

1969 Income Tax Agreement and Final Protocol, As Amended (English Translation)

Signed date: July 16, 1969

In force date:

Effective date:

Status: In Force

This agreement, signed July 16, 1969, has been amended by a protocol signed March 6, 1995.

AGREEMENT BETWEEN BELGIUM AND PORTUGAL FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE REGULATION OF CERTAIN OTHER MATTERS WITH RESPECT TO TAXES ON INCOME

[TRANSLATION]

His Majesty the King of the Belgians and The President of the Portuguese Republic,
Desiring to avoid double taxation and to regulate certain other matters with respect to taxes on income,

Have decided to conclude an agreement and for that purpose have appointed as their Plenipotentiaries:

His Majesty the King of the Belgians:

His Excellency Mr. P. Harmel, Minister for Foreign Affairs;

The President of the Portuguese Republic:

His Excellency Mr. Armando Ramos de Paula Coelho, Ambassador Extraordinary and Plenipotentiary of Portugal at Brussels,

who, having exchanged their full powers, found in good and due form, have agreed as follows:

Chapter I

Scope of the Agreement

Article 1 Personal Scope

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

Article 2 Taxes Covered

1. This Agreement shall apply to taxes on income imposed on behalf of each Contracting State or of its political 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 Convention shall apply to the following current taxes:

1. insofar as Belgium is concerned:

(a) tax on the income of natural persons (l'impôt des personnes physiques);

(b) corporation tax (l'impôt des sociétés);

(c) tax on the income of legal entities (l'impôt des personnes morales);

(d) non-resident tax (l'impôt des non-résidents);

(e) the special contribution similar to the tax on the income of natural persons;

(f) complementary crisis contribution,

including withholdings at the source, surcharges on such taxes as well as withholdings as well as additional charges on the tax on income of natural persons, (hereinafter referred to as "Belgian tax");

2. insofar as Portugal is concerned:

(a) tax on the income of natural persons (imposto sobre o rendimento das pessoas singulares);

(b) tax on the income of legal persons (imposto sobre o rendimento das pessoas colectivas)

(c) local tax on the income of legal persons (derrama),

(which shall hereinafter be referred to as "Portuguese Tax").

4. The Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. At the beginning of each year, the competent authorities of the Contracting States shall notify each other of any changes which have been made in their respective taxation laws during the preceding year.

Chapter II

Definitions

Article 3 General Definitions

1.(a) the term "Belgium" refers to the Kingdom of Belgium, including its territorial waters, as well as other areas with respect to which, in accordance with international law, Belgium exercises sovereign rights or over which it has jurisdiction;

(b) the term "Portugal" refers to the territory of the Portuguese Republic situated on the European continent and the archipelagos of the Azores and Madeira, the territorial waters, as well as the other areas over which, in conformity with Portuguese and international law, the Portuguese Republic has jurisdiction and with respect to which it has sovereign rights for the purpose of exploration and exploitation of the natural resources of the sea bottom, the subsoil, and water columns.

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

Article 4 Fiscal Domicile

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. This term, however, does not include any persons who are liable to tax in that State in respect only of income from sources situated in that State."

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

(a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);

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

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

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

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

Article 5 Permanent Establishment

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

2. The term "permanent establishment" shall include especially:

(a) A place of management;

(b) A branch;

(c) An office;

(d) A factory;

(e) A workshop;

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

(g) A building site or construction or assembly project which exists for more than 12 months.

3. The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;

(e) The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person--other than an agent of an independent status to whom paragraph 5 applies--acting in a Contracting State on behalf of an enterprise of the other Contracting State shall be deemed to be a permanent establishment of the enterprise 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 the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of a Contracting State controls 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 from immovable property may be taxed in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with 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. Debt-claims secured by mortgages on the aforementioned property, as well as 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. They shall also apply to any income from movable property which, under the taxation law of the Contracting State in which the said property is situated, is assimilated to income from 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 professional services.

Article 7 Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, 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. 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 acting wholly independently.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere, but excluding expenses which would not be deductible if the permanent establishment were an enterprise of the said State.

4. Where there are no regular accounts from which it is possible to determine the profits of an enterprise of one of the Contracting States which are attributable to a permanent establishment situated in the other State, that other State may determine the said profits by the methods established under its own laws, provided that such methods are in accordance with the principles laid down 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 the profits of an enterprise include items of income which are dealt with separately in other articles of this Agreement, then the provisions of this article shall not affect the provisions of those articles as concerns the taxation of such items of income.

Article 8 Shipping and Air Transport Enterprises

1. Notwithstanding the provisions of article 7, paragraphs 1 to 6, 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 engaged in international traffic 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.

Article 9 Interdependent Enterprises

Where:

An enterprise of a Contracting State participates directly or indirectly in the management, control, capital or financing of an enterprise of the other Contracting State, or the same persons participate directly or indirectly in the management, control, capital or financing 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.

Article 10 Dividends

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

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the said dividends.

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 participating in the profits, with the exception of debt-claims.

This term also includes:

(a) income - including income paid in the form of interest - which, in accordance with the domestic tax laws of the country of which the company owing the income is a resident, is treated like income from shares;

(b) income allocated by a resident of Portugal who engages in an economic activity to a partner on the basis of a profit-sharing agreement of such resident (joint venture).

4. The provisions of paragraphs 1 and 2 shall not apply in case the beneficiary owner of the dividends, being a resident of a Contracting State, has in the other Contracting State in which the company paying the dividends is a resident a permanent establishment with which the participation with respect to which the dividends are paid is effectively connected. In this case, the provisions of Article 7 shall apply.

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 that company to a resident of the first-mentioned State, or subject the company's undistributed profits to any additional taxation, even if the dividends distributed or the undistributed profits consist wholly or partly of profits or income arising in such other State; this provision shall not prevent such other State from taxing dividends pertaining to a holding which is effectively connected with a permanent establishment maintained in that other State by a resident of the first-mentioned 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 be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the amount of the interest.

3. 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, subject to the provisions of the following subparagraph, debt-claims or deposits of every kind, as well as lottery bond prizes and all other income treated in the same way as income from money lent or deposited under the taxation law of the State in which the income arises.

The said term does not include:

- (a) Interest assimilated to dividends by article 10, paragraph 3, second sentence, item (a);
- (b) Interest on commercial debt-claims--including those represented by bills of exchange--resulting from payment in instalments for goods, merchandise or services by an enterprise of a Contracting State to a resident of the other Contracting State;
- (c) Interest on current accounts or advances between banking enterprises of the two Contracting States.

Interest as referred to in items (b) and (c) of the preceding subparagraph shall be subject to the rules laid down in article 7.

4. The provisions of paragraphs 1 and 2 shall not apply in case the beneficiary owner of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest originates a permanent establishment with which the debt-claim or deposit on the basis of which the interest arises is effectively connected. In this case, the provisions of Article 7 shall apply.

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

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest, having regard to the debt-claim or deposit for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the rate limitation provided for in paragraph 2 shall apply only to the last-mentioned amount. In that case, the excess amount of the interest may be taxed in the Contracting State in which the interest arises, in accordance with the law of that State.

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 be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. These royalties, however, can be taxed in the Contracting State where they originate and in accordance with the laws of such State, although the tax so levied shall not exceed 10 percent of their gross amount.

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, 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 in connection with which the contract giving rise to the royalties was concluded, and the royalties are borne as such by the permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties, 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 recipient in the absence of such relationship, the rate limitation provided for in paragraph 2 shall apply only to the last-mentioned amount. In that case, the excess amount of the royalties may be taxed in the Contracting State in which the royalties arise, in accordance with the law of that State.

Article 13 Capital Gains

1. Gains from the alienation of immovable property, as defined in article 6, may be taxed in the Contracting State in which such property is situated.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.
However, gains from the alienation of ships or aircraft operated in international traffic and of movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which income from the operation of such ships or aircraft is taxable according to article 8.
3. Gains from the alienation of any other property, including a holding--not forming part of the business property of a permanent establishment as referred to in paragraph 2, first subparagraph--in a company or partnership limited by shares, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14 Professional Services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other 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 the activities performed through 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, 19, paragraph 1, and 20, 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 and subject to the proviso contained therein, remuneration derived by a resident of a Contracting State in respect of an employment, not being of the kind referred to in paragraph 3, exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) It is paid in respect of an activity exercised in the other State for a period or periods not exceeding in the aggregate 183 days--including normal interruptions of work--in the calendar year, 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 as such by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the provisions of paragraph 1, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be deemed to pertain to an activity exercised in the Contracting State in which the place of effective management of the enterprise is situated and may be taxed in that State.

Article 16 Directors Fees

1. The fees and other similar compensation which a resident of a Contracting State receives in his capacity as a member of the Board of Directors or of a similar body of a company being a resident of the other Contracting State may be taxed in that other State. This income, however, is taxable in accordance with the provisions of Article 15 insofar as it represents compensation for the exercise of a permanent activity in such capacity.
These provisions also apply to compensation received for the performance of functions which, under the laws of the Contracting State of which the company is a resident, are treated like functions of a kind that is similar to those exercised by a person covered by said provision.
2. The remuneration which a person covered under paragraph 1 receives from the company for carrying out a daily management activity or activities of a technical nature as well as the remuneration which a resident of a Contracting State receives for its personal activities as a partner in a company other than a joint stock company being a resident of the other Contracting State may be taxed in

accordance with the provisions of Article 15 in the same manner as if it represented remuneration received by an employee for paid employment and if the employer was the Company.

Article 17 Pensions - 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 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.

Article 18 Pensions

Subject to the provisions of article 19, paragraph 1, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19 Public Remuneration and Pensions

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or a political subdivision or local authority thereof shall be taxable only in that State.

This provision shall not apply if the recipient of such income is a national of the other Contracting State but is not at the same time a national of the first-mentioned State.

2. Paragraph 1 shall not apply to remuneration or pensions in respect of services rendered in connexion with any trade or business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20 Students

A student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training shall not be liable to tax in that other State in respect of:

-- Payments which he receives from sources outside that other State for the purpose of his maintenance, education or training;

-- Remuneration derived by him in respect of an employment exercised in that other State for a period or periods not exceeding in the aggregate 183 days--including normal interruptions of work--in the calendar year, provided that the total amount of such payments and remuneration does not exceed 10,000 Belgian francs per month or the equivalent thereof in escudos at the official rate of exchange.

Article 21 Other Income

1. Items of income of a resident of a Contracting State, wherever arising, that are 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 beneficial owner of such income, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the right or property in respect of which the income is paid is effectively connected therewith. In such case the provisions of Article 7 shall apply.

3. The provisions of paragraphs 1 and 2 notwithstanding, income not dealt with in the preceding articles of the Convention and which arises in the other Contracting State can also be taxed in that other State.

Chapter IV

Methods for Avoidance of Double Taxation

Article 22

(1) Insofar as Belgium is concerned, double taxation shall [be avoided as follows]:

1. Where a resident of Belgium receives income which is subject to tax in Portugal in accordance with the provisions of this Convention, except for that set forth in paragraph 2 of Articles 10 [and] paragraphs 2 and 6 of Article 11, Belgium exempts such income from tax, although Belgium shall be entitled, for the purpose of calculating the amount of its taxes on the remainder of the income of this resident, to apply the same rate as if the income in question had not been exempted.

2. Subject to the provisions of Belgian laws pertaining to a Belgian tax credit for taxes paid abroad, in case a resident of Belgium receives elements of income which are included in its total income on which Belgian tax is levied and which consist of dividends that are taxable in accordance with paragraph 2 of Article 10 and are not exempt from Belgian tax by virtue of [subparagraph] 3 below, taxable interest in accordance with paragraphs 2 or 6 of Article 11, or taxable royalties in accordance with paragraphs

2 or 6 of Article 12, the Portuguese tax levied on such income is credited on the Belgian tax for such income.

3. The dividends which a company being a resident of Belgium receives from a company being a resident of Portugal and which may be taxed in Portugal in accordance with paragraph 2 of Article 10 are exempt from corporation tax in Belgium pursuant to the conditions and limits provided for by Belgian laws.

4. Where, in accordance with Belgian laws, losses suffered by a company operated by a resident of Belgium through a permanent establishment located in Portugal have been effectively deducted from the profits of this company for the purpose of taxation in Belgium, the exemption provided for under sub[paragraph] 1 does not apply in Belgium to the profits for other tax periods which apply to this establishment, to the extent that these profits have also not been subjected to tax in Portugal as they were being offset with said losses.

(2) Insofar as Portugal is concerned, double taxation shall (insofar as such provisions are not at variance with the general principles contained in this paragraph) [be avoided] as follows:

1. Where a person residing in Portugal receives income which, in accordance with this Convention, can be taxed in Belgium, Portugal shall deduct from the amount of income tax of this resident an amount equivalent to the tax paid in Belgium. However, this deduction may not exceed the fraction of the income tax, calculated before deduction, which corresponds to the income which is taxable in Belgium.

2. Where a company which is a resident of Portugal receives dividends from a company which is a resident of Belgium in which the first-mentioned company holds directly at least 25 percent, Portugal shall deduct, for the purpose of determining the taxable profit which is subject to corporate income tax, 95percent of these dividends included in the tax base, pursuant to the terms and conditions set forth in the Portuguese laws.

3. Where, in accordance with any provision of this Convention, the income which a resident of Portugal receives is exempt from tax in that State, that State can nonetheless include such exempted income for the purpose of calculating the amount of tax for the remaining income of this resident.

Chapter V

Special Provisions

Article 23 Non-discrimination

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

2. The term "nationals" means:

(1) All individuals possessing the nationality of a Contracting State;

(2) All legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. Stateless persons shall not be subjected in a 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 State in the same circumstances are or may be subjected.

4. No provision of this Convention shall 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.

5. The taxation of a permanent establishment which a company of a Contracting State has in the other Contracting State shall not be less favorable in that other State than the taxation of the companies of that other State which engage in the same activity.

No provision of this Convention shall be construed to prevent:

1. a Contracting State from taxing, in accordance with its domestic laws, the dividends pertaining to a joint venture that is effectively connected with a permanent establishment in that State of a company being a resident of the other Contracting State;

2. Belgium from taxing, at a rate provided for by Belgian laws, the profits of a permanent establishment in Belgium of a company being a resident of Portugal as long as the aforementioned rate does not exceed the maximum rate applicable to profits of companies residing in Belgium;

6. Except in application of Article 9, paragraph 6 of Article 11, or of paragraph 6 of Article 12, interest, royalties and other fees paid by an enterprise of a Contracting State to a resident of the other Contracting State are deductible for the purpose of determining the taxable profits of this enterprise under the same conditions as if they had been paid to a resident of the first-mentioned State.

7. 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.

8. In this article the term "taxation" means taxes of the kind referred to in article 2.

Article 24 Mutual Agreement Procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in double taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, make written application for a review of the said taxation, indicating his reasons, to the competent authority of the Contracting State of which he is a resident. Such application must be submitted within two years from the date of notification of the second taxation or, in the case of a tax payable by deduction at the source, from the date of payment of the second taxation.

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

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the application of the Agreement. Where it seems advisable in order to reach agreement to have an oral exchange of opinions, the competent authorities may meet for that purpose.

4. The competent authorities of the Contracting States shall agree on the administrative measures required for the implementation of the provisions of the Agreement, and in particular on the evidence to be produced by residents of each State in order to enjoy in the other State the tax exemptions or reductions provided for in this Agreement.

Article 25 Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of the Agreement and of the domestic laws of the Contracting States concerning taxes covered by the Agreement, in so far as the taxation thereunder is in accordance with the Agreement.

Any information so obtained shall be treated as secret; it shall be disclosed--other than to the taxpayer or his agent--only to the persons or authorities concerned with the assessment or collection of the taxes which are the subject of the Agreement and with appeals relating thereto, and to the judicial authorities for the purpose of criminal prosecution.

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

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

Article 26 Diplomatic and Consular Officials

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

Chapter VI

Final Provisions

Article 27 Entry Into Force

1. The Agreement shall be ratified and the instruments of ratification shall be exchanged at Lisbon as soon as possible.

2. The Agreement shall enter into force on the fifteenth day following the date of the exchange of instruments of ratification and its provisions shall apply:

A. In the case of Belgium:

- (1) To taxes payable by deduction at the source resulting from operations effected on or after the first day of January of the year following that in which the Agreement enters into force;
- (2) To other taxes levied on income for taxable periods ending on or after the thirty-first day of December of the year following that in which the Agreement enters into force;

(3) Notwithstanding the provisions of subparagraphs (1) and (2), as regards article 8, to taxes levied on profits earned during financial years ending on or after 31 December 1963.

B. In the case of Portugal:

(1) To taxes payable by deduction at the source resulting from operations effected on or after the first day of January of the year following that in which the Agreement enters into force;

(2) To other taxes levied on income accruing during the calendar year following that in which the Agreement enters into force and subsequent years;

(3) Notwithstanding the provisions of subparagraphs (1) and (2), as regards article 8, to taxes levied on profits accruing during the calendar year 1963 and subsequent years.

Article 28 Termination

This Agreement shall continue in effect indefinitely, but either Contracting State may, beginning with the third year after the year in which the instruments of ratification are exchanged, denounce it by giving written notice of termination, through the diplomatic channel, to the other Contracting State at least six months before the end of any calendar year. In such event, the Agreement shall apply for the last time:

A. In the case of Belgium:

(1) To taxes payable by deduction at the source resulting from operations effected on or before the thirty-first day of December of the year in which notice of termination is given;

(2) To other taxes levied on income for taxable periods ending on or before the thirty-first day of December of the year in which notice of termination is given.

B. In the case of Portugal:

(1) To taxes payable by deduction at the source resulting from operations effected on or before the thirty-first day of December of the year in which notice of termination is given;

(2) To other taxes levied on income accruing during the year in which notice of termination is given.

In witness whereof the Plenipotentiaries of the two States have signed this Agreement and have thereto affixed their seals.

Done at Brussels, on 16 July 1969, in duplicate in the French, Dutch and Portuguese languages, the three texts being equally authentic.

FOR THE KINGDOM OF BELGIUM:

Pierre Harmel

FOR THE PORTUGUESE REPUBLIC:

A. Ramos de Paula Coelho

FINAL PROTOCOL

On signing the Agreement concluded this day between Belgium and Portugal for the avoidance of double taxation and the regulation of certain other matters with respect to taxes on income, the undersigned Plenipotentiaries have agreed upon the following provisions, which form an integral part of this Agreement.

1. Ad Article 7, paragraph (3) 2

The tax on the income of natural persons and the tax on the income of legal persons includes all taxes withheld at the source for such taxes.

2. Ad Article 3, paragraph (1) 1

It shall be understood that, in the event of discrepancies between the domestic laws of a Contracting State and international law, the latter shall govern.

3. Ad Article 12, paragraph (3)

The term "royalties" also includes payments pertaining to the provision of technical assistance in connection with the use, or the right to use, assets, rights, or information under this provision, to the extent in which these services are rendered in the Contracting State where the royalties arise.)

If, as a result of changes made in Belgian law subsequent to the signing of the Agreement, exemption from the company tax applicable in Belgium to dividends of companies which are residents of Belgium received by another company which is a resident of Belgium is limited to certain holdings, then the application of article 23, paragraph 2, subparagraphs (3) and (4), of the Agreement shall be limited to dividends from similar holdings in companies which are residents of Portugal. In such event, double taxation of dividends not pertaining to such holdings shall be avoided in accordance with article 23, paragraph 2, subparagraph (2).

Done at Brussels, on 16 July 1969, in duplicate in the French, Dutch and Portuguese languages.

FOR THE KINGDOM OF BELGIUM:

Pierre Harmel

FOR THE PORTUGUESE REPUBLIC:

A. Ramos de Paula Coelho