

BRAZIL (Treaty of 23.06.1972)

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Entry into Force: According to Article 28 of this Convention, it entered into force on July 13, 1973, i.e. on the 30th day after the date of the exchange of instruments of ratification. The Convention is, in general, effective as from January 1, 1974, but the reduction of the rate of the withholding tax on dividends, applies as from January 1, 1976.

The President of the Federal Republic of Brazil and His Majesty The King of the Belgians desiring to avoid double taxation and to settle certain questions with respect to taxes on income, have decided to conclude a Convention and have, for this purpose, appointed as their Plenipotentiaries:

The President of the Federal Republic of Brazil:

Mr. Mario Gibson Barboza,

Minister of State of Foreign Affairs

His Majesty The King of the Belgians:

Baron Paternotte de la

Vaillee, Ambassador of

Belgium in Brazil,

Who having communicated to one another their full powers found in good and due form,

Have agreed as follows:

Article 1 Personal scope of the Convention

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

Article 2 Taxes covered by the Convention

1. The existing taxes to which the Convention shall apply are:

(a) In the case of Belgium:

-- the individual income tax ("Personenbelasting"; "Impôt des personnes physiques");

-- the corporate income tax ("Vennootschapsbelasting"; "Impôt des Sociétés");

-- the income tax on legal entities ("Rechtspersonenbelasting"; "Impôt des personnes morales");

-- the income tax on non-residents ("Belasting der niet-verblijfhouders"; "Impôt des non-résidents");

including the prepayments ("voorheffingen"; "précomptes") and additional prepayments ("aanvullende voorheffingen"; "compléments de précomptes"), the additional surcharges on the above taxes and prepayments, and including the municipal supplement to the individual income tax;

(hereafter referred to as "Belgian tax");

(b) In the case of Brazil, the federal income tax and tax on revenue of any kind, except the tax levied on excess remittances and activities of minor importance;

(hereinafter called "Brazilian tax").

2. The Convention shall also apply to any taxes of an identical or substantially similar character which are subsequently imposed in addition to, or in place of, the existing taxes.

Article 3 General definitions

1. In this Convention:

(a) The term "Belgium", employed in a geographical sense, means the territory of the Kingdom of Belgium, including any territory outside the national sovereignty of Belgium which in accordance with International Law has been or may hereafter be designated, under the laws of Belgium concerning the Continental Shelf, as an area within which the rights of Belgium with respect to the sea bed and the sub-soil and their natural resources may be exercised;

(b) The term "Brazil" means the Federal Republic of Brazil, when employed in a geographical sense;

(c) The terms "a Contracting State" and "the other Contracting State" mean Belgium and Brazil as the context requires;

(d) The term "person" means an individual, a company or any other body of persons;

(e) The term "company" means any legal person or any entity which is treated as a legal person 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 "competent authority" means:

(1) in Belgium, the competent authority under Belgian Law;

(2) in Brazil, the Minister of Finance, the Secretary of Federal Revenue or their duly authorized representatives.

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

Article 4 Fiscal domicile

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that Contracting State, is liable to taxation therein by reason of his domicile, residence, head-office or any other criterion of a similar nature; it also includes companies under Belgian Law, --not being companies limited by shares -- which have opted for their profits to be subjected to the individual income tax.

2. Where by reasons of the provisions of paragraph 1 an individual is considered to be a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

(a) he shall be considered 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 considered to be a resident of the Contracting State with which his personal and economic relations are closer (center of vital interests);

(b) if the Contracting State in which such individual has his centre of vital interests cannot be determined or if he does not have a permanent home in either of the Contracting States, he shall be considered 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 considered to be a resident of the Contracting State of which he is a citizen;

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

3. Where by reason of the provisions of paragraph 1 a person who is not an individual is considered to be a resident of both Contracting States, such person shall be considered to be a resident of the Contracting State in which its place of active management is located.

Article 5 Permanent establishment

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

(f) a mine, quarry or other place of extraction of natural resources;

(g) a building site or construction or assembly project which exists for more than six months.

3. An establishment shall not be considered to be permanent, if:

(a) the facilities are used solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) a stock of goods or merchandise belonging to the enterprise is maintained solely for the purpose of storage, display or delivery;

(c) a stock of goods or merchandise belonging to the enterprise is maintained solely for the purpose of processing by another enterprise;

(d) a fixed place of business is used solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;

(e) a fixed place of business is used solely for the purpose of advertising, for the supply of

information, for scientific research or for similar activities which have a preparatory or auxiliary character for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State -- other than an agent of an independent status to whom paragraph 5 applies -- shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise. However, an insurance company of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State provided if, through the intermediary of a representative not included among the persons indicated in paragraph 5 below, it collects insurance premiums in the territory of the other Contracting State or if it insures risks situated in such territory.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other Contracting State through a broker, general commission agent or any other agent of independent status, where such persons are acting in the ordinary course of their business.

6. 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 for either company a permanent establishment of the other.

Article 6 Income from immovable property

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

2. (a) The term "immovable property" shall be defined in accordance with the laws of the Contracting State in which such property is situated;

(b) 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 private law respecting immovable 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 and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraph 1 and 3 shall also apply to income derived from immovable property of an enterprise and to income from immovable property used for the performance of professional 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, its profits may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

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

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred.

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

5. Where profits include items of income which are dealt with separately in other Articles of this Convention, 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 in international traffic of ships or aircraft 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 engaged in international transport is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the port of registration of such ship is situated or if there is no such port of registration, in the Contracting State of which the person operating the ship is a resident.

Article 9 Associated enterprises

Where

(a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then the profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 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 be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that Contracting State, but the tax so charged shall not exceed 15% of the gross amount of the dividends. The provisions of this paragraph shall not restrict the taxation of the company in respect of the profits which gave rise to the payment of the dividends.

3. 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 assimilated to income from shares by the taxation laws of the Contracting State of which the company making the distribution is a resident. This term also means income, even in the form of interest, which is taxable as income from capital invested by the associates in companies, other than joint stock companies, resident in Belgium.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State of which the company which pays the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

5. Where a company which is a resident of Belgium has a permanent establishment in Brazil, it may be subjected there to any withholding tax pursuant to Brazilian legislation, but such tax shall not exceed 15% of the gross amount of profit of the permanent establishment after payment of corporation tax on those profits.

6. The limitation of the rate of tax provided in paragraphs 2 and 5 above shall not apply to income paid or transferred prior to the first of January of 1976.

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 be taxed in the Contracting State in which it arises, and according to the laws of that State, but the tax so charged shall not exceed 15% of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2,

(a) the interest arising from loans and credits granted by the Government of a Contracting State shall not be taxed in the Contracting State in which it arises;

(b) the rate of tax may not exceed 10% on interest from loans and credits granted for a minimum period of seven years by banking establishments with participation from public bodies of specialized financing which are tied to the sale of equipment, or to the study, installation or supplying of industrial or scientific complexes as well as public works.

4. The term "interest" as used in this Article means income from Government securities, bonds whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of

every kind, as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises. This term does not include interest assimilated to dividends, under Article 10, paragraph 3, second sentence, of this Convention.

5. The provisions of paragraph 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State from which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In this case the provisions of Article 7 shall apply.

6. The limitation laid down in paragraphs 2 and 3 shall not apply to interest arising in a Contracting State and paid to a permanent establishment of an enterprise of the other Contracting State, which permanent establishment is situated in a third State.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local community 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

8. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12 Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State are taxable in

that other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the laws of that State, but the tax so charged shall not exceed:

(a) 10% of the gross amount of royalties paid, whether for the use of, or the right to use, any copyright of a literary, artistic or scientific work or whether for the use of or the right to use, any films or video tapes for television or radio broadcasting produced by a resident of one of the Contracting States;

(b) 25% of the gross amount of royalties paid for the use of a trademark or commercial name;

(c) 15% in all other cases.

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 cinematographic films, video-tapes or tapes for television or radio broadcasting, any patent, trademark or commercial name, design or model, plan, secret formula or process, or for the use of, or the right to use industrial, commercial or scientific equipment, and for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision or a local community 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 in connection with which the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent

establishment is situated.

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

Article 13 Capital gains

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base are taxable in that other Contracting State. However, gains from the alienation of ships or aircraft operated in international traffic and any movable property pertaining to the operation of such ships or aircraft shall only be taxable in the Contracting State in which the effective management of the enterprise is situated.

3. Gains derived from the alienation of any other property or rights than those mentioned in paragraphs 1 and 2 shall be taxable in both Contracting States.

Article 14 Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State, unless payment for such services is borne by a company being a resident of the other State, or by a permanent establishment in that other State. In such a case, the income may be taxed in that other State.

2. The term "professional services" includes specifically independent scientific, technical, literary, artistic, educational or pedagogic activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15 Employments

1. Subject to the provisions of Articles 16, 18, 19, 20 and 21, 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 Contracting State, if

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days of the fiscal year in question;

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

(c) if 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 in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 Directors' fees

1. Directors' fees, attendance fees and other similar payments, derived by a resident of a Contracting State in his capacity as a member of the board of directors or supervisory board or of a similar body of a joint stock company which is a resident of the other Contracting State, shall be taxable in that other State. The same applies also to the remuneration of an active partner of a partnership limited by shares resident in Belgium.

2. However, the normal remuneration received by the persons referred to in the preceding paragraph for any other services shall be taxable, depending on the case, under the conditions provided by Articles 14 and 15, paragraph 1, of this Convention.

Article 17 Artists and athletes

Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers such as theatre, motion picture, radio or television artists, and musicians, and by athletes from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 18 Pensions

1. Subject to the provisions of Article 19, pensions, annuities and other similar remuneration paid to an individual who is a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

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

3. The term "pensions", as used in this Article, means periodic payments made after retirement in consideration of past employment or by way of compensation for injuries received in connection with past employment.

Article 19 Public remuneration and pensions

1. Remuneration, including pensions, paid directly by, or out of funds constituted by, a Contracting State or by one of its political subdivisions or local authorities to an individual for services rendered to such Contracting State, political subdivision or local authority in respect of governmental functions, shall be taxable only in that Contracting State. However, this provision shall not apply if the recipient of the remuneration has the nationality of the other State without being, at the same time, a national of the first-mentioned State.

2. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions paid in respect of services rendered in connection with a trade or business carried on by one of the Contracting States or by one of its political subdivisions, or local authorities.

Article 20 Teachers

An individual who is a resident of a Contracting State at the beginning of his stay in the other Contracting State and who, upon an invitation from the Government of the other Contracting State or from a University or other officially recognized educational or research institution in that other Contracting State, and is present in the last-mentioned State mainly for the purpose of teaching or carrying out research work, or both, shall be exempt from tax in that State for a period not exceeding two years as from the date of his arrival in that State, on the remuneration received for such teaching or research.

Article 21 Students, and apprentices

The payments which a student or business apprentice who is or was a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training, shall be exempt from taxation in the other Contracting State, provided that such payments are made to him from sources outside that other State.

The same applies to remuneration received by a student or apprentice in consideration for employment exercised in the Contracting State where he carries on his studies or training, provided such employment does not exceed a period of three years and the annual remuneration does not exceed 100,000 Belgian francs or their equivalent in Brazilian currency.

Article 22 Income not expressly mentioned

Items of income of a resident of one Contracting State which are not expressly mentioned in the foregoing Articles of this Convention may be taxed in both Contracting States.

Article 23 General rules of taxation

1. In the case of Brazil double taxation shall be avoided as follows:

-- Where a resident of Brazil derives income which, in accordance with the provisions of this Convention, is taxable in Belgium, Brazil shall allow as a deduction from the tax, an amount equal to the tax paid in Belgium.

-- The amount of the deduction, however, shall not exceed that part of the Brazilian tax which is appropriate to that income.

2. In the case of Belgium double taxation shall be avoided as follows:

(1) Where a resident of Belgium receives income not indicated in sub-paragraphs (2), (3) and (4) of this paragraph which is taxable in Brazil in accordance with the provisions of the present Convention, Belgium shall exempt such income from tax but in order to calculate the amount of taxes on the remaining income of such resident, it may apply the tax rate corresponding to the total income including the exempt income.

(2) (a) with respect to dividends to which Article 10, paragraph 2, applies and which are not indicated in sub-paragraph (3) below, to interest to which Article 11, paragraphs 2, 3b or 8 applies and to royalties to which Article 12, paragraphs 2 or 6, applies, Belgium shall grant a deduction of 20% of the gross amount of the above income forming the taxable base in the name of such resident, from the Belgian tax due by such resident.

(b) in the event that Brazil reduces the normal taxes imposed on the above income attributed to non-residents to a rate below 14% of the gross amount of such income, Belgium shall reduce the

rate of such deduction from 20 to 15%. In the event that Brazil eliminates this tax, Belgium shall limit the rate of deduction to 5%

(c) notwithstanding the provisions of its Law, Belgium shall also grant the deduction of 20% provided for item (a) above for the above mentioned income which is taxable in Brazil pursuant to this Convention and to the general provisions of Brazilian law, where such income is temporarily exempt from Brazilian taxes pursuant to special legal provisions destined to encourage the investments required for the development of Brazilian economy. The competent authorities of the Contracting States shall by mutual agreement establish which is the income which will qualify for this provision.

(3) (a) Where a company resident in Belgium holds shares or parts of a share company resident in Brazil and subject to corporate income tax in Brazil, the dividends which are attributed to the first company by the latter company and which are taxable in Brazil in accordance with Article 10, paragraph 2, shall be exempt from corporate tax in Belgium in the same proportion in which such exemption would be granted if both companies were residents in Belgium; this provision does not preclude the imposition of the "Précompte mobilier" on such dividends in accordance with Belgian law;

(b) where a company resident in Belgium has had during an entire company year of a stock company in Brazil and subject to corporate income tax in Brazil the exclusive property of shares or parts of this latter company, the company resident in Belgium will be equally exempt from "precompte mobilier" which would be due under Belgian law on the dividends of such shares or parts, provided that the company resident in Belgium has made a written request to this effect before the expiration of the term provided for its annual declaration; on the occasion of redistributing these exempt dividends to its own shareholders, these exempt dividends may not be deducted from the amount of dividends distributed subject to "précompte mobilier". This provision shall not apply when the first company has opted to subject its profits to the individual income tax. In the event that the provisions of Belgian Law which grant an exemption of corporate income tax with respect to the net amount of the dividends which a company resident in Belgium receives from another company resident in Belgium are altered in order to limit the exemption granted to the dividends resulting from a certain shareholding in the capital of the second company, then the provision above will apply only to the dividends distributed by companies resident in Brazil and relating to holdings of the same scope in the capital of the above companies. In this event, double taxation of the dividends resulting from such participations will be avoided in the manner described in item (2).

(4) The income which has been taxed in Brazil in accordance with Article 13, paragraph 3 or Article 22 and which is included in the income subject to Belgian tax will be subject to that tax in accordance with the conditions provided for by Belgian tax legislation with respect to professional income received and taxed

abroad.

(5) Where in accordance with Belgian Law, losses sustained by a permanent establishment in Brazil of an enterprise resident in Belgium are effectively deducted from the profits of this enterprise for purposes of taxation in Belgium, then the exemption provided for in subparagraph (1) shall not apply in Belgium to profits realised in other tax periods which can be allocated to this establishment, to the extent that these profits have also been granted tax exemption in Brazil on account of a carryover of those losses.

Article 24 Non-discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other more burdensome than the taxation and connected requirements to which nationals of that other Contracting State in the same circumstances are or may be subjected.

2. The term "nationals" means:

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

(b) all juridical persons, associations of persons and others, constituted in accordance with current law of a Contracting State.

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

This provision shall 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.

4. Except in the cases to which Articles 9 and 11, paragraph 8 apply, the interest paid by an enterprise of a Contracting State to a resident of the other Contracting State shall be deductible for the purpose of determining the taxable profits of such an enterprise under the same conditions which would be applied if the interest had been paid to a resident of the first-mentioned State.

5. 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 Contracting State are or may be subjected.

6. In this Article the term "taxation" means taxes of every kind and description.

Article 25 Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions taken by one or both Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the laws of those Contracting States, present his case in writing to the competent authority of the Contracting State of which he is a resident stating the grounds for claiming revision of the taxation. To be admitted the claim must be submitted within two years from the date of notification or collection at the source of the tax which he thinks is not in accordance with this Convention, or, in the event of double taxation, of the second tax.

2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of this Convention.

4. The competent authorities of the Contracting States may communicate directly with each other for the purpose of reaching an agreement in the sense of the preceding paragraphs. If, in order to facilitate such agreement, it seems advisable to have oral discussions, such discussions may take place through a Commission of representatives of the competent authorities of the Contracting States.

5. The competent authorities of the Contracting States shall agree on the subject of the necessary administrative measures to carry out the provisions of this Convention and, particularly, in the matter of proofs to be supplied by the residents of either State in order to benefit in the other State from the tax exemptions or reductions provided for in this Convention.

Article 26 Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of each Contracting State concerning the taxes covered by this Convention in so far as the taxation thereunder is in accordance with this Convention. All information so exchanged shall be treated and shall only be disclosed to any persons or authorities in charge of assessment or collection of the taxes to which this Convention applies.

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

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

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

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

Article 27 Miscellaneous

1. Notwithstanding the application of Article 23, paragraph 2, subparagraph (3)(b), the provisions of this Convention shall not limit the advantages offered by the legislation of a Contracting State in respect of the taxes mentioned in Article 2.

2. Nothing in this Convention shall have the effect of limiting the taxation of a company resident in Belgium in the event of redemption of stock or parts or in the event of the distribution of its assets.

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

4. For the purposes of this Convention, diplomatic or consular officials of a Contracting State, who are accredited in the other Contracting State or in a third State and who have the nationality of the sending State, shall be considered as residents of that State if they are subject in that State to the same obligations in respect of income tax as the residents of that State.

5. This Convention shall not apply to international organizations and to their organs and officials, nor to individuals who are members of diplomatic or consular missions of a third State and who stay in a Contracting State but are not deemed to be residents of one or the other Contracting State with regard to taxes on

income.

6. The Finance Ministers of the Contracting States or their representatives shall communicate directly with each other for the carrying out of this Convention.

Article 28 Entry into force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged in Brussels as soon as possible.

2. This Convention shall enter into force on the thirtieth day after the date of the exchange of instruments of ratification and its provisions shall apply for the first time:

(a) in respect of taxes withheld at source, the fact giving rise to them appearing on the first day of January of the year next following that in which this Convention enters into force;

(b) in respect of other taxes on income arising on the first day of January of the year next following that in which this Convention enters into force.

Article 29 Termination

This Convention shall remain in force indefinitely. However, either Contracting State may denounce this Convention by giving written notice of termination through the diplomatic channel six months before the end of each calendar year, as of the third year after its entry into force.

In such event, this Convention shall apply for the last time:

(a) in respect of taxes withheld at source, the fact giving rise to them appearing before the end of the calendar year during which notice of termination is given;

(b) in respect of the other taxes on income, as to income of taxable persons ending before the 31st of December of the year during which notice of termination is given.

IN WITNESS whereof the Plenipotentiaries of the two Contracting States have signed this Convention and have affixed hereto their Seals.

DONE in duplicate in Brasilia on June 23, 1972, in Portuguese, French and Dutch, each text being equally authentic.

For the Kingdom of Belgium

Paternotte de la Vaillee

For the Federal Republic of Brazil

Mario Gibson Barboza

Final Protocol

At the time of signing the Convention for the avoidance of double taxation and the settlement of certain other questions with respect to taxes on income, concluded on this date between the Federal Republic of Brazil and the Kingdom of Belgium, the undersigned Plenipotentiaries have agreed to the following, which forms an integral part of the Convention:

1. Ad Article 10, paragraphs 2 and 5

Notwithstanding the application of Article 10, paragraphs 2 and 5, where a company resident in one Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income originating in that other State.

2. Ad Article 13, paragraph 3 and Article 14, paragraph 1

In the event that, after the signing of this Convention, Brazil concludes with a third State not situated in Latin America a Convention which limits -- in respect of the income mentioned in Article 13, paragraph 3 and Article 14, paragraph 1 -- the taxation right of the Contracting State other than the State in which the receiver of the income is resident, an identical limitation would automatically be applied to the relations between Brazil and Belgium.

3. Ad Article 24, paragraph 4

In the event that, after the signing of this Convention, Brazil permits that royalties paid by a company resident in Brazil to a company resident in a third State not situated in Latin America which owns at least 50% of the capital of the said company resident in Brazil, may be deducted in determining the amount of profits of that company taxable in Brazil, then an identical deduction will automatically be granted in the

relations between a company resident in Brazil and a company resident in Belgium which companies are in the same situation.

4. Ad Article 24

These provisions shall not prevent Belgium from:

(a) taxing the resident of Brazil who disposes of a dwelling house in Belgium on a minimum income equal to two times the cadastral income of that house;

(b) globally taxing the profits attributed to the permanent establishment in Belgium of a company resident in Brazil or of a group of persons who have their office of effective management in that State, at the rate determined by Belgian law, provided that this rate does not exceed, in principle, the maximum rate applicable to the whole or a fraction of the profits of these companies residents in Belgium.

DONE in Brasilia on June 23, 1972 in triplicate, in Portuguese, French and Dutch, each text being equally authentic.