

2000 Income Tax Convention and Final Protocol

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CONVENTION BETWEEN THE PORTUGUESE REPUBLIC AND THE KINGDOM OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Portuguese Republic and the Kingdom of Denmark, desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:

Article 1 Persons Covered

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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

a) In Denmark:

i) The income tax to the State (indkomstskatten til staten);

ii) The income tax to the municipalities (den kommunale indkomstskat);

iii) The income tax to the county municipaliti (den amtskommunale indkomstskat); hereinafter referred to as "Danish tax";

b) In Portugal:

1) Personal income tax (imposto sobre o rendimento das pessoas singulares -- IRS);

2) Corporate income tax (imposto sobre o rendimento das pessoas colectivas -- IRC);

3) Local surtax on corporate income tax (derrama); hereinafter referred to as "Portuguese tax".

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

Article 3 General Definitions

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

a) The terms "a Contracting State" and "the other Contracting State" mean Denmark or Portugal, 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 "Portugal" means the territory of the Portuguese Republic situated in the European Continent, the Archipelagos of the Azores and Madeira, the respective territorial sea and any other zone in which, according to Portuguese and international law, the Portuguese Republic has sovereign rights or jurisdiction for the purpose of exploring and exploiting, conserving and managing the natural resources, whether living or non-living, of the waters superjacent to the sea-bed and of the sea bed and its subsoil;

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 that 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 of 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 Portugal: the Minister of Finance, the Director General of Taxation (director-geral dos Impostos) or their authorized representative;

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 the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time 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, and also includes that State and any political or administrative subdivision or local authority thereof.

This term, however, 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 only 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 only 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) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than six months.

b) Subject to the provisions of paragraphs 4, 6 and 7 of this article, an enterprise of a Contracting State which is furnishing services including consultancy services through employees or other personnel in the other Contracting State shall be deemed to have a permanent establishment in that other State but only where such activity lasts for more than 6 months within any 12 month period.

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 of 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 combination is of a preparatory or auxiliary character.

5 -- Notwithstanding the provisions of paragraphs 1 and 2, where a person -- other than an agent of an independent status to whom paragraph 6 applies -- is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6 -- An enterprise shall not be deemed to have a permanent establishment in a 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 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.

The foregoing provisions shall also apply to income from movable property or income derived from services connected with the use or the right to use immovable property which, under the taxation law of the Contracting State in which the property in question 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 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 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on money lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or except in the case of a banking enterprise or by way of interest on money lent to the head office of the enterprise or any of its other offices. Nothing in this paragraph shall, however, authorize a deduction for expenses which could not be deductible if the permanent establishment were a separate enterprise.

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 Profits From International Traffic

1 -- Profits derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

2 -- Profits derived by an enterprise of a Contracting State from the use, maintenance or rental of containers used for the transport of goods or merchandise in international traffic shall when such use, maintenance or rental is incidental to the operation of ships or aircraft in international traffic be taxable only in that State.

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.

4 -- Whenever companies from different countries have agreed to operate means of transport in international traffic through a business consortium, the provisions of paragraphs 1 and 2 shall apply only to such proportion of the profits as corresponds to the participation held in that consortium by a company which is a resident of a Contracting State.

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, if the other Contracting State considers the adjustment justified. 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 beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

The provisions of the previous sentence shall not apply with respect to dividends paid by a company which is a resident of a Contracting State to a company which is a resident of the other Contracting State with respect to which the provisions of the directive on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (90/435/EEC) as it may be changed from time to time, are applicable.

The competent authorities of the Contracting State may 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 dividend 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 debtclaims, 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.

The term "dividends" as used in this article also comprises profits paid under an arrangement for participation in profits (associa#ao em participa#ao).

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 case the provisions of article 7 or article 14, as the case may be, 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 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 interest. The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of this limitation.

3 -- Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State:

a) If the debtor of such interest is that State, a political or administrative subdivision or a local authority thereof, the central bank or institutions performing public services; or

b) If the interest is paid to the other Contracting State, a political or administrative subdivision or a local authority thereof, the central bank or any other institution (including a financial institution) agreed upon between the competent authorities of both Contracting States.

4 -- 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.

5 -- The provisions of paragraphs 1, 2 and 3 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.

6 -- Interest shall be deemed to arise in a Contracting State when the payer is 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.

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 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 may be taxed in that other State.

2 -- However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States may by mutual agreement settle the mode of application of this limitation.

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

The term "royalties" also includes payments in consideration for technical assistance in connection with the use of, or the right to use any copyright, goods, or information as referred to under this paragraph.

4 -- The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on 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.

5 -- Royalties shall be deemed to arise in a Contracting State when the payer is 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 obligation to pay these royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6 -- Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, 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 derived by an enterprise of a Contracting State from the alienation of ships aircraft operated in international traffic or movable property pertaining to the operation of such ships, aircraft or shall be taxable only in that State.

4 -- Gains derived by an enterprise of a Contracting State from the alienation of containers used for the transport of goods and merchandise in international traffic within the meaning of paragraph 2 of article 8 shall be taxable only in that State.

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

6 -- With respect to gains derived by a business consortium operating means of transportation in international traffic within the meaning of paragraph 4 of article 8, the provisions of paragraphs 3 and 4 shall apply only to such proportion of the gains as corresponds to the participation held in that consortium by a company which is a resident of a 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. However, in the following circumstances such income may be taxed in the other Contracting State:

a) If he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in such case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or

b) If his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in any period of 12 months; in such case, only so much of the income as is attributable to services performed in that other Contracting State may be taxed in that other State.

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

Article 15 Dependent Personal Services

1 -- Subject to the provisions of articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State, unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2 -- Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any 12-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 by an enterprise, of a Contracting State, may be taxed in that State.

Article 16 Director's Fees

Director's 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 (in Portugal, conselho fiscal) or of another similar organ of a company which is a resident of the other Contracting State may be taxed in that

other State. However, article 15 shall apply in relation to the exercise of a permanent or regular activity.

Article 17 Artistes and Sportsmen

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.

Article 18 Pensions, Social Security Payments and Similar Payments

1 -- Payments received by an individual, being a resident of a Contracting State, under the social security legislation of the other Contracting State, or under any other scheme out of funds created by that other State or a political or administrative subdivision or a local authority thereof, may be taxed in that other State.

2 -- Subject to the provisions of paragraph 1 of this article and paragraph 1 of article 19, pensions and other similar remuneration arising in a Contracting State and paid to a resident of the other Contracting State, whether in consideration of past employment or not, shall be taxable only in the other Contracting State, unless:

- 1) Contributions paid by the beneficiary to the pension scheme were deducted from the beneficiary's taxable income in the first-mentioned Contracting State under the law of that State; or
- 2) Contributions paid by an employer were not taxable income for the beneficiary in the first-mentioned Contracting State under the law of that State.

In such case, the pensions may be taxed in the first-mentioned Contracting State.

3 -- Pensions shall be deemed to arise in a Contracting State if paid by a pension fund or other similar institution providing pension schemes in which individuals may participate in order to secure retirement benefits, when such institution is established, recognized for tax purposes and controlled in accordance with the laws of that State.

Article 19 Government Service

1 -- Salaries, wages and other similar remuneration including pensions paid by a Contracting State or a political or administrative 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.

2 -- The provisions of articles 15, 16, 17 and 18 shall apply to salaries, wages and other similar remuneration, and to pensions, in respect of services rendered in connection with a business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

Article 20 Students

1 -- A student or business apprentice who is or was a resident of a Contracting State immediately before visiting the other Contracting State and who is present in that other State solely for the purpose of his education or training, shall be exempt from tax in that other State on:

- 1) Payments made to him by persons residing outside that other State for the purposes of his maintenance, education or training; and
- 2) Remuneration from employment in that other State not exceeding $\hat{3000}$ during any fiscal year of that other State provided that such employment is directly related to his studies or is necessary for the purposes of his maintenance.

2 -- The benefits of this article shall extend only for such period of time as may be reasonable or customarily required to complete the education or training undertaken, but in no event shall any individual have the benefits of this article, for more than five consecutive years from the date of his first arrival in that other Contracting State.

Article 21 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 State through a permanent establishment or to be performing independent personal services from a 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 the aggregate in any 12 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 deemed to be 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, profits derived by an enterprise of a Contracting State 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 tug-boats and similar vessels in connection with such activities, shall be taxable only in the first-mentioned State.

4 -- 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 3 shall be taxed in accordance with the provisions of paragraph 3 of article 15.

Article 22 Other Income

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

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

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

Article 23 Elimination of Double Taxation

Double taxation shall be avoided as follows:

1) In Denmark:

a) Subject to the provisions of sub-paragraph c), where a resident of Denmark derives income which, in accordance with the provisions of this Convention, may be taxed in Portugal, Denmark shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Portugal;

b) Such deduction 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 Portugal;

c) Where a resident of Denmark derives income which, in accordance with the provisions of this Convention shall be taxable only in Portugal, 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 Portugal;

d) Where a resident of Portugal derives income which in accordance with article 18 may be taxed in Denmark, Denmark shall allow as a deduction from the tax on that income an amount equal to the tax on the income paid in Portugal. Such deduction shall not, however, exceed that part of the tax on such income, as computed before the deduction is given, which is attributable to the income that may be taxed in Portugal under the provisions of article 18;

2) In Portugal:

a) Where a resident of Portugal derives income which, in accordance with the provisions of this Convention, may be taxed in Denmark, Portugal shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in Denmark. Such deduction 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 Denmark;

b) Where in accordance with any provision of the Convention income derived by a resident of Portugal is exempt from tax in this State, Portugal may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

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, 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 -- Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

3 -- The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied 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.

4 -- Except where the provisions of paragraph 1 of article 9, paragraph 7 of article 11, or paragraph 6 of article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

5 -- Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State, are or may be subjected.

6 -- 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 three 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, including through a joint commission consisting of themselves or their representatives, 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 necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with 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 and administrative practice of that or of the other Contracting State;
- b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

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

Article 27 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 28 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 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 30 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 29 Entry Into Force

The Convention shall enter into force on the day after the later of the dates on which the respective Governments have notified each other in writing that the formalities constitutionally required in their respective States have been complied with and its provisions shall have effect:

- i) In respect of taxes withheld at source the fact giving rise to them appearing on or after the first day of January in the year next following the year in which the Convention enters into force;
- ii) In respect of other taxes as to income arising in the fiscal year beginning on or after the first day of January in the year next following the year in which this Convention enters into force.

Article 30 Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year, following after a period of five years from the year in which the Convention enters into force. In such event, the Convention shall cease to have effect:

- i) In respect of taxes withheld at source the fact giving rise to them appearing on or after the first day of January in the year next following the date on which the period specified in the said notice of termination expires;
- ii) In respect of other taxes as to income arising in the fiscal year beginning on or after the first day of January in the year next following the date on which the period specified in the said notice of termination expires.

In witness whereof the undersigned, duly authorized thereto by their respective Governments, have signed this Convention.

Done in duplicate at Lisbon this 14th day of December 2000, in the Portuguese, Danish and English languages, all three texts being equally authentic. In case of any divergence, the English text shall prevail.

FOR THE PORTUGUESE REPUBLIC:

FOR THE KINGDOM OF DENMARK:

PROTOCOL

At the signing today of the Convention between the Kingdom of Denmark and the Portuguese Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (hereinafter referred to as "the Convention"), the undersigned have agreed upon the following provisions which shall form an integral part of the Convention:

Ad article 2, paragraph 3

- i) It is agreed that the Convention also shall apply to:
 - a) In the, case of Portugal: local immovable property tax (contribuição autárquica);
 - b) In the case of Denmark: the tax on assessed value of immovable property (ejendomsv'r-diskatten).
- ii) The provisions in the Convention concerning income from immovable property shall also apply, mutatis mutandis, in relation to the taxes referred to in paragraph 1).

In witness whereof the undersigned, duly authorized thereto by their respective Governments, have signed this Protocol.

Done in duplicate at Lisbon this 14th day of December 2000, in the Portuguese, Danish and English languages, all three texts being equally authentic. In case of any divergence, the English text shall prevail.

FOR THE PORTUGUESE REPUBLIC:

FOR THE KINGDOM OF DENMARK: