

No. 29906

**MEXICO
and
SWEDEN**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Washington on 21 September 1992

Authentic texts: Spanish and English.

Registered by Mexico on 16 April 1993.

**MEXIQUE
et
SUÈDE**

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signé à Washington le 21 septembre 1992

Textes authentiques : espagnol et anglais.

Enregistré par le Mexique le 16 avril 1993.

CONVENTION¹ BETWEEN THE UNITED MEXICAN STATES AND
THE KINGDOM OF SWEDEN FOR THE AVOIDANCE OF DOU-
BLE TAXATION AND THE PREVENTION OF FISCAL EVASION
WITH RESPECT TO TAXES ON INCOME

The United Mexican States and the Kingdom of Sweden,
desiring to conclude a Convention for the Avoidance of
Double Taxation and the Prevention of Fiscal Evasion
with respect to Taxes on Income, 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 to which this Convention shall apply
are:

(a) In Mexico:

(i) the income tax; and

(ii) the assets tax;

(hereinafter referred to as "Mexican tax");

(b) in Sweden:

(i) the State income tax (den statliga
inkomstskatten), including the sailors' tax

(sjömansskatten) and the coupon tax (kupongskatten);

¹ Came into force on 1 January 1993, the date of receipt of the last of the notifications by which the Parties informed each other of the completion of the required procedures, in accordance with article 27 (1).

- (ii) the special income tax on non-residents (särskild inkomstskatt för utomlands bosatta);
 - (iii) the special income tax on non-resident entertainers and artistes (särskild inkomstskatt för utomlands bosatta artister m.fl.); and
 - (iv) the communal income tax (den kommunala inkomstskatten);
- (hereinafter referred to as "Swedish tax").

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

Article 3

General definitions

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

(a) the term "Mexico" means the United Mexican States; when used in a geographical sense, it includes the territory of the United Mexican States; as well as the integrated parts of the Federation; the islands, including the reefs and cays in the adjacent waters; the islands of Guadalupe and Revillagigedo; the continental shelf and the seabed and sub-soil of the islands, cays and reefs; the waters of the territorial seas to the extent and limits established by international law and the inland waters; and the air

space of the national territory to the extent and conditions established by the international law;

(b) the term "Sweden" means the Kingdom of Sweden and, when used in a geographical sense, includes the national territory, the territorial sea of Sweden as well as other maritime areas over which Sweden in accordance with international law exercises sovereign rights or jurisdiction;

(c) the terms "a Contracting State" and "the other Contracting State" mean Mexico or Sweden, as the context requires;

(d) the term "person" includes an individual, a company and any other body of persons;

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

(f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) the term "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;

(h) the term "nationals" means:

(i) all individuals possessing the nationality of a Contracting State;

(ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

(i) the term "competent authority" means:

(i) in Mexico, the Ministry of Finance and Public Credit; and

(ii) in Sweden, the Minister of Finance, his authorized representative or the authority which is designated as a competent authority for the purposes of this Convention.

(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 State concerning the taxes to which the Convention applies.

Article 4

Resident

(1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature, provided, however, that this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the

State with which his personal and economic relations are closer (centre of vital interests);

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

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

(d) if he is not a national of either State, or if he according to the domestic laws of Sweden, is considered to be a national of both States, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5

Permanent establishment

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

(2) The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

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

(3) The term "permanent establishment" likewise encompasses a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six 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 advertising, for the supply of information, for scientific research, for preparations relating to the placement of loans, or for similar activities, which have a preparatory or auxiliary character, for the enterprise;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e), 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), where a person - other than an agent of an independent status to whom paragraph (7) 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) 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) Notwithstanding the preceding provisions of this Article, an insurance enterprise which is a resident of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks

situated therein through a representative who is employed or carries on business in that other State, other than an agent of an independent status to whom paragraph (7) applies.

(7) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

(8) 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, buildings, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

(4) The provisions of paragraphs (1) and (3) shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7

Business profits

(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on or has carried on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on or has carried 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. If an enterprise which is a resident of a Contracting State has a permanent establishment in the other Contracting State and alienates property to persons in that other State that is identical or similar to property alienated through that permanent establishment, the profits from such alienations shall be attributed to that permanent establishment unless the enterprise shows that such sales could not have been undertaken by the permanent establishment in the ordinary course of its activities.

(2) Subject to the provisions of paragraph (3), where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent

establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment.

(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 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) The profits referred to in paragraph (1) do not include profits derived from the provision of accomodation or the transportation by any other means of transport than the operation of ships and aircrafts in international traffic.

(3) With respect to profits derived by the air transport consortium Scandinavian Airlines System (SAS) the provisions of paragraph (1) shall apply only to such part of the profits as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

(4) 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.

(5) The provisions of paragraph (1) shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

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 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,

if it agrees with the inclusion, 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.

(3) The provisions of paragraph (2) shall not apply in case of fraud, willful default or gross negligence.

Article 10

Dividends

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

(2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, 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 but a limited partnership) which holds directly at least 10 per cent of the voting power of the company paying the dividends;

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

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

(3) Notwithstanding the provisions of paragraph (2) such dividends shall be taxable only in the Contracting State of which the beneficial owner is a resident if the beneficial owner is a company (other than a partnership but a limited partnership) which holds directly at least 25 per cent of the voting power of the company paying the dividends and at least 50 per cent of the voting power of the company, which is the beneficial owner of the dividends, is held by residents of that Contracting State.

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

(5) The provisions of paragraphs (1), (2) and (3) shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on or has carried 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 or has performed 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, 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 the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

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

(2) However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall, subject to the provisions of paragraph (3), not exceed:

(a) 10 per cent of the gross amount of the interest in the case of banks;

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

(3) During a period of five years from the date upon which the provisions of this Convention came into effect, a tax rate of 15 per cent shall apply instead of the rate specified in sub-paragraph (a) of paragraph (2).

(4) Notwithstanding the provisions of paragraph (2) interest, mentioned in paragraph (1) shall be taxable only in the Contracting State where the recipient of the interest is a resident if one of the following requirements is fulfilled;

(a) The recipient thereof is the government of a Contracting State, the Central Bank of a Contracting State or a political subdivision or local authority thereof;

(b) the interest is paid by such a person mentioned in subparagraph (a);

(c) the interest is paid in respect of a loan granted or guaranteed for a period of not less than three years by a financial institution of a public character with the objective to promote exports and development if the credit granted or guaranteed contains an element of subsidy.

(5) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and

income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income which is subjected to the same taxation treatment as income from money lent by the laws of that State in which the income arises. However, the term "interest" does not include income to which the provisions of Article 10 apply.

(6) The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries or has carried on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs or has performed 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, as the case may be, shall apply.

(7) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(8) 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 any 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.

(9) The provisions of this Article shall not be applicable if the loan in respect of which the interest is paid is granted with the main objective to obtain the advantages of this Article.

Article 12

Royalties

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

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration

for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, 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. The term "royalties" also includes gains derived from the alienation of any such right or property which are contingent on the productivity or use thereof.

(4) The provisions of paragraphs (1) and (2) shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on or has carried on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs or has performed 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, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such

permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(6) 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 for any reason exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(7) The provisions of this Article shall not be applicable if the right or the property in respect of which the royalty is paid is agreed upon or assigned with the main objective to obtain the advantages of this Article.

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

(2) Gains from the alienation of shares or other rights in a company which assets principally, directly

or indirectly, consist of immovable property situated in a Contracting State or rights pertaining to such immovable property, may be taxed in that State. For the purposes of this paragraph immovable property used by a company in its industrial, commercial or agricultural activities or in the conduct of professional services should not be taken into account.

(3) Gains from the alienation of shares that represent a participation of more than 25 per cent of the stock of a company resident of a Contracting State, may be taxed in that State. However, the tax so charged shall not exceed 20 per cent of the taxable gains.

(4) Gains from 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.

(5) 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. With respect to gains derived by the Swedish, Danish and Norwegian air transport consortium Scandinavian Airlines System (SAS), the provisions of

this paragraph shall apply only to such portion of the gains as corresponds to the participation held in that consortium by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

(6) The provisions of Article 12 of this Convention shall also apply to gains from the alienation of any property or right referred to in that Article.

(7) Gains from the alienation of any property other than that referred to in the paragraphs mentioned above, shall be taxable only in the Contracting State of which the alienator is a resident.

(8) Notwithstanding the provisions of paragraph (7), gains from the alienation of shares or other corporate rights of a company which is a resident of one of the Contracting States derived by an individual who has been a resident of that State and who has become a resident of the other Contracting State, may be taxed in the first-mentioned State if the alienation of the shares or other corporate rights occur at any time during the ten years next following the date on which the individual has ceased to be a resident of the first-mentioned State.

Article 14

Independent personal services

(1) Income derived by an individual who is 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. However,

such income may also be taxed in the other Contracting State if:

(a) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much thereof as is attributable to that fixed base, or

(b) the individual is present in that other State for a period or periods exceeding in the aggregate 183 days within any period of 12 months, but only so much thereof as is attributable to services performed in that State.

(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, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of a Contracting State in respect of an employment exercised in the

other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days within 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 by an enterprise of a Contracting State may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the air transport consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Sweden.

Article 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 and in the case of Mexico in his capacity as a "administrador" or a "comisario" of a company which is a resident of the

other Contracting State may be taxed in that other State.

Article 17

Entertainers and sportsmen

(1) Notwithstanding the provisions of Articles 14 and 15, 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 a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. Income derived by an entertainer or a sportsman who is a resident of a Contracting State from that resident's personal activities relating to that resident's reputation as an entertainer or athlete 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

(3) Notwithstanding the provisions of paragraphs (1) and (2) income derived by an entertainer or sportsman from his personal activities as such shall be exempt from tax in the Contracting State in which these activities are exercised if the activities are

exercised within the framework of a visit which is substantially supported by the other Contracting State, a political subdivision, a local authority or a public institution thereof.

Article 18

Pensions, annuities and similar payments

(1) Subject to the provisions of paragraph (2) of Article 19, pensions and other similar remuneration, disbursements under the Social Security legislation and annuities arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in the first-mentioned Contracting State.

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

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) However, such remuneration shall be taxable only in the other Contracting State if the services are

rendered in that other State and the individual is a resident of that State who:

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

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

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

(3) The provisions of Articles 15, 16 and 18 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 State, provided that such payments arise from sources outside that State.

Article 21

Other income

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

(2) The provisions of paragraph (1) shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

Article 22

Elimination of double taxation

(1) In the case of Mexico double taxation shall be avoided, subject to the conditions under the Mexican law, as follows:

(a) residents of Mexico may credit the Swedish tax in any amount not exceeding the tax payable in Mexico on such income; and

(b) companies which are residents of Mexico may credit against the Mexican tax on dividends, the Swedish tax on the profits out of which the company resident in Sweden paid the dividends.

However, where a resident of Mexico derives payments referred to in Article 18, Mexico may, according to its internal legislation, limit the creditable amount to 15 per cent of the gross amount received.

(2) In the case of Sweden, double taxation shall be avoided as follows:

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

(b) Where a resident of Sweden derives income which, in accordance with the provisions of Article 19, shall be taxable only in Mexico, Sweden may, when determining

the graduated rate of Swedish tax, take into account the income which shall be taxable only in Mexico.

(c) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, dividends paid by a company which is a resident of Mexico to a company which is a resident of Sweden shall be exempt from Swedish tax according to the provisions of Swedish law governing the exemption of tax on dividends paid to Swedish companies by subsidiaries abroad.

(3) For the purpose of sub-paragraph (a) of paragraph (2) the Mexican assets tax mentioned in paragraph (1)(a) of Article 2 shall be considered an income tax.

(4) For the purpose of sub-paragraph (a) of paragraph (2) of this Article the Mexican tax paid in respect of royalties received as a consideration for the use of any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, shall, where it has been used in landtransport activities carried out within the Mexican territory, as well as in an industrial process, manufacturing activities, agriculture (including cattle raising), forestry, fishing, tourism (including restaurants and hotels) and telecommunications, provided that the activities have been carried out in Mexico, in addition to the Mexican tax actually paid be considered to have been paid with 5 per cent more, or if no such tax has been charged be considered to have been paid with 5 per cent, of the gross amount of the royalties.

(5) For the purpose of sub-paragraph (c) of paragraph (2) of this Article, a tax of 15 per cent should be considered to have been paid on the profits out of which the dividends are paid, if the company which is a resident of Mexico has derived the profits principally from landtransport activities carried out within the Mexican territory, as well as in an industrial process, manufacturing activities, agriculture (including cattle raising), forestry, fishing, tourism (including restaurants and hotels), provided that the activities have been carried out in Mexico.

(6) The provisions of paragraphs (4) and (5) should apply only for the first ten years during which this Convention is effective. This period may be extended by a mutual agreement between the competent authorities.

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. This provision should not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

(3) Except where the provisions of paragraph (1) of Article 9, paragraph (8) of Article 11, or paragraph (6) 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 subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(5) The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

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 or, if his case comes under paragraph (1) of Article 23, to that of the Contracting State of which he is a national. The case must be presented within four and a half year from the expiry of the year in which the action resulting in taxation not in accordance with the provisions of the Convention was taken.

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

(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.

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

preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure.

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 established by the Contracting States insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State 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 imposed on behalf of that State. Such persons or authorities shall use the information only for tax purposes. They may disclose the information in public court proceedings or in judicial decisions.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on a Contracting State the obligation:

(a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 26

Diplomatic agents and consular officers

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

Article 27

Entry into force

(1) Each Contracting State shall notify the other in writing that the procedures required by its legislation for the entry into force of this Convention have been complied with. The Convention enters into force with the reception of the last notification.

(2) The provisions of this Convention shall have effect on income derived on or after the first day of

January following the date of the entry into force of this Convention.

Article 28

Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year after the expiration of a period of five years from the date of its entry into force. In such case, the Convention shall cease to have effect on income derived on or after the first day of January of the year next following that in which the notice of termination is given.

Done at *Washington DC*, this
21st day of *September* 19 *92*,
 in duplicate in the Spanish and English languages, both
 being equally authentic.

For the United Mexican States:

[Signed — Signé]¹

For the Kingdom
 of Sweden:

[Signed — Signé]²

¹ Signed by Pedro Aspe Armella — Signé par Pedro Aspe Armella.

² Signed by Anders Thunborg — Signé par Anders Thunborg.

Protocol

At the moment of signing the Convention between the Kingdom of Sweden and the United Mexican States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

To Article 4

In respect of paragraph (1) of Article 4, it is understood that in the case of a partnership, an estate or a trust the term "resident of a Contracting State" applies only to the extent that the income derived by such partnership, estate or trust is subject to tax in that State as the income of a resident, either in its hands or in the hands of its partners or its beneficiaries.

To Articles 8 and 13

If the Contracting State that has been given the right to tax the income according to paragraph (1) of Article 8 or paragraph (5) of Article 13 is unable, under its law, to tax such income in its entirety, the income shall be taxable only in the Contracting State in which the person concerned is a resident.

To Article 11

In respect of paragraph (4) of Article 11 it is understood that the term "financial institution of a public character", in the case of Sweden, includes

SWEDECORP (Styrelsen för internationellt näringslivsbistånd) and Swedfund International AB or any Swedish institution that may be founded by the Swedish Government to fulfill the same purposes as the said institutions, as well as, in the case of Mexico, BANCOMEXT, S.N.C. (Banco Nacional de Comercio Exterior, Sociedad Nacional de Crédito), NAFIN, S.N.C. (Nacional Financiera, Sociedad Nacional de Crédito) and BANOBRAS, S.N.C. (Banco Nacional de Obras y Servicios, Sociedad Nacional de Crédito).

To Articles 11 and 12

In respect of paragraph (7) of Article 11 and paragraph (5) of Article 12, it is agreed that the Contracting States shall apply these provisions in accordance with the legislation of the States concerned and in accordance with the Commentaries on the Articles of the 1977 Model Double Taxation Convention on Income and on Capital drawn up by the OECD Committee on Fiscal Affairs. It is also agreed to extend the application of the provisions of the said paragraphs to the case described in paragraph 25 c) of the Commentaries on Article 11.

In respect of paragraph (9) of Article 11 and paragraph (7) of Article 12, it is agreed that when a Contracting State contemplates to deny benefits to a resident of the other Contracting State, the competent authorities of the Contracting States should consult each other.

To Article 22

In respect of paragraph (4) of Article 22 it is understood that the provisions of paragraph (4) also apply to the activities of research and development carried out in Mexico by an enterprise that is part of a group of companies that carries out in Mexico to a substantial degree activities specified in that paragraph.

Done at *Washington D.C.* this
21st day of *September* 19 *92*., in
duplicate in the Spanish and English languages both
being equally authentic.

For the United Mexican States:

[Signed — Signé]¹

For the Kingdom
of Sweden:

[Signed — Signé]²

¹ Signed by Pedro Aspe Armella — Signé par Pedro Aspe Armella.

² Signed by Anders Thunborg — Signé par Anders Thunborg.