

UNITED STATES - BELGIUM INCOME TAX CONVENTION

Convention signed at Brussels July 9, 1970;
Ratification advised by the Senate of the United States of America November 25, 1970;
Ratified by the President of the United States of America December 8, 1970;
Ratified by Belgium August 14, 1972;
Ratifications exchanged at Washington September 13, 1972;
Proclaimed by the President of the United States of America September 25, 1972;
Entered into Force October 13, 1972.

GENERAL EFFECTIVE DATE UNDER ARTICLE 30: 1 JANUARY 1971

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TAX CONVENTION WITH BELGIUM

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM
OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION
OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT BRUSSELS
ON JULY 9, 1970

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, July 27, 1970.

The PRESIDENT,
The White House.

The PRESIDENT: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, a convention between the United States of America and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Brussels on July 9, 1970.

The convention was formulated as a result of technical discussions between officials of this

Government and officials of the Belgian Government. The Department of State and the Department of the Treasury cooperated in its negotiation. It has the approval of both Departments.

This convention, upon its coming into effect, would terminate the convention of October 28, 1948, relating to the avoidance of double taxation with respect to taxes on income as modified by supplementary conventions of September 9, 1952, and August 22, 1957, and by the Protocol of May 21, 1965 (4 UST 1647; 4 UST 1672; 10 UST 1358; 17 UST 1142; 18 UST 3011; Treaties and Other International Acts Series 2833, 4280, 6073, and 6394).

Negotiation of the new convention entailed a comprehensive review of the existing convention, as modified, each provision being thoroughly considered and, as necessary, rewritten to reflect changes in the internal tax laws of the two countries and to take into account other recent tax treaties concluded by the two countries. The new convention also follows, as closely as policy and technical considerations permit, the model draft convention published in 1963 by the Organization for Economic Cooperation and Development. The substance of the new convention conforms generally to that of recent revisions of United States income-tax conventions with France, the Federal Republic of Germany, and the United Kingdom.

In accordance with the pattern of comprehensive income-tax conventions of the United States, the new convention with Belgium contains provisions regarding the tax treatment of income from real property (art. 6), business profits (art. 7), shipping and air transport (art. 8), associated enterprises (art. 9), dividends (art. 10), interest (art. 11), royalties (art. 12), capital gains (art. 13), independent and dependent personal services (arts. 14 and 15), director's fees (art. 16), social security payments (art. 17), private pensions and annuities (art. 18), government salaries and similar remuneration (art. 19), teaching or research (art. 20), and student and trainee gifts, grants, allowances, awards, and certain personal services (art. 21). Income not expressly mentioned is covered by Article 22.

The convention retains a maximum 15 percent rate of tax at source on dividends, as in the existing convention. The present treaty rate at source of 15 percent on interest is maintained in the general case, but drops under the new convention to zero on interest arising from commercial credit or on interbank transactions. Royalties continue to be exempt from tax at source as under the existing convention.

Article 1 of the new convention declares that the convention is generally applicable to persons who reside in one or both of the countries. Article 2 describes the taxes to which the convention relates in the case of the United States, the Federal income taxes imposed by the Internal Revenue Code; in the case of Belgium, a variety of income taxes and also prepayments, additional prepayments, and surcharges.

Article 3 contains general definitions of various terms found in the convention. Article 4 defines "resident" as applied to the determination of fiscal domicile in the two countries. Article 5 contains the definition of "permanent establishment". Under the convention business profits derived by a resident of one of the contracting states may be taxed by the other contracting state only if the resident maintains a "permanent establishment" in that other state to which the profits are attributable.

The credit provisions and related provisions dealing with relief from double taxation are set forth in Article 23. Article 24 contains the provisions regarding nondiscrimination (the so-called national-treatment provisions).

Articles 25-28 contain provisions relating to cooperation between the competent authorities of the two countries in effectuating the purposes of the convention. Article 28 also contains the provision that nothing in the convention shall affect the fiscal privileges of diplomatic and consular officers under the general rules of international law or provisions of special agreements.

Article 29 provides for an exchange-of-notes procedure whereby the convention, in whole or in part, may be extended to all or any of the areas for whose international relations the United States is responsible and which imposes taxes substantially similar in character to those which are covered by the convention. This applies only to those areas to which the convention is not otherwise applicable pursuant to the definition of "United States" in Article 3 (1) (a).

It is provided in Article 30 that the convention will enter into force one month after the date of exchange of instruments of ratification and that its provisions shall have effect for the first time with respect to income of calendar years or taxable years beginning (or in the case of taxes payable at the source, payments made) on or after January 1, 1971. Article 30 provides also that, as between the United States and Belgium, the 1948 convention, as modified and supplemented, shall terminate and cease to have effect in respect of income to which the new convention applies.

Pursuant to Article 31, the convention would remain in force until terminated by one of the parties. Either party has the right to terminate the convention at any time after five years from the date of its entry into force by giving a six-month prior written notice of termination. A special provision is included regarding Article 17 (social security payments) so that it may be terminated by either party at any time after the convention enters into force.

Respectfully submitted,

WILLIAM P. ROGERS.

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *August 13, 1970.*

To the Senate of the United States:

With a view to receiving the advice and consent of the Senate to ratification, I transmit herewith the convention between the United States of America and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Brussels

on July 9, 1970.

For the information of the Senate, I transmit also the report of the Secretary of State with respect to the convention.

The existing income-tax convention of October 28, 1948 with Belgium, as modified by supplementary conventions of September 9, 1952, and August 22, 1957, and by the protocol of May 21, 1965, would be terminated and replaced by the new convention upon the coming into force of the latter.

In revising the existing convention, as modified, it has been possible to incorporate in a single comprehensive convention provisions which reflect changes in the internal tax laws of the United States and Belgium. The revised convention, while following in general the pattern of bilateral income-tax conventions now in force between the United States and a number of other countries, reflect in particular certain tax treaty policies established in recent revisions of such conventions with France, the Federal Republic of Germany, and the United Kingdom. Moreover, the revised provision reflect, to the extent that policy and technical considerations permit, the model income-tax convention published by the Organization for Economic Cooperation and Development.

As in the cases of other income-tax conventions of the United States, provisions in the new convention with Belgium that are of special interest include those which relate to commercial and industrial profits, dividends, interest, royalties, and capital gains. The revised provisions regarding social security payments, governmental salaries and similar remuneration, income from teaching and research and other personal services, and exemptions to which students and trainees are entitled should also be of particular interest.

The maximum 15 percent rate of tax at source on dividends, as provided in the existing convention, is retained in the new convention. The 15 percent rate of tax at source on interest, as provided in the existing convention, is retained as a general rule in the new convention, but interest arising from commercial credit or on interbank transactions is exempted from tax. The provision of the existing convention granting an exemption from tax in the source country to royalties derived from sources within one of the countries by a resident of the other country is retained in the new convention.

I recommend that the Senate give early and favorable consideration to the convention.

RICHARD NIXON

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Convention between the United States of America and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income was signed at Brussels on July 9, 1970, the text of which Convention, in the English, French, and Dutch languages, is hereto annexed;

The Senate of the United States of America by its resolution of November 25, 1970, two-thirds of the Senators present concurring therein, gave its advice and consent to the ratification of the Convention;

The Convention was duly ratified by the President of the United States of America on December 8, 1970, in pursuance of the advice and consent of the Senate, and was duly ratified on the part of the Kingdom of Belgium;

It is provided in Article 30 of the Convention that the Convention shall enter into force one month after the date of the exchange of instruments of ratification;

The instruments of ratification of the Convention were duly exchanged at Washington on September 13, 1972, and accordingly the Convention enters into force on October 13, 1972;

NOW, THEREFORE, I, Richard Nixon, President of the United States of America, proclaim and make public the Convention of July 9, 1970 to the end that it shall be observed and fulfilled with good faith by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twenty-fifth day of September in the year of our Lord one thousand nine hundred seventy-two and of the Independence of the United States of America the one hundred ninety-seventh.

RICHARD NIXON

By the President:

WILLIAM P ROGERS

Secretary of State

CONVENTION

BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF BELGIUM FOR
THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL

EVASION WITH RESPECT TO TAXES ON INCOME

THE GOVERNMENT OF THE UNITED STATES OF AMERICA
and
THE GOVERNMENT OF THE KINGDOM OF BELGIUM,

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 upon the following articles:

ARTICLE 1 Personal Scope

This Convention is generally applicable to persons who are residents of one or both of the Contracting States.

ARTICLE 2 Taxes Covered

(1) The taxes which are the subject of this Convention are:

(a) In the case of the United States, the Federal income taxes imposed by the Internal Revenue Code, hereinafter referred to as the “United States tax”, and

(b) In the case of Belgium:

(i) The individual income tax (l’impôt des personnes physiques);

(ii) The corporate income tax (l’impôt des sociétés);

(iii) The income tax on legal entities (l’impôt des personnes morales);

(iv) The income tax on nonresidents (l’impôt des non-résidents);

(v) The prepayments and additional prepayments (les précomptes et compléments de précomptes); and

(vi) Surcharges (centimes additionnels) on any of the taxes referred to in (i) through (v), including the communal supplement to the individual income tax (la taxe communale additionnelle à l’impôt des personnes physiques), hereinafter referred to as the “Belgian tax”.

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, existing taxes.

(3) The competent authorities of the Contracting States shall notify each other of any amendments of the laws imposing the taxes referred to in paragraph (1) and of the adoption of any taxes referred to in paragraph (2) by transmitting the texts of any amendments or new statutes at least once a year.

(4) The competent authorities of the Contracting States shall notify each other of the publication by their respective Contracting States of any material concerning the application of this Convention, whether in the form of regulations, rulings, or judicial decisions, by transmitting the texts of any such materials at least once a year.

ARTICLE 3 General Definitions

(1) In this Convention, unless the context otherwise requires:

- (a) (i) The term “United States” means the United States of America; and
(ii) When used in a geographical sense, the term “United States” means the States thereof and the District of Columbia. Such term also includes
 - (A) the territorial sea thereof, and
 - (B) the seabed and subsoil of the adjacent submarine areas beyond the territorial sea, over which the United States exercises sovereign rights in accordance with international law for the purpose of exploration and exploitation of the natural resources of such areas, but only to the extent that the person, property, or activity to which this Convention is being applied is connected with such exploration or exploitation.
- (b) (i) The term “Belgium” means the Kingdom of Belgium; and
(ii) When used in a geographical sense the term “Belgium” means the territory of Belgium. Such term also includes
 - (A) the territorial sea thereof and
 - (B) the seabed and subsoil of the adjacent submarine areas beyond the territorial sea over which Belgium exercises sovereign rights in accordance with international law, for the purpose of exploration and exploitation, of the natural resources of such areas, but only to the extent that the person, property, or activity to which this Convention is being applied is connected with such exploration or exploitation.
- (c) The term “one of the Contracting States” or “the other Contracting State” means the United States or Belgium, as the context requires.
- (d) The term “person” includes an individual, a partnership, a corporation, an estate, a trust, or any body of persons.
- (e) (i) The term “United States corporation” or “corporation of the United States” means a corporation which is created or organized under the laws of the United States or any State thereof or the District of Columbia or any unincorporated entity treated as a United States corporation for United States tax purposes, provided that such corporation or entity is not a Belgian corporation for Belgian tax purposes; and
(ii) The term “Belgian corporation” or “corporation of Belgium” means any entity which under Belgian tax law
 - (A) is either a body corporate or is treated as a body corporate and

(B) is a resident of Belgium, provided that such entity is not a United States corporation for United States tax purposes.

(f) The term “competent authority” means:

(i) In the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) In the case of Belgium, the competent authority according to Belgian legislation.

(g) The term “State” means any National State, whether or not one of the Contracting States.

(2) Subject to paragraph (2) (d) of Article 25 (Mutual Agreement Procedure), any other term used in this Convention and not defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the laws of the Contracting State whose tax is being determined.

ARTICLE 4 Fiscal Domicile

(1) In this Convention:

(a) The term “resident of Belgium” means:

(i) A Belgian corporation, and

(ii) Any person (other than a corporation) who is a resident of Belgium for purposes of its tax.

(b) The term “resident of the United States” means:

(i) A United States corporation, and

(ii) Any person (except a corporation or any other entity treated as a corporation for United States tax purposes) resident in the United States for purposes of its tax, but in the case of a partnership, estate, or trust only to the extent that the income derived by such person is subject to United States tax as the income of a resident.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States:

(a) He shall be deemed to be a resident of that Contracting State in which he maintains his permanent home. If he has a permanent home in both Contracting States or in neither of the Contracting States, he shall be deemed a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests);

(b) If the Contracting State in which he has his center of vital interests cannot be determined, he shall be deemed to be a resident of that Contracting State in which he has a habitual abode;

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

(d) If he is a citizen of both Contracting States or of neither Contracting State the

competent authorities of the Contracting States shall settle the question by mutual agreement. For purpose of this paragraph, a permanent home is the place where an individual dwells with his family.

ARTICLE 5 Permanent Establishment

(1) For the purpose of this Convention, the term “permanent establishment” means a fixed place of business through which a resident of one of the Contracting States engages in industrial or commercial activity.

(2) The term “fixed place of business” includes but is not limited to:

- (a) A seat of management;
- (b) A branch;
- (c) An office;
- (d) A factory;
- (e) A workshop;
- (f) A warehouse;
- (g) A mine, quarry, or other place of extraction of natural resources; and
- (h) A building site or construction or installation project which exists for more than 12 months.

(3) Notwithstanding paragraphs (1) and (2), a permanent establishment shall not include a fixed place of business used only for one or more of the following:

- (a) The use of facilities for the purpose of storage, display, or delivery of goods or merchandise belonging to the resident;
- (b) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of storage, display, or delivery;
- (c) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of processing by another person;
- (d) The maintenance of a fixed place of business for the purpose of purchasing goods or merchandise, or for collecting information, for the resident;
- (e) The maintenance of a fixed place of business 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 resident; or
- (f) The maintenance of a building site or construction or installation project which does not exist for more than 12 months.

(4) Notwithstanding subparagraph (a), (c) and (d) of paragraph (3), if a resident of one of the Contracting States has a fixed place of business in the other Contracting State and goods or merchandise are either:

- (a) Subjected to processing in the other Contracting State by another person (whether or not purchased in the other Contracting State); or

(b) Purchased in the other Contracting State (and such goods or merchandise are not subjected to processing outside the other Contracting State)
such resident shall be considered to have a permanent establishment in that other Contracting State, if all or part of such goods or merchandise is sold by, or on behalf of such resident for use, consumption, or disposition in that other Contracting State.

(5) A person acting in one of the Contracting States on behalf of a resident of the other Contracting State, other than an agent of an independent status to whom paragraph (6) applies, shall be deemed to be a permanent establishment in the first-mentioned Contracting State if such person has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts in the name of that resident, unless the exercise of such authority is limited to the purchase of goods or merchandise for that resident.

(6) A resident of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident engages in industrial or commercial activity in that other Contracting State through a broker, general commission agent, or any other agent of an independent status, where such broker or agent is acting in the ordinary course of his business. This paragraph shall not apply with respect to a broker or agent acting on behalf of an insurance company if such broker or agent has, and habitually exercises, an authority to conclude contracts in the name of that company.

(7) The fact that a resident of one of the Contracting States is a related person with respect to a resident of the other Contracting State or with respect to a person who engages in industrial or commercial activity in that other Contracting State (whether through a permanent establishment or otherwise) shall not be taken into account in determining whether that resident of the first-mentioned Contracting State has a permanent establishment in that other Contracting State.

(8) The principles set forth in paragraphs (1) through (7) shall be applied in determining whether there is a permanent establishment in a State other than one of the Contracting States or whether a person other than a resident of one of the Contracting States has a permanent establishment in one of the Contracting States.

ARTICLE 6

Income from Real Property

(1) Income from real property, including royalties in respect of the operation of mines, quarries, or other natural resources and gains derived from the sale, exchange, or other disposition of such property or, of the right, giving rise to such royalties, may be taxed by the Contracting State in which such real property, mines, quarries, or other natural resources are situated. For purposes of this Convention interest or indebtedness secured by real property by a right giving rise to royalties in respect of the operation of mines, quarries, or other natural resources shall not be regarded as income from real property.

(2) Paragraph (1) shall apply to income derived from the usufruct, direct use, letting, or use in any other form of real property.

ARTICLE 7
Business Profits

(1) Industrial or commercial profits of a resident of one of the Contracting States shall be exempt from tax by the other Contracting State unless such resident is engaged in industrial or commercial activity in that other Contracting State through a permanent establishment situated therein. If such resident is so engaged, tax may be imposed by that other Contracting State on the industrial or commercial profits of such resident but only on so much of such profits as are attributable to the permanent establishment.

(2) Where a resident of one of the Contracting States is engaged in industrial or commercial activity in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to the permanent establishment the industrial or commercial profits which would be attributable to such permanent establishment if such permanent establishment were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing wholly independently.

(3) In the determination of the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions expenses which are reasonably connected with such profits, including executive and general administrative expenses, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) No profits shall be attributed to a permanent establishment of a resident of one of the Contracting States in the other Contracting State merely by reason of the purchase of goods or merchandise by the permanent establishment, or by the resident of which it is a permanent establishment, for the account of that resident.

(5) For the purposes of this Convention the term “industrial or commercial profits”:

(a) Does include rents or royalties derived from motion picture films or films or tapes used for radio or television broadcasting or from copyrights thereof and rents derived from the leasing of tangible personal property;

(b) Does not include items of income specifically dealt with in other articles of this Convention, except as provided in such articles.

Subject to the provisions of this Convention, items of income excluded from industrial or commercial profits under subparagraph (b) may be taxed separately or together with industrial or commercial profits in accordance with the laws of the Contracting State whose tax is being determined.

ARTICLE 8
Shipping and Air Transport

(1) Notwithstanding Article 7 (Business Profits) and Article 13 (Capital Gains), income which a resident of one of the Contracting States derives from the operation in international traffic of ships registered in that Contracting State, and gains which a resident of one of the Contracting States derives from the sale, exchange, or other disposition of ships operated in international traffic by such resident and registered in that Contracting State, shall be exempt from tax by the other Contracting State.

(2) Notwithstanding Article 7 (Business Profits) and Article 13 (Capital Gains), income which a resident of one of the Contracting States derives from the operation in international traffic of aircraft registered in either Contracting State or in a State with which the other Contracting State has an income tax convention exempting such income, and gains which a resident of one of the Contracting States derives from the sale, exchange or other disposition of aircraft operated in international traffic by such resident and registered in either Contracting State or in a State with which the other Contracting State has an income tax convention exempting such income, shall be exempt from tax by the other Contracting State.

ARTICLE 9
Associated Enterprises

(1) Where a resident of one of the Contracting States and a resident of the other Contracting State are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, then any income which would, but for those arrangements or conditions, have accrued to the resident of the first-mentioned Contracting State but, by reason of those arrangements or conditions, has not so accrued, may be included in the income of the resident of the first-mentioned Contracting State for purposes of this Convention and taxed accordingly.

(2) A person is related to another person for purposes of this Convention if either person participates directly or indirectly in the management, control, or capital of the other, or if any third person or persons participates directly or indirectly in the management, control, or capital of both.

ARTICLE 10
Dividends

(1) Dividends paid by a corporation of one of the Contracting States to a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by the first-mentioned Contracting State on such dividends shall not

exceed 15 percent of the gross amount actually distributed. The term “dividends” shall include income from invested capital received by members of Belgian companies other than companies with share capital where, under Belgian law, such income is taxable in the same way as dividends.

(3) Paragraph (2) shall not apply if the recipient of the dividends, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment. In such a case, Article 7 (Business Profits) shall apply, provided that Belgium shall not be prevented from imposing its movable property prepayment (précompte mobilier) in accordance with Belgian law.

(4) Dividends paid by a corporation of one of the Contracting States to a person other than a resident of the other Contracting State shall be exempt from tax by that other Contracting State. This paragraph shall not apply:

- (a) If the recipient of the dividends has a permanent establishment in that other Contracting State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment, or
- (b) If the dividends are paid by a United States corporation and are received within Belgium by a person who is not a citizen or resident of the United States.

ARTICLE 11

Interest

(1) Interest derived from sources within one of the Contracting States by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by one of the Contracting States on interest derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed 15 percent.

(3) Notwithstanding paragraphs (1) and (2), interest derived by a resident of one of the Contracting States from sources in the other Contracting State shall be exempt from tax by the other Contracting State if it is:

- (a) Interest arising out of commercial credit-including credit which is represented by commercial paper-resulting from deferred payments for goods or merchandise or services supplied by a resident of one of the Contracting States to a resident of the other Contracting State,
- (b) Interest paid between banks, except on loans represented by bearer instruments, or
- (c) Interest arising from deposits, not represented by bearer instruments, made in banks or other financial institutions.

(4) Notwithstanding paragraphs (1) and (2), interest beneficially derived by one of the Contracting States, or by an instrumentality of that Contracting State, not subject to tax by that Contracting State on its income, shall be exempt from tax by the other Contracting State.

(5) The term “interest” as used in this Convention means income from bonds, Government securities, notes or other evidences of indebtedness, whether or not secured and whether or not carrying a right to participate in profits, and debt-claims of every kind, as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income has its source, but not interest which is considered as dividends in accordance with the second sentence of paragraph (2) of Article 10 (Dividends); it includes, in the case of Belgium, prizes on lottery bonds.

(6) Interest shall be treated as income from sources within a Contracting State only if paid by such Contracting State, a political subdivision or a local authority thereof, or by a resident of that Contracting State. Notwithstanding the preceding sentence:

(a) If the person paying the interest (whether or not such person is a resident of one of the Contracting States) has a permanent establishment in one of the Contracting States in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by such permanent establishment, or

(b) If the person paying the interest is a resident of one of the Contracting States and has a permanent establishment in a State other than a Contracting State in connection with which the indebtedness on which the interest is paid was incurred and such interest is paid to a resident of the other Contracting State, and such interest is borne by such permanent establishment,

such interest shall be deemed to be from sources within the State in which the permanent establishment is situated.

(7) Paragraphs (2), (3), and (4) shall not apply if the recipient of the interest, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 (Business Profits) shall apply.

(8) Where any interest paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this article shall apply only to so much of the interest as would have been paid to an unrelated person. In such a case the excess payment may be taxed according to its own law by the Contracting State from which the interest is derived.

(9) Interest paid by a resident of one of the Contracting States to a person other than a resident of the other Contracting State shall be exempt from tax by that other Contracting State. This paragraph shall not apply if:

(a) Such interest is treated as income from sources within that other Contracting State under paragraph (6),

(b) The recipient of the interest has a permanent establishment in that other Contracting State and the indebtedness giving rise to the interest is effectively connected with such permanent establishment, or

(c) Such interest is from sources within the United States and is received within Belgium by a person who is not a citizen or resident of the United States.

ARTICLE 12

Royalties

(1) Royalties derived from sources within one of the Contracting States by a resident of the other Contracting State shall be exempt from tax by the first-mentioned Contracting State.

(2) The term “royalties” as used in this article means:

(a) Payment of any kind made as consideration for the use of, or the right to use, copyrights of literary, artistic, or scientific works (but not including copyrights of motion picture films or films or tapes used for radio or television broadcasting), patents, designs, models, plans, secret processes or formulae, trademarks, or other like property or rights, or knowledge, experience, or skill (know-how), and

(b) Gains derived from the sale, exchange, or other disposition of any such right or property to the extent that the amounts realized on such sale, exchange, or other disposition for consideration are contingent on the productivity, use, or disposition of such right or property.

(3) Royalties shall be treated as income from sources within one of the Contracting States only if paid by such Contracting State, a political subdivision or a local authority thereof, or by a resident of that Contracting State. Notwithstanding the preceding sentence:

(a) If the person paying the royalties (whether or not such a person is a resident of one of the Contracting States) has a permanent establishment in one of the Contracting States with which the right or property giving rise to the royalties is effectively connected and such royalties are borne by such permanent establishment, or

(b) If the person paying the royalties is a resident of one of the Contracting States and has a permanent establishment in a State other than a Contracting State with which the right or property giving rise to the royalties is effectively connected and such royalties are borne by such permanent establishment,

such royalties shall be deemed to be from sources within the State in which the permanent establishment is situated.

(4) Paragraph (1) shall not apply if the recipient of the royalty, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment and the right or property giving rise to the royalty is effectively connected with such permanent establishment. In such a case the provisions of Article 7 (Business Profits) shall apply.

(5) Where any royalty paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this article shall apply only to so much of the royalty as would have been paid to an unrelated person. In such a case the excess payment may be taxed according to its own law by the Contracting State from which the royalty is derived.

ARTICLE 13
Capital Gains

Gains derived by a resident of one of the Contracting States from the sale, exchange, or other disposition of capital assets shall be exempt from tax by the other Contracting State unless:

(1) The gain is derived by a resident of the first-mentioned Contracting State from the sale, exchange, or other disposition of property described in Article 6 (Income from Real Property) situated within that other Contracting State,

(2) The recipient of the gain, being a resident of the first-mentioned Contracting State, has a permanent establishment or maintains a fixed base in that other Contracting State and the property giving rise to the gain is effectively connected with such permanent establishment or such fixed base, or

(3) The recipient of the gain, being an individual resident of the first-mentioned Contracting State, is present in that other Contracting State for a period or periods aggregating 183 days or more in the taxable year.

If under the provisions of paragraph (2) the property is effectively connected with a permanent establishment, the provisions of Article 7 (Business Profits) shall apply.

ARTICLE 14
Independent Personal Services

(1) Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity, may be taxed by that Contracting State. Except as provided in paragraph (2), such income shall be exempt from tax by the other Contracting State.

(2) Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity in the other Contracting State may be taxed by that other Contracting State, if:

(a) The individual is present in that other Contracting State for a period or periods aggregating 183 days or more in the taxable year,

(b) The individual maintains a fixed base in that other Contracting State for a period or periods aggregating 183 days or more in the taxable year, and the income is attributable to such fixed base, or

(c) The individual derives the income from personal services as a public entertainer, such as a theater, motion picture, or television artist, a musician, or an athlete, unless such individual is present in that other Contracting State for a period or periods not exceeding a total of 90 days during the taxable year and such income does not exceed in the aggregate 3,000 United States dollars or its equivalent in Belgian francs during the taxable year.

ARTICLE 15
Dependent Personal Services

(1) Wages, salaries, and similar remuneration derived by an individual who is a resident of one of the Contracting States from labor or personal services performed as an employee, including income from services performed by an officer of a company, may be taxed by that Contracting State. Except as provided by paragraph (2) and Article 20 (Teachers) and Article 21 (Students and Trainees) such remuneration derived from labor or personal services performed in the other Contracting State may also be taxed by that other Contracting State.

(2) Remuneration described in paragraph (1) derived by an individual who is a resident of one of the Contracting States shall be exempt from tax by the other Contracting State if:

- (a) He is present in that other Contracting State for a period or periods aggregating less than 183 days in the taxable year;
- (b) He is an employee of a resident of the first-mentioned Contracting State or of a permanent establishment maintained in the first-mentioned Contracting State; and
- (c) The remuneration is not borne as such by a permanent establishment which the employer has in that other Contracting State.

(3) Notwithstanding paragraphs (1) and (2), remuneration derived by an individual from labor or personal services performed as an employee aboard ships or aircraft registered in one of the Contracting States and operated by a resident of that Contracting State in international traffic shall be exempt from tax by the other Contracting State if such individual is a member of the regular complement of the ship or aircraft.

ARTICLE 16
Directors' Fees

Notwithstanding Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services), a director's fee derived by an individual who is a resident of one of the Contracting States in his capacity as a member of the board of directors of a corporation of the other Contracting State (but not including fixed or contingent payments derived in his capacity as an officer or employee), which cannot be taken as a deduction by the corporation but is treated in that other Contracting State as a distribution of profits, may be taxed by that other Contracting State.

ARTICLE 17
Social Security Payments

Social security payments and similar pensions paid by, or out of public funds created by, one of the

Contracting States or a governmental instrumentality thereof to an individual who is a resident of the other Contracting State shall be taxable only in the first-mentioned Contracting State.

ARTICLE 18
Private Pensions and Annuities

(1) Except as provided in Articles 17 (Social Security Payments) and 19 (Governmental Functions), pensions and other similar remuneration paid to an individual who is a resident of one of the Contracting States in consideration of past employment shall be taxable only in that Contracting State.

(2) Alimony and annuities paid to an individual who is a resident of one of the Contracting States shall be taxable only in that Contracting State.

(3) The term “pensions and other similar remuneration”, as used in this article, means periodic payments made after retirement or death in consideration for services rendered, or by way of compensation for injuries received in connection with past employment.

(4) The term “annuities”, as used in this article, means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than for services rendered).

ARTICLE 19
Governmental Functions

(1) Notwithstanding Articles 15 (Dependent Personal Services), 17 (Social Security Payments), and 18 (Private Pensions and Annuities), wages, salaries, and similar remuneration, including pensions or similar benefits, paid by or from public funds of one of the Contracting States, or a political subdivision or local authority thereof, for labor or personal services performed for that Contracting State, or for any of its political subdivisions or local authorities, in the discharge of governmental functions:

(a) To a citizen of that Contracting State or
(b) To a citizen of a State other than a Contracting State and who comes to the other Contracting State expressly for the purpose of being employed by the first-mentioned Contracting State, or a political subdivision or a local authority thereof,

shall be exempt from tax by that other Contracting State.

(2) The provisions of Articles 15 (Dependent Personal Services), 17 (Social Security Payments), and 18 (Private Pensions and Annuities) shall apply to wages, salaries, and pensions paid in respect of services rendered in connection with any trade or business carried on by the first-mentioned Contracting State, or a political subdivision or a local authority thereof.

ARTICLE 20

Teachers

(1) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who, at the invitation of the Government of that other Contracting State or of a university or other recognized educational institution in that other Contracting State is temporarily present in that other Contracting State for the primary purpose of teaching or engaging in research, or both, at a university or other recognized educational institution shall be exempt from tax by that other Contracting State on his income from personal services for teaching or research at such university or educational institution, for a period not exceeding 2 years from the date of his arrival in that other Contracting State.

(2) This article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 21

Students and Trainees

- (1) (a) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State for the primary purpose of:
- (i) Studying at a university or other recognized educational institution in that other Contracting State, or
 - (ii) Securing training required to qualify him to practice a profession or professional specialty, or
 - (iii) Studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization,
- shall be exempt from tax by that other Contracting State with respect to amounts described in subparagraph (b) for a period not exceeding 5 taxable years from the date of his arrival in that other Contracting State.
- (b) The amounts referred to in subparagraph (a) are:
- (i) Gifts from abroad for the purpose of his maintenance, education, study, research, or training;
 - (ii) The grant, allowance, or award; and
 - (iii) Income from personal services performed in that other Contracting State in an amount not in excess of 2,000 United States dollars or its equivalent in Belgian francs for any taxable year.

(2) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State as an employee of, or under contract with, a resident of the first-mentioned

Contracting State, for the primary purpose of:

(a) Acquiring technical, professional, or business experience from a person other than that resident of the first-mentioned Contracting State or other than a person related to such resident, or

(b) Studying at a university or other recognized educational institution in that other Contracting State, shall be exempt from tax by that other Contracting State for a period of 12 consecutive months with respect to his income from personal services in an aggregate amount not in excess of 5,000 United States dollars or its equivalent in Belgian francs.

(3) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State for a period not exceeding 1 year, as a participant in a program sponsored by the Government of that other Contracting State, for the primary purpose of training, research, or study, shall be exempt from tax by that other Contracting State with respect to his income from personal services in respect of such training, research, or study performed in that other Contracting State in an aggregate amount not in excess of 10,000 United States dollars or its equivalent in Belgian francs.

(4) The benefits provided under Article 20 (Teachers) and paragraph (1) of this article shall extend only for such period of time as may reasonably or customarily be required to effectuate the purpose of the visit, but in no case shall any individual have the benefits provided therein for more than a total of 5 taxable years from the date of his arrival.

ARTICLE 22

Income Not Expressly Mentioned

Items of income of a resident of one of the Contracting States which are not expressly mentioned in the foregoing articles of this Convention shall be taxable only in that Contracting State except that if such income is derived from sources within the other Contracting State, that other Contracting State may also tax such income.

ARTICLE 23

Relief from Double Taxation

(1) Notwithstanding any other provision of this Convention, a Contracting State may tax its citizens and residents as determined under Article 4 (Fiscal Domicile) as if this Convention had not come into effect, provided however, that:

(a) This provision shall not affect the benefits conferred by a Contracting State under this article and Articles 17 (Social Security Payments), 24 (Nondiscrimination), and 25 (Mutual Agreement Procedure).

(b) This provision shall not affect the benefits conferred by a Contracting State under Articles 19 (Governmental Functions), 20 (Teachers), and 21 (Students and Trainees), upon

individuals who are neither citizens of, nor have immigrant status in, that Contracting State.

(2) Subject to the provisions of United States law applicable for the taxable year, the United States shall allow to a citizen or resident of the United States as a credit against United States tax the appropriate amount of Belgian tax; such appropriate amount shall be based upon the amount of tax paid to Belgium but shall not exceed the amount of United States tax attributable to income from Belgian sources. Income which has been taxed by Belgium in accordance with Articles 6 through 21 shall, for the purpose of applying the United States credit in relation to Belgian tax, be treated as income from Belgian sources.

(3) In the case of income derived from sources in the United States relief from double taxation shall be granted in Belgium in the following manner:

(a) Where a resident of Belgium derives income which is not subject to the provisions of subparagraphs (b) through (d) below and which has been taxed by the United States in accordance with Articles 6 through 21, Belgium shall exempt such income from tax but may, in calculating the amount of tax on the remainder of the income of that resident, apply the rate of tax which would have been applicable if such income had not been exempted.

(b) Where a resident of Belgium receives dividends (which are not exempt under subparagraph (d)) to which the provisions of paragraph (2) of Article 10 (Dividends) apply, interest to which the provisions of paragraph (2) or paragraph (8) of Article 11 (Interest) apply or royalties to which the provisions of paragraph (5) of Article 12 (Royalties) apply, Belgium shall reduce the Belgian tax imposed thereon by a credit in respect of the tax borne in the United States. The credit shall be allowed against the tax imposed on the net amount of the dividends from corporations of the United States, as well as of interest and royalties from sources in the United States which have been taxed there; the credit shall be the fixed amount in respect of the foreign tax for which provision is made in existing Belgian law, subject to any subsequent modification - which, however, shall not affect the principle hereof.

(c) Where a resident of Belgium receives income to which the provisions of Article 22 (Income Not Expressly Mentioned) apply and which has been taxed by the United States, the amount of Belgian tax proportionately attributable to such income shall not exceed the amount which would be imposed in accordance with Belgian law, if such income were taxed as earned income derived from sources outside Belgium and subject to foreign tax.

(d) Where a Belgian corporation owns shares in a United States corporation which is subject in the United States to tax on its profits, the dividends which are paid to it by the latter corporation and which may be taxed in the United States in accordance with the provisions of paragraph (2) of Article 10 (Dividends) shall be exempt from the corporate income tax in Belgium to the extent that the exemption would have been accorded if the two corporations had been corporations of Belgium; this provision shall not prohibit the withholding from those dividends of the movable property prepayment (*précompte mobilier*) imposed by Belgian law.

(e) A Belgian corporation which, during the whole of an accounting period of a United States corporation which is subject there to tax on its profits, has held the direct ownership of shares in the latter corporation, shall also be exempted from the movable property prepayment (*précompte mobilier*) imposed by Belgian law on the dividends derived from those shares,

provided that it so requests in writing not later than the time limited for the submission of its annual return; on the redistribution to its own shareholders of the dividends so exempted those dividends may not be deducted from dividends distributed by that corporation which are subject to the movable property prepayment (précompte mobilier). This subparagraph shall not apply when the first-mentioned corporation has elected that its profits be charged to the individual income tax. However, the application of this subparagraph shall be limited to dividends paid by a United States corporation to a Belgian corporation which controls not less than 10 percent of the voting power in the first-mentioned corporation where, for the application of the exemption referred to in subparagraph (d), a similar limitation would be imposed by Belgian legislation in respect of dividends paid by corporations of Belgium.

(f) Where an individual who is a resident of Belgium and a citizen of the United States receives income from sources within the United States which is not exempt from Belgian tax under subparagraph (a) nor covered by subparagraph (c), the amount of the Belgian individual income tax proportionately attributable to such income may not exceed:

(i) In the case of dividends, interest, and royalties, an amount which, after allowance of the fixed amount in respect of the foreign tax, where applicable, corresponds to 20 percent of such income;

(ii) In the case of other income concerned, the amount which would be imposed in accordance with Belgian law, if such income were taxed as earned income derived from sources outside Belgium and subject to foreign tax.

(g) When in accordance with Belgian law, losses incurred by a resident of Belgium in a permanent establishment situated in the United States have been effectively deducted from the profits of that resident for his taxation in Belgium, the exemption provided in subparagraph (a) shall not apply in Belgium to the profits of other taxable periods attributable to that establishment to the extent that those profits have also been reduced for United States tax purposes by reason of compensation for the said losses.

(4) In the case of a corporation which is treated as a United States corporation for United States tax purposes and as a Belgian corporation for Belgian tax purposes, relief from double taxation shall be granted in accordance with the principles of paragraphs (2) and (3).

ARTICLE 24

Nondiscrimination

(1) A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than a citizen of that other Contracting State who is a resident thereof.

(2) A permanent establishment which a resident of one of the Contracting States has in the other Contracting State shall not be subject in that other Contracting State to more burdensome taxes than a resident of that other Contracting State carrying on the same activities. This paragraph shall not be construed as obliging a Contracting State to grant to individual residents of the other Contracting State

any personal allowances, reliefs, or deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own individual residents.

(3) A corporation of one of the Contracting States, 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 a corporation of the first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned or controlled by one or more residents of the first-mentioned Contracting State, is or may be subjected.

(4) The provisions of this article shall apply to taxes of every kind whether imposed at the National, State, or local level.

(5) The provisions of paragraph (2) shall not be construed as preventing Belgium from taxing the total profits attributable to a permanent establishment which is maintained in Belgium by a United States corporation, or any unincorporated entity, which is a resident of the United States at a rate which - before the application of the surcharges specified in paragraph (1) (b) (vi) of Article 2 - is the highest rate at which the profits of a Belgian corporation may be taxed.

(a) However, as long as Belgium imposes its tax on the distributed profits of a Belgian corporation at a rate which is lower than such highest rate then the Belgian tax on the portion of the profits of the permanent establishment which is deemed to be distributed shall be imposed at a rate which - before the application of the surcharges specified in paragraph (1) (b) (vi) of Article 2 - shall not exceed the highest rate at which such tax may be imposed on the distributed profits of a Belgian corporation.

(b) For purposes of this paragraph, the permanent establishment which is maintained in Belgium shall be deemed to distribute the same percentage of its profits as such resident distributes from its total profits.

ARTICLE 25

Mutual Agreement Procedure

(1) Where a resident of one of the Contracting States considers that the action of one or both of the Contracting States results or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident within 2 years from the date of notification (or collection at source) of the tax which has been last asserted or collected. Should the residents claim be considered to have merit by the competent authority of the Contracting State to which the claim is made, the competent authority shall endeavor to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation contrary to the provisions of this Convention.

(2) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the application of this Convention. In particular, the competent authorities of the Contracting States may agree:

- (a) To the same attribution of industrial or commercial profits to a resident of one of the Contracting States and its permanent establishment situated in the other Contracting State;
- (b) To the same allocation of income, deductions, credits, or allowances between a resident of one of the Contracting States and any related person;
- (c) To the same determination of the source of particular items of income; or
- (d) To the same meaning of any term used in this Convention.

(3) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of this article. When it seems advisable for the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

(4) In the event that the competent authorities reach such an agreement, taxes on such income shall be adjusted and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement.

ARTICLE 26

Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is pertinent to carrying out the provisions of this Convention or preventing fraud or fiscal evasion in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution in respect of the taxes which are the subject of this Convention.

(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 or the administrative practice of that Contracting State or 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 Contracting State or of the other Contracting State; or
- (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.

(3) The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States may agree on the list of information which shall be furnished on a routine basis.

ARTICLE 27
Assistance in Collection

(1) Each of the Contracting States shall endeavor to collect on behalf of the other Contracting State such taxes imposed by that other Contracting State as will ensure that any exemption or reduced rate of tax granted under this Convention by that other Contracting State shall not be enjoyed by persons not entitled to such benefits.

(2) In no case shall this article be construed so as to impose upon a Contracting State the obligation to carry out administrative measures at variance with the regulations and practices of either Contracting State or which would be contrary to the first-mentioned Contracting State's sovereignty, security, or public policy.

ARTICLE 28
Miscellaneous

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

(2) The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded:

- (a) By the laws of one of the Contracting States in the determination of the tax imposed by that Contracting State, or
- (b) By any other agreement between the Contracting States.

(3) The competent authorities of the two Contracting States may communicate with each other directly for the purpose of carrying out the provisions of this Convention.

ARTICLE 29
Extension to Territories

(1) The United States may, at any time while this Convention continues in force, by a written notification given to Belgium through diplomatic channels, declare its desire that the operation of this Convention, either in whole or in part or with such modifications as may be found necessary for special application in a particular case, shall extend to all or any of the areas (to which this Convention is not otherwise applicable) for whose international relations it is responsible and which impose taxes substantially similar in character to those which are the subject of this Convention. When Belgium has, by a written communication through diplomatic channels, signified to the United States that such notification is accepted in respect of such area or areas, and the notification and communication have

been ratified and instruments of ratification exchanged, this Convention, in whole or in part, or with such modifications as may be found necessary for special application in a particular case, as specified in the notification, shall apply to the area or areas named in the notification and shall have effect on and after the date or dates specified therein.

(2) At any time after the date of entry into force of an extension under paragraph (1), either of the Contracting States may, by 6 months prior notice of termination given to the other Contracting State through diplomatic channels, terminate the application of this Convention to any area to which it has been extended under paragraph (1), and in such event this Convention shall cease to have effect, beginning on or after the first day of January next following the expiration of the 6-month period, in the area or areas named therein, but without affecting its continued application to the United States, Belgium, or to any other area to which it has been extended under paragraph (1).

(3) In the application of this Convention in relation to any area to which it is extended by notification by the United States, reference to the "United States" shall be construed as referring to that area.

(4) The termination in respect of the United States or Belgium of this Convention under Article 31 (Termination) shall, unless otherwise expressly agreed by both Contracting States, terminate the application of this Convention to any area to which the Convention has been extended under this article.

ARTICLE 30 Entry into Force

(1) This Convention shall be ratified and instruments of ratification shall be exchanged at Washington as soon as possible. It shall enter into force 1 month after the date of exchange of the instruments of ratification. The provisions shall for the first time have effect with respect to income of calendar years or taxable years beginning (or, in the case of taxes payable at the source, payments made) on or after January 1, 1971.

(2) As between the United States and Belgium, the Convention between Belgium and the United States for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at Washington, D.C. on October 28, 1948; modified and supplemented by the Supplementary Conventions signed at Washington on September 9, 1952, and August 22, 1957, and by the Protocol signed at Brussels on May 21, 1965, shall terminate and cease to have effect in respect of income to which this Convention applies under paragraph (1) of this article.

ARTICLE 31 Termination

(1) This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention at any time after 5 years from the date on which this

Convention enters into force provided that at least 6 months prior notice of termination has been given through diplomatic channels. In such event the Convention shall cease to have effect as respects income of calendar years or taxable years beginning (or, in the case of taxes payable at the source, payments made) on or after January 1 next following the expiration of the 6-month period.

(2) Notwithstanding the provision of paragraph (1), and upon prior notice to be given through diplomatic channels, the provisions of Article 17 (Social Security Payments) may be terminated by either Contracting State at any time after this Convention enters into force.

FOR THE PRESIDENT OF THE
UNITED STATES OF AMERICA

(s) John S. D. Eisenhower

FOR THE KINGDOM
OF BELGIUM

(s) Pierre Harmel

PROTOCOL

*Supplementary Protocol Modifying and Supplementing the Convention of July 9, 1970 with an Exchange of Notes Signed at Washington December 31, 1987;
Transmitted by the President of the United States of America to the Senate February 29, 1988 (Treaty Doc. No. 100-15, 100th Cong., 2d Sess.);
Reported Favorably by the Senate Committee on Foreign Relations September 22, 1988 (S. Ex. Rept. No. 100-24, 100th Cong., 2d Sess.);
Advice and Consent to Ratification by the Senate October 22, 1988;
Ratified by the President December 20, 1988;
Ratified by Belgium June 19, 1989;
Ratifications Exchanged at Brussels July 19, 1989;
Proclaimed by the President September 6, 1989;
Entered into Force August 3, 1989.*

SUPPLEMENTARY PROTOCOL TO THE 1970 TAX CONVENTION WITH BELGIUM

MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE SUPPLEMENTARY PROTOCOL, TOGETHER WITH A RELATED EXCHANGE OF NOTES, SIGNED AT WASHINGTON ON DECEMBER 31, 1987, MODIFYING AND

SUPPLEMENTING THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA
AND THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION
AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME,
SIGNED AT BRUSSELS ON JULY 9, 1970

LETTER OF SUBMITTAL (PROTOCOL)

DEPARTMENT OF STATE,
Washington, February 2, 1988.

The PRESIDENT,
The White House.

THE PRESIDENT. I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, a Supplementary Protocol Modifying and Supplementing the Convention between the United States of America and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related exchange of notes. The Supplementary Protocol and the exchange of notes were signed at Washington on December 31, 1987.

The Convention needs to be modified to reflect changes in the tax laws and treaty policies of the United States and Belgium since it was concluded in 1970. Pending the successful conclusion of a comprehensive new convention, Department of the Treasury negotiators have concluded a limited Protocol addressing an issue of immediate concern to United States investors.

The Protocol will reduce the tax at source on direct investment dividends from 15 percent to 5 percent, effective January 1, 1988. This will be beneficial to many United States businesses which, especially after the Tax Reform Act of 1986, have large excess foreign tax credits with respect to their foreign income. The Protocol will also provide rules to ensure that the reduced rates of tax provided in the Convention, as amended by the Protocol, are enjoyed only by residents of the two countries and do not become the object of "treaty shopping" by others.

The exchange of notes confirms that the French and Dutch texts of the new Article 12A incorporate the meaning of the English language term "beneficial interest."

A technical memorandum explaining in detail the provisions of the Supplementary Protocol is being prepared by the Department of the Treasury and will be submitted separately to the Senate Committee on Foreign Relations.

The Department of the Treasury, with the cooperation of the Department of State, was primarily responsible for the negotiation of the Supplementary Protocol. It has the approval of both Departments.

Respectfully submitted,

GEORGE P. SHULTZ.

LETTER OF TRANSMITTAL (PROTOCOL)

THE WHITE HOUSE, *February 29, 1988.*

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Supplementary Protocol Modifying and Supplementing the Convention between the United States of America and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related exchange of notes. The Supplementary Protocol and the exchange of notes were signed at Washington on December 31, 1987. I also transmit for the information of the Senate the report of the Department of State with respect to the Protocol.

Pending the successful conclusion of a comprehensive new income tax convention, the Supplementary Protocol will make certain improvements in the existing convention intended to promote the development of economic relations between the United States and Belgium.

It is most desirable that this Protocol be considered by the Senate as soon as possible and that the Senate give advice and consent to ratification.

RONALD REAGAN.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Supplementary Protocol Modifying and Supplementing the Convention Between the United States of America and the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related exchange of notes, was signed at Washington on December 31, 1987, the text of which is hereto annexed;

The Senate of the United States of America by its resolution of October 22, 1988, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification, subject to the understandings that:

- (1) The Treasury Department will effect the negotiation of a new Convention in an expeditious

manner with the objective of modifying the tax rate on dividends specified in paragraph 2 of Article 10 (Dividends) to deny inappropriate relief from taxation at source on dividends paid by Regulated Investment Companies, Real Estate Investment Trusts, and any other U.S. corporations that essentially receive conduit treatment for U.S. income tax purposes; and

(2) The Treasury Department will effect the negotiation of a new Convention in an expeditious manner with the objective of coordinating policy as revised by the Tax Reform Act of 1986.

The Supplementary Protocol, with a related exchange of notes, subject to the said understandings, was ratified by the President of the United States of America on December 20, 1988, in pursuance of the advice and consent of the Senate;

It is provided in Article 4 of the Supplementary Protocol that the Supplementary Protocol shall enter into force on the fifteenth day after the date of the exchange of the instruments of ratification;

The instruments of ratification of the Supplementary Protocol were exchanged at Brussels on July 19, 1989, and accordingly, the Supplementary Protocol and the related exchange of notes, subject to the said understandings, entered into force on August 3, 1989.

NOW, THEREFORE, I, George Bush, President of the United States of America, proclaim and make public the Supplementary Protocol, with an exchange of notes, subject to the said understandings, to the end that it be observed and fulfilled with good faith on and after August 3, 1989, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this sixth day of September in the year of our Lord one thousand nine hundred eighty-nine and of the Independence of the United States of America the two hundred fourteenth.

By the President:

(s) George Bush

Secretary of State:

(s) James A. Baker, III

SUPPLEMENTARY PROTOCOL MODIFYING AND SUPPLEMENTING THE
CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND THE KINGDOM OF
BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES SIGNED AT BRUSSELS

ON JULY 9, 1970

The Government of the United States of America
and
the Government of the Kingdom of Belgium,

Desiring to promote the development of the economic relations between the United States of America and the Kingdom of Belgium,

Considering that, in the course of the ongoing negotiations of a new convention between both countries, it is desirable to remove certain constraints to such development before the successful conclusion of the new convention,

Have decided to conclude a supplementary Protocol to the Convention between the United States of America and the Kingdom of Belgium for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at Brussels on July 9, 1970 (hereinafter "the Convention") and

Have agreed upon the following articles:

ARTICLE 1

The text of Article 10 (Dividends) of the Convention is suspended and replaced by the following:

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

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

(a) 5 percent of the gross amount of the dividends if the beneficial owner is a company which owns directly at least 10 percent of the voting stock of the company paying the dividends;

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

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident. This term also includes income - even if paid in the form of interest - which is taxable as income from capital invested by the members of a company, other than a company with share capital, which is a resident of Belgium.

4. The provisions (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 forms part of the assets of such permanent establishment or fixed base. In such case, the provisions of Article 7 (Business Profits) or Article 14 (Independent Personal Services), as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State pays dividends, the other Contracting State may not impose any tax on the dividends paid by that company to a resident of the first-mentioned State, except insofar as the holding in respect of which the dividends are paid forms part of the assets of a permanent establishment or a fixed base situated in that other State.

6. For the purpose of paragraph (4) and notwithstanding any other provision of the Convention, dividends paid by a company which is a resident of Belgium in respect of a holding which forms part of the assets of a permanent establishment situated in Belgium, may be taxed separately in accordance with Belgian law.

ARTICLE 2

In paragraph (5) of Article 11 (Interest) of the Convention, the words "paragraph (3) of Article 10 (Dividends)" shall be substituted for the words "paragraph (2) of Article 10 (Dividends)".

ARTICLE 3

The following Article is inserted in the Convention between Article 12 (Royalties) and Article 13 (Capital Gains):

ARTICLE 12A

(Limitation on Benefits)

1. A person (other than an individual) which is a resident of a Contracting State and derives dividends, interest or royalties from the other Contracting State shall not be entitled under Articles 10 (Dividends), 11 (Interest) or 12 (Royalties) to relief from taxation in that other Contracting State unless:

(a) both of the following conditions are satisfied:

(i) more than 50 percent of the beneficial interest in such person (or in the case of a company, more than 50 percent of the number of shares of each class of the company's shares) is owned, directly or indirectly, by one or more individual residents of one of the Contracting States, one of the Contracting States or its political subdivisions or local authorities, or citizens of the United States; and

(ii) more than 50 percent of the gross income of such person is not used,

directly or indirectly, to meet liabilities for interest or royalties to persons who are not residents of one of the Contracting States, one of the Contracting States or its political subdivisions or local authorities, or citizens of the United States; or

(b) the dividends, interest or royalties derived from the other Contracting State are derived in connection with, or are incidental to, the active conduct by such person of a trade or business in the first-mentioned State (other than a business the principal activities of which are making or managing investments in the other Contracting State); or

(c) the person deriving the dividends, interest or royalties is a resident of a Contracting State either in whose principal class of shares there is substantial and regular trading on a recognized securities exchange, or more than 50 percent of whose shares of each class is owned by a resident of that Contracting State in whose principal class of shares there is such substantial and regular trading on a recognized securities exchange.

2. For purposes of subparagraph (1)(a)(ii), the term "gross income" means:

(a) in the case of the United States, gross income as defined under the Internal Revenue Code of 1986, as may be amended from time to time, without regard to the geographic source of the income.

(b) in the case of Belgium, gross receipts, or where an enterprise is engaged in a business which includes the manufacture or production of goods, gross receipts reduced by the direct costs of labor and materials attributable to such manufacture or production and paid or payable out of such receipts.

3. For purposes of subparagraph (1)(c), the term "recognized securities exchange" means:

(a) the NASDAQ System owned by the National Association of Securities Dealers, Inc. and any stock exchange registered with the Securities and Exchange Commission as a national securities exchange for purposes of the Securities Exchange Act of 1934;

(b) the Belgian stock exchanges; and

(c) any other securities exchange agreed upon by the competent authorities of the Contracting States.

ARTICLE 4

1. This supplementary Protocol, which shall form an integral part of the Convention signed at Brussels on July 9, 1970, shall be ratified and the instruments of ratification shall be exchanged at Brussels as soon as possible.

2. This supplementary Protocol shall enter into force on the fifteenth day after the date of the exchange of the instruments of ratifications and its provisions shall have effect with respect to dividends, interest and royalties credited or paid on or after January 1, 1988.

ARTICLE 5

This supplementary Protocol shall remain in force as long as the Convention's in effect and in the event of termination of such Convention shall terminate simultaneously with such Convention. However, either Contracting State may terminate separately this supplementary Protocol, through diplomatic channels, by giving to the other Contracting State at least six months' written notice of termination at any time after five years from the day on which it enters into force. In such event, the supplementary Protocol shall cease to have effect with respect to dividends, interest and royalties credited or paid on or after the first day of January 1 next following the expiration of the six-month period and the provisions of the Convention, as effective on December 31, 1987, shall have effect with respect to such amounts.

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

DONE at Washington in duplicate, in the English, French and Dutch languages, the three texts being equally authentic, this 31st date of December, 1987.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA:

(s) William Bodde, Jr.

FOR THE GOVERNMENT OF
THE KINGDOM OF BELGIUM:

(s) Herman Dehennin.

NOTES OF EXCHANGE (PROTOCOL)

DEPARTMENT OF STATE,
WASHINGTON

December 31, 1987.

His Excellency
Herman Dehennin,
Ambassador of Belgium.

Excellency: I have the honor to refer to the Supplementary Protocol Modifying and Supplementing the Convention between the Government of the United States of America and the Government of the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion, signed at Brussels on July 9, 1970. The Protocol has been signed at Washington on this date. During the course of the discussions regarding the Protocol, one question arose with respect to which it was deemed appropriate to exchange Notes recording the agreement reached by the delegations from our two countries.

Article 3 of the Protocol adds a new Article 12A to the Convention, which provides that, unless certain alternative conditions are satisfied, a person (other than an individual) which is a resident of a

Contracting State and derives dividends, interest, or royalties from the other Contracting State shall not be entitled under the Dividends, Interest, and Royalties Articles of the Convention to relief from taxation in the other Contracting State unless (in the language of the English text of the Protocol) more than 50 percent of the "beneficial interest" in such person is owned by one or more individual residents of one of the Contracting States, one of the Contracting States or its political subdivisions or local authorities, or citizens of the United States (hereinafter "listed persons").

The delegations agreed that the French and Dutch language texts of the new Article 12A incorporate the meaning of the English language term "beneficial interest." Specifically, for the condition in the preceding paragraph to be satisfied, more than 50 percent of the rights to income and other economic rights in the person claiming treaty benefits must be owned by one or more of the listed persons. In the case of a trust claiming treaty benefits, for example, more than 50 percent of the interests held by beneficiaries of the trust must be held by listed persons for the condition to be satisfied; the identities of the legal owners of the trust are irrelevant for this purpose.

If this is in accord with your understanding, I would appreciate a confirmation from you to this effect.

Accept, Excellency, the renewed assurances of my highest consideration.

For the Secretary of State:
William Bodde, Jr.

EMBASSY OF BELGIUM

3330 GARFIELD STREET, N.W.
WASHINGTON, D.C. 20008

December 31, 1987.

His Excellency
George P. Shultz,
Secretary of State,
Washington.

Excellency: I have the honour to acknowledge the receipt of Your Excellency's note of today's date which reads as follows:

“Excellency: I have the honour to refer to the Supplementary Protocol Modifying and Supplementing the Convention between the Government of the United States of America and the Government of the Kingdom of Belgium for the Avoidance of Double Taxation and the Prevention of

Fiscal Evasion, signed at Brussels on July 9, 1970. The Protocol has been signed at Washington on this date. During the course of the discussions regarding the Protocol, one question arose with respect to which it was deemed appropriate to exchange Notes recording the agreement reached by the delegations from our two countries.

Article 3 of the Protocol adds a new Article 12A to the Convention, which provides that, unless certain alternative conditions are satisfied, a person (other than an individual) which is a resident of a Contracting State and derives dividends, interest, or royalties from the other Contracting State shall not be entitled under the Dividends, Interest, and Royalties Articles of the Convention to relief from Taxation in the other Contracting State unless (in the language of the English text of the Protocol) more than 50 percent of the "beneficial interest" in such person is owned by one or more individual residents of one of the Contracting States, one of the Contracting States or its political subdivisions or local authorities, or citizens of the United States (hereinafter "listed persons").

The delegations agreed that the French and Dutch language texts of the new Article 12A incorporate the meaning of the English language term "beneficial interest." Specifically, for the condition in the preceding paragraph to be satisfied, more than 50 percent of the rights to income and other economic rights in the person claiming treaty benefits must be owned by one or more of the listed persons. In the case of a trust claiming treaty benefits, for example, more than 50 percent of the interests held by beneficiaries of the trust must be held by listed persons for the condition to be satisfied; the identities of the legal owners of the trust are irrelevant for this purpose.

If this is in accord with your understanding, I would appreciate a confirmation from you to this effect.

Accept, Excellency, the renewed assurances of my highest consideration."

I confirm this understanding on behalf of the Government of the Kingdom of Belgium.

I take the opportunity to renew to Your Excellency the assurances of my highest consideration.

Herman Dehennin,
Ambassador of Belgium.