

# CONVENTION

## BETWEEN THE GOVERNMENT OF THE ITALIAN REPUBLIC AND THE GOVERNMENT OF THE KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF FISCAL EVASION.

The Government of the Italian Republic and the Government of the Kingdom of Denmark,  
Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on  
income and the prevention of fiscal evasion,

Have agreed upon the following measures:

### CHAPTER I

#### SCOPE OF THE CONVENTION

##### 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. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

(a) in the case of Denmark:

- (i) - the income taxes to the State (indkomstskatterne til staten);
- (ii) - the income tax to the municipalities (den kommunale indkomstskat);
- (iii) - the income tax to the county municipalities (den amtskommunale indkomstskat);
- (iv) - taxes imposed under the Hydrocarbon Tax Act (skatter i henhold til kulbrinteskatteloven);

(hereinafter referred to as “Danish Tax”)

(b) in the case of Italy:

- 1 - the personal income tax (l'imposta sul reddito delle persone fisiche);
  - 2 - the corporate income tax (l'imposta sul reddito delle persone giuridiche);
  - 3 - the local income tax (l'imposta locale sui redditi);
- whether or not they are collected by withholding at source;

(hereinafter referred to as "Italian Tax")

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

## **CHAPTER II**

### **DEFINITIONS**

#### Article 3

#### GENERAL DEFINITIONS

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

- (a) the terms "a Contracting State" and "the other Contracting State" mean Denmark or Italy, as the context requires;
- (b) the term "Denmark" means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the sea-bed or its subsoil and the superjacent waters and with respect to other activities for the exploration and economic exploitation of the area; the term does not comprise the Faroe Islands and Greenland;
- (c) the term "Italy" means the Italian Republic and, when used in geographical sense, means its territory, including internal waters, territorial sea and air space over them and includes any area beyond the territorial waters of Italy which, in accordance with international law and the laws of Italy concerning the exploration and exploitation of natural resources, may be designated as an area within which the rights of Italy, with respect to the seabed and subsoil and natural resources, may be exercised;
- (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 "competent authority" means:
  - (i) in Denmark, the Minister for Taxation or his authorized representative;
  - (ii) in Italy, the Ministry of Finance;
- (i) the term "national" means:
  - (i) any individual possessing the nationality of a Contracting State;
  - (ii) any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

2. As regards the application of this Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State for the purposes of the taxes to which the Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

#### 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. But 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 only 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 only 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 only of the State of which he is a national;

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

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

## Article 5

### PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources; and
- (g) a building site or construction or installation project which exists for more than twelve months.

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

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character.

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.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in a 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.

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 either company a permanent establishment of the other.

### **CHAPTER III**

#### **TAXATION OF INCOME**

##### Article 6

#### **INCOME FROM IMMOVABLE PROPERTY**

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply. Usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources shall also be considered as "immovable property". Ships, boats and aircraft shall not be regarded as immovable property.

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

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

##### Article 7

#### **BUSINESS PROFITS**

1 The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.
3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.
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. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. The provisions of paragraph 1 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency.
4. With respect to profits derived by the Danish, Norwegian and Swedish air transport consortium, known as the Scandinavian Airlines System (SAS), the provisions of paragraphs 1 and 3 shall apply only to such proportion of the profits as corresponds to the participation held in that consortium by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

## 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 shall make an appropriate adjustment to the amount of the tax charged therein on those profits. Any such adjustment shall be made only in accordance with the mutual agreement procedure in Article 26 and with paragraph 7 of the Additional Protocol.

## 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 beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed:

(a) 0 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds and has held directly at least 25 per cent of the capital of the company paying the dividends for a twelve month period prior to the date the dividends are declared;

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

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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

3. The term "dividends" as used in this Article means income from shares, "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.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case the dividends are taxable in that other Contracting State according to its own law.

5. Where a company which is a resident of a Contracting State, derives profits or income from the other Contracting State that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

## 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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2 of this Article, the interest referred to in paragraph 1 of this Article shall be taxable only in the Contracting State of which the beneficial owner is a resident, and it is paid:

- (a) in connection with the sale on credit of industrial, commercial or scientific equipment; or
- (b) in connection with the sale on credit of goods delivered by one enterprise to another enterprise.

4. Notwithstanding the provisions of paragraph 2 of this Article, the interest referred to in paragraph 1 of this Article shall be taxable only in the Contracting State of which the beneficial owner of the interest is a resident and:

- (a) the payer of the interest is the first Contracting State referred to in paragraph 1 of this Article or one of its political or administrative subdivisions or local authorities; or
- (b) the interest is paid in consideration of a loan granted, guaranteed or insured by the Government of the other Contracting State, the central bank of that other State or any agency or instrumentality (including a financial institution) owned or controlled by that Government.

5. The term "interest" as used in this Article means income from Government securities, bonds or debentures, 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 State in which the income arises.

6. The provisions of paragraphs 1, 2, 3 or 4, as the case may be, of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State, in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case, the interest is taxable in that other Contracting State according to its own law.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative 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, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each, 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 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 law of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed five per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraphs 1 and 2, royalties arising in a Contracting State and paid to a resident of the other Contracting State for the use of, or the right to use, a copyright of literary, artistic or scientific work (excluding royalties for software, cinematograph films and other sound and visual recordings) shall be taxable only in that other State if the beneficial owner is a resident of that other State.

4. 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, of software, of cinematograph films and any other sound and visual recordings, 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, and for information concerning industrial, commercial or scientific experience.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case the royalties are taxable in that other Contracting State according to its own law.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative 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.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

## Article 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 movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of Italy to levy, according to its own law, a tax on gains from the alienation of shares and other rights participating in profits of a company which is, under the law of Italy, a resident of Italy, derived by an individual who is a resident of Denmark and has been a resident of Italy in the course of the last five years preceding the alienation of such shares or rights.

6. An individual who is a resident of a Contracting State and immediately thereafter becomes a resident of the other Contracting State may be treated by the first-mentioned Contracting State as having alienated shares and may be taxed by that State in respect of gains on such shares as of the date of change of residency. In such a case, that individual may elect in the other Contracting State in his annual return of income for the year of alienation to be liable to tax as if he had purchased the shares for an amount equal to the amount used as sales price in the first-mentioned State when it made the final assessment of its gains tax.

7. With respect to gains derived by the Danish, Norwegian and Swedish air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 3 shall apply only to such proportion of the gains as corresponds to the participation held in that consortium by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

#### Article 14

#### INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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

#### Article 15

#### DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of Articles 16, 18 and 19, 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 in any twelve month period commencing or ending in the fiscal year concerned, and

(b) the remuneration is paid by, or on behalf of, an employer who is a resident of the first-mentioned 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 shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the consortium Scandinavian Airlines System (SAS), such remuneration shall be taxable only in Denmark.

#### Article 16

##### DIRECTORS' FEES

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

#### Article 17

##### ARTISTES AND 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.

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. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State by artistes or sportsmen if the visit to that State is substantially supported by public funds of the other Contracting State or a political or administrative subdivision or a local authority thereof.

## Article 18

### PENSIONS AND SIMILAR PAYMENTS

1. Subject to the provisions of paragraph 2 of Article 19, pensions, annuities and other similar remuneration paid to a resident of a Contracting State shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, payment received by an individual, being a resident of a Contracting State, under the social security legislation of the other Contracting State shall be taxable only in that other State.

Payments received under the social security legislation of one of the Contracting States shall be taxed according to the provisions of the first sentence of this paragraph only if they do not have a contributory nature.

3. In the case of an individual who was a resident of a Contracting State for a period of five years or more and has become a resident of the other Contracting State, the provisions of paragraph 1 shall not affect the right of the first-mentioned State under its national laws to tax pensions, annuities and other similar remuneration accruing to such individual from that State. This provision shall apply only to individuals having the nationality of the Contracting State from which payments are derived, provided that such individuals do not have the nationality of the other Contracting State.

4. The term “annuities” means stated sums 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) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

(i) is a national of that State, not being a national of the first-mentioned 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 or administrative subdivision or a local authority thereof to any 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, not being a national of the first-mentioned State.

3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions in respect of services rendered in connection with business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

#### Article 20

#### PROFESSORS AND TEACHERS

Remuneration which a professor or teacher who makes a temporary visit to a Contracting State for the purpose of teaching or conducting research, during a period less than one year, at a university or other similar educational institution and who is, or immediately before such visit was, a resident of the other Contracting State, receives for such teaching or research, shall be taxable only in that other Contracting State.

#### Article 21

#### 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 22

#### ACTIVITIES IN CONNECTION WITH PRELIMINARY SURVEYS, EXPLORATION OR EXTRACTION OF HYDROCARBONS

1. Notwithstanding the provisions of Articles 5 and 14, a resident of a Contracting State who carries on activities in connection with preliminary surveys, exploration or extraction of hydrocarbons situated in the other Contracting State shall be deemed to be carrying on in respect of such activities a business in that other Contracting State through a permanent establishment or fixed base situated therein.

2. The provisions of paragraph 1 shall not apply where the activities are carried on for a period or periods not exceeding 30 days in aggregate in any twelve month period. However, for the purpose of this paragraph, activities carried on by an enterprise associated with another enterprise within the meaning of Article 9 shall be regarded as carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise.

3. Notwithstanding the provisions of paragraphs 1 and 2, drilling rig activities carried on offshore shall constitute a permanent establishment only if the activities are carried on for a period or periods exceeding 365 days in aggregate in any eighteen month period. However, for the purpose of this paragraph, activities carried on by an enterprise associated with another enterprise within the meaning of Article 9 shall be regarded as carried on by the enterprise with which it is associated if the activities in question are substantially the same as those carried on by the last-mentioned enterprise.

4. Notwithstanding the provisions of paragraphs 1 and 2, profits from the transport by ships or aircraft of supplies or personnel to a location where offshore activities in connection with preliminary surveys, exploration or extraction of hydrocarbons are being carried on in the other Contracting State, or from the operation of tugboats and similar vessels in connection with such activities, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

5. Salaries, wages and other similar remuneration derived by an individual who is a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft, tugboat or vessel covered by paragraph 4 shall be taxed in accordance with the provisions of paragraph 3 of Article 15.

6. Notwithstanding the provisions of Article 13, capital gains on drilling rigs used for activities, as mentioned in paragraph 3, which are deemed to be derived by a resident of a Contracting State when the rig activities cease to be subjected to tax in the other Contracting State shall be exempt from tax in that other State. For the purposes of this paragraph, the term “capital gains” means the amount by which the market value at the moment of transfer exceeds the residual value at that moment, as increased by any depreciation taken.

## Article 23

### OTHER INCOME

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

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

3. Where, by reason of a special relationship between the persons referred to in paragraph 1 and some other persons, or between both of them and some third person, the amount of the income referred to in paragraph 1 exceeds the amount (if any) which would have been agreed upon between them 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 income shall remain taxable according to the laws of each Contracting State, due regard being had to the other applicable provisions of this Convention.

**CHAPTER IV**  
**ELIMINATION OF DOUBLE TAXATION**

Article 24  
ELIMINATION OF DOUBLE TAXATION

1. It is agreed that double taxation shall be avoided in accordance with the following paragraphs of this Article.

2. In the case of Italy: If a resident of Italy owns items of income which are taxable in Denmark, Italy, in determining its income taxes specified in Article 2 of this Convention, may include in the basis upon which such taxes are imposed the said items of income, unless specific provisions of this Convention otherwise provide.

In such a case, Italy shall deduct from the taxes so calculated the income tax paid in Denmark but in an amount not exceeding that proportion of the aforesaid Italian tax which such items of income bear to the entire income.

However, no deduction will be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of the said income in accordance with the Italian law.

3. In the case of Denmark:

- (a) Subject to the provisions of sub-paragraph c), where a resident of Denmark derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Italy, Denmark shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Italy;
- (b) such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Italy;
- (c) where a resident of Denmark derives income which, in accordance with the provisions of this Convention shall be taxable only in Italy, Denmark may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax, which is attributable to the income derived from Italy.

**CHAPTER V**  
**SPECIAL PROVISIONS**

Article 25  
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, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

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

3. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, or paragraph 7 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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 Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that 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 26

#### 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 25, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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

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

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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

## Article 27

### EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to the Convention as well as to prevent fiscal evasion. 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 the State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- (a) to carry out administrative measures at variance with the laws or 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 28

### MEMBERS OF DIPLOMATIC MISSIONS AND CONSULAR POSTS

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

## Article 29

### TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any part of the territory of the Contracting States which is specifically excluded from the application of the Convention or, to any State or territory for whose international relations Denmark or Italy is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of the Convention by one of them under Article 32 shall also terminate, in the manner provided for in that Article, the application of the Convention to any part of the territory of the Contracting States or to any State or territory to which it has been extended under this Article.

#### Article 30

#### REFUNDS

1. Taxes withheld at the source in a Contracting State will be refunded by request of the taxpayer or of the State of which he is a resident if the right to collect the said taxes is affected by the provisions of this Convention.

2. Claims for refund, that shall be produced within the time limit fixed by the law of the Contracting State which is obliged to carry out the refund, shall be accompanied by an official certificate of the Contracting State of which the taxpayer is a resident certifying the existence of the conditions required for being entitled to the application of the allowances provided for by this Convention.

3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 26 of this Convention.

### **CHAPTER VI**

#### **FINAL PROVISIONS**

#### Article 32

#### ENTRY INTO FORCE

1. This Convention shall be subject to ratification or approval in accordance with the constitutional procedures of each Contracting State. The Contracting States shall exchange the instruments of ratification or approval in Copenhagen as soon as possible.

2. The Convention shall enter into force upon the exchange of the instruments of ratification or approval and its provisions shall have effect:

(a) in respect of remuneration referred to in sub-paragraph (b) of paragraph 1 of Article 19 of this Convention from the 1st of January 1993; and

(b) in all other cases, on income assessable for any taxable period commencing on or after the 1st of January next following the year, in which the Convention enters into force.

3. The existing Convention for the avoidance of double taxation with respect to taxes on income and on capital and the prevention of fiscal evasion, signed at Copenhagen on the 26th of February, 1980, as amended, shall terminate and cease to have effect on the date on which this Convention shall have effect in accordance with the provisions of paragraph 2.

## Article 32

### TERMINATION

This Convention shall remain in force indefinitely, but either of the Contracting States may give to the other State, through diplomatic channels, written notice of termination at least six months before the end of a calendar year. In such event, the Convention shall cease to be effective in respect of income assessable for any taxable period commencing on or after the 1st of January in the calendar year next following that in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

Done in duplicate at Copenhagen on this 5th day of May 1999, in the Italian, Danish and English languages, all texts being equally authentic, except in the case of doubt when the English text shall prevail.

**ADDITIONAL PROTOCOL TO THE CONVENTION BETWEEN THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT OF THE ITALIAN REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND THE PREVENTION OF FISCAL EVASION.**

At the signing of the Convention concluded today between the Government of the Italian Republic and the Government of the Kingdom of Denmark for the avoidance of double taxation with respect to taxes on income and the prevention of fiscal evasion, the undersigned have agreed upon the following additional provisions which shall form an integral part of the said Convention.

It is understood that:

1. With reference to paragraph 4 of Article 5, an enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State if the activities of the agent are limited to those mentioned in paragraph 3 of that Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
2. With reference to paragraph 3 of Article 7, the term "expenses which are incurred for the purposes of the permanent establishment" means the expenses directly connected with the activity of the permanent establishment.
3. With reference to paragraph 1 of Article 8, profits from the operation of ships or aircraft in international traffic shall include profits from the use, maintenance, or rental of containers (including trailers, barges, and related equipment for the transport of containers) used for the transport in international traffic of goods or merchandise.
4. With reference to sub-paragraph (a) of paragraph 2 of Article 10, this provisions shall not affect a more favourable treatment according to Directive 90/435/EEC, Council Directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States, as may be amended and, in any case, shall be applied as long as the said Directive shall remain in force.
5. With reference to paragraph 4 of Article 10, paragraph 6 of Article 11, and paragraph 5 of Article 12 and paragraph 2 of Article 23, the last sentence contained therein shall not be construed as failing to take account of the principles set out in Articles 7 and 14 of this Convention.
6. With reference to paragraph 3 of Article 13, gains from the alienation of movable property pertaining to the operation of ships or aircraft include gains from the alienation of containers (including trailers, barges, and related equipment for the transport of containers) used for the transport in international traffic of goods or merchandise.
7. With reference to paragraph 1 of Article 26, the expression "irrespective of the remedies provided by the domestic law" means that the mutual agreement procedure is not alternative to the national contentious proceedings which shall be, in any case, preventively initiated, when the claim is related with an assessment of taxes not in accordance with this Convention.

8. The provisions of paragraph 3 of Article 30 shall not prevent the competent authorities of the Contracting States from the carrying out, by mutual agreement, of other practices for the application of the limitations provided for in this Convention.

IN WITNESS WHEREOF the undersigned, duly authorized thereto by their respective Governments, have signed this Additional Protocol.

Done in duplicate at Copenhagen on this 5th day of May 1999, in the Italian, Danish and English languages, all texts being equally authentic, except in the case of doubt when the English text shall prevail.