

**AGREEMENT OF 14<sup>TH</sup> OCTOBER, 1996 AS AMENDED BY PROTOCOL OF 7<sup>TH</sup> SEPTEMBER, 2010**

CONVENTION BETWEEN THE KINGDOM OF SWEDEN AND THE GRAND DUCHY OF LUXEMBOURG FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

**Article 1  
Personal Scope**

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

**Article 2  
Taxes Covered**

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

*a)* in the case of Luxembourg:

- (i)** individual income tax (l'impôt sur le revenu des personnes physiques);
- (ii)** corporation tax (l'impôt sur le revenu des collectivités)
- (iii)** special tax on directors' fees (l'impôt special sur les tantièmes);
- (iv)** capital tax (l'impôt sur la fortune); and
- (v)** municipal sales tax (l'impôt commercial communal);

(which shall be referred to hereinafter as "Luxembourg taxes");

*b)* in the case of Sweden:

- (i)** state income tax (den statliga inkomstskatten), including tax on seamen (sjomansskatten) and withholding tax on dividends (kuponngskatten);
- (ii)** tax on the income of non-residents (den sarskilda inkomstskatten for utomlands bosatta);
- (iii)** tax on the income of non-resident artists and athletes (den sarskilda inkomstskatten for utomlands bosatta artister m.fl.);
- (iv)** municipal income tax (den kommunala inkomstskatten);
- (v)** tax on resources intended for expansion (expansionsmedelsskatt); and
- (vi)** capital tax (den statliga formogenhetsskatte);

(which shall be referred to hereinafter as the "Swedish tax").

2. The Convention shall apply also 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 referred to in paragraph 1. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

### **Article 3**

#### **General Definitions**

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

- a) The term “Luxembourg” means the Grand Duchy of Luxembourg and, when used in a geographic sense, means the territory of the Grand Duchy of Luxembourg;
- b) The term “Sweden” means the Kingdom of Sweden and, when used in a geographic sense, includes the national territory, the territorial waters of Sweden and the other marine zones over which Sweden, in accordance with international law, exercises its sovereign rights and its legal authority;
- c) The terms “a Contracting State” and “the other Contracting State” mean Luxembourg or Sweden, as the context requires;
- d) The term “person” includes an individual, a company and any other body of persons;
- e) The term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- f) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- g) The term “international traffic” means any transport by a ship or an aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- h) 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;
- i) The term “competent authority” means:
  - (i) in the case of Luxembourg, the Minister of Finance or his authorized representative;
  - (ii) in the case of Sweden, the Minister of Finance, his authorized representative or the authority designated as competent authority under this Convention.

2. As regards the application of the Convention at any given moment by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies; the meaning attributed to this term or expression by the

tax law of the Contracting State shall take precedence over the meaning given to it by the other branches of the law 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. However, in the case of partnerships or estates, the term applies only insofar as the income received or the capital owned by such partnerships or estates is liable for tax in that State like the income or capital of a resident, either in its own right or in the right of the partners. The term resident of a Contracting State does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

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

- a)* he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- b)* if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- c)* if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- d)* if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

#### **Article 5** **Permanent Establishment**

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

2. The term “permanent establishment” includes especially:

- a)* a place of management;
- b)* a branch;
- c)* an office;
- d)* a factory;
- e)* a workshop, and

- f)* a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or construction or installation project or any other place of extraction of natural resources.
4. Notwithstanding the preceding provisions of this Article, the term “permanent establishment” shall be deemed not to include:
- a)* the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
  - b)* the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
  - c)* the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
  - d)* the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
  - e)* the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity which has a preparatory or auxiliary character.
  - f)* the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combinations is of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person – other than an agent of an independent status to whom paragraph 6 applies – acts on behalf of an enterprise and habitually exercises, in a Contracting State, an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
6. An enterprise of one Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.
7. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

## **Article 6**

### **Income From Immovable Property**

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term “immovable property” shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law

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

3. The provisions of paragraph 1 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. 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. 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.

6. 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 by an enterprise of a Contracting State shall be taxable only in that Contracting State.

2. In respect of the profits earned by the air transport consortium-Scandinavian Airlines System (SAS)-the provisions of paragraph 1 shall apply only to the portion of the profits attaching to the interest held in said consortium by "AB Aerotransport (ABA)", the Swedish partner of "Scandinavian Airlines System (SAS)".

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

## **Article 9**

### **Associated Enterprises**

#### **1. Where**

- a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

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

## **Article 10**

### **Dividends**

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

**2.** However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State; but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 15 % of the gross amount of the dividends.

**3.** Notwithstanding the provisions of paragraph 2, the dividends are exempt in the Contracting State of which the company paying the dividends is a resident, if the beneficial owner is a company (other than a partnership) which holds directly for an uninterrupted period of twelve months preceding the date of payment of such dividends at least 10% of the capital of the company paying the dividends. The exemption applies only to dividends for securities which have been the uninterrupted property of the company that is beneficial owner during said period of twelve months.

**4.** The provisions of paragraphs 2 and 3 do not affect the taxation of the company in respect of profits out of which the dividends are paid.

**5.** The term “dividends” as used in this Article means income from shares or other rights, not being debt claims, as well as the income from other corporate rights which is subjected to the same tax treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

**6.** The provisions of paragraphs 1 and 3 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on in the other Contracting State of which the company paying the dividends is a resident, a trade or business through a permanent establishment situated therein, or performs in that other State independent professional services from a fixed base situated therein, and the holding in respect of which the

dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. 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 effectively arises from a permanent establishment or fixed base in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in 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 only if the resident is the beneficial owner of said interest.

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

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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

## **Article 12**

### **Royalties**

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the royalties.

2. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and films or tapes used for radio or televised broadcasts, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, 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, or from the alienation of shares of a company the assets of which are constituted primarily by such property, may be taxed in that other State.

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

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

With regard to the gains realized by the air transport consortium “Scandinavian Airlines System (SAS)”, the provisions of this paragraph shall apply only to the portion of the gains attaching to the interest held in said consortium by “AB Aerotransport (ABA)”, the Swedish partner of “Scandinavian Airlines System (SAS)”.

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. Notwithstanding the provisions of paragraph 4, the gains derived from the alienation of any property by an individual who was a resident of one Contracting State and who has become a resident of the other Contracting State may be taxed in the first Contracting State when the alienation of the property occurred at any time during the five years immediately following the date on which the individual ceased to be a resident of the first Contracting State.

### **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 not a resident of the other State, and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State may be taxed in that State. Where a resident of Sweden exercises an employment aboard an aircraft operated in international traffic by the air transport consortium "Scandinavian Airlines System (SAS)", such remuneration may be taxed only in Sweden.

## **Article 16**

### **Directors' Fees**

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

## **Article 17**

### **Artists 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 an 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 an 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.

**Article 18**  
**Pensions, Annuities and Similar Payments**

1. Pensions and other similar remuneration, payments made by virtue of social security law and annuities from a Contracting State, including the pensions paid by a Contracting State or one of its political subdivisions or local authorities, either directly or by withholding from funds they have constituted, and paid to a resident of the other Contracting State, may be taxed in the first Contracting State.

2. The term “annuity” means a given sum payable periodically at fixed times during the life of a person or during a specific period of time or determined in execution of an obligation to make the payments, in exchange for an appropriate and full counter-payment, in money or a monetary equivalent.

**Article 19**  
**Government Service**

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

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

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. The provisions of Articles 15 and 16 shall apply to remuneration paid in respect of services rendered in connection with a trade or business carried on by a Contracting State or a political subdivision or a local authority thereof.

**Article 20**  
**Students**

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

**Article 21**  
**Other Income**

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on either a trade or business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or

property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

## **Article 22**

### **Capital**

1. Capital represented by immovable property referred to in paragraph 2, Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, or represented by shares in a company the assets of which are primarily constituted of such property, may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic by an enterprise of a Contracting State and by movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.
5. Notwithstanding the provisions of paragraph 4, capital owned by an individual who was a resident of one Contracting State and who has become a resident of the other Contracting State may be taxed in the first Contracting State at any time during the five years following the date on which the individual ceased to be a resident of the first-mentioned State. Where said State may not tax such items of capital by virtue of its laws, the capital may be taxed only in the other Contracting State.
6. In respect to the capital owned by the air transport consortium "Scandinavian Airlines System (SAS)", the provisions of paragraphs 3 and 4 apply only to the portion of the capital deriving from the interest held in said consortium by "AB Aerotransport (ABA)", the Swedish partner of SAS.

## **Article 23**

### **Elimination of Double Taxation**

1. In the case of Luxembourg, double taxation shall be avoided as follows:
  - a) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Sweden, Luxembourg shall exempt such income or capital from taxation, subject to the provisions of sub-paragraphs b) and c), but may, in order to calculate the amount of the tax on the rest of the income or capital of the resident, apply the same tax rates as if the income or the capital were not exempt.
  - b) Where a resident of Luxembourg derives income which, in accordance with the provisions of Article 10, Article 13, paragraph 5 and Article 18, may be taxed in Sweden, Luxembourg shall allow, as a deduction from the tax that it collects on the income of this resident, an amount equal to the tax paid in Sweden. Such deduction shall not, however, exceed that part of the tax, as computed before deduction is given, which is attributable to such items of income derived from Sweden.

- c) Where a company which is a resident of Luxembourg derives dividends from Swedish sources, Luxembourg shall exempt such dividends from tax, provided that this company which is a resident of Luxembourg, has held directly since the beginning of its fiscal year at least 10 % of the capital of the company paying the dividends and if this company is subject in Sweden to a tax equal to the income tax imposed by the Luxembourg local authorities. The shares or interests cited hereinabove in the Swedish company are exempt under the same conditions from the Luxembourg capital tax.

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

- a) Where a resident of Sweden derives income which, under Luxembourg law and in accordance with the provisions of this Convention, may be taxed in Luxembourg, Sweden shall allow--subject to the provisions stipulated by Swedish law in respect of deduction of foreign taxes (and any subsequent modification of this law which would not affect the general principle)--as a deduction from the tax that it collects on this income, an amount equal to the tax on this income paid in Luxembourg. Where a resident of Sweden has capital which, in accordance with the provisions of this Convention, may be taxed in Luxembourg, Sweden shall allow as a deduction from the tax it collects on this capital, an amount equal to the capital tax paid in Luxembourg on this capital. The deduction shall not, however, exceed that part of the Swedish capital tax, as computed before deduction, which is attributable to the capital which may be taxed in Luxembourg
- b) Where a resident of Sweden derives income which, in accordance with the provisions of this Convention, may be taxed only in Luxembourg, Sweden may take into account the income which is taxable only in Luxembourg in order to determine the Swedish progressive tax rate.
- c) Notwithstanding the provisions of sub-paragraph a) of this paragraph, dividends paid by a company which is a resident of Luxembourg to a company which is a resident of Sweden are exempt from Swedish tax in accordance with the provisions stipulated by Swedish law governing exemption in respect of taxes on dividends paid to Swedish companies by their subsidiaries situated abroad.

## **Article 24**

### **Non-Discrimination**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. 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 4 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. 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 State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

## **Article 25**

### **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 24, to that of the Contracting State of which he is a national. The case must be presented within 3 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. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

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

## **Article 26**

### **Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes if such information may

be used for such other purposes under the laws of both States and the competent authority of the supplying State authorizes such use.

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

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public order (ordre public).

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even if it does not need the information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

## **Article 27**

### **Assistance in Collection**

1. The Contracting States undertake to give each other aid and assistance for the collection of the taxes covered by this Convention and for the collection of interest, costs, surcharges and fines which are not penal in nature.

2. The request formulated for this purpose must be accompanied by the documents required by the laws of the applicant State to establish that the sums to be recovered are effectively due.

3. After reading such documents, the collection and recovery notices and measures shall take place in the State which has been petitioned in accordance with the laws that apply to the recovery and collection of its own taxes. Collection authorizations, in particular, shall be rendered enforceable in the form stipulated by the law of the State being petitioned.

4. Tax liabilities to be recovered shall not be considered to be preferred debt-claims in the State which has been petitioned.

5. In respect of tax debt-claims which are still subject to appeal, the creditor State may, in order to safeguard its rights, request that the other State take conservatory measures to which the preceding provisions shall apply as appropriate.

**Article 28**  
**Members of Diplomatic Missions and Consular Posts**

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

**Article 29**  
**Entry Into Force**

1. Each Contracting State shall notify the other State of the completion of the constitutional formalities required for the entry into force of this Convention.

2. The Convention shall enter into force thirty days after the date of the last of such notifications and shall apply:

*a)* in Luxembourg:

(i) in respect of tax withheld at the source on income attributed on or after the first day of January immediately following the date on which the Convention enters into force;

(ii) in respect of other taxes, for taxation periods ending on or after 1 January immediately following the date on which the Convention enters into force;

*b)* in Sweden:

(i) in respect of income taxes, on income attributed on or after 1 January immediately following the date on which the Convention enters into force;

(ii) in respect of capital tax, on the tax which is established for the second calendar year following the year in which the Convention enters into force and for the following years.

3. The Convention of July 14, 1983 between the Grand Duchy of Luxembourg and the Kingdom of Sweden for the avoidance of double taxation and the establishment of reciprocal administrative assistance procedures in respect of taxes on income and on capital shall cease to be in effect at the time of the entry into force of this Convention and the attached Protocol. The provisions of the Convention of 1983 shall cease to apply as of the date on which the corresponding provisions of this Convention and the attached Protocol shall apply, in accordance with the provisions of paragraph 2 of this Article, for the first time.

**Article 30**  
**Termination**

This Convention shall remain in force as long as it has not been terminated by a Contracting State. Either Contracting State may terminate the Convention in writing through diplomatic channels with a minimum prior notice of six months before the end of each calendar year. In such a case, the Convention shall cease to apply to income received and to capital owned on or after 1 January of the calendar year immediately following the end of the six-month period.