats contractants notifiera à l'autre l'accomplissement des procédures requises par sa législation pour l'entrée en vigueur de la présente Convention.

2) La Convention entrera en vigueur à la date de la dernière de ces notifications et s'appliquera :

a) Au Royaume-Uni :

i) En ce qui concerne l'impôt sur le revenu et l'impôt sur les gains en capital, à toute année d'imposition commençant le 6 avril;

ii) En ce qui concerne l'impôt sur les sociétés, à tout exercice financier commençant le 1er avril;

b) En Islande : En ce qui concerne les impôts sur le revenu et sur les gains en capital acquis le 1er janvier ou après cette date, y compris toutes périodes comptables se terminant pendant cette période;

Dans l'un et l'autre cas, à toute année civile suivant celle au cours de laquelle la dernière desdites notifications est reçue, et aux années subséquentes.

3) L'Accord entre le Royaume-Uni et l'Islande en vue de l'exemption de l'impôt sur le revenu en ce qui concerne les bénéfices réalisés dans les affaires d'armement maritime signé à Londres le 27 avril 1928[1] prendra fin et cessera de s'appliquer à compter de la date à laquelle la présente Convention s'appliquera en ce qui concerne les impôts auxquels la présente Convention s'applique conformément aux dispositions du paragraphe 2 du présent article.

Article 28. DÉNONCIATION

La présente Convention demeurera en vigueur tant qu'elle n'aura pas été dénoncée par un Etat contractant. Chacun des Etats contractants peut dénoncer la Convention par la voie diplomatique en adressant une notification de dénonciation au moins six mois avant la fin de chaque année civile suivant l'année 1995. Dans ce cas, la Convention cessera d'être applicable :

a) Au Royaume-Uni :

i) Pour ce qui est de l'impôt sur le revenu et sur les gains en capital, au titre de toute année d'imposition à partir du 6 avril de l'année civile suivant immédiatement celle de la notification de dénonciation;

ii) Pour ce qui est de l'impôt sur les sociétés, au titre de tout exercice financier à partir du 1er avril de l'année civile suivant celle de la notification de la dénonciation;

b) En Islande : Aux impôts sur le revenu et sur les gains en capital, au titre de toute année d'imposition frappant le revenu et les gains en capital de l'année civile (y compris les périodes comptables se terminant au cours de toute année civile) suivant immédiatement l'année au cours de laquelle la notification de dénonciation aura été communiquée.

EN FOI DE QUOI les soussignés, à ce dûment autorisés par leurs Gouvernements respectifs, ont signé la présente Convention.

FAIT à Reykjavik, le 30 septembre 1991, en double exemplaire en langues anglaise et islandaise, les deux textes faisant également foi.

Pour le Gouvernement
du Royaume-Uni de Grande-Bretagne
et d'Irlande du Nord :

PATRICK WOGAN

Pour le Gouvernement
de la République d'Islande :

SIGURBJORN THORBJORNSSON

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[1] Société des Nations, *Recueil des Traités*, vol. LXXX, p. 253.

ANNEX A

Ratifications, accessions, subsequent agreements, etc., concerning treaties and international agreements registered with the Secretariat of the United Nations

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ANNEXE A

Ratifications, adhésions, accords ultérieurs, etc., concernant des traités et accords internationaux enregistrés au Secrétariat de l'Organisation des Nations Unies

ANNEX A

No. 221. CONSTITUTION OF THE WORLD HEALTH ORGANIZATION. SIGNED AT NEW YORK ON 22 JULY 1946[1]

ACCEPTATION of the Constitution and of the amendments to articles 24 and 25 of the Constitution, adopted by the Twelfth,[2] Twentieth[3] and Twenty-ninth[4] sessions of the World Health Assembly, and to articles 34 and 55, adopted by the Twenty-sixth session[5]

Instrument deposited on:

11 June 1992

CROATIA

(With effect from 11 June 1992.)

Registered ex officio *on 11 June 1992.*

[1] United Nations, *Treaty Series*, vol. 14, p. 185; for the texts of the amendments see vol. 377, p. 380; vol. 970, p. 360; vol. 1035, p. 315, and vol. 1347, p. 289; for other subsequent actions, see references in Cumulative Indexes Nos. 1 to 10, and 12 to 18, as well as annex A in volumes 1120, 1130, 1132, 1144, 1175, 1205, 1247, 1268, 1302, 1308, 1331, 1347, 1350, 1356, 1358, 1364, 1365, 1380, 1381, 1389, 1392, 1398, 1411, 1564, 1576, 1639, 1647, 1655, 1656, 1672, 1673 and 1675.

[2] *Ibid.*, vol. 377, p. 380.

[3] *Ibid.*, vol. 970, p. 360.

[4] *Ibid.*, vol. 1347, p. 289.

[5] *Ibid.*, vol. 1035, p. 315.

ANNEXE A

N° 221. CONSTITUTION DE L'ORGANISATION MONDIALE DE LA SANTÉ. SIGNÉE À NEW YORK LE 22 JUILLET 1946[1]

ACCEPTATION de la Constitution et des amendements aux articles 24 et 25 de la Constitution adoptés par les Douzième[2], Vingtième[3] et Vingt-Neuvième[4] sessions de l'Assemblée mondiale de la santé, et aux articles 34 et 55 adoptés par la Vingt-Sixième session[5]

Instrument déposé le :

11 juin 1992

CROATIE

(Avec effet au 11 juin 1992.)

Enregistré d'office le 11 juin 1992.

[1] Nations Unies, *Recueil des Traités*, vol. 14, p. 185; pour les textes des amendements voir vol. 377, p. 381; vol. 970, p. 360; vol. 1035, p. 315, et vol. 1347, p. 289; pour d'autres faits ultérieurs, voir les références données dans les Index cumulatifs nos 1 à 10, et 12 à 18, ainsi que l'annexe A des volumes 1120, 1130, 1132, 1144, 1175, 1205, 1247, 1268, 1302, 1308, 1331, 1347, 1350, 1356, 1358, 1364, 1365, 1380, 1381, 1389, 1392, 1398, 1411, 1564, 1576, 1639, 1647, 1655, 1656, 1672, 1673 et 1675.

[2] *Ibid.*, vol. 377, p. 381.

[3] *Ibid.*, vol. 970, p. 360.

[4] *Ibid.*, vol. 1347, p. 289.

[5] *Ibid.*, vol. 1035, p. 315.

No. 7311. OPTIONAL PROTOCOL TO THE VIENNA CONVENTION ON DIPLOMATIC RELATIONS, CONCERNING ACQUISITION OF NATIONALITY. DONE AT VIENNA ON 18 APRIL 1961[1]

No. 8639. OPTIONAL PROTOCOL TO THE VIENNA CONVENTION ON CONSULAR RELATIONS CONCERNING ACQUISITION OF NATIONALITY. DONE AT VIENNA ON 24 APRIL 1963[2]

ACCESSIONS

Instruments deposited on:

12 June 1992

SWITZERLAND

(With effect from 12 July 1992.)

Registered ex officio *on 12 June 1992.*

[1] United Nations, *Treaty Series*, vol. 500, p. 223; for subsequent actions, see references in Cumulative Indexes Nos. 7 to 12, 14, 15, 17 and 18, as well as annex A in volumes 1161, 1172, 1279, 1368, 1389, 1555 and 1653.

[2] *Ibid.*, vol. 596, p. 469; for subsequent actions, see references in Cumulative Indexes Nos. 9 to 18, as well as annex A in volumes 1157, 1194, 1198, 1215, 1279, 1413, 1540, 1555 and 1653.

N° 7311. PROTOCOLE DE SIGNATURE FACULTATIVE À LA CONVENTION DE VIENNE SUR LES RELATIONS DIPLOMATIQUES, CONCERNANT L'ACQUISITION DE LA NATIONALITÉ. FAIT À VIENNE LE 18 AVRIL 1961[1]

N° 8639. PROTOCOLE DE SIGNATURE FACULTATIVE À LA CONVENTION DE VIENNE SUR LES RELATIONS CONSULAIRES CONCERNANT L'ACQUISITION DE LA NATIONALITÉ. FAIT À VIENNE LE 24 AVRIL 1963[2]

ADHÉSIONS

Instruments déposés le :

12 juin 1992

SUISSE

(Avec effet au 12 juillet 1992.)

Enregistré d'office le 12 juin 1992.

[1] Nations Unies, *Recueil des Traités* vol. 500, p. 223; pour les faits ultérieurs, voir les références données dans les Index cumulatifs n°s 7 à 12, 14, 15, 17 et 18, ainsi que l'annexe A des volumes 1161, 1172, 1279, 1368, 1389, 1555 et 1653.

[2] *Ibid.*, vol. 596, p. 469; pour les faits ultérieurs, voir les références données dans les Index cumulatifs n°s 9 à 18, ainsi que l'annexe A des volumes 1157, 1194, 1198, 1215, 1279, 1413, 1540, 1555 et 1653.

No. 13164. TREATY BETWEEN THE FEDERATIVE REPUBLIC OF BRAZIL AND THE REPUBLIC OF PARAGUAY CONCERNING THE HYDROELECTRIC UTILIZATION OF THE WATER RESOURCES OF THE PARANÁ RIVER OWNED IN CONDOMINIUM BY THE TWO COUNTRIES, FROM AND INCLUDING THE SALTO GRANDE DE SETE QUEDAS OR SALTO DEL GUAIRÁ, TO THE MOUTH OF THE IGUASSU RIVER. SIGNED AT BRASÍLIA ON 26 APRIL 1973[1]

N° 13164. TRAITÉ ENTRE LA RÉPUBLIQUE FÉDÉRATIVE DU BRÉSIL ET LA RÉPUBLIQUE DU PARAGUAY CONCERNANT LA MISE EN VALEUR HYDRO-ÉLECTRIQUE DES EAUX DU PARANÁ RELEVANT DE LA SOUVERAINETÉ COMMUNE DU BRÉSIL ET DU PARAGUAY À PARTIR DU SALTO GRANDE DE SETE QUEDAS OU SALTO DEL GUAIRÁ JUSQU'À L'EMBOUCHURE DE L'IGUAÇU. SIGNÉ À BRASÍLIA LE 26 AVRIL 1973[1]

EXCHANGES OF NOTES CONSTITUTING AN AGREEMENT[2] AMENDING THE ABOVEMENTIONED TREATY, AS AMENDED[1] (WITH ANNEX). ASUNCIÓN, 27 AND 31 DECEMBER 1991

Authentic texts: Portuguese and Spanish.

Registered by Brazil on 11 June 1992.

ECHANGES DE NOTES CONSTITUANT UN ACCORD[2] MODIFIANT LE TRAITÉ SUSMENTIONNÉ, TEL QUE MODIFIÉ[1] (AVEC ANNEXE). ASUNCIÓN, 27 ET 31 DÉCEMBRE 1991

Textes authentiques : portugais et espagnol.

Enregistré par le Brésil le 11 juin 1992.

I *a*

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

Assunção, em 27 de dezembro de 1991

N° 336

Senhor Ministro,

Com referência aos parágrafos primeiro e segundo da Nota n°· 146, de 14 de maio de 1991, e à Nota Reversal n°· 1, de idêntico conteúdo e mesma data, do Ministério de Relações Exteriores da Republica do Paraguai, e levando em conta o que dispõe o Artigo III, parágrafo 2°· do Tratado de Itaipu, tenho a honra de levar ao conhecimento de Vossa Excelência que o Governo do Brasil concorda com o Governo do Paraguai em modificar o Anexo

[1] United Nations, *Treaty Series*, vol. 923, p. 57, and annex A in volumes 975, 1205 and 1360.

[2] Came into force on 17 May 1992, in accordance with the provisions of the said notes.

[1] Nations Unies, *Recueil des Traités*, vol. 923, p. 57, et annexe A des volumes 975, 1205 et 1360.

[2] Entré en vigueur le 17 mai 1992, conformément aux dispositions desdites notes.

"A" (Estatuto da Itaipu) da forma como consta em anexo à presente nota.

2. O novo Estatuto terá vigência a partir de 17 de maio de 1992, conforme previsto em seu Artigo 31°. Nessas condições, fica prorrogada até aquela data a vigência do atual Estatuto.

3. A presente nota e a de Vossa Excelência, de idêntico teor e mesma data, constituem um Acordo entre os dois Governos.

Aproveito a oportunidade para renovar a Vossa Excelência os protestos de minha mais alta consideração.

[*Signed — Signé*]
C. E. ALVES DE SOUZA
Embaixador do Brasil

A Sua Excelência o Senhor
Professor Doutor Alexis Frutos Vaesken
Ministro de Relações Exteriores

E S T A T U T O D A I T A I P U

CAPITULO I

Denominação e Objeto

ARTIGO 1º

A ITAIPU é uma entidade binacional criada pelo Artigo III do Tratado assinado pelo Brasil e Paraguai, em 26 de abril de 1973, e tem como partes:

a) a Centrais Elétricas Brasileiras S.A. - ELETROBRAS, sociedade anônima de economia mista brasileira;

b) a Administración Nacional de Eletricidad - ANDE, entidade autárquica paraguaia.

ARTIGO 2º

O objeto da ITAIPU é o aproveitamento hidrelétrico dos recursos hídricos do Rio Paraná, pertencentes em condomínio aos dois países, desde e inclusive o Salto Grande de Sete Quedas ou Salto de Guaíra até a foz do Rio Iguaçu.

ARTIGO 3º

A ITAIPU reger-se-á pelas normas estabelecidas no Tratado de 26 de abril de 1973, no presente Estatuto e nos demais Anexos.

ARTIGO 4º

A ITAIPU terá, de acordo com o que dispõem o Tratado e seus Anexos, capacidade jurídica, financeira e administrativa, e também responsabilidade técnica, para estudar, projetar, dirigir e executar as obras que tem como objeto, colocá-las em funcionamento e explorá-las, podendo, para tais efeitos, adquirir direitos e contrair obrigações.

ARTIGO 5º

A Itaipu terá sedes em Brasília, Capital da República Federativa do Brasil, e em Assunção, Capital da República do Paraguai.

CAPITULO II

Capital

ARTIGO 6º

O capital da ITAIPU será equivalente a US$ 100.000.000,00 (cem milhões de dólares dos Estados Unidos da América), pertencente à ELETROBRAS e à ANDE em partes iguais e intransferíveis.

Parágrafo Único - o capital manter-se-á com valor constante de acordo com o disposto no parágrafo 4º do Artigo 15 do Tratado.

CAPITULO III

Administração

ARTIGO 7º·

São órgãos da administração da ITAIPU o Conselho de Administração e a Diretoria Executiva.

ARTIGO 8º

O Conselho de Administração compor-se-á de doze Conselheiros nomeados:

a) seis pelo Governo brasileiro, dos quais um será o Diretor Geral Brasileiro, um será indicado pelo Ministério das Relações Exteriores e um pela ELETROBRAS;

b) seis pelo Governo paraguaio, dos quais um será o Diretor Geral Paraguaio, um será indicado pelo Ministério de Relações Exteriores e um pela ANDE.

Parágrafo 1º· - As reuniões do Conselho serão presididas, alternadamente, por um Conselheiro de nacionalidade brasileira ou paraguaia e, rotativamente, por todos os membros do Conselho.

Parágrafo 2º· - O Conselho nomeará dois Secretários, um brasileiro e outro paraguaio, que terão a seu cargo, entre outras atribuições, a de certificar os documentos da ITAIPU em português e espanhol, respectivamente.

ARTIGO 9º

Compete ao Conselho de Administracão cumprir e fazer cumprir o Tratado e seus Anexos e decidir sobre:

a) as políticas e diretrizes fundamentais da ITAIPU;

b) o Regimento Interno, o Manual de Organização, a Norma Geral de Licitacão e o Regulamento de Pessoal;

c) a proposta de orcamento para cada exercicio e suas revisões, apresentadas pelos Diretores Gerais;

d) o plano e programa anual de auditoria;

e) os atos que importem em alienação do patrimônio da ITAIPU, com prévio parecer da ELETROBRAS e da ANDE;

f) as reavaliações de ativo e passivo, com prévio parecer da ELETROBRAS e da ANDE, tendo em conta o disposto no parágrafo 4º· do Artigo 15º· do Tratado;

g) as bases de prestação dos serviços de eletricidade;

h) as propostas da Diretoria Executiva referentes a obrigações e empréstimos;

i) as modificações necessárias na estrutura organizacional nos níveis correspondentes ou equivalentes a superintendências e departamentos, por proposta conjunta dos Diretores Gerais.

Parágrafo 1º - O Conselho de Administração examinará o Relatório Anual, o Balanço Geral e a demonstração da Conta de Resultados, elaborados pela Diretoria Executiva, e os apresentará com seu parecer À ELETROBRAS e à ANDE, conforme o disposto no Artigo 26º deste Estatuto.

Parágrafo 2º - O Conselho de Administração tomará conhecimento do curso dos assuntos da ITAIPU através das exposições que serão feitas habitualmente pelo Diretor Geral Brasileiro e/ou pelo Diretor Geral Paraguaio ou de outras que o Conselho solicite por intermédio deles.

ARTIGO 10º

O Conselho de Administração se reunirá, ordinariamente, cada dois meses e, extraordinariamente, quando convocado, por intermédio dos Secretários, pelo Diretor Geral Brasileiro e/ou pelo Diretor Geral Paraguaio ou pela metade menos um dos Conselheiros.

Parágrafo Único - O Conselho de Administração só poderá decidir validamente com a presença da maioria dos Conselheiros de cada país e com paridade de votos igual à menor representação nacional presente.

ARTIGO 11º

Os Conselheiros exercerão suas funções por um período de quatro anos, podendo ser reconduzidos.

Parágrafo 1º - A qualquer momento os Governos poderão substituir os Conselheiros que houverem nomeado.

Parágrafo 2º - Ao ocorrer vacância definitiva de um cargo de Conselheiro, o respectivo Governo nomeará substituto que exercerá o mandato pelo prazo remanescente.

ARTIGO 12º

A Diretoria Executiva, constituída por Membros nacionais de ambos os países, em igual número e com a mesma capacidade e igual hierarquia, compor-se-á do Diretor Geral Brasileiro, do Diretor Geral Paraguaio, e dos Diretores de Engenharia e Operação, de Manutenção e Obras, Financeiro, de Suprimentos, Administrativo Brasileiro, e Administrativo Paraguaio.

Parágrafo 1º - Os membros da Diretoria Executiva serão nomeados pelos respectivos Governos.

Parágrafo 2º - Os membros da Diretoria Executiva exercerão suas funções por um período de cinco anos, podendo ser reconduzidos.

Parágrafo 3º - A qualquer momento os Governos poderão substituir os Membros da Diretoria Executiva que houverem nomeado. .

Parágrafo 4º - Em caso de ausência ou impedimento temporário de um Membro da Diretoria Executiva, este será substituído por outro indicado pelo Diretor Geral da mesma nacionalidade, acumulando as funções. Em caso de ausência do Diretor Geral, este indicará à Diretoria Executiva seu substituto entre os diretores de sua nacionalidade.

Parágrafo 5º - Ao ocorrer vacância definitiva de um cargo de Membro da Diretoria Executiva, o respectivo Governo, conforme o caso, indicará o substituto que, uma vez nomeado, exercerá o mandato pelo prazo remanescente.

ARTIGO 13º

São atribuições e deveres da Diretoria Executiva:

a) dar cumprimento ao Tratado e seus Anexos e às decisões do Conselho de Administração;

b) cumprir e fazer cumprir o Regimento Interno;

c) propor ao Conselho de Administração as políticas e diretrizes fundamentais de administração;

d) analisar e submeter ao Conselho de Administração, em cada exercício, a proposta de orçamento para o exercício seguinte e suas eventuais revisões;

e) analisar e submeter ao Conselho de Administração o Relatório Anual, o Balanço Geral e a demonstração da Conta de Resultados do exercício anterior;

f) pôr em execução as normas e as bases para prestação dos serviços de eletricidade;

g) aprovar os atos que impliquem obrigações para a ITAIPU, que sejam propostos pelos Diretores Gerais, tais como pareceres de comissões de julgamento de licitações;

h) aprovar as proposições conjuntas dos Diretores Gerais sobre normas e procedimentos administrativos que envolvam toda a Entidade, tais como as normas de administração de pessoal.

ARTIGO 14º

A Diretoria Executiva reunir-se-á, ordinariamente pelo menos uma vez ao mês e, extraordinariamente, quando convocada por um dos Diretores Gerais.

Parágrafo 1º - As resoluções da Diretoria Executiva serão adotadas por maioria de votos.

Parágrafo 2º - A Diretoria Executiva instalar-se-á no local que julgar mais adequado ao exercício de suas funções.

ARTIGO 15º·

A ITAIPU somente poderá assumir obrigações ou constituir procuradores mediante a assinatura conjunta dos dois Diretores Gerais.

ARTIGO 16º·

Os honorários dos Conselheiros e dos Membros da Diretoria Executiva serão fixados pela ELETROBRAS e pela ANDE, de comum acordo.

ARTIGO 17º·

São atribuições dos Diretores Gerais:

(A) CONJUNTAMENTE

a) praticar, solidariamente, todos os atos de administração necessários à condução e ao funcionamento da Entidade, planejando, organizando, coordenando, dirigindo e controlando a execução das políticas e planos de administração aprovados pela Diretoria Executiva e executados pelas demais Diretorias no âmbito de sua competência, com exclusão dos' atribuidos ao Conselho de Administração e à Diretoria Executiva;

b) coordenar o processo de identificação e elaboração de políticas e diretrizes fundamentais de administração da ITAIPU para apreciação da Diretoria Executiva, e aprovação do Conselho de Administração;

c) coordenar o processo de elaboração do plano de trabalho e orçamento anual da ITAIPU;

d) coordenar a elaboração dos planos, normas e procedimentos administrativos da ITAIPU, tais como as normas de administração de pessoal;

e) coordenar a elaboração e atualização do Regimento Interno, do Manual de Organização, da Norma Geral de Licitação e do Regulamento de Pessoal;

f) definir a estrutura organizacional e a nacionalidade dos chefes dos órgãos a nível de divisão;

g) designar os gerentes de todo e qualquer cargo gerencial, exceto de diretores;

h) representar a Itaipu Binacional em juizo ou fora dele.

(B) ISOLADAMENTE

a) admitir e demitir pessoal de sua respectiva nacionalidade;

b) representar a Itaipu Binacional em juizo ou fora dele.

ARTIGO 18º·

O Diretor de Engenharia e Operação é o responsável pela coordenação da execução de estudos e projetos, bem como da operação das instalações.

ARTIGO 19º·

O Diretor de Manutenção e Obras é o responsável pela coordenação da execução das obras da Usina e de Infraestrutura, bem como da manutenção eletromecânica e civil das instalações.

ARTIGO 20º·

Os Diretores Administrativos são responsáveis cada um em sua margem, pela Administração do pessoal, e pela direção dos Serviços Gerais e da Segurança Empresarial.

ARTIGO 21º·

O Diretor Financeiro é o responsável pela execução das atividades econômico-financeiras.

ARTIGO 22º·

O Diretor de Suprimentos é o responsável pela execução das atividades de suprimentos.

CAPITULO IV

Organização

ARTIGO 23º·

A estrutura organizacional da ITAIPU Binacional com todos os órgãos previstos até o nível de departamento está representada no organograma que é parte integrante deste Anexo.

Parágrafo 1º· - O referido organograma define também a nacionalidade dos gerentes dos órgãos.

Parágrafo 2º· - A subdivisão de departamentos em divisões nos casos necessários deve ser aprovada conjuntamente pelos Diretores Gerais.

Parágrafo 3º· - As funções e atribuições completas dos órgãos estão definidas no Regimento Interno e no Manual de Organização.

Parágrafo 4º· - A estrutura organizacional poderá ser revista, em princípio no prazo de cinco anos, ou a qualquer momento por acordo entre as Altas Partes Contratantes.

Parágrafo 5º· - Os órgãos de Auditoria Interna de cada margem são subordinados funcionalmente ao Conselho de Administração e administrativamente aos Diretores Gerais.

ARTIGO 24º·

Os assistentes e chefes de assessoria dos diretores têm nível hierárquico equivalente ao de superintendente.

ARTIGO 25º·

A condução dos assuntos jurídicos da Entidade fica a cargo das Assessorias Jurídicas, uma para cada nacionalidade, que estão subordinadas cada uma ao respectivo Diretor Geral. Os Assessores Jurídicos poderão participar das reuniões da Diretoria Executiva quando for necessário, a critério dos Diretores Gerais.

CAPITULO V

Exercicio Financeiro

ARTIGO 26º·

O exercicio financeiro encerrar-se-á em 31 de dezembro de cada ano.

Parágrafo 1º· - A ITAIPU apresentará, até 30 de abril de cada ano, para decisão da ELETROBRAS e da ANDE, o Relatório Anual, o Balanço Geral e a demonstração da Conta de Resultados do exercicio anterior.

Parágrafo 2º· - A ITAIPU adotará a moeda dos Estados Unidos da América como referência para a contabilização de suas operações. Esta referência poderá ser substituída por outra, mediante entendimento entre os dois Governos.

CAPITULO VI

Disposições Gerais

ARTIGO 27º·

Serão incorporados pela ITAIPU, como integralização de capital, por parte da ELETROBRAS e da ANDE, os dispêndios realizados pelas referidas empresas, anteriormente à constituição da Entidade, nos seguintes trabalhos:

a) estudos resultantes do Convênio de Cooperação firmado em 10 de abril de 1970;

b) obras preliminares e serviços relacionados com a construção do aproveitamento hidrelétrico.

ARTIGO 28º·

Os Conselheiros, Membros da Diretoria Executiva e demais empregados não poderão exercer funções de direção, administração

ou consulta em empresas fornecedoras ou contratantes de quaisquer materiais e serviços utilizados pela ITAIPU.

ARTIGO 29º·

Poderão prestar serviços à ITAIPU os funcionários públicos, empregados de autarquias e os de sociedade de economia mista, brasileiros ou paraguaios, sem perda do vínculo original e dos benefícios de aposentadoria e/ou previdência social, tendo-se em conta as respectivas legislações nacionais.

ARTIGO 30º·

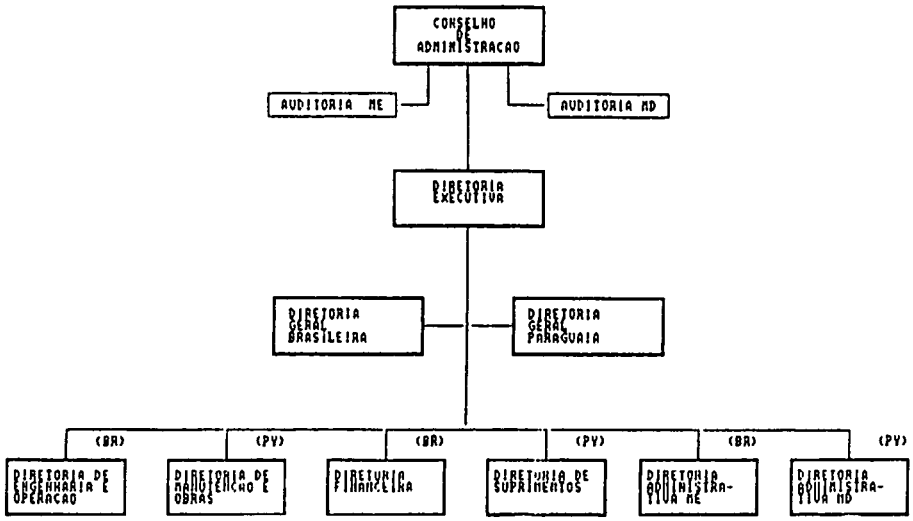
Dentro do possível, o comando dos órgãos a nível de divisão deverá ser dividido paritariamente entre ambas as nacionalidades, em número e importância.

ARTIGO 31º·

Os casos não previstos neste Estatuto, que não puderem ser resolvidos pelo Conselho de Administração, serão solucionados pelos dois Governos, com prévio parecer da ELETROBRAS e da ANDE.

O presente Estatuto terá vigência a partir da data de 17 de maio de 1992.

1. ORGANOGRAMA GERAL SINTETICO



NOTAS:

(1) A Auditoria Interna sera subordinada funcionalmente ao Conselho de Administracao, e administrativamente ao respectivo Diretor Geral.

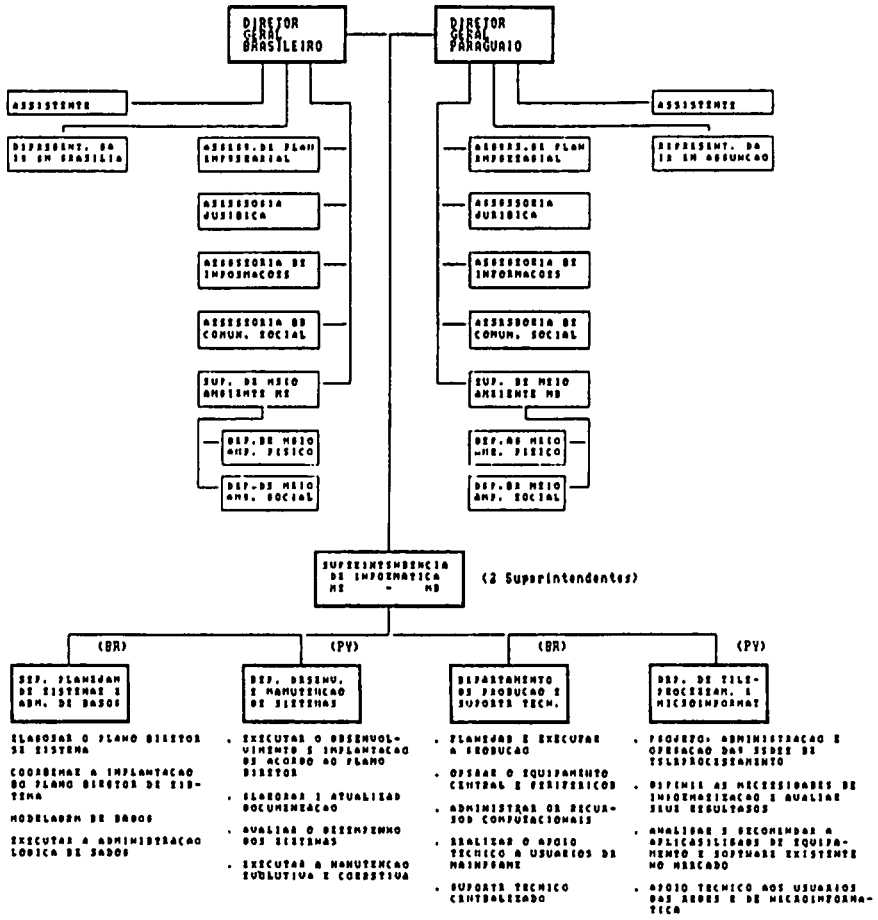
(2) Nas diretorias que nao sejam exclusivas de uma so Margem, as superintendencias terao, alem do superintendente, um vice-superintendente da outra nacionalidade, com a atribuicao de informar-se sobre o andamento das atividades desenvolvidas na area, porem sem nenhuma outra atribuicao especifica, a nao ser as que lhe forem delegadas pelo superintendente.

(3) Atividades a serem executadas no ambito do Canteiro de Obras, exigindo participacao de orgaos de ambas as margens, serao definidas de comum acordo entre os Superintendentes envolvidos. Situam-se neste caso as atividades de Seguranca, Transportes e Servicos Gerais das Diretorias Administrativas.

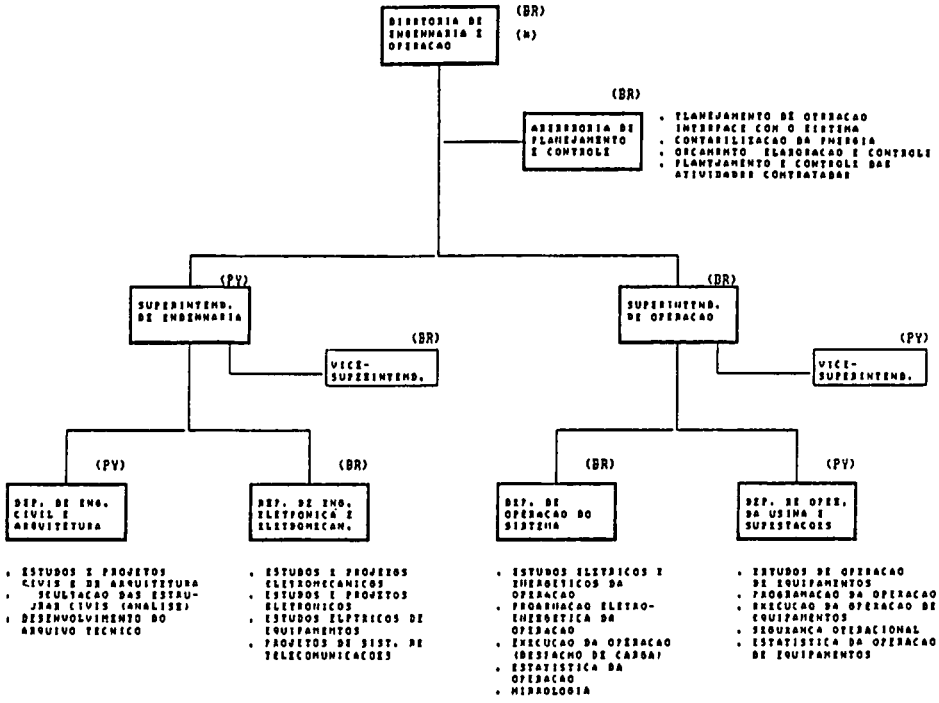
(4) Para o caso das diretorias e orgaos mais complexos foram colocados no organograma de forma sintetica as atribuicoes dos mesmos. As atribuicoes dos demais orgaos podem ser facilmente identificadas pela forma como sao executadas na estrutura atual, e serao descritas no Regime Interno e Manual de Organizacao.

(n) numeros entre colchetes - identificacao dos orgaos para referencia

2. DIRETORIA GERAL BRASILEIRA E DIRETORIA GERAL PARAGUAIA

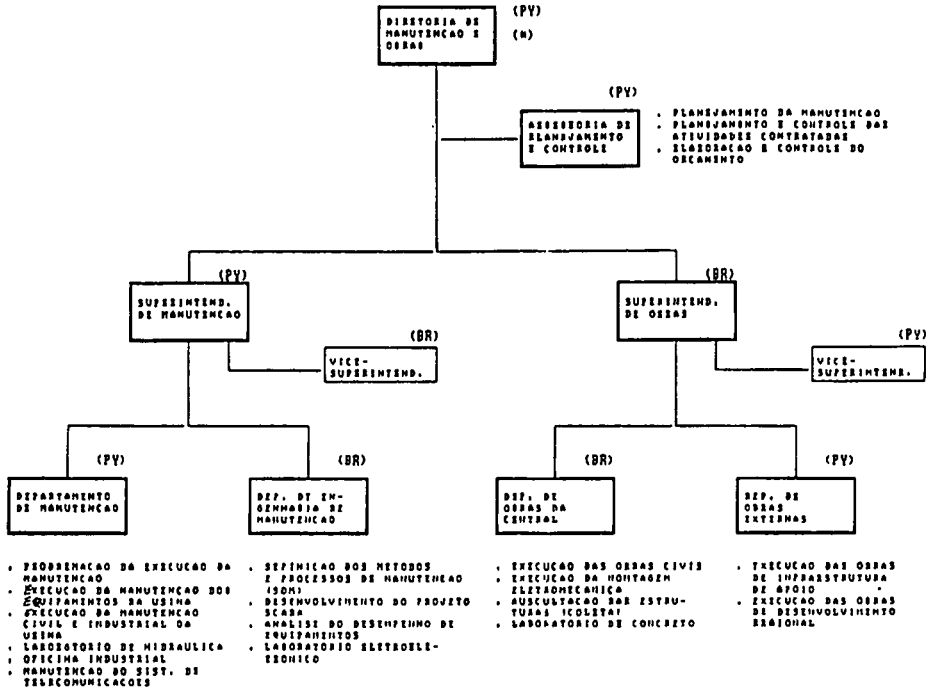


3. DIRETORIA DE ENGENHARIA E OPERACAO



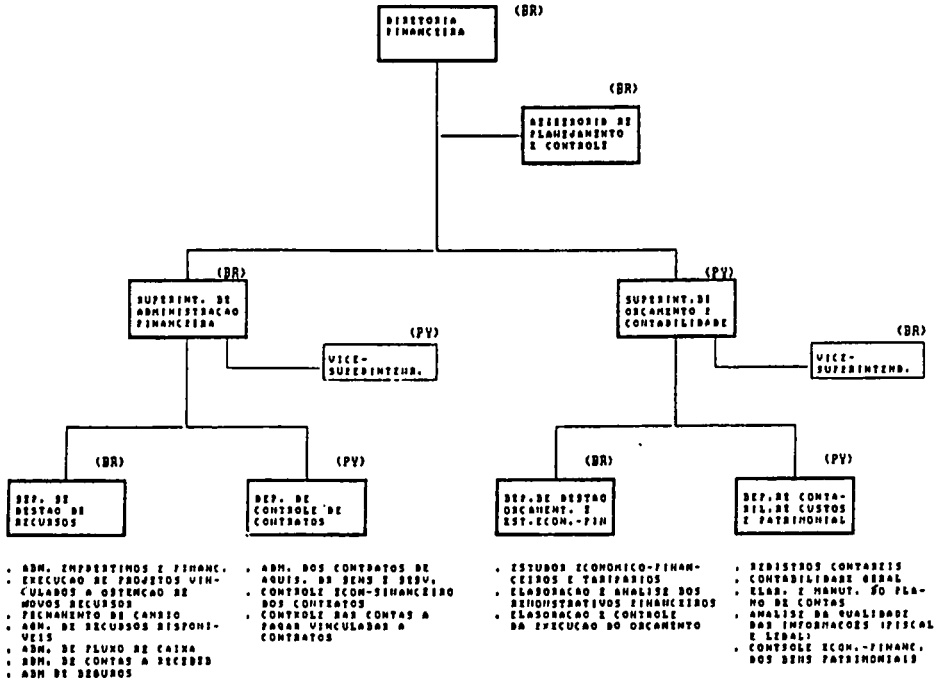
(N) O DIRETOR PARTICIPA OU DESIGNA PARTICIPANTE DOS GRUPOS, CNO, CAGOF, CECOI

4. DIRETORIA DE MANUTENÇÃO E OBRAS

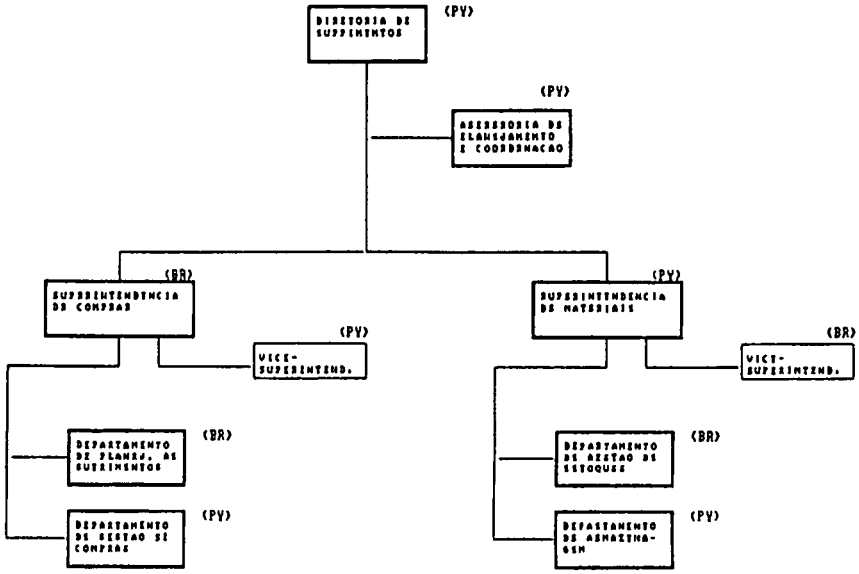


(M) O DIRETOR PARTICIPA OU DESIGNA PARTICIPANTE DOS ORGAOS. CNO; CAOOP; CICOI

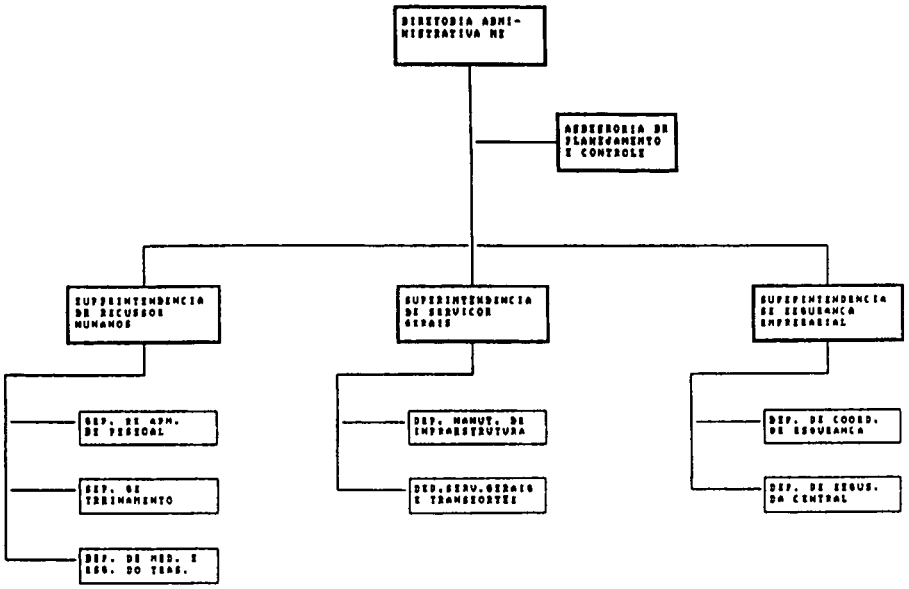
5. DIRETORIA FINANCEIRA



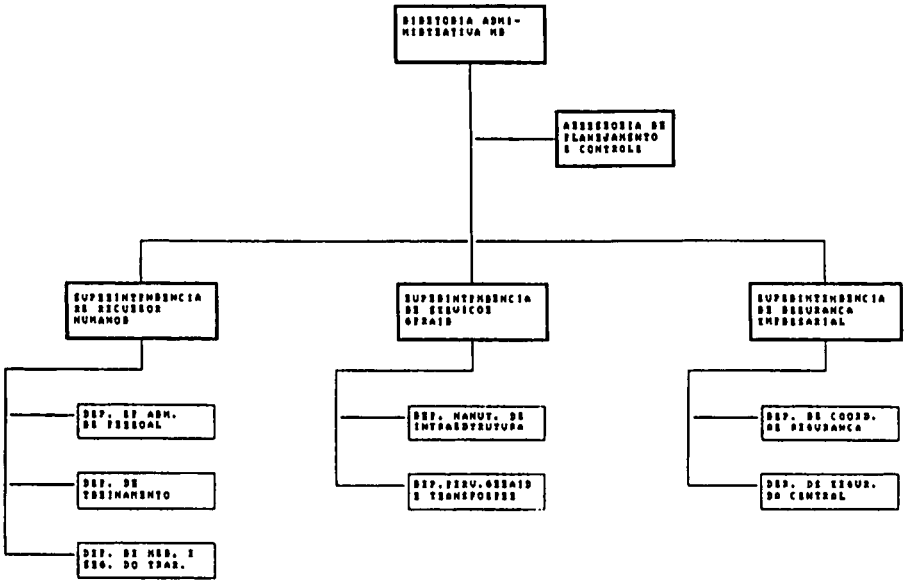
6. DIRETORIA DE SUPRIMENTOS



7. DIRETORIA ADMIMISTRATIVA ME



B. DIRETORIA ADMINISTRATIVA MD



[TRANSLATION — TRADUCTION]

Asunción, 27 December 1991

No. 336

Sir,

With reference to the first and second paragraphs of note No. 146 of 14 May 1991 and to note in reply No. 1, of the same content and date, from the Ministry of Foreign Affairs of the Republic of Paraguay, and in the light of the provisions of article III, paragraph 2, of the Treaty of ITAIPU, I have the honour to inform you that the Government of Brazil agrees with the Government of Paraguay on the amendment of annex A (Statute of ITAIPU) in the manner set forth in the annex to this note.

2. The new Statute shall enter into force on 17 May 1992, as provided for in its article 31. Accordingly, the validity of the existing Statute is hereby extended until that date.

3. This note and your note of the same content and date shall constitute an agreement between the two Governments.

Accept, Sir, etc.

[*Signed*]

C. E. ALVES DE SOUZA
Ambassador of Brazil

H. E. Mr. Alexis Frutos Vaesken
Minister for Foreign Affairs

[ANNEX A OF THE TREATY OF ITAIPU
(New Statute of the binational ITAIPU)][1]

STATUTE OF ITAIPU

CHAPTER I. DENOMINATION AND PURPOSE

Article 1

ITAIPU is a binational entity established under article III of the Treaty signed between Brazil and Paraguay on 26 April 1973, the parties constituting it being:

(*a*) Centrais Elétricas Brasileiras S.A. — ELETROBRÁS, a Brazilian limited liability mixed-economy company;

(*b*) The Administración Nacional de Electricidad — ANDE, a Paraguayan self-governing entity.

Article 2

The purpose of ITAIPU is the hydroelectric utilization of the water resources of the Paraná River owned in condominium by the two countries, from and including the Salto Grande de Sete Quedas, or Salto de Guairá, to the mouth of the Iguaçú River.

Article 3

ITAIPU shall be governed by the rules laid down in the Treaty of 26 April 1973, in this Statute and in the other annexes.

Article 4

ITAIPU shall, in accordance with the provisions of thand the technical responsibility to study, plan, direct and execute the works for which it was established, bring them into service and operate them, for which purposes it may acquire rights and undertake obligations.

Article 5

ITAIPU shall have headquarters at Brasília, capital of the Federative Republic of Brazil, and at Asunción, capital of the Republic of Paraguay.

CHAPTER II. CAPITAL

Article 6

ITAIPU shall have a capital equivalent to US$ 100,000,000.00 (one hundred million United States dollars), belonging to ELETROBRÁS and ANDE in equal and non-transferable parts.

Sole paragraph. The capital shall be kept at a constant value in accordance with the provisions of article XV, paragraph 4, of the Treaty.

CHAPTER III. ADMINISTRATION

Article 7

ITAIPU shall have as its administrative organs a Governing Council and an Executive Directorate.

Article 8

The Governing Council shall be composed of 12 Councillors appointed as follows:

[1] The text between brackets appears in the Spanish authentic text only — Le texte entre crochets n'apparaît que dans le texte authentique espagnol.

(*a*) Six by the Brazilian Government, including one as Brazilian Director-General, one designated by the Ministry of Foreign Affairs and one designated by ELETROBRÁS;

(*b*) Six by the Paraguayan Government, including one as Paraguayan Director-General, one designated by the Ministry of Foreign Affairs and one designated by ANDE.

Paragraph 1. The meetings of the Council shall be presided over alternately by a Brazilian or a Paraguayan Councillor and, on a rotating basis, by all the members of the Council.

Paragraph 2. The Council shall appoint two Secretaries, one Brazilian and the other Paraguayan, who shall be responsible, *inter alia*, for certifying documents of ITAIPU in Portuguese and in Spanish respectively.

Article 9

The Governing Council shall be responsible for implementing and ensuring the implementation of the Treaty and the annexes thereto and for determining:

(*a*) The fundamental policies and guidelines of ITAIPU;

(*b*) The rules of procedure, the organizational manual, the general rules governing tender procedures and the staff regulations;

(*c*) The proposed budget for each financial year and the revisions thereof, submitted by the Directors-General;

(*d*) The annual auditing plan and programme;

(*e*) Actions entailing any transfer of ITAIPU fixed assets, after consultation with ELETROBRÁS and ANDE;

(*f*) Revaluations of assets and liabilities, after consultation with ELETROBRÁS and ANDE, taking account of the provisions of article XV, paragraph 4, of the Treaty;

(*g*) The conditions for the provision of electrical services;

(*h*) Proposals of the Executive Directorate relating to obligations and loans;

(*i*) Necessary changes in the organizational structure at the levels corresponding or equivalent to offices and departments, proposed jointly by the Directors-General.

Paragraph 1. The Governing Council shall consider the annual report, balance sheet and statement of account drawn up by the Executive Directorate and shall submit them, together with its comments, to ELETROBRÁS and ANDE in accordance with the provisions of article 26 of this Statute.

Paragraph 2. The Governing Council shall be informed of the progress of ITAIPU affairs by means of statements which shall normally be presented by the Brazilian Director-General and/or the Paraguayan Director-General or other statements which the Council may request through them.

Article 10

The Governing Council shall hold regular meetings every two months and special meetings, when convened, through the Secretaries, by the Brazilian Director-General and/or the Paraguayan Director-General or by half of the Councillors minus one.

Sole paragraph. The Governing Council may take valid decisions only when a majority of the Councillors of each country are present and with parity of votes equal to the smaller number of national representatives present.

Article 11

Councillors shall have a term of office of four years and may be reappointed.

Paragraph 1. The Governments may, at any time, replace the Councillors appointed by them.

Paragraph 2. When a post of Councillor becomes definitively vacant, the Government concerned shall appoint a replacement, who shall serve for the remainder of his predecessor's term of office.

Article 12

The Executive Directorate, constituted by nationals of both countries, in equal number and with the same authority and rank, shall consist of the Brazilian Director-General, the Paraguayan Director-General, the Engineering and Operations, Maintenance and Works, Financial and Supplies Directors and the Brazilian and Paraguayan Administrative Directors.

Paragraph 1. The members of the Executive Directorate shall be appointed by their respective Governments.

Paragraph 2. The members of the Executive Directorate shall have a term of office of five years and may be reappointed.

Paragraph 3. The Governments may, at any time, replace the members of the Executive Directorate appointed by them.

Paragraph 4. In the event of the absence or temporary incapacity of a member of the Executive Directorate, the Director-General of the same nationality shall propose a replacement, with accumulation of functions. In the event of the absence of the Director-General, the latter shall propose his replacement to the Executive Directorate from among the directors of his nationality.

Paragraph 5. When a post of member of the Executive Directorate becomes definitively vacant, the respective Government, as appropriate, shall propose a replacement, who, once appointed, shall serve for the remainder of his predecessor's term of office.

Article 13

The responsibilities and duties of the Executive Directorate shall be as follows:

(*a*) To implement the Treaty and the annexes thereto and the decisions of the Governing Council;

(*b*) To implement and ensure the implementation of the rules of procedure;

(*c*) To propose fundamental administrative policies and guidelines to the Governing Council;

(*d*) To study and submit to the Governing Council during each financial year the proposed budget for the following year and any revisions thereto;

(*e*) To study and submit to the Governing Council the annual report, balance sheet and statement of account for the preceding financial year;

(*f*) To implement the rules and conditions for the provision of electrical services;

(*g*) To approve any actions entailing obligations for ITAIPU proposed by the Directors-General, such as opinions of committees for the consideration of tenders;

(*h*) To approve joint proposals by the Directors-General concerning administrative rules and procedures that involve the entity as a whole, such as personnel management rules.

Article 14

The Executive Directorate shall hold regular meetings at least once a month and special meetings when convened by one of the Directors-General.

Paragraph 1. Resolutions of the Executive Directorate shall be adopted by a majority of votes;

Paragraph 2. The Executive Directorate shall establish itself at such place as it may deem most suitable for the exercise of its functions.

Article 15

ITAIPU shall be able to undertake obligations or issue powers of attorney only with the signatures of the two Directors-General.

Article 16

The honoraria of the Councillors and of members of the Executive Directorate sball be fixed by agreement between ELETROBRÁS and ANDE.

Article 17

The responsibilities of the Directors-General shall be as follows:

(A) *Jointly*

(*a*) To carry out, in concert, all the administrative actions necessary for the functioning of the entity, planning, organizing, coordinating, managing and supervising the implementation of the administrative policies and plans approved by the Executive Directorate and implemented by the other Directorates in their fields of competence, with the exception of those which are the responsibility of the Governing Council and the Executive Directorate;

(*b*) To coordinate the process of identification and formulation of the basic administrative policies and guidelines of ITAIPU, for consideration by the Executive Directorate and approval by the Governing Council;

(*c*) To coordinate the process of preparing the ITAIPU work plan and annual budget;

(*d*) To coordinate the preparation of ITAIPU administrative plans, rules and procedures, such as the personnel management rules;

(*e*) To coordinate the preparation and updating of the rules of procedure, the organizational manual, the general rules governing tender procedures and the staff regulations;

(*f*) To decide on the organizational structure and the nationality of chiefs of units at division level;

(*g*) To appoint managers to all management posts except those of directors;

(*h*) To represent ITAIPU Binacional at law and elsewhere;

(B) *Individually*

(*a*) To engage and dismiss personnel of their respective nationality;

(*b*) To represent ITAIPU Binacional at law and elsewhere.

Article 18

The Engineering and Operations Director shall be responsible for coordinating the execution of studies and projects and for operating the facilities.

Article 19

The Maintenance and Works Director shall be responsible for coordinating the execution of plant and infrastructure works and for the electromechanical and civil engineering maintenance of the facilities.

Article 20

The Administrative Directors shall be responsible, on their respective banks, for personnel management and for supervising general services and company security.

Article 21

The Financial Director shall be responsible for implementing economic and financial activities.

Article 22

The Supplies Director shall be responsible for implementing supply-related activities.

CHAPTER IV. ORGANIZATION

Article 23

The organizational structure of ITAIPU Binacional, with all planned units up to department level, is shown in the organizational chart which forms an integral part of this annex.

Paragraph 1. The aforesaid organizational chart also specifies the nationality of the managers of the units.

Paragraph 2. The breakdown of departments into divisions, where necessary, must be approved jointly by the Directors-General.

Paragraph 3. A full description of the functions and responsibilities of the units shall be set forth in the rules of procedure and the organizational manual.

Paragraph 4. The organizational structure may be revised, in principle within five years, or at any time by agreement between the High Contracting Parties.

Paragraph 5. The internal audit offices for each bank shall be operationally subordinate to the Governing Council and administratively subordinate to the Directors-General.

Article 24

The assistants and chief consultants to the directors shall be assigned a grade equivalent to that of chief of office.

Article 25

The conduct of the entity's legal affairs shall be the responsibility of the legal consultancies, one for each nationality, which shall be subordinate to their respective Directors-General. The legal consultants may attend the meetings of the Executive Directorate when this is deemed necessary by the Directors-General.

CHAPTER V. FINANCIAL YEAR

Article 26

The financial year shall end on 31 December of each year.

Paragraph 1. ITAIPU shall submit the annual report, balance sheet and statement of account for the preceding financial year at any time up to 30 April of each year, for a decision by ELETROBRÁS and ANDE.

Paragraph 2. ITAIPU shall adopt the currency of the United States of America as a standard for its accounting operations. The said standard may be replaced by another, by agreement betwecn the two Governments.

CHAPTER VI. GENERAL PROVISIONS

Article 27

ITAIPU shall assume, as part of the capitalization by ELETROBRÁS and ANDE, the expenses incurred by the said enterprises, prior to the establishment of the entity, in connection with the following:

(*a*) Studies resulting from the Cooperation Agreement signed on 10 April 1970;

(*b*) Preliminary works and services relating to the construction of the hydroelectric utilization scheme.

Article 28

Councillors, members of the Executive Directorate and other employees may not exercise management, administrative or consultative functions in enterprises that supply or contract for any materials or services used by ITAIPU.

Article 29

Brazilian or Paraguayan public officials and employees of self-governing entities and of mixed-economy companies may perform services for ITAIPU without forfeiting their original connection or any pension and/or social security benefits, due regard being had for the respective national legislation.

Article 30

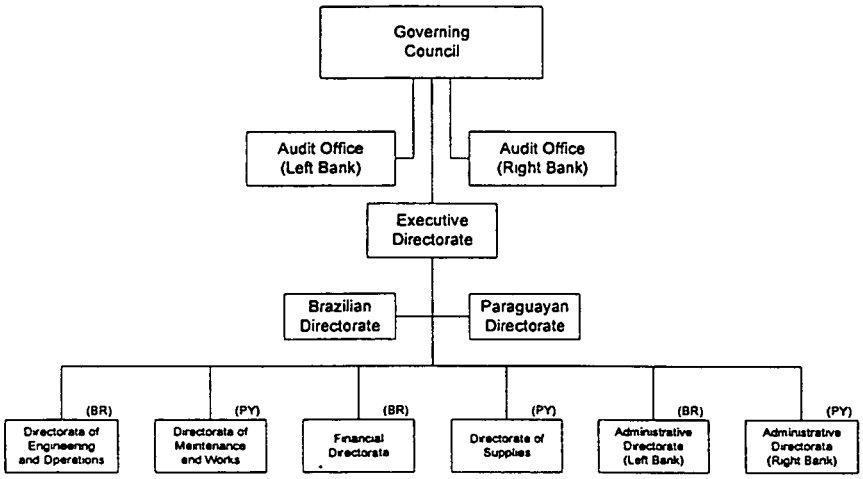
As far as possible, supervision of units at division level shall be divided on an equal basis in terms of number and size between the two nationalities.

Article 31

Cases for which no provision is made in this Statute and which cannot be resolved by the Governing Council shall be settled by the two Governments after consultation with ELETROBRÁS and ANDE.

This Statute shall enter into force on 17 May 1992.

1. COMPOSITE GENERAL ORGANIZATIONAL CHART



NOTES

1. The internal audit office shall be functionally subordinate to the Governing Council and administratively subordinate to the respective Director-General.

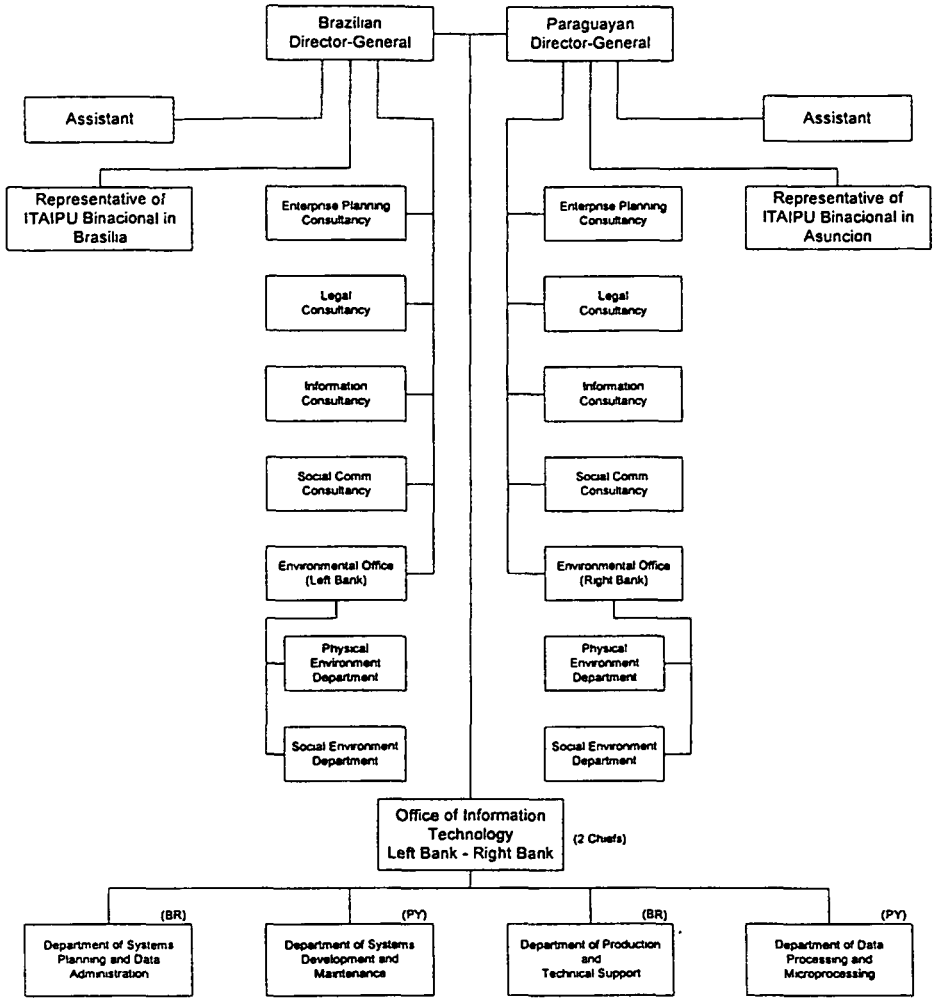
2. In Directorates that do not serve only one bank, offices shall have, in addition to a chief, a deputy chief of the other nationality, responsible for keeping track of the implementation of activities carried out in the area and with no other specific responsibility aside from those delegated by the chief.

3. Activities to be implemented on the work site and requiring the participation of units from both banks shall be agreed between the relevant chiefs of office. They shall include the security, transport and general services activities of the Administrative Directorates.

4. The functions of directorates and more complex units have been shown in the organizational chart in consolidated form. The functions of other units may be easily identified from their method of implementation in the present structure and will be described in the rules of procedure and organizational manual.

(n) Numbers in brackets identification of units for reference purposes.

2. BRAZILIAN DIRECTORATE GENERAL AND PARAGUAYAN DIRECTORATE GENERAL



Preparation of the Systems Master Plan

Coordination of the installation of the Systems Master Plan

Data modeling

Data administration

Development and installation on the basis of the Master Plan

Preparation and updating of documentation

Evaluation of systems performance

Corrective and developmental maintenance

Production planning and implementation

Operation of the central hardware and peripherals

Administration of computing resources

Technical support for mainframe users

Centralized technical support

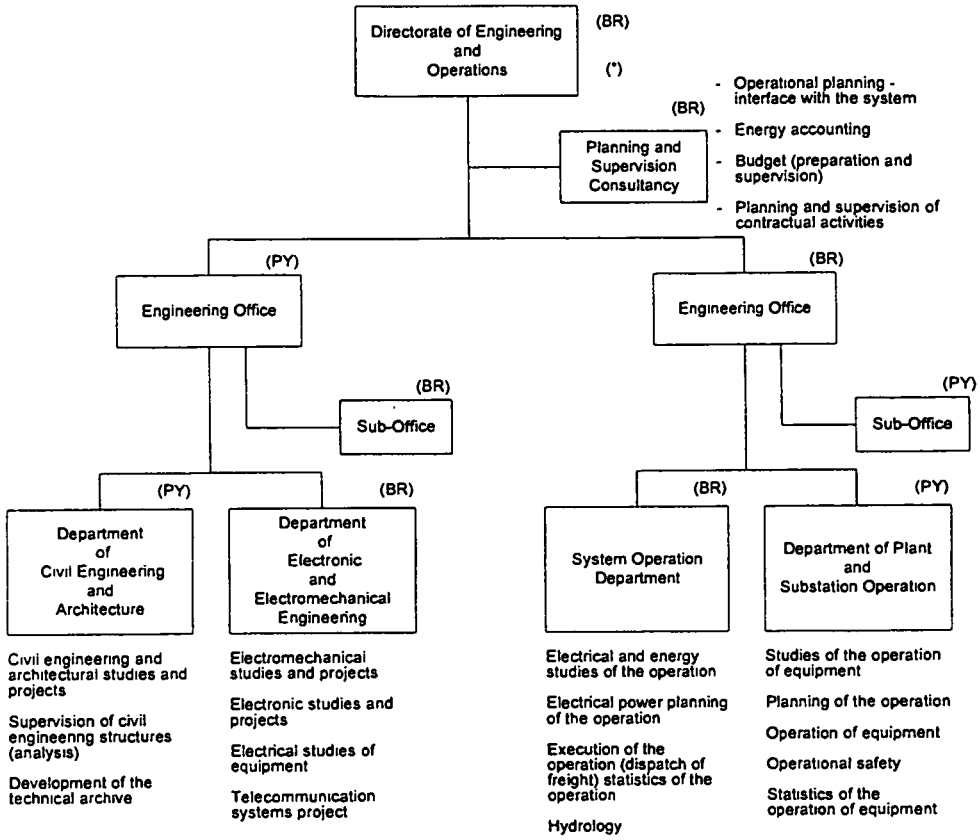
Planning, administration and operation of data processing networks

Establishment of computerization needs and evaluation of the results

Market analysis of hardware and software and recommendation of applicability

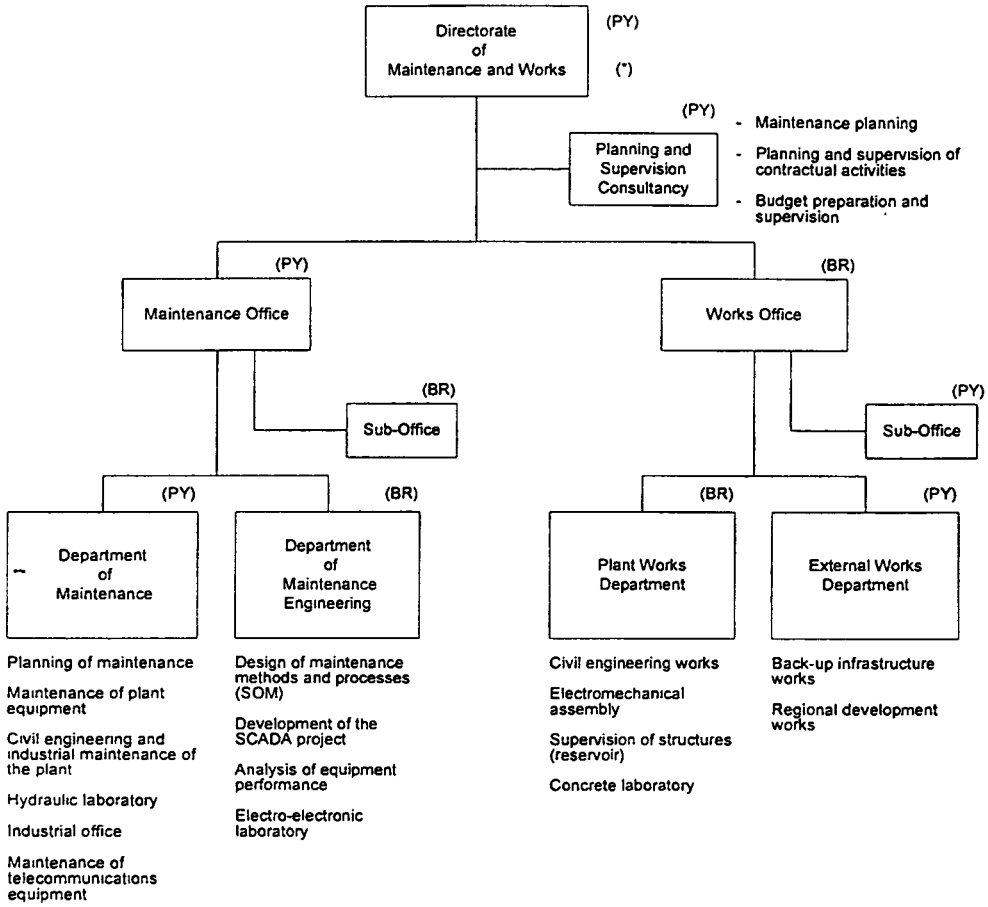
Technical support for network and microprocessing users

3. DIRECTORATE OF ENGINEERING AND OPERATIONS



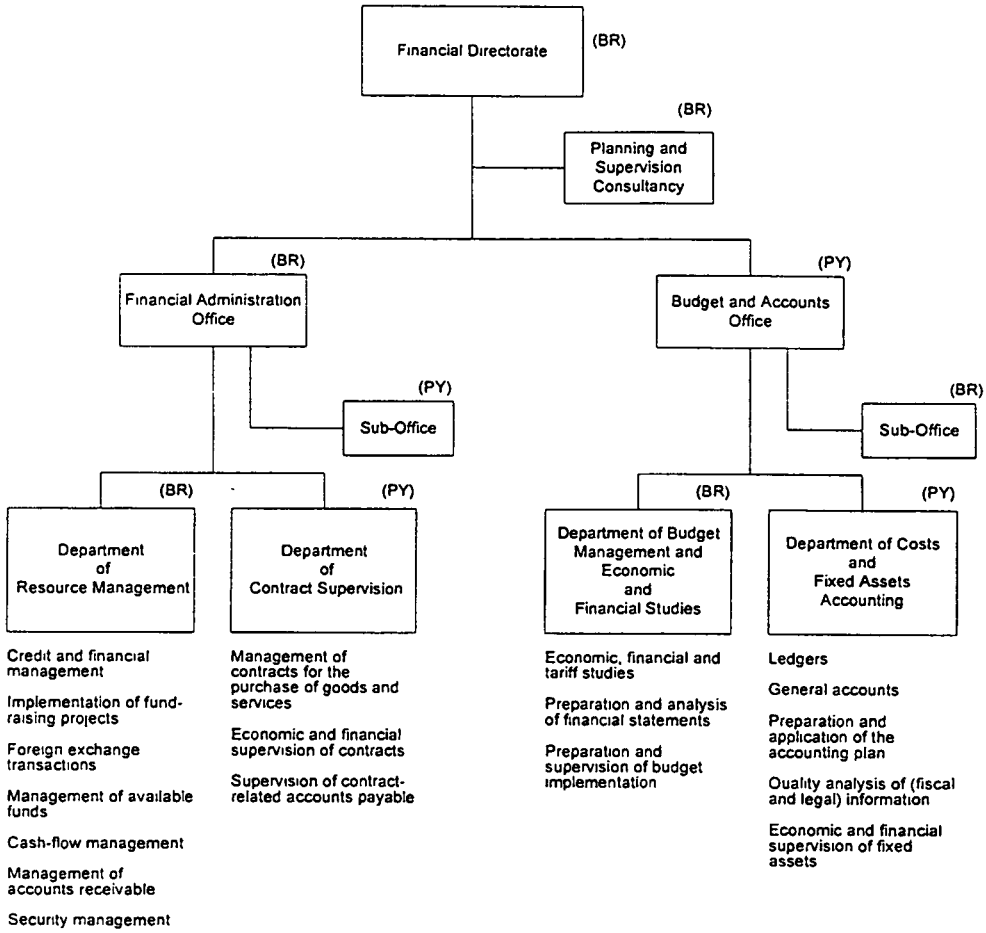
* The Director participates or designates a participant in the following organs: CMO, CADOP, CECOI.

4. DIRECTORATE OF MAINTENANCE AND WORKS

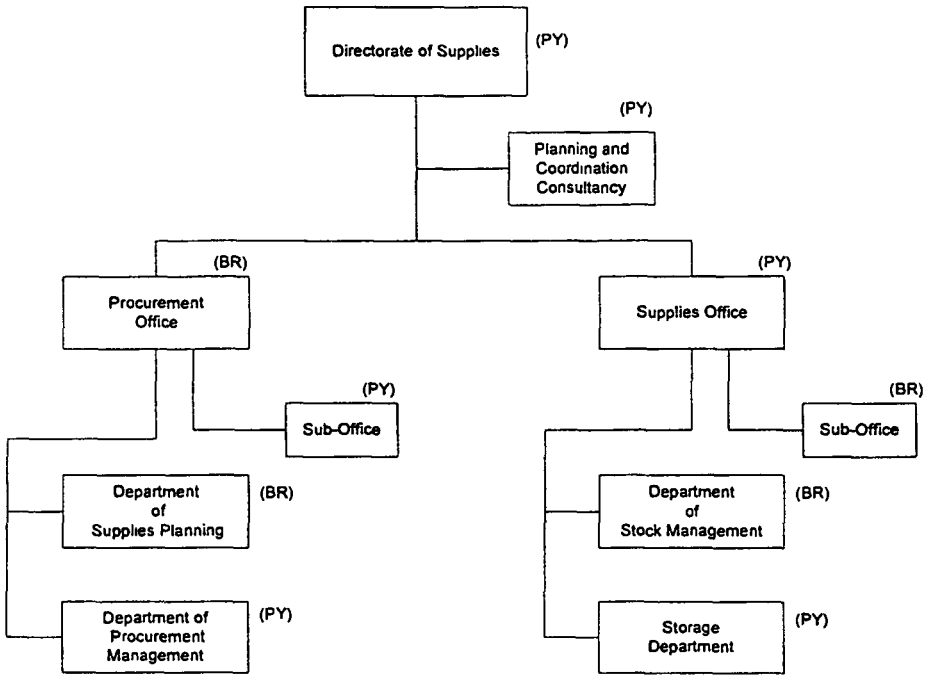


* The Director participates or designates a participant in the following organs: CMO, CADOP, CECOI

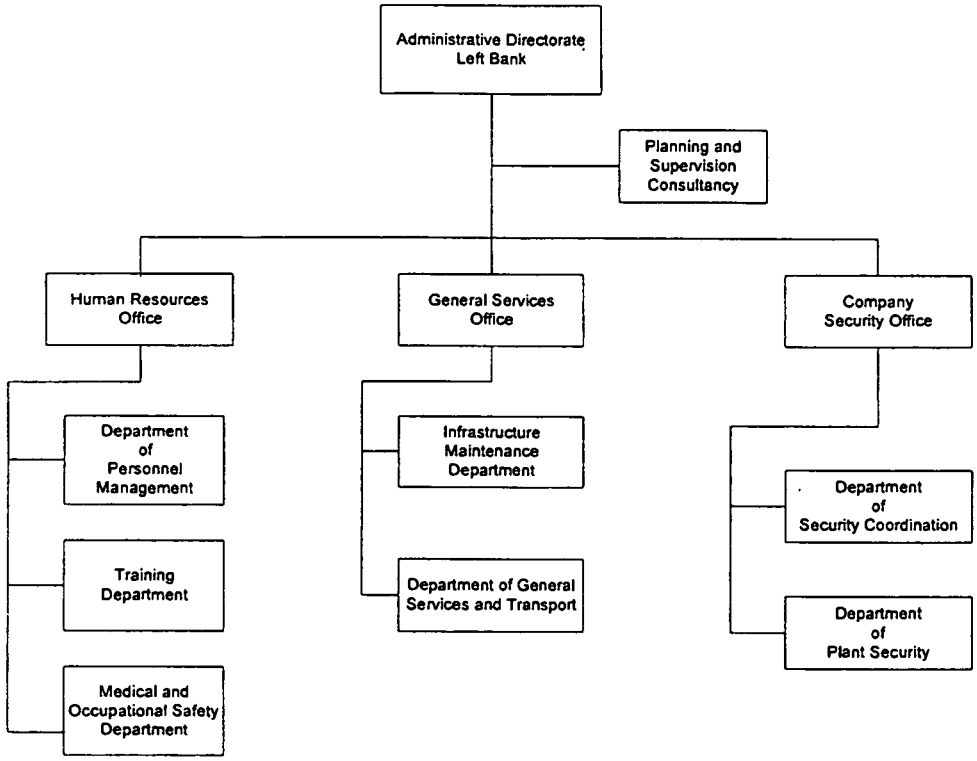
5. FINANCIAL DIRECTORATE



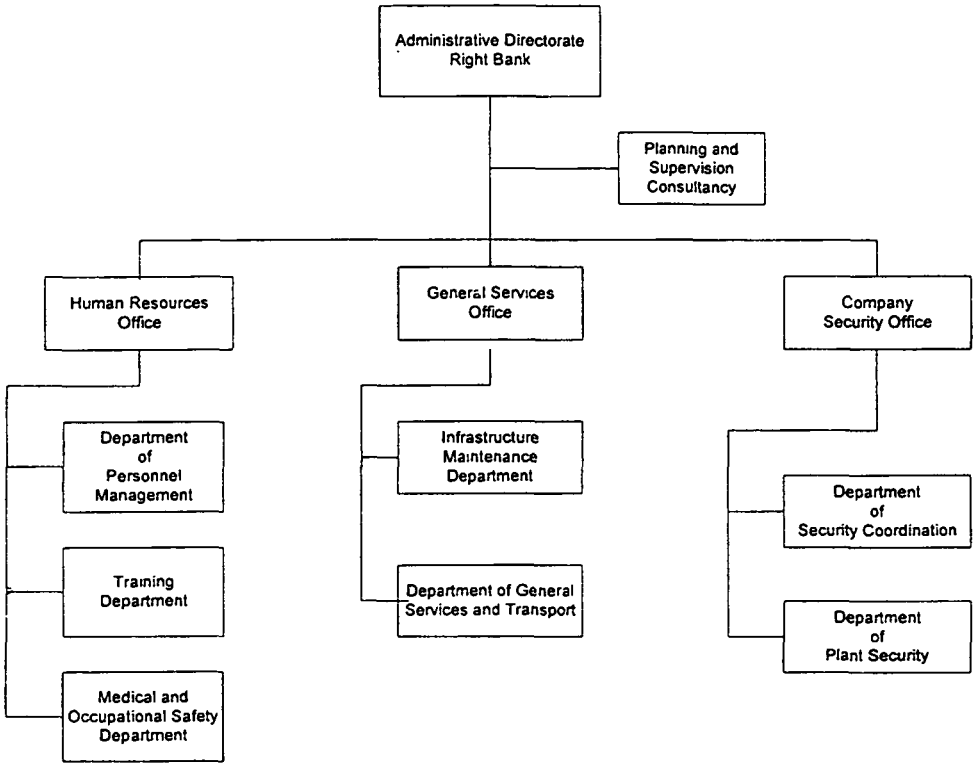
6. DIRECTORATE OF SUPPLIES



7. ADMINISTRATIVE DIRECTORATE
(Left Bank)



8. ADMINISTRATIVE DIRECTORATE
(Right Bank)



[TRADUCTION — TRANSLATION]

Asunción, le 27 décembre 1991

N° 336

Monsieur le Ministre,

Me référant aux premier et deuxième paragraphes de la note n° 146 du 14 mai 1991 et à la note en réponse n° 1 de teneur identique et de la même date, adressée par le Ministère des relations extérieures de la République du Paraguay, et tenant compte des dispositions du paragraphe 2 de l'Article III du Traité de l'ITAIPU, j'ai l'honneur de faire savoir à Votre Excellence que le Gouvernement du Brésil est d'accord avec le Gouvernement du Paraguay pour modifier l'Annexe « A » (Statut de l'ITAIPU) de la manière indiquée en annexe à la présente note.

2. Le nouveau Statut sera en vigueur à compter du 17 mai 1992, comme prévu en son Article 31. Dans ces conditions, la validité du Statut actuel est prorogée jusqu'à cette date.

3. La présente note et la note de Votre Excellence, de teneur identique et de la même date, constituent un accord entre les deux Gouvernements.

Veuillez agréer, etc.

L'Ambassadeur du Brésil,

[*Signé*]

C. E. ALVES DE SOUZA

Son Excellence Monsieur Alexis Frutos Vaesken
Ministre des relations extérieures

[ANNEXE A DU TRAITÉ DE L'ITAIPU
(Nouveau Statut de l'ITAIPU binationale)][1]

STATUT DE L'ITAIPU

CHAPITRE I. DÉNOMINATION ET OBJET

Article premier

L'ITAIPU est une entité binationale créée par l'Article III du Traité signé par le Brésil et le Paraguay le 26 avril 1973; elle est composée de :

a) La Centrais Elétricas Brasileiras S.A. — ELETROBRAS, société anonyme d'économie mixte brésilienne;

b) L'Administration nationale de l'électricité — ANDE, entité autonome paraguayenne.

Article 2

L'objet de l'ITAIPU est l'aménagement hydro-électrique des eaux du Paraná relevant de la souveraineté commune des deux pays, à partir du Salto Grande de Sete Quedas ou Salto del Guairá, inclusivement, jusqu'à l'embouchure de l'Iguaçu.

Article 3

L'ITAIPU sera régie par les règles établies dans le Traité du 26 avril 1973, dans le présent Statut et dans les autres annexes.

Article 4

L'ITAIPU sera dotée, conformément aux dispositions du Traité et de ses annexes, de la capacité juridique, financière et administrative requise pour étudier, projeter, diriger et exécuter les travaux constituant l'objet pour lequel elle a été créée, assurer la mise en service et l'exploitation des ouvrages réalisés, et pourra, à ces fins, acquérir des droits et contracter des obligations.

Article 5

L'ITAIPU aura un siège à Brasília, capitalc de la République fédérative du Brésil, et un siège à Asunción, capitale de la République du Paraguay.

CHAPITRE II. CAPITAL

Article 6

Le capital de l'ITAIPU s'élèvera à 100 000 000 (cent millions) de dollars des Etats-Unis d'Amérique; il appartiendra à l'ELETROBRAS et à l'ANDE, par parts égales non cessibles.

Paragraphe unique. Le capital sera maintenu à une valeur constante conformément aux dispositions du paragraphe 4 de l'Article 15 du Traité.

CHAPITRE III. ADMINISTRATION

Article 7

Les organes d'administration de l'ITAIPU seront le Conseil d'administration et le Directoire exécutif.

[1] Le texte entre crochets n'apparaît que dans le texte authentique espagnol — The text between brackets appears in the Spanish authentic text only.

Article 8

Le Conseil d'administration sera composé de douze membres nommés de la façon suivante :

a) Six par le Gouvernement brésilien, dont un sera le Gouverneur général brésilien, un sera désigné par le Ministère des relations extérieures et un par l'ELETROBRAS;

b) Six par le Gouvernement paraguayen, dont un sera le directeur général paraguayen, un sera désigné par le Ministère des relations extérieures et un par l'ANDE.

Paragraphe 1. Les réunions du Conseil seront présidées alternativement par un membre du Conseil d'administration de nationalité brésilienne ou paraguayenne et à tour de rôle, par tous les membres du Conseil.

Paragraphe 2. Le Conseil nommera deux secrétaires, l'un brésilien et l'autre paraguayen, qui seront chargés, entre autres attributions, de certifier les documents de l'ITAIPU en portugais et en espagnol, respectivement.

Article 9

Il appartiendra au Conseil d'administration d'appliquer et de faire appliquer le Traité et ses annexes et de prendre les décisions concernant :

a) Les politiques et directives fondamentales d'ITAIPU;

b) Le règlement intérieur, le Manuel d'organisation, la Norme générale relative aux adjudications et le Règlement du personnel;

c) Le projet de budget pour chaque exercice et les révisions dudit projet présentées par les directeurs généraux;

d) Le plan et le programme annuel de vérification des comptes;

e) Les actes d'aliénation du patrimoine de l'ITAIPU, sur avis préalable de l'ELETROBRAS et de l'ANDE;

f) Les réévaluations de l'actif et du passif, sur avis préalable de l'ELETROBRAS et de l'ANDE, compte tenu des dispositions du paragraphe 4 de l'Article 15 du Traité;

g) Les normes régissant la fourniture des services d'électricité;

h) Les propositions du Directoire exécutif relatives aux obligations et emprunts;

i) Les modifications nécessaires de la structure organisationnelle aux niveaux correspondant ou équivalant aux superintendances et départements, sur proposition conjointe des directeurs généraux.

Paragraphe 1. Le Conseil d'administration examinera le rapport annuel, le bilan général et le relevé du compte des résultats établis par le Directoire exécutif et les présentera, en faisant connaître son avis, à l'ELETROBRAS et à l'ANDE, conformément aux dispositions de l'Article 26 du présent Statut.

Paragraphe 2. Le Conseil d'administration prendra connaissance de la marche des affaires de l'ITAIPU au moyen des rapports qui lui seront faits de façon habituelle par le directeur général brésilien et/ou par le directeur général paraguayen, ou d'autres rapports que le Conseil demanderait par leur intermédiaire.

Article 10

Le Conseil d'administration se réunira en session ordinaire tous les deux mois et en session extraordinaire chaque fois qu'il sera convoqué, par l'intermédiaire des secrétaires, par le directeur général brésilien et/ou par le directeur général paraguayen ou par la moitié des membres du Conseil d'administration moins un.

Paragraphe unique. Le Conseil d'administration ne pourra se prononcer verbalement que si la majorité des membres de chaque pays est présente, la parité des voix étant maintenue en fonction de la moins nombreuse des représentations nationales présentes.

Article 11

Le mandat des membres du Conseil d'administration sera de quatre ans; il sera renouvelable.

Paragraphe 1. Les Gouvernements pourront à tout moment remplacer les membres du Conseil d'administration qu'ils auront nommés.

Paragraphe 2. Lorsqu'un poste de membre du Conseil d'administration deviendra définitivement vacant, le Gouvernement intéressé nommera un remplaçant, qui exercera ses fonctions pendant la durée du mandat restant à courir.

Article 12

Le Directoire exécutif, constitué d'un nombre égal de ressortissants de chacun des deux pays, ayant chacun la même capacité et le même rang, sera composé du directeur général brésilien, du directeur général paraguayen, et de deux directeurs du génie et des opérations, de l'entretien et des travaux, de deux directeurs financiers, de deux directeurs des approvisionnements, du directeur administratif brésilien et du directeur administratif paraguayen.

Paragraphe 1. Les membres du Directoire exécutif seront nommés par les Gouvernements respectifs.

Paragraphe 2. Le mandat des membres du Directoire exécutif sera de cinq ans; il sera renouvelable.

Paragraphe 3. Les Gouvernements pourront à tout moment remplacer les membres du Directoire exécutif qu'ils auront nommés.

Paragraphe 4. En cas d'absence ou d'empêchement temporaire d'un membre du Directoire exécutif, ce dernier sera remplacé par un autre, désigné par le directeur général de la même nationalité, qui cumulera les deux fonctions. En cas d'absence du directeur général, ce dernier désignera au Directoire exécutif son remplaçant, choisi parmi les directeurs de sa nationalité.

Paragraphe 5. En cas de vacance définitive d'un poste de membre du Directoire exécutif, le Gouvernement intéressé, selon le cas, désiguera un remplaçant qui, une fois nommé, exercera le mandat pendant la durée restant à courir.

Article 13

Les attributions et obligations du Directoire exécutif seront les suivantes :

a) Donner effet au Traité et à ses annexes ainsi qu'aux décisions du Conseil d'administration;

b) Appliquer et faire appliquer le règlement intérieur;

c) Proposer au Conseil d'administration les politiques et directives fondamentales à suivre en matière d'administration;

d) Elaborer et soumettre au Conseil d'administration au cours de chaque exercice le projet de budget pour l'exercice suivant et les révisions éventuelles dudit projet;

e) Elaborer et soumettre au Conseil d'administration le rapport annuel, le bilan général et le relevé de compte des résultats de l'exercice antérieur;

f) Mettre en application les règles et les normes régissant la fourniture des services d'électricité;

g) Approuver les actes impliquant des obligations pour l'ITAIPU, qui seraient proposés par les directeurs généraux, tels que les avis de commissions de jugement des adjudications.

h) Approuver les propositions conjointes des directeurs généraux sur les normes et procédures administratives concernant l'ensemble de l'entité, telles que les normes d'administration du personnel.

Article 14

Le Directoire exécutif se réunira en session ordinaire au moins une fois par mois, et en session extraordinaire lorsqu'il sera convoqué par l'un des directeurs généraux.

Paragraphe 1. Les résolutions du Directoire exécutif seront adoptées à la majorité des voix.

Paragraphe 2. Le Directoire exécutif s'installera au lieu qu'il jugera le plus convenable pour l'exercice de ses fonctions.

Article 15

L'ITAIPU ne pourra prendre d'engagements ou nommer des mandataires qu'avec la signature conjointe des deux directeurs généraux.

Article 16

Les honoraires des membres du Conseil d'administration et des membres du Directoire exécutif seront fixés d'un commun accord par l'ELETROBRAS et l'ANDE.

Article 17

Les attributions des directeurs généraux sont les suivantes :

A) *Conjointement*

a) Accomplir, solidairement, tous les actes d'administration nécessaires à la conduite et au fonctionnement de l'entité, en planifiant, organisant, coordonnant, dirigeant et contrôlant l'exécution des politiques et des plans d'administration approuvés par le Directoire exécutif et exécutés par les autres directions dans le cadre de leur compétence, à l'exclusion des actes attribués au Conseil d'administration et au Directoire exécutif;

b) Coordonner le processus d'identification et d'élaboration des politiques et directives fondamentales de l'administration de l'ITAIPU aux fins d'appréciation du Directoire exécutif et d'approbation du Conseil d'administration;

c) Coordonner le processus d'élaboration du plan de travail et du budget annuel de l'ITAIPU;

d) Coordonner l'élaboration des plans, normes et procédures administratifs de l'ITAIPU, tels que les normes d'administration du personnel;

e) Coordonner l'élaboration et la mise à jour du règlement intérieur, du Manuel d'organisation, de la Norme générale des adjudications et du Règlement du personnel;

f) Définir la structure organisationnelle et la nationalité des chefs des organes au niveau de la division;

g) Désigner les gérants de tout poste de gérance, à l'exception des directeurs;

h) Représenter l'ITAIPU binationale en justice ou ailleurs.

B) *Isolement*

a) Engager et licencier le personnel de sa nationalité;

b) Représenter l'ITAIPU binationale en justice ou ailleurs.

Article 18

Le directeur du génie et des opérations est responsable de la coordination de l'exécution des études et projets, ainsi que du fonctionnement des installations.

Article 19

Le directeur de l'entretien et des travaux est responsable de la coordination de l'exécution des travaux d'usine et d'infrastructure, ainsi que de l'entretien électromécanique et civil des installations.

Article 20

Les directeurs administratifs sont responsables, chacun en ce qui le concerne, de l'administration du personnel, de la Direction des Services généraux et de la sécurité d'entreprise.

Article 21

Le directeur financier est responsable de l'exécution des activités économico-financières.

Article 22

Le directeur des approvisionnements est responsable de l'exécution des activités d'approvisionnement.

CHAPITRE IV. ORGANISATION

Article 23

La structure organisationnelle de l'ITAIPU binationale avec tous les organes prévus jusqu'au niveau du département est représentée dans l'organigramme qui est partie intégrante de la présente annexe.

Paragraphe 1. Ledit organigramme précise également la nationalité des chefs des organes.

Paragraphe 2. La subdivision des départements en divisions en cas de nécessité, doit être approuvée conjointement par les directeurs généraux.

Paragraphe 3. Les fonctions et attributions complètes des organes sont définies dans le règlement intérieur et dans le Manuel d'organisation.

Paragraphe 4. La structure organisationnelle pourra être revisée, en principe dans un délai de cinq ans, ou à un moment quelconque par accord entre les Hautes Parties contractantes.

Paragraphe 5. Les organes de vérification interne de chaque domaine sont fonctionnellement subordonnés au Conseil d'administration et administrativement aux directeurs généraux.

Article 24

Les adjoints et chefs de service consultatif des directeurs ont un rang équivalent à celui de superintendant.

Article 25

La conduite des affaires juridiques de l'entité reste du ressort des Services juridiques, à raison d'un par nationalité, chacun d'entre eux étant subordonné au Directeur général correspondant. Les conseillers juridiques pourront prendre part aux réunions du Directoire exécutif en tant que de besoin, à la discrétion des directeurs généraux.

CHAPITRE V. EXERCICE FINANCIER

Article 26

L'exercice financier sera clos le 31 décembre de chaque année.

Paragraphe 1. L'ITAIPU présentera au plus tard le 30 avril de chaque année à l'ELETROBRAS et à l'ANDE, pour décision, le rapport annuel, le bilan général et le relevé du compte des résultats de l'exercice antérieur.

Paragraphe 2. L'ITAIPU adoptera la monnaie des Etats-Unis d'Amérique comme monnaie de référence pour la comptabilisation de ses opérations. Cette monnaie de référence pourra être remplacée par une autre, sur entente entre les deux Gouvernements.

CHAPITRE VI. DISPOSITIONS GÉNÉRALES

Article 27

Seront incorporées aux apports de l'ELETROBRAS et de l'ANDE, lors de la constitution du capital de l'ITAIPU, les dépenses effectuées par lesdites entreprises avant la création de l'entité aux fins des travaux suivants :

a) Etudes résultant de la coopération signée le 10 avril 1970;

b) Ouvrages préliminaires et services liés à l'aménagement hydro-électrique.

Article 28

Les membres du Conseil d'administration, membres du Directoire exécutif et autres employés ne pourront exercer des fonctions de direction, d'administration ou de consultation dans des entreprises fournissant, en tant qu'adjudicataires d'un marché ou non, des matériaux ou services utilisés par l'ITAIPU.

Article 29

Les fonctionnaires publics employés par des entités autonomes ou d'économie mixte brésiliennes ou paraguayennes pourront fournir leurs services à l'ITAIPU tout en conservant leur lien avec leur administration d'origine et leurs droits aux prestations de retraite et/ou de sécurité sociale servies par celle-ci, compte dûment tenu des législations nationales respectives.

Article 30

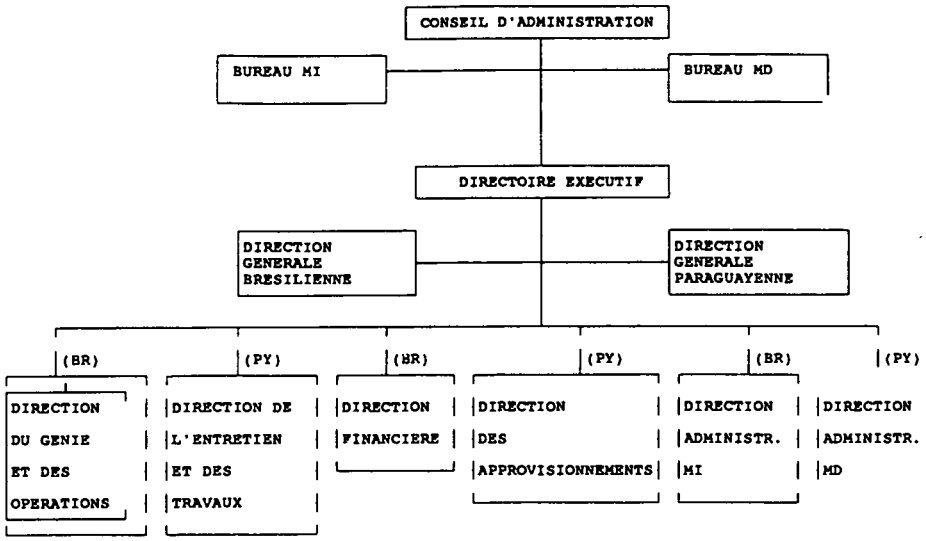
Dans toute la mesure du possible, le commandement des organes au niveau de la division devra être réparti paritairement entre les deux nationalités, en nombre et en importance.

Article 31

Les cas non prévus par le présent Statut et qui ne pourront être réglés par le Conseil d'administration seront résolus par les deux Gouvernements sur avis préalable de l'ELETROBRAS et de l'ANDE.

Le présent Statut entrera en vigueur à compter du 17 mai 1992.

I. ORGANIGRAMME GÉNÉRAL SYNTHÉTIQUE



NOTES:

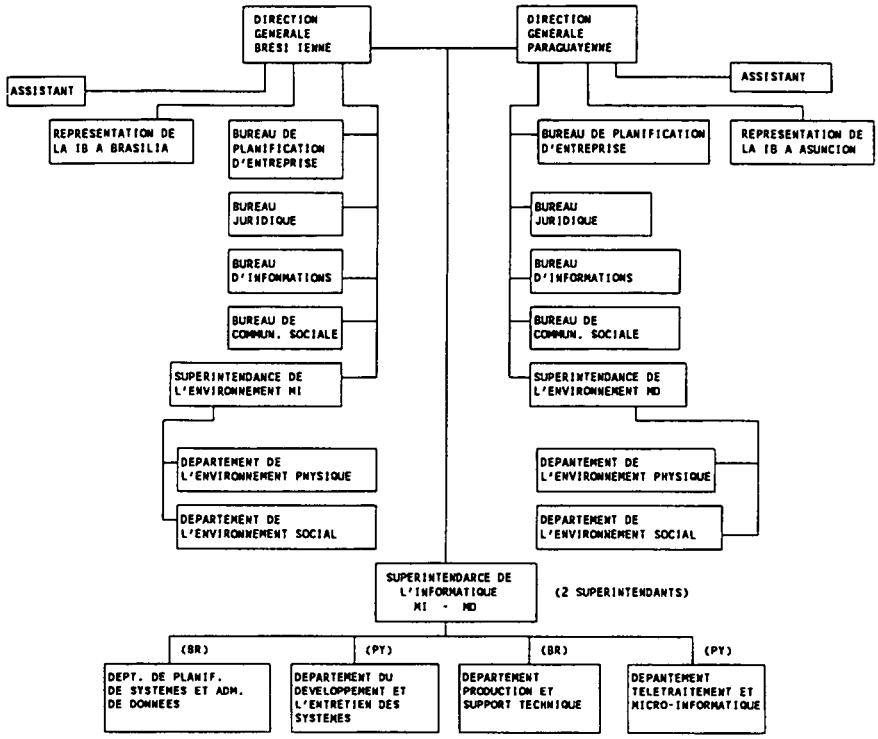
1) Le Bureau interne est subordonné fonctionnellement au Conseil d'administration et administrativement au Directeur général respectif.

2) Dans les directions qui ne traitent pas exclusivement d'un seul domaine, les superintendances auront, en plus du superintendant, un vice-superintendant ds l'autre nationalité, chargé de s'informer sur l'exécution des activités de développement dans la région, mais sans autre attribution précise, à l'exception de celles qui lui auront été déléguées par le superintendant.

3) Dans le cas des directions et des organes plus complexes, ont été indiguées dans l'organigramme, sous une forme synthétique, les attributions de ces organes. Les attributions des autres organes peuvent être facilement identifiées par la forme de leur exécution dans la structure actuelle et feront l'objet d'une description dans le Règlement intérieur et dans le Manuel d'organisation.

n) Numéros entre parenthèses: identification des organes aux fins de rèfèrence.

2. DIRECTION GÉNÉRALE BRÉSILIENNE ET DIRECTION GÉNÉRALE PARAGUAYENNE



Elaborer le plan directeur de systèmes

Coordonner l'implantation du plan directeur de systèmes

Modelage de données

Exécuter l'administration logique de données

Exécuter le développement et l'implantation conformément au plan directeur

Elaborer et mettre à jour la documentation

Evaluer l'exécution des systèmes

Exécuter l'entretien évolutif et correctif

Planifier et exécuter la production

Opération de l'équipement et des périphénques

Administrer les ressources computationnelles

Réaliser l'appui technique aux utilisateurs du mainframe

Support technique centralisé

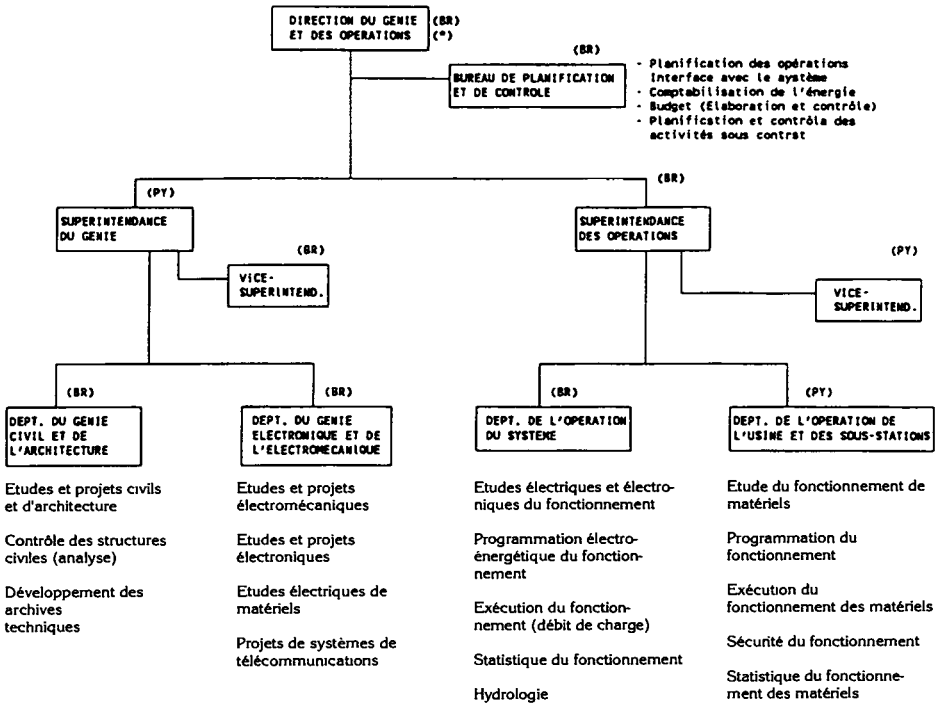
Projet, administration et fonctionnement des réseaux de télétraitement

Définir les besoins de l'informatisation et en évaluer les résultats

Analyser et recommander l'applicabilité des matériels et logiciels existant sur le marché

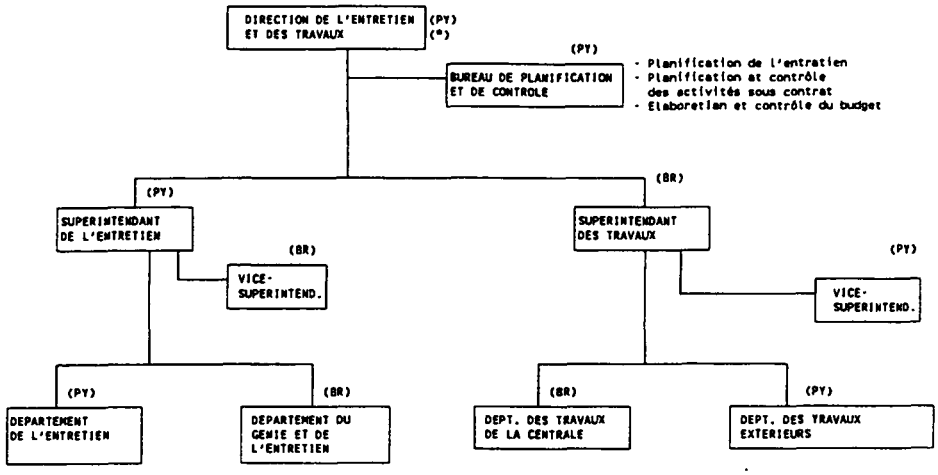
Appui technique aux utilisateurs des réseaux et de la micro-informatique

3. DIRECTION DU GÉNIE ET DES OPÉRATIONS



(*) Le Directeur participe ou désigne des participants aux organes CMO, CADOP, CECOI.

4. DIRECTION DE L'ENTRETIEN ET DES TRAVAUX



Programmation de l'exécution de l'entretien

Exécution de l'entretien des matériels de l'usine

Exécution de l'entretien civil et industriel de l'usine

Laboratoire d'hydraulique

Bureau industnel

Entretien des systémes de télécommunications

Définition de méthodes et de processus d'entretien (SOM)

Mise au point du Projet SCADA

Analyse des performances des maténels

Laboratoire électro-électronique

Exécution des travaux civils

Exécution du montage électromécanique

Contrôle des structures (collecte)

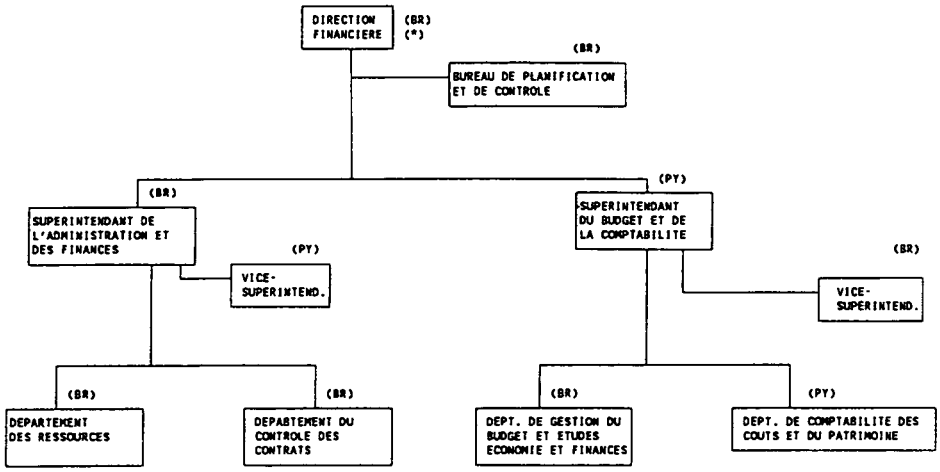
Laboratoire du béton

Exécution des travaux d'infrastructure d'appui

Exécution des travaux de développement régional

(*) Le Directeur participe ou désigne des participants aux organes CMO, CADOP, CECOI.

5. DIRECTION FINANCIÈRE



Administration des emprunts et finances

Exécution de projets pour l'obtention de nouvelles ressources

Clôture de change

Administration des ressources disponibles

Administration du flux de caisse

Administration de comptes à percevoir

Administration des assurances

Administration de contrats d'acquisition de biens et services

Contrôle économique et financier des contrats

Contrôle des comptes à payer liés à des contrats

Etudes économico-financières et tarifaires

Elaboration et analyse de de démonstratifs financiers

Elaboration et contrôle de l'exécution du budget

Registres comptables

Comptabilité générale

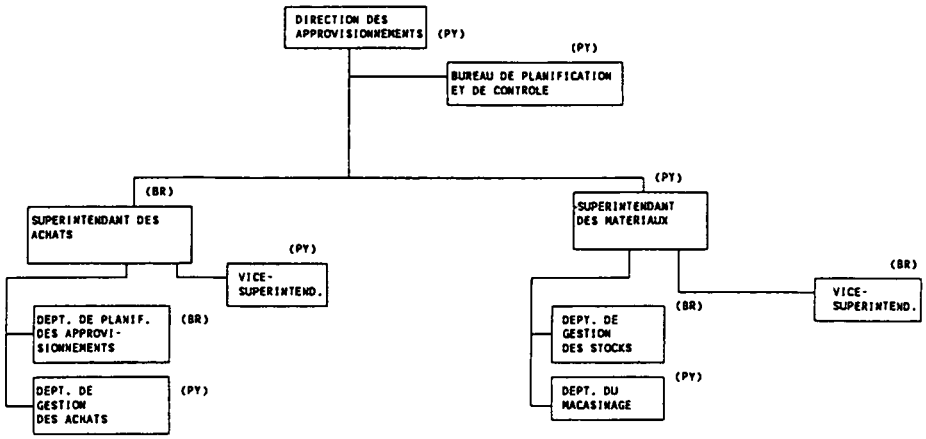
Elaboration et entretien du plan de comptes

Analyse de la qualité des informations (fiscales et législatives)

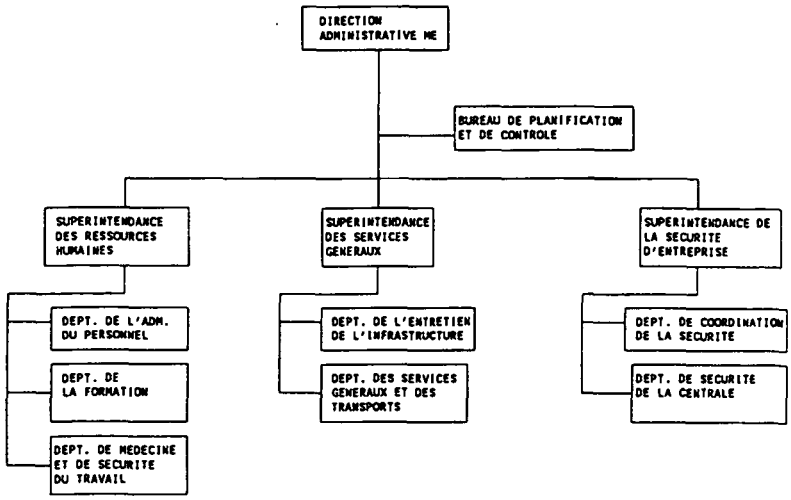
Contrôle économique et financier des biens patrimoniaux

(*) Le Directeur participe ou désigne des participants aux organes CMO, CADOP, CECOI.

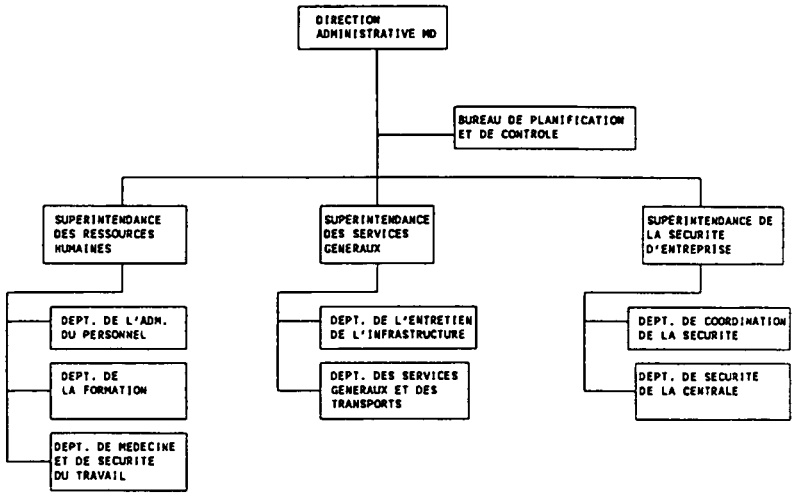
6. DIRECTION DES APPROVISIONNEMENTS



7. DIRECTION ADMINISTRATIVE ME



8. DIRECTION ADMINISTRATIVE MD



II *a*

[SPANISH TEXT — TEXTE ESPAGNOL]

MINISTERIO DE RELACIONES EXTERIORES

Asunción, 27 de diciembre de 1991

N.R. No: 17

Señor Embajador:

Con referencia a los párrafos primero y segundo de la Nota Reversal No: 1 del 14 de Mayo de 1991, y la nota No. 146, de idéntico contenido y misma fecha, de la Embajada de la República Federativa del Brasil, y teniendo en cuenta lo que dispone el Artículo III, párrafo 2º del Tratado de Itaipú, tengo el honor de llevar a conocimiento de Vuestra Excelencia que el Gobierno del Paraguay concuerda con el Gobierno del Brasil en modificar el Anexo "A" (Estatuto de Itaipù) de la manera como consta en el anexo de la presente.

El nuevo Estatuto tendrá vigencia a partir del 17 de Mayo de 1992, conforme a lo previsto en su Artículo 31º. En estas condiciones, queda prorrogada hasta aquella fecha la vigencia del actual Estatuto.

La presente nota y la de Vuestra Excelencia, de idéntico tenor y misma fecha, constituyen un Acuerdo entre los dos Gobiernos.

Aprovecho la oportunidad para renovar a Vuestra Excelencia las seguridades de mi más alta consideración.

[*Signed — Signé*]
ALEXIS FRUTOS VAESKEN
Ministro de Relaciones Exteriores

A Su Excelencia Carlos Eduardo Alves de Souza
Ambajador de la República Federativa
del Brasil
Presente

ANEXO "A" DEL TRATADO DE LA ITAIPU
(Nuevo Estatuto de la ITAIPU Binacional)

"ESTATUTO DE LA ITAIPU"

CAPITULO I
DENOMINACION Y OBJETO

Artículo 1º

La ITAIPU es una entidad binacional creada por el Artículo III del Tratado firmado por el Paraguay y el Brasil, el 26 de abril de 1973, y tiene como partes:

a) La Administración Nacional de Electricidad - ANDE, entidad autárquica paraguaya;

b) La Centrais Elétricas Brasileiras S.A. - ELETROBRAS, sociedad anónima de economía mixta brasileña.

Artículo 2º

El objeto de la ITAIPU es el aprovechamiento hidroeléctrico de los recursos hidráulicos del río Paraná, pertenecientes en condominio a los dos países, desde e inclusive el Salto del Guairá o Salto Grande de Sete Quedas hasta la boca del río Yguazú.

Artículo 3º

La ITAIPU se regirá por las normas establecidas en el Tratado del 26 de abril de 1973, en el presente Estatuto y en los demás anexos.

Artículo 4º

La ITAIPU tendrá, de acuerdo con lo que disponen el Tratado y sus Anexos, capacidad jurídica, financiera y administrativa, y también responsabilidad técnica, para estudiar, proyectar, dirigir y ejecutar las obras que tiene como objeto, ponerlas en funcionamiento y explotarlas, pudiendo, para tales efectos, adquirir derechos y contraer obligaciones.

Artículo 5º

La ITAIPU tendrá sedes en Asunción, Capital de la República del Paraguay, y en Brasilia, Capital de la República Federativa del Brasil.

CAPITULO II
CAPITAL

Artículo 6º

El capital de la ITAIPU será equivalente a US$ 100.000.000,00 (cien millones de dólares de los Estados Unidos de América), perteneciente a la ANDE y la ELETROBRAS, por partes iguales e intransferibles.

Parágrafo único - El capital se mantendrá con valor constante de acuerdo con lo dispuesto en el Parágrafo 4º del Artículo XV del Tratado.

CAPITULO III
ADMINISTRACION

Artículo 7º

Son órganos de administración de la ITAIPU el Consejo de Administración y el Directorio Ejecutivo.

Artículo 8º

El Consejo de Administración estará compuesto de doce Consejeros nombrados:

a) seis por el Gobierno paraguayo, de los cuales uno será el Director General Paraguayo, uno será propuesto por el Ministerio de Relaciones Exteriores y uno por la ANDE;

b) seis por el Gobierno brasileño, de los cuales uno será el Director General Brasileño, uno será propuesto por el Ministerio de Relaciones Exteriores y uno por la ELETROBRAS.

Parágrafo 1º - Las Reuniones del Consejo serán presididas, alternativamente, por un Consejero de nacionalidad paraguaya o brasileña rotativamente, por todos los miembros del Consejo.

Parágrafo 2º - El Consejo nombrará dos Secretarios, uno paraguayo y otro brasileño, que tendrán a su cargo, entre otras atribuciones, la de certificar los documentos de la ITAIPU en español y en portugués, respectivamente.

Artículo 9º

Compete al Consejo de Administración cumplir y hacer cumplir el Tratado y sus Anexos, y decidir sobre:

a) las políticas y directrices fundamentales de la ITAIPU;

b) el Reglamento Interno, el Manual de Organización, la Norma General de Licitación y el Reglamento de Personal;

c) la propuesta de presupuesto para cada ejercicio y sus revisiones, presentadas por los Directores Generales;

d) el plan y el programa anual de auditoría;

e) los actos que importen enajenación del patrimonio de la ITAIPU, con previo parecer de la ANDE y de la ELETROBRAS;

f) los revalúos de activo y pasivo, con previo parecer de la ANDE y de la ELETROBRAS, teniendo en cuenta lo dispuesto en el Parágrafo 4° del Artículo 15° del Tratado;

g) las bases de prestación de los servicios de electricidad;

h) las propuestas del Directorio Ejecutivo referentes a obligaciones y préstamos;

i) la revisión y las modificaciones necesarias en la estructura organizacional en los niveles correspondientes o equivalentes a superintendencias y departamentos, por propuesta conjunta de los Directores Generales.

Parágrafo 1° - El Consejo de Administración examinará la Memoria Anual, el Balance General y la demostración de la Cuenta de Resultados, elaborados por el Directorio Ejecutivo, y los presentará, con su parecer, a la ANDE y a la ELETROBRAS, conforme lo dispuesto en el Artículo 26° de este Estatuto.

Parágrafo 2° - El Consejo de Administración tomará conocimiento del curso de los asuntos de la ITAIPU a través de las exposiciones que serán realizadas habitualmente por el Director General Paraguayo y/o por el Director General Brasileño o de otras que el Consejo solicite por intermedio de ellos.

Artículo 10°

El Consejo de Administración se reunirá, ordinariamente, cada dos meses y, extraordinariamente, cuando fuere convocado, por intermedio de los Secretarios, por el Director General Paraguayo y/o por el Director General Brasileño o por la mitad menos uno de los Consejeros.

Parágrafo único - El Consejo de Administración sólo podrá decidir válidamente con la presencia de la mayoría de los Consejeros de cada país y con paridad de votos igual a la menor representación nacional presente.

Artículo 11°

Los Consejeros ejercerán sus funciones por un período de cuatro años, pudiendo ser reelegidos.

Parágrafo 1° - En cualquier momento los Gobiernos podrán substituir los Consejeros que hubieren nombrado.

Parágrafo 2° - Al ocurrir vacancia definitiva de un cargo de Consejero, el respectivo Gobierno nombrará al substituto que ejercerá el mandato por el plazo restante.

Artículo 12º

El Directorio Ejecutivo, constituido por Miembros nacionales de ambos países, en igual número y con la misma capacidad e igual jerarquía, se compondrá del Director General Paraguayo, del Director General Brasileño, y de los Directores de Ingeniería y Operación, de Mantenimiento y Obras, Financiero, de Suministros, Administrativo Paraguayo y Administrativo Brasileño.

Parágrafo 1º - Los Miembros del Directorio Ejecutivo serán nombrados por los respectivos Gobiernos.

Parágrafo 2º - Los Miembros del Directorio Ejecutivo ejercerán sus funciones por un período de cinco años, pudiendo ser reelegidos.

Parágrafo 3º - En cualquier momento los Gobiernos podrán substituir a los Miembros del Directorio Ejecutivo que hubiesen nombrado.

Parágrafo 4º - En caso de ausencia o impedimento temporal de un miembro del Directorio Ejecutivo, éste será sustituido por otro indicado por el Director General de la misma nacionalidad, acumulando las funciones. En caso de ausencia del Director General, éste indicará al Directorio Ejecutivo su sustituto entre los directores de su nacionalidad.

Parágrafo 5º - Al ocurrir vacancia definitiva de un cargo de Miembro del Directorio Ejecutivo, el respectivo Gobierno, conforme el caso, indicará al substituto que, una vez nombrado, ejercerá el mandato por el plazo restante.

Artículo 13º

Son atribuciones y deberes del Directorio Ejecutivo:

a) dar cumplimiento al Tratado y sus Anexos, y a las decisiones del Consejo de Administración;

b) cumplir y hacer cumplir el Reglamento Interno;

c) proponer al Consejo de Administración las políticas y directrices fundamentales de administración;

d) analizar y someter al Consejo de Administración, en cada ejercicio, la propuesta de presupuesto para el ejercicio siguiente, y sus eventuales revisiones;

e) analizar y someter al Consejo de Administración la Memoria Anual, el Balance General y la demostración de la Cuenta de Resultados del ejercicio anterior;

f) poner en ejecución las normas y las bases para la prestación de los servicios de electricidad;

g) aprobar los actos que impliquen obligación para la ITAIPU que sean propuestos por los Directores Generales, tales como pareceres de comisiones de juzgamiento de licitaciones;

h) Aprobar las proposiciones conjuntas de los Directores Generales sobre las normas y procedimientos administrativos que involucren a toda la Entidad.

Artículo 14º

El Directorio Ejecutivo se reunirá, ordinariamente, por lo menos una vez al mes y, extraordinariamente, cuando fuere convocado por uno de los Directores Generales.

Parágrafo 1º - Las resoluciones del Direotorio Ejecutivo serán adoptadas por mayoría de votos.

Parágrafo 2º - El Directorio Ejecutivo se instalará en el lugar que juzgare más adecuado al ejercicio de sus funciones.

Artículo 15º

La ITAIPU solamente podrá asumir obligaciones o constituir apoderados con la firma conjunta de los dos Directores Generales.

Artículo 16º

Los honorarios de los Consejeros y de los Miembros del Directorio Ejecutivo, serán fijados por la ANDE y por la ELETROBRAS, de común acuerdo.

Artículo 17º

Son atribuciones de los Directores Generales:

A) Conjuntamente:

a) practicar, solidariamente, todos los actos de administración necesarios para la conducción y el funcionamiento de la Entidad, planeando, organizando, coordinando, dirigiendo y controlando la ejecución de las políticas y planes de administración aprobados por el Directorio Ejecutivo y ejecutados por las demás Direcciones en el ámbito de su competencia, con exclusión de los atribuidos al Consejo de Administración y al Directorio Ejecutivo;

b) coordinar el proceso de identificación y elaboración de las políticas y directrices fundamentales de administración de la ITAIPU para apreciación del Directorio Ejecutivo y aprobación del Consejo de Administración;

c) coordinar el proceso de elaboración del plan de trabajo y presupuesto anual de ITAIPU;

d) coordinar la elaboración de los planes, normas y procedimientos administrativos de la ITAIPU;

e) coordinar la elaboración y aotualización del Reglamento Interno, del Manual de Organización, de la Norma General de Licitación y del Reglamento de Personal;

f) definir la estructura organizacional y la nacionalidad de los jefes de los órganos a nivel de división;

g) realizar los nombramientos correspondientes a todos los cargos gerenciales, excepto de Directores;

h) representar a la ITAIPU Binacional en juicio, o fuera de él.

B) Aisladamente:

a) admitir y demitir personal de su respectiva nacionalidad;

b) representar a la ITAIPU Binacional en juicio, o fuera de él.

Artículo 18º

El Director de Ingeniería y Operación es el responsable de la coordinación de la ejecución de estudios y proyectos así como de la operación de las instalaciones.

Artículo 19º

El Director de Mantenimiento y Obras es el responsable de la coordinación de la ejecución de las obras de la Usina y de Infraestructura así como del mantenimiento electromecánicc y civil de las instalaciones.

Artículo 20º

Los Directores Administrativos son los responsables, cada uno en su margen, de la administración del personal, de la dirección de los servicios generales, y de la seguridad empresarial.

Artículo 21º

El Director Financiero es el responsable de la ejecución de las actividades económico-financieras.

Artículo 22º

El Director de Suministros es el responsable de la ejecución de las actividades de suministro.

CAPITULO IV
ORGANIZACION

Artículo 23º

La estructura organizacional de Ia ITAIPU Binacional con todos los órganos previstos hasta el nivel de departamento está representada en el organigrama que es parte integrante de este Anexo.

Parágrafo 1° - El referido organigrama define también la nacionalidad de los jefes de los órganos.

Parágrafo 2° - La subdivisión de departamentos en divisiones en los casos necesarios debe ser aprobada conjuntamente por los Directores Generales.

Parágrafo 3° - Las funciones y atribuciones completas de los órganos están definidas en el Reglamento Interno y en el Manual de Organización.

Parágrafo 4° - La estructura organizacional podrá ser revisada en principio, luego de cinco años o en cualquier momento por acuerdo entre las Altas Partes Contratantes.

Parágrafo 5° - Los órganos de Auditoria Interna de cada margen están subordinados funcionalmente al Consejo de Administración y administrativamente a los Directores Generales.

Artículo 24°

Los asistentes y jefes de asesoria de los Directores tienen nivel jerárquico equivalente al de Superintendente.

Artículo 25°

La conducción de los asuntos jurídicos de la Entidad quedan a cargo de las Asesorías Jurídicas, una para cada nacionalidad que están subordinadas cada una al respectivo Director General. Los Asesores Jurídicos podrán participar de las reuniones del Directorio Ejecutivo cuando fuere necesario a criterio de los Directores Generales.

CAPITULO V
EJERCICIO FINANCIERO

Artículo 26°

El ejercicio financiero se cerrará el 31 de diciembre de cada año.

Parágrafo 1° - La ITAIPU presentará, hasta el 30 de abril de cada año, para decisión de la ANDE y de la ELETROBRAS, la Memoria Anual, el Balance General y la demostración de la Cuenta de Resultados del ejercicio anterior.

Parágrafo 2° - La ITAIPU adoptará la moneda de los Estados Unidos de América como referencia para la contabilización de sus operaciones. Esta referencia podrá ser substituida por otra, mediante entendimiento entre los dos Gobiernos.

CAPITULO VI
DISPOSICIONES GENERALES

Artículo 27º

Serán incorporados por la ITAIPU, como integración de capital por parte de la ANDE y de la ELETROBRAS, los gastos realizados por las referidas empresas, con anterioridad a la constitución de la Entidad, en los siguientes trabajos:

a) estudios resultantes del Convenio de Cooperación firmado el 10 de abril de 1970;

b) obras preliminares y servicios relacionados con la construcción del aprovechamiento hidroeléctrico.

Artículo 28º

Los Consejeros, Miembros del Directorio Ejecutivo y demás empleados no podrán ejercer funciones de dirección, administración o consulta en empresas abastecedoras o contratistas de cualesquiera materiales y servicios utilizados por la ITAIPU.

Artículo 29º

Podrán prestar servicios a la ITAIPU los funcionarios públicos, empleados de entes autárquicos y los de sociedades de economía mixta, paraguayos o brasileños, sin pérdida del vínculo original ni de los beneficios de jubilación y/o seguridad social, teniéndose en cuenta las respectivas legislaciones nacionales.

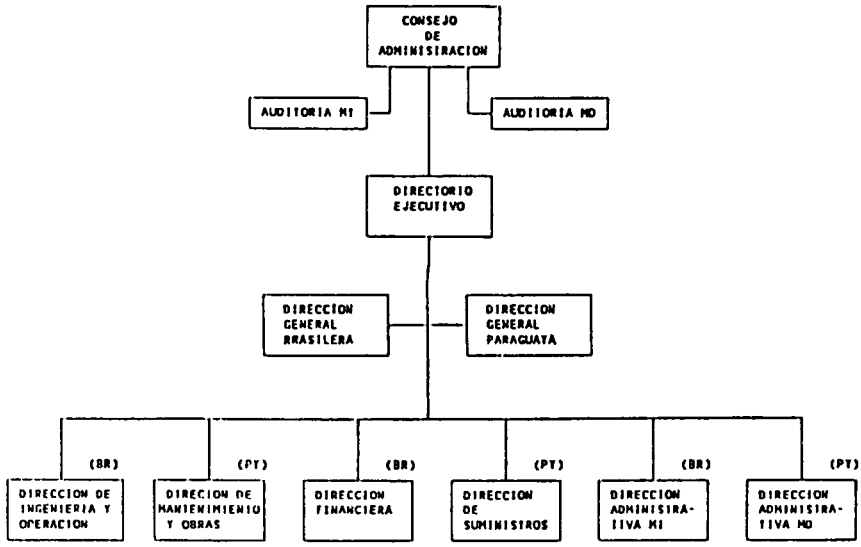
Artículo 30º

En lo posible el comando de los órganos a nivel de división deberá ser dividido paritariamente entre ambas nacionalidades, en número e importancia.

Artículo 31º

Los casos no previstos en este Estatuto y que no pudieren ser resueltos por el Consejo de Administración, serán solucionados por los dos Gobiernos, previo parecer de la ANDE y de la ELETROBRAS. El presente Estatuto tendrá vigencia a partir del 17 de mayo de 1992.

1. ORGANIGRAMA GENERAL SINTETICO



NOTAS:

(1) La Auditoría Interna estará subordinada funcionalmente al Consejo de Administración, y administrativamente al respectivo Director General.

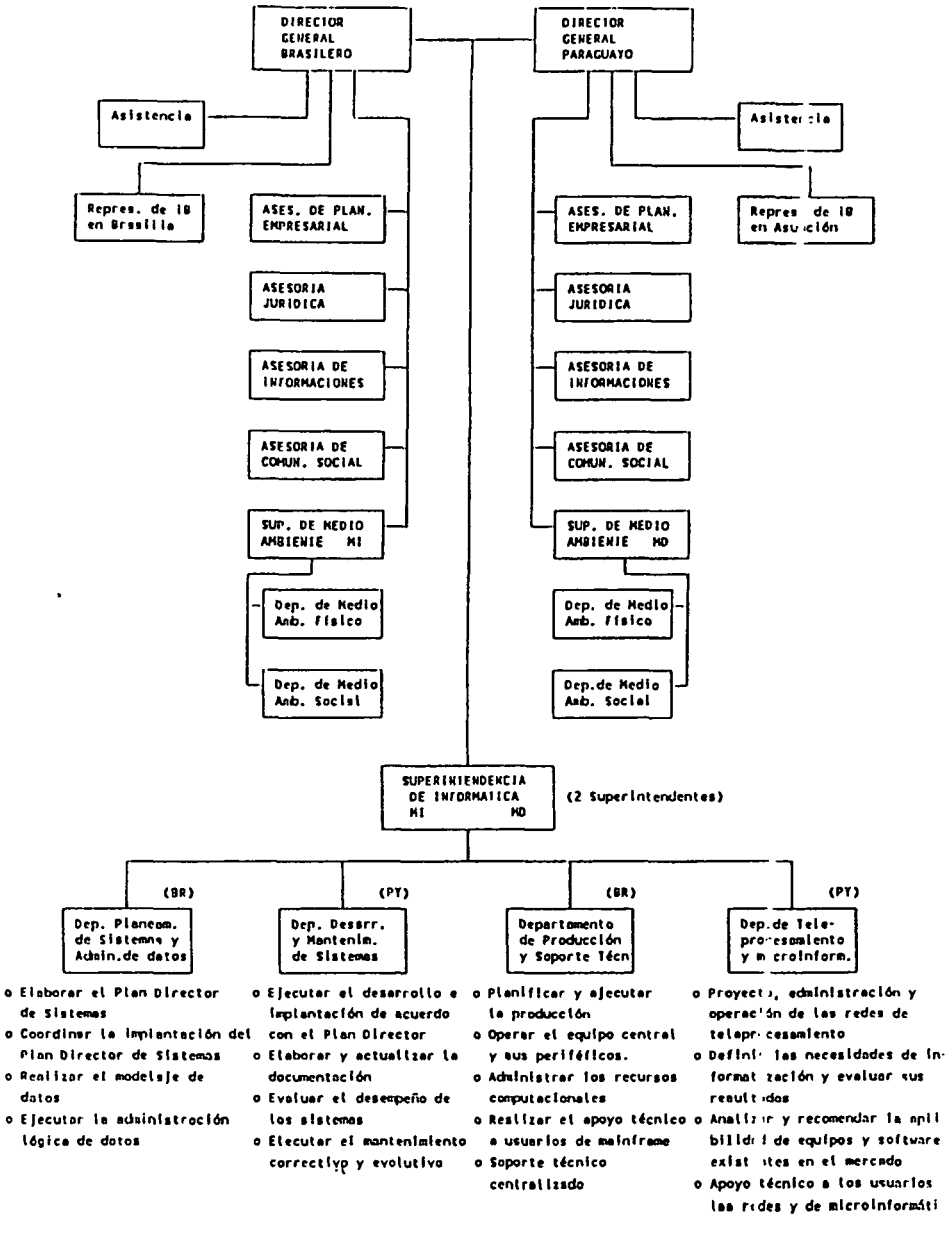
(2) En las direcciones que no sean exclusivas de una sola Margen, las superintendencias tendrán, además del superintendente, un vicesuperintendente de la otra nacionalidad, con la atribución de informarse sobre la ejecución de las actividades desarrolladas en el área, aunque sin ninguna otra atribución específica, a no ser las que le fueran delegadas por el superintendente.

(3) Actividades a ser ejecutadas en el Ámbito del Canteiro de Obras, exigiendo la participación de órganos de ambos márgenes, serán definidas de común acuerdo entre los Superintendentes involucrados. Pertenecen a este caso las actividades de seguridad, transporte y servicios generales, de las Direcciones Administrativas

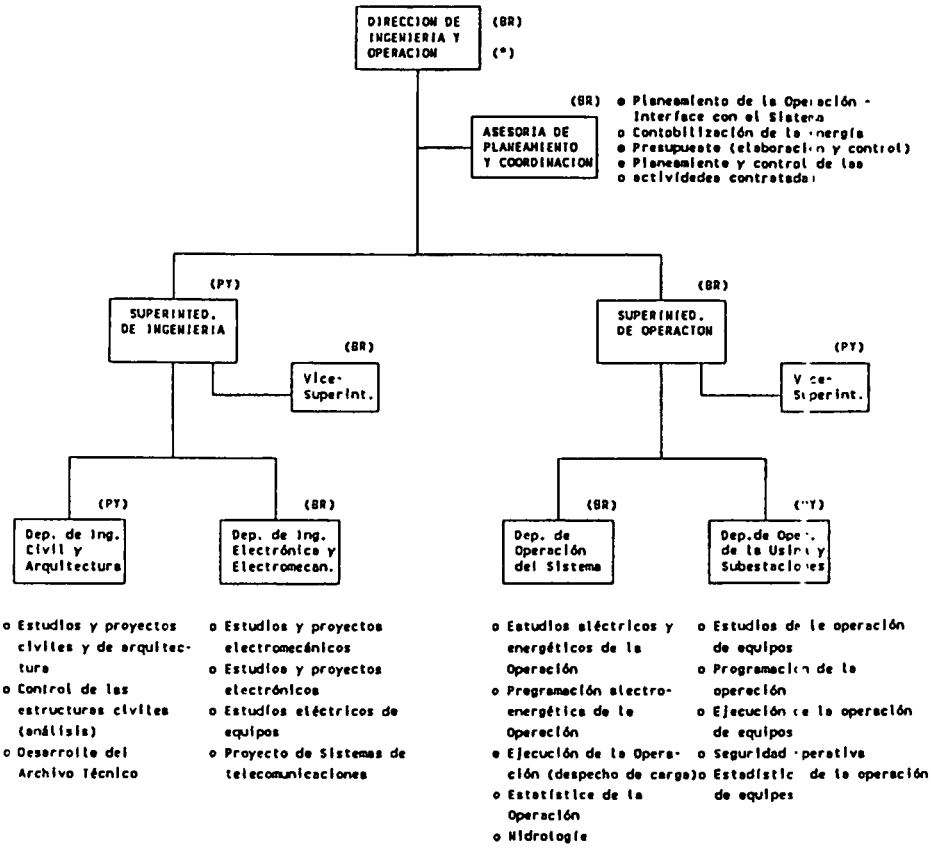
(4) Para el caso de las Direcciones y órganos más complejos fueron colocados en el organigrama en forma sintética las atribuciones de los mismos. Las atribuciones de los demás órganos pueden ser facilmente identificadas por la forma como son ejecutados en la estructura actual y serán descritas en el Reglamento Interno y Manual de Organización.

(n) Números entre corchetes: identificación de los órganos para referencia.

2. DIRECCION GENERAL BRASILERA Y DIRECCION GENERAL PARAGUAYA

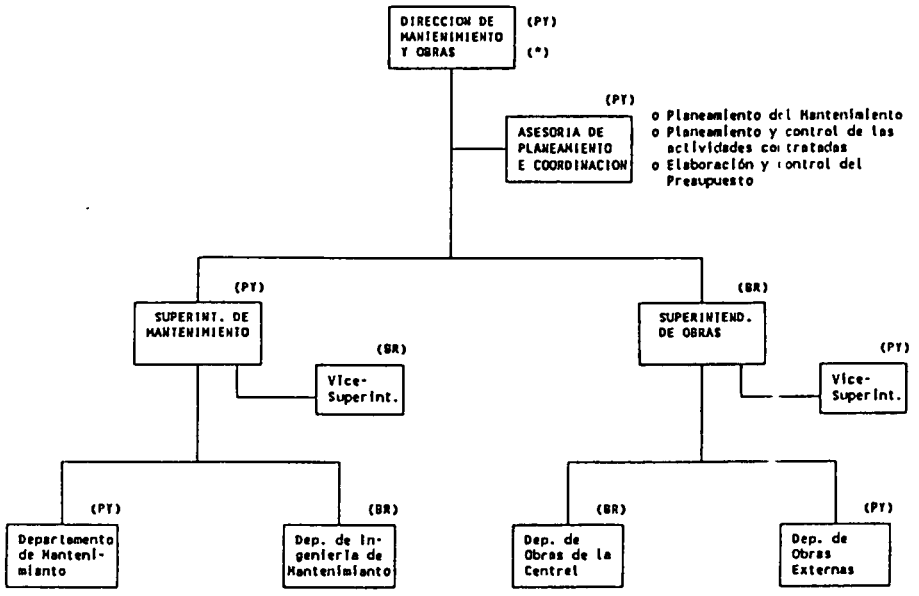


3. DIRECCION DE INGENIERIA Y OPERACION



(*) El Director participa o designa participante de los órganos> CMO, CADOP, CECOI

4. DIRECCION DE MANTENIMIENTO Y OBRAS



o Programación de la Ejecución del Mantenimiento
o Ejecución del Mantenimiento de los equipos de la Usina
o Ejecución del mantenimiento civil e industrial de la Usina
o Laboratorio de Hidráulica
o Oficina Industrial
o Mantenimiento de Sistemas de telecomunicaciones

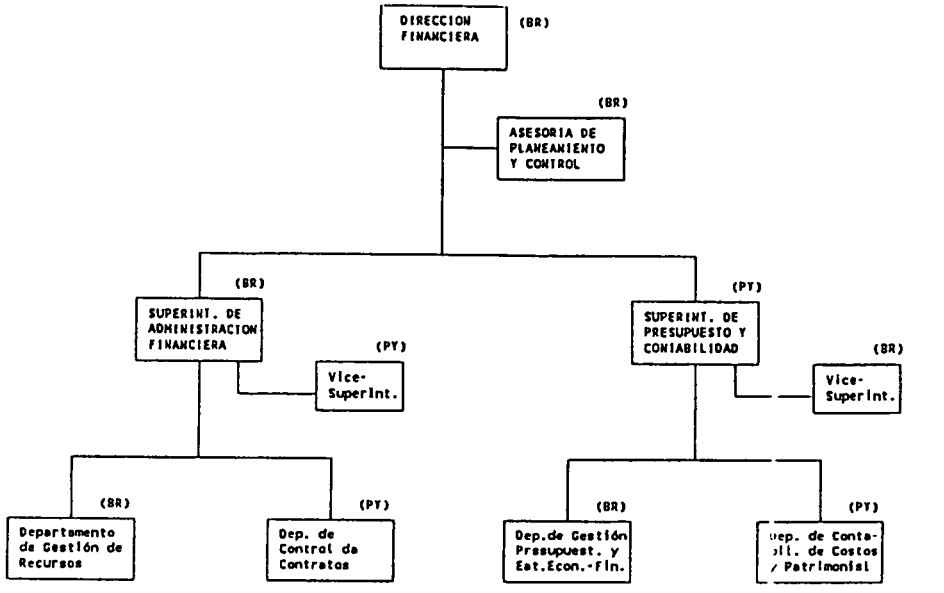
o Definición de métodos y procesos de mantenimiento (SOM)
o Desarrollo del Proyecto SCADA
o Análisis de desempeño de equipos
o Laboratorio electro-electrónico

o Ejecución de las obras civiles
o Ejecución del montaje eletromecanico
o Control de las estructuras (colecta)
o Laboratorio de Concreto

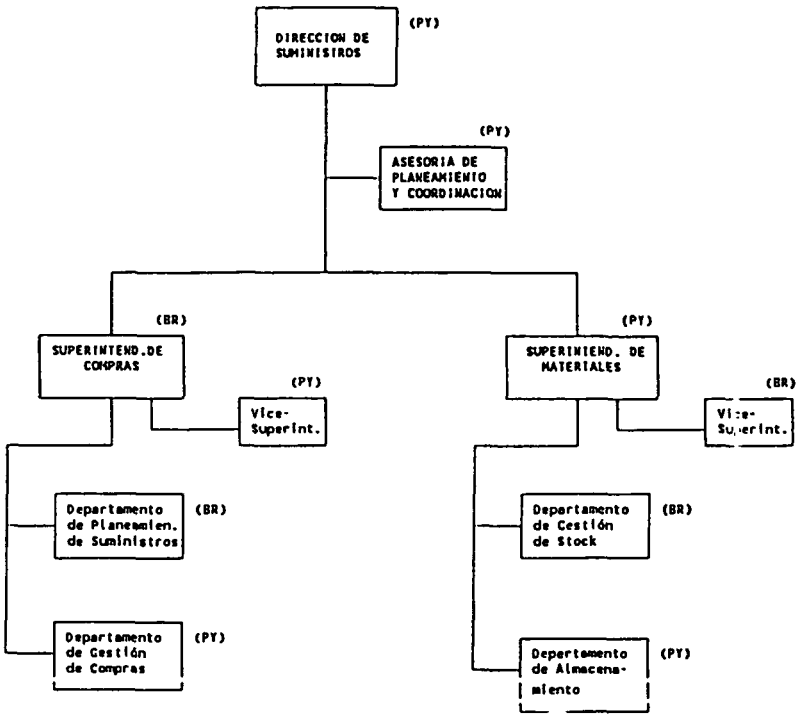
o Ejecución de las obras de infraestructura de apoyo
o Ejecución de las obras de Desarrollo Regional

(*) El Director participa o designa participante de los órganos: CMO, CADOP, CECOI

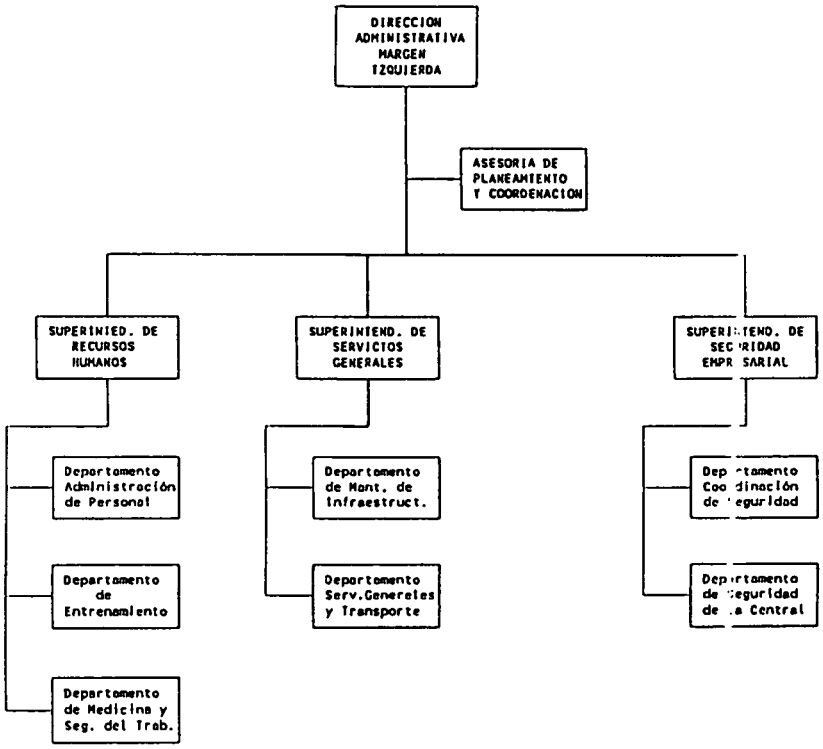
5. DIRECCION FINANCIERA



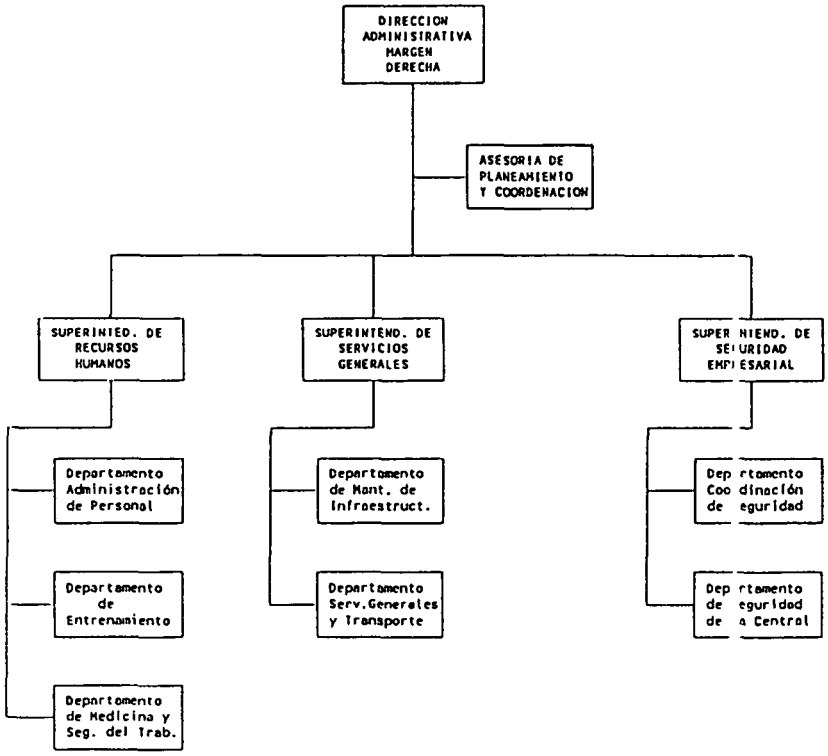
6. DIRECCION DE SUMINISTROS



7. DIRECCION ADMINISTRATIVA MI



8. DIRECCION ADMINISTRATIVA MD



[TRANSLATION — TRADUCTION]

MINISTRY OF FOREIGN AFFAIRS

Asunción, 27 December 1991

Note in reply No. 17

Sir,

With reference to the first and second paragraphs of note in reply No. 1 of 14 May 1991 and to note No. 146, of the same content and date, from the Embassy of the Federative Republic of Brazil, and in the light of the provisions of article III, paragraph 2, of the Treaty of ITAIPU, I have the honour to inform you that the Government of Paraguay agrees with the Government of Brazil on the amendment of annex A (Statute of ITAIPU) in the manner set forth in the annex to this note.

2. The new Statute shall enter into force on 17 May 1992, as provided for in its article 31. Accordingly, the validity of the existing Statute is hereby extended until that date.

3. This note and your note of the same content and date shall constitute an agreement between the two Governments.

Accept, Sir, etc.

[*Signed*]

ALEXIS FRUTOS VAESKEN
Minister for Foreign Affairs

[*Annex as under note I*]

H. E. Mr. Carlos Eduardo Alves de Souza
Ambassador of the Federative Republic
of Brazil

[TRADUCTION — TRANSLATION]

MINISTÈRE DES RELATIONS EXTÉRIEURES

Asunción, le 27 décembre 1991

N.R. n° 17

Monsieur l'Ambassadeur,

Me référant aux paragraphes 1 et 2 de la note n° 1 en date du 14 mai 1991, et de la note n° 146, de teneur identique et de même date, émanant de l'Ambassade de la République fédérative du Brésil, et tenant compte des dispositions du paragraphe 2 de l'article III du Traité de l'ITAIPU, j'ai l'honneur de vous faire savoir que le Gouvernement paraguayen est d'accord avec le Gouvernement brésilien pour modifier l'Annexe « A » (Statut de l'ITAIPU) de la manière indiquée dans l'annexe à la présente note.

2. Le nouveau Statut entrera en vigueur le 17 mai 1992, comme prévu en son article 31. Dans ces conditions, la validité du Statut actuel est prorogée jusqu'à cette date.

3. La présente note et votre notc, de teneur identique et de même date, constituent un accord entre nos deux gouvernements.

Veuillez agréer, etc.

Le Ministre des relations extérieures

[*Signé*]

ALEXIS FRUTOS VAESKEN

[*Annexe comme sous note I*]

Son Excellence Monsieur Carlos Eduardo Alves de Souza
Ambassadeur de la République fédérative
du Brésil

I *b*

[PORTUGUESE TEXT — TEXTE PORTUGAIS]

Assunção, em 31 de dezembro de 1991

Nº 340

Senhor Ministro,

Tenho a honra de referir-me à Nota Reversal nº· 17, de 27 do corrente, de Vossa Excelência, e à minha nº· 336, da mesma data, com as quais nossos dois Governos manifestaram sua concordância em modificar o Anexo "A" (Estatuto da Itaipu), bem como, especificamente, ao estipulado no parágrafo segundo das referidas notas, que determina a vigência do novo Estatuto a partir de 17 de maio de 1992 e prorroga até aquela data a vigência do atual Estatuto.

2. A fim de permitir que, no interregno entre o período de vigência do atual Estatuto e aquele do novo Estatuto, a Itaipu Binacional possa adotar gradualmente as necessárias medidas de harmonização, o Governo brasileiro tem presente os seguintes critérios:

a) o atual Diretor Financeiro-Executivo será o futuro Diretor Financeiro e o atual Diretor Financeiro será o futuro Diretor de Manutenção e Obras;

b) o atual Diretor Técnico-Executivo será o futuro Diretor de Engenharia e Operação e o atual Diretor Técnico será o futuro Diretor de Manutenção e Obras;

c) o atual Diretor Administrativo-Executivo será o futuro Diretor Administrativo paraguaio e o atual Diretor Administrativo será o futuro Diretor Administrativo brasileiro;

d) os Diretores Jurídico-Executivo e Jurídico deixam de ser nomeados e as funções executivas que lhes correspondiam serão exercidas por cada Diretor-Geral, que terá junto a si um assessor jurídico designado para esse fim;

e) os Diretores de Coordenação deixam de ser nomeados e as funções da atual Superintendência e Vice-Superintendência de Meio Ambiente serão conduzidas pelos Diretores

Gerais, cabendo as atividades da Superintendência e Vice-Superintendência de Manutenção e Obras aos Diretores Administrativos.

3. Caso Vossa Excelência também esteja de acordo, estes critérios indicativos constituiriam uma orientação comum de nossos dois Governos a ser seguida pela Itaipu Binacional.

[*Signed — Signé*]
C. E. ALVES DE SOUZA
Embaixador do Brasil

A Sua Excelência o Senhor
Professor Doutor Alexis Frutos Vaesken
Ministro de Relações Exteriores

[TRANSLATION — TRADUCTION]

Asunción, 31 December 1991

No. 340

Sir,

I have the honour to refer to your note in reply No. 17 of 27 December and to my note No. 336 of the same date, in which our two Governments agreed to amend annex A (Statute of ITAIPU), and specifically to the provision in the second paragraph of the notes in question, stipulating that the new Statute shall enter into force on 17 May 1992 and extending the validity of the existing Statute until that date.

2. With a view to ensuring that ITAIPU Binacional can gradually adopt the requisite harmonization measures during the interval between the period of validity of the existing Statute and that of the new Statute, the Brazilian Government shall bear in mind the following criteria:

(*a*) The present Financial Executive Director shall be the future Financial Director and the present Financial Director shall be the future Maintenance and Works Director;

(*b*) The present Technical Executive Director shall be the future Engineering and Operations Director and the present Technical Director shall be the future Maintenance and Works Director;

(*c*) The present Administrative Executive Director shall be the future Paraguayan Administrative Director and the present Administrative Director shall be the future Brazilian Administrative Director;

(*d*) The position of Legal Executive Director and Legal Director shall cease to exist and the corresponding executive functions shall be performed by the respective Directors-General, each of whom shall be assisted by a legal consultant appointed for that purpose;

(*e*) The position of Coordinating Director shall cease to exist and the functions of the existing Environmental Office and Sub-office shall be performed by the Directors-General, while the activities of the Maintenance and Works Office and Sub-office shall be assigned to the Administrative Directors.

3. If you are also in agreement, these criteria shall constitute a common directive from our two Governments, to be followed by ITAIPU Binacional.

[*Signed*]

C. E. ALVES DE SOUZA
Ambassador of Brazil

H. E. Mr. Alexis Frutos Vaesken
Minister for Foreign Affairs

[TRADUCTION — TRANSLATION]

Asunción, le 31 décembre 1991

N° 340

Monsieur le Ministre,

J'ai l'honneur de me référer à la note en réponse de votre Excellence, n° 17 èn date du 27 de ce mois, et à ma note n° 336 de la même date, par lesquelles les deux Gouvernements ont manifesté leur accord en vue de modifier l'Annexe « A » (Statut de l'ITAIPU), ainsi qu'il est expressément stipulé au paragraphe 2 desdites notes, précisant que le nouveau Statut entrera en vigueur à compter du 17 mai 1992 et que sera prorogée jusqu'à cette date la validité du Statut actuel.

2. Afin de permettre que dans l'intervalle entre la période de validité du Statut actuel et celle du nouveau Statut, l'ITAIPU binationale puisse adopter graduellement les mesures d'harmonisation nécessaire, le Gouvernement brésilien tient compte des critères suivants :

a) L'actuel directeur financier-exécutif sera le futur directeur financier et l'actuel directeur financier sera le futur directeur de l'entretien et des travaux;

b) L'actuel directeur technique-exécutif sera le futur directeur du génie et des opérations et l'actuel directeur technique sera le futur directeur de l'entretien et des travaux;

c) L'actuel directeur administratif-exécutif sera le futur directeur administratif paraguayen et l'actuel directeur administratif sera le futur directeur administratif brésilien;

d) Le directeur juridique-exécutif et le directeur juridique ne seront plus désignés et les fonctions exécutives qui leur étaient confiées seront exercécs par chaque directeur général, qui aura auprès de lui un conseiller juridique désigné à cette fin;

e) Les directeurs de la coordination ne sont plus désignés et les fonctions des actuelles Superintendance et Vice-Superintendance de l'environnement seront exercées par les directeurs généraux, les activités de la Superintendance et de la Vice-Superintendance de l'entretien et des travaux étant confiés aux directeurs administratifs.

3. Si ces propositions rencontrent l'agrément de Votre Excellence, ces critères indicatifs constitueront une orientation commune de nos deux Gouvernements qui sera suivie par l'ITAIPU binationale.

L'Ambassadeur du Brésil,

[*Signé*]

C. E. ALVES DE SOUZA

Son Excellence Monsieur Alexis Frutos Vaesken
Ministre des relations extérieures

II *b*

[SPANISH TEXT — TEXTE ESPAGNOL]

MINISTERIO DE RELACIONES EXTERIORES

Asunción, 31 de diciembre de 1991

SSRE/DT/L/Nº: 205

Señor Embajador:

Tengo el honor de dirigirme a Vuestra Excelencia en ocasión de acusar recibo de su atenta Nota Nº 310 de fecha 31 de diciembre de 1991, referente a los criterios a ser adoptados gradualmente por la Itaipú Binacional, teniendo en cuenta las medidas necesarias para la armonización de la Entidad, entre el período vigente del actual y nuevo Estatuto (Anexo A), correspondiente del 1º de enero al 17 de mayo de 1992.

Sobre el particular, cumplo en señalar que el Gobierno de la República del Paraguay concuerda con la adopción de los referidos criterios que constituirán una orientación común de nuestros dos Gobiernos para la Itaipú Binacional.

Hago propicia la oportunidad para reiterar a Vuestra Excelencia las seguridades de mi más alta y distinguida consideración.

[*Signed — Signé*]

ALEXIS FRUTOS VAESKEN
Ministro de Relaciones Exteriores

A Su Excelencia Carlos Eduardo Alves de Souza
Embajador de la República Federativa del Brasil
Presente

[TRANSLATION — TRADUCTION]

MINISTRY OF FOREIGN AFFAIRS

Asunción, 31 December 1991

SSRE/DT/L/No. 205

Sir,

I have the honour to acknowledge receipt of your note No. 340 of 31 December 1991 concerning the criteria to be adopted gradually by ITAIPU Binacional, taking into account the requisite measures for the harmonization of the entity between the periods of validity of the existing Statute and the new Statute (annex A), that is to say from 1 January to 17 May 1992.

I wish to confirm that the Government of the Republic of Paraguay agrees to the adoption of the aforesaid criteria, which shall constitute a common directive from our two Governments to ITAIPU Binacional.

Accept, Sir, etc.

[*Signed*]
ALEXIS FRUTOS VAESKEN
Minister for Foreign Affairs

H. E. Mr. Carlos Eduardo Alves de Souza
Ambassador of the Federative Republic
of Brazil

[TRADUCTION — TRANSLATION]

MINISTÈRE DES RELATIONS EXTÉRIEURES

Asunción, le 31 décembre 1991

SSRE/DT/L/N° 205

Monsieur l'Ambassadeur,

J'ai l'honneur d'accuser réception de votre note n° 340, en date du 31 décembre 1991, relative aux critères à adopter progressivement en vue de l'ITAIPU binationale, compte tenu des mesures nécessaires à l'harmonisation de l'entité dans l'intervalle entre la période de validité du Statut actuel et celle du nouveau statut (Annexe A), c'est-à-dire entre le 1er janvier et le 17 mai 1992.

En particulier, le Gouvernement de la République du Paraguay approuve l'adoption des critères mentionnés, qui constitueront une orientation commune de nos deux gouvernements en vue de l'ITAIPU binationale.

Je saisis cette occasion, etc.

Le Ministre des relations extérieures,

[*Signé*]

ALEXIS FRUTOS VAESKEN

Son Excellence Monsieur Carlos Eduardo Alves de Souza
Ambassadeur de la République fédérative
du Brésil

No. 22376. INTERNATIONAL COFFEE AGREEMENT, 1983. ADOPTED BY THE INTERNATIONAL COFFEE COUNCIL ON 16 SEPTEMBER 1982[1]

ACCESSION to the above-mentioned Agreement, as further extended by the International Coffee Council by Resolution No. 352 of 28 September 1990[2]

Instrument deposited on:

12 June 1992

ZAIRE

(With retroactive effect from 1 October 1991.)

Registered ex officio *on 12 June 1992.*

[1] United Nations, *Treaty Series*, vol. 1333, p. 119, and annex A in volumes 1334, 1338, 1342, 1344, 1345, 1346, 1347, 1348, 1349, 1350, 1351, 1352, 1356, 1358, 1359, 1363, 1367, 1372, 1379, 1380, 1388, 1390, 1393, 1406, 1410, 1423, 1436, 1466, 1482, 1522, 1546, 1547, 1548, 1549, 1550, 1560, 1562, 1567, 1569, 1571, 1573, 1579, 1589, 1590, 1601, 1651, 1652, 1653, 1654, 1655, 1658, 1662, 1665 and 1669.

[2] *Ibid.*, vol. 1651, No. A-22376.

N° 22376. ACCORD INTERNATIONAL DE 1983 SUR LE CAFÉ. ADOPTÉ PAR LE CONSEIL INTERNATIONAL DU CAFÉ LE 16 SEPTEMBRE 1982[1]

ADHÉSION à l'Accord susmentionné, tel que prorogé à nouveau par le Conseil international du café par sa résolution n° 352 du 28 septembre 1990[2]

Instrument déposé le :

12 juin 1992

ZAÏRE

(Avec effet rétroactif au 1er octobre 1991.)

Enregistré d'office le 12 juin 1992.

[1] Nations Unies, *Recueil des Traités*, vol. 1333, p. 119, et annexe A des volumes 1334, 1338, 1342, 1344, 1345, 1346, 1347, 1348, 1349, 1350, 1351, 1352, 1356, 1358, 1359, 1363, 1367, 1372, 1379, 1380, 1388, 1390, 1393, 1406, 1410, 1423, 1436, 1466, 1482, 1522, 1546, 1547, 1548, 1549, 1550, 1560, 1562, 1567, 1569, 1571, 1573, 1579, 1589, 1590, 1601, 1651, 1652, 1653, 1654, 1655, 1658, 1662, 1665 et 1669.

[2] *Ibid.*, vol. 1651, n° A-22376.

No. 23432. CONSTITUTION OF THE UNITED NATIONS INDUSTRIAL DEVELOPMENT ORGANIZATION. CONCLUDED AT VIENNA ON 8 APRIL 1979[1]

ACCESSION

Instrument deposited on:

11 June 1992

SLOVENIA

(With effect from 11 June 1992.)

Registered ex officio *on 11 June 1992.*

[1] United Nations, *Treaty Series*, vol. 1401, p. 3, and annex A in volumes 1401, 1402, 1403, 1404, 1405, 1406, 1410, 1411, 1412, 1413, 1417, 1419, 1421, 1423, 1425, 1426, 1427, 1428, 1434, 1436, 1437, 1439, 1441, 1458, 1478, 1484, 1488, 1491, 1501, 1504, 1563, 1564, 1647, 1653, 1660, 1674 and 1676.

N° 23432. ACTE CONSTITUTIF DE L'ORGANISATION DES NATIONS UNIES POUR LE DÉVELOPPEMENT INDUSTRIEL. CONCLU À VIENNE LE 8 AVRIL 1979[1]

ADHÉSION

Instrument déposé le :

11 juin 1992

SLOVÉNIE

(Avec effet au 11 juin 1992.)

Enregistré d'office le 11 juin 1992.

[1] Nations Unies, *Recueil des Traités*, vol. 1401, p. 3, et annexe A des volumes 1401, 1402, 1403, 1404, 1405, 1406, 1410, 1411, 1412, 1413, 1417, 1419, 1421, 1423, 1425, 1426, 1427, 1428, 1434, 1436, 1437, 1439, 1441, 1458, 1478, 1484, 1488, 1491, 1501, 1504, 1563, 1564, 1647, 1653, 1660, 1674 et 1676.

No. 27531. CONVENTION ON THE RIGHTS OF THE CHILD. ADOPTED BY THE GENERAL ASSEMBLY OF THE UNITED NATIONS ON 20 NOVEMBER 1989[1]

ACCESSION

Instrument deposited on:

15 June 1992

EQUATORIAL GUINEA

(With effect from 15 July 1992.)

Registered ex officio *on 15 June 1992.*

[1] United Nations, *Treaty Series*, vol. 1577, No. I-27531, and annex A in volumes 1578, 1579, 1580, 1582, 1583, 1586, 1587, 1588, 1590, 1591, 1593, 1594, 1598, 1606, 1607, 1637, 1639, 1642, 1643, 1647, 1649, 1650, 1651, 1653, 1655, 1656, 1658, 1664, 1665, 1667, 1668, 1669, 1671, 1672 and 1676.

N° 27531. CONVENTION RELATIVE AUX DROITS DE L'ENFANT. ADOPTÉE PAR L'ASSEMBLÉE GÉNÉRALE DES NATIONS UNIES LE 20 NOVEMBRE 1989[1]

ADHÉSION

Instrument déposé le :

15 juin 1992

GUINÉE ÉQUATORIALE

(Avec effet au 15 juillet 1992.)

Enregistré d'office le 15 juin 1992.

[1] Nations Unies, *Recueil des Traités*, vol. 1577, n° I-27531, et annexe A des volumes 1578, 1579, 1580, 1582, 1583, 1586, 1587, 1588, 1590, 1591, 1593, 1594, 1598, 1606, 1607, 1637, 1639, 1642, 1643, 1647, 1649, 1650, 1651, 1653, 1655, 1656, 1658, 1664, 1665, 1667, 1668, 1669, 1671, 1672 et 1676.

No. 27627. UNITED NATIONS CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES. CONCLUDED AT VIENNA ON 20 DECEMBER 1988[1]

RATIFICATION

Instrument deposited on:

12 June 1992

JAPAN

(With effect from 10 September 1992.)

Registered ex officio *on 12 June 1992.*

[1] United Nations, *Treaty Series*, vol. 1582, No. I-27627, and annex A in volumes 1587, 1588, 1589, 1590, 1593, 1597, 1598, 1606, 1639, 1641, 1642, 1649, 1653, 1654, 1655, 1656, 1658, 1660, 1662, 1663, 1665, 1671, 1672 and 1676.

N° 27627. CONVENTION DES NATIONS UNIES CONTRE LE TRAFIC ILLICITE DE STUPÉFIANTS ET DE SUBSTANCES PSYCHOTROPES. CONCLUE À VIENNE LE 20 DÉCEMBRE 1988[1]

RATIFICATION

Instrument déposé le :

12 juin 1992

JAPON

(Avec effet au 10 septembre 1992.)

Enregistré d'office le 12 juin 1992.

[1] Nations Unies, *Recueil des Traités*, vol. 1582, n° I-27627, et annexe A des volumes 1587, 1588, 1589, 1590, 1593, 1597, 1598, 1606, 1639, 1641, 1642, 1649, 1653, 1654, 1655, 1656, 1658, 1660, 1662, 1663, 1665, 1671, 1672 et 1676.