No. 15958

NETHERLANDS
and
SURINAM

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Signed at Paramaribo on 25 November 1975

Authentic text: Dutch.

Registered by the Netherlands on 20 October 1977.

PAYS-BAS
et
SURINAM

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Signée à Paramaribo le 25 novembre 1975

Texte authentique : néerlandais.

Enregistrée par les Pays-Bas le 20 octobre 1977.

[TRANSLATION — TRADUCTION]

CONVENTION[1] BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF SURINAM FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Kingdom of the Netherlands and the Government of the Republic of Surinam,

Desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Have agreed as follows:

CHAPTER I. SCOPE OF THE CONVENTION

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED BY THE CONVENTION

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each of the States or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, 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 the case of the Netherlands:

— income tax *(de inkomstenbelasting)*,
— wages tax *(de loonbelasting)*,
— company tax *(de vennootschapsbelasting)*,
— dividend tax *(de dividendbelasting)*,
— capital tax *(de vermogensbelasting)*,

(hereinafter referred to as "Netherlands tax");

(*b*) in the case of Surinam:

— income tax *(de inkomstenbelasting)*,
— dividend tax *(de dividendbelasting)*,
— capital tax *(de vermogensbelasting)*,

(hereinafter referred to as "Surinamese tax").

[1] Came into force on 13 April 1977, the date on which the Contracting Parties had notified each other in writing of the completion of their internal constitutional formalities, in accordance with article 33.

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

CHAPTER II. DEFINITIONS

Article 3. GENERAL DEFINITIONS

1. In this Convention, unless the text otherwise requires:

(*a*) The terms "one of the States" and "the other State" mean the Netherlands or Surinam, as the context requires; the term "States" means the Netherlands and Surinam.

(*b*) The term "the Netherlands" comprises the part of the Kingdom of the Netherlands that is situated in Europe and the part of the sea-bed and its subsoil under the North Sea, over which the Kingdom of the Netherlands has sovereign rights in accordance with international law.

(*c*) The term "Surinam" comprises the territory of the Republic of Surinam and the part of the sea-bed and the subsoil under the adjacent sea, over which the Republic of Surinam has sovereign rights in accordance with international law.

(*d*) The term "person" comprises an individual and a company.

(*e*) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes.

(*f*) The terms "enterprise of one of the States" and "enterprise of the other State" mean respectively an enterprise carried on by a resident of one of the States and an enterprise carried on by a resident of the other State.

(*g*) The term "international traffic" means all sea or air transport operated by an enterprise whose place of effective management is situated in one of the States, except where the ship or aircraft operates exclusively between points situated in the other State.

(*h*) The term "national" means:

1. any individual who has the nationality of one of the States;
2. any corporate body, company or association whose legal status as such derives from the law in force in one of the States.

(*i*) The term "competent authority" means:

1. in the Netherlands, the Minister of Finance or his authorized representative;
2. in Surinam, the Minister of Finance or his authorized representative.

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

Article 4. FISCAL DOMICILE

1. For the purpose of this Convention, the term "resident of one of the States" means any person who, under the law of that State, is liable to taxation

therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. For the purpose of this Convention, an individual who is a member of a diplomatic or consular mission of one of the States in the other State or in a third State, and who is a national of the sending State, shall be deemed to be a resident of the sending State if he is subject therein to the same obligations in respect of taxes on income and capital as are residents of that State.

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

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

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

(*c*) If he has a habitual abode in both States or in neither of them, the competent authorities of the States shall settle the question by mutual agreement.

4. Where, by reason of paragraph 1, a company is a resident of both States, it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5. PERMANENT ESTABLISHMENT

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

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

(*a*) a place of management;

(*b*) a branch;

(*c*) an office;

(*d*) a factory;

(*e*) a workshop;

(*f*) a farm or plantation;

(*g*) a mine, oil well, quarry or other place of extraction of natural resources;

(*h*) the performance of building, construction, installation, assembly, excavation, reclamation, dredging or clearing activities or other similar activities not covered in subparagraph (*i*), or supervisory activities connected therewith, either lasting more than 3 months within a 12-month period, or as part of a project which is carried out successively by different enterprises for a period exceeding in the aggregate 3 months within a 12-month period;

(*i*) the performance of construction, installation or assembly activities pertaining to machinery and industrial equipment, or supervisory activities connected

therewith, either lasting more than 183 days within a 12-month period, or as part of activities successively performed by different enterprises for a period exceeding in the aggregate 183 days within a 12-month period;

(*j*) the rendering of services, including consultancy services, by an enterprise through an employee or other personnel where activities of that nature continue within one of the States for a period or periods exceeding in the aggregate 183 days within any 12-month period.

3. The term "permanent establishment" shall not be deemed to include:

(*a*) the use of facilities solely for the purpose of storage or display 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 or display;

(*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 advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in one of the States on behalf of an enterprise of the other State—other than agent of an independent status to whom paragraph 7 applies—shall be deemed to be a permanent establishment in the first-mentioned State if:

(*a*) he has, and habitually exercises in the first-mentioned State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

(*b*) he maintains in the first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.

5. An insurance enterprise of one of the States shall, except with regard to reinsurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that other State or insures risks therein through an employee or through a representative who is not an agent of an independent status within the meaning of paragraph 7.

6. An enterprise of one of the States which carries out serial mapping and similar serial activities for the purpose of taking inventories of natural auxiliary wells in the other State shall be deemed to have a permanent establishment within that other State.

7. An enterprise of one State shall not be deemed to have a permanent establishment in the other State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. However, where such a broker or agent carries out activities solely, or almost solely, for that enterprise itself or for that enterprise and other

enterprises which are controlled by or have a controlling interest in it, he shall not be considered an agent of an independent status within the meaning of this paragraph.

8. The fact that a company which is a resident of one of the States controls or is controlled by a company which is a resident of the other State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III. TAXATION OF INCOME

Article 6. INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property may be taxed in the State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the law of the 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, wells and other natural resources, as well as debt-claims of every kind secured by mortgage, excluding bonds or debentures; ships, boats and aircraft shall not be regarded as immovable property.

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

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

Article 7. BUSINESS PROFITS

1. The profits of an enterprise of one of the States shall be taxable only in that State unless the enterprise carries on business in the other 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 or is derived in the other State from the sale of goods or merchandise of the same kind as is sold through the permanent establishment, or from other business transactions of the same kind as are carried on through that establishment.

2. Where an enterprise in one of the States carries on business in the other State through a permanent establishment situated therein, there shall, in each 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.

4. In so far as it has been customary in a 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 State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment shall, however, be such that the result shall be in accordance with the principle laid down in this article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the establishment.

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, the provisions of those articles shall not be affected by the provisions of this article.

Article 8. SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, it shall be deemed to be situated in the State in which the home harbour of the ship is situated or, if there is no such home harbour, in the State of which the operator of the ship is a resident.

Article 9. ASSOCIATED ENTERPRISES

1. Where

(*a*) an enterprise of one of the States participates directly or indirectly in the management, control or capital of an enterprise of the other State, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the States and an enterprise of the other 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, 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 profits, in respect of which an enterprise of one of the States is subject to taxation in that State, are also included in the profits of an enterprise of the other State and taxed accordingly and these profits would have accrued to the enterprise of such other State if conditions had been made between the enterprises like those which would have been made between independent enterprises, the first-mentioned State shall adjust the amount accordingly to the

tax levied in that State on the profits. In making such adjustment the other provisions of this Convention relating to the nature of the profits shall be taken into account and for that purpose the competent authorities of the States shall consult each other as necessary.

Article 10. DIVIDENDS

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

2. However, such dividends may be taxed in the State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed:

(*a*) 7.5 per cent of the gross amount of the dividends, if the recipient is a company whose capital is divided, wholly or partly, into shares and which owns directly at least 25 per cent of the capital of the company paying the dividends, provided that the relationship between the two companies is not established or being maintained for the primary purpose of enjoying the benefit of the lower rate;

(*b*) 15 per cent of the gross amount of the dividends not specified in sub-paragraph (*a*), if the dividends are not included in the basis for levying the tax in the country of which the recipient is a resident;

(*c*) 20 per cent of the gross amount of the dividends in all other cases.

3. The provisions of paragraph 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

4. The term "dividends" as used in this article means income from shares, *jouissance* shares or *jouissance* rights, founders' shares or other rights participating in profits as well as income from bonds and debentures or debt-claims participating in profits and income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of one of the States, has in the other State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of article 7 shall apply.

6. Where a company which is a resident of one of the States derives profits or income from the other State, that other State may not impose any tax on dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid on the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. INTEREST

1. Interest arising in one of the States and paid to a resident of the other State may be taxed in that other State.

2. However, such interest may be taxed in the State in which it arises, and according to the law of that State, but the tax so charged shall not exceed:

(*a*) 5 per cent of the gross amount of the interest, if such interest is received through a bank or equivalent financial institution;

(*b*) 10 per cent of the gross amount of the interest in all other cases.

3. Notwithstanding the provisions of paragraph 2, the State in which the interest arises shall not tax interest paid to the other State or to a political subdivision or local authority thereof, or to an agency or body (including a financial institution) which is wholly owned by that State or by such a political subdivision or local authority.

4. The term "interest" as used in this article means income from government securities, bonds or debentures, whether or not secured by mortgage but not carrying a right to participate in profits, and debt-claims of every kind not secured by mortgage, as well as all other income assimilated by virtue of the taxation law of the State in which the income arises to income from money lent.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the interest, being a resident of one of the States, has in the other State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case the provisions of article 7 shall apply.

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

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each State, due regard being had to the other provisions of this Convention.

Article 12. ROYALTIES

1. Royalties arising in one of the States and paid to a resident of the other State may be taxed in that other State.

2. However, such royalties may be taxed in the State in which they arise, and according to the law of that State, but the tax so charged shall not exceed:

(*a*) 10 per cent of the gross amount of the royalties for cinematograph films and films or video-tapes and audio-tapes for television or radio broadcasting;

(*b*) 5 per cent of the gross amount of all other royalties.

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 video-tapes and audio-tapes for television or radio 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.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of one of the States, has in the other State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case the provisions of article 7 shall apply.

5. Royalties shall be deemed to arise in one of the States when the payer is that State itself, a political subdivision, a local authority or a resident of that State.

Where, however, the person paying the royalties, whether he is a resident of one of the States or not, has in one of the States a permanent establishment in connexion with which the contract under which the royalties are paid was concluded, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

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

Article 13. LIMITATIONS OF ARTICLES 10, 11 AND 12

International organizations, organs and officials thereof and members of a diplomatic or consular mission of a third State, being present in one of the States, are not entitled, in the other State, to the reductions from tax provided for in articles 10, 11 and 12 in respect of the items of income dealt with in these articles and arising in that State, if such items of income are not subject to a tax on income in the first-mentioned State.

Article 14. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, may be taxed in the State in which such property is situated.

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

3. Notwithstanding the provisions of paragraph 2, gains from the alienation of ships and aircraft operated in international traffic and of movable property

pertaining to the operation of such ships and aircraft shall be taxable only in the State in which the place of effective management of the enterprise is situated; for the purpose of this paragraph the provisions of article 8, paragraph 2, shall not apply.

4. Gains from the alienation of any property other than those mentioned in the foregoing paragraphs shall be taxable only in the State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of each of the States to levy, according to its own law, a tax on gains from the alienation of shares or *jouissance* rights in a company, which is a resident of that State, the capital of which is wholly or partly divided into shares, derived by an individual who is a resident of the other State and who in the course of the last five years preceding the alienation of the shares or *jouissance* rights has been a resident of the first-named State.

Article 15. INDEPENDENT PERSONAL SERVICES

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

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

Article 16. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 17, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of one of the States in respect of an employment shall be taxable only in that State unless the employment is exercised in the other State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in the other State.

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

(*a*) the recipient is present in that other State for a period or periods not exceeding in the aggregate 183 days within a 12-month period, and

(*b*) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other State, and

(*c*) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in that other State.

3. Notwithstanding the foregoing provisions of this article, remuneration derived by a resident of one of the States in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in that State.

Article 17. DIRECTOR'S FEES

Remuneration and similar payments derived by a resident of one of the States in his capacity as a *bestuurder* or *commissaris* of a company which is a resident of the other State may be taxed in that other State.

Article 18. ARTISTES AND ATHLETES

Notwithstanding the provisions of articles 5, 7, 15 and 16, income derived by professional entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such, or income derived from the provision by an enterprise of the services of such professional artistes or athletes, shall be taxed in the State in which these activities or services are carried out.

Article 19. PENSIONS

Subject to the provisions of article 20, paragraph 1, pensions and other similar remuneration paid to a resident of one of the States in consideration of past employment shall be taxable only in that State.

Article 20. GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of, funds created by one of the States or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature, may be taxed by that State.

2. Notwithstanding the provisions of paragraph 1 hereof, the provisions of articles 16, 17 and 19 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the States or a political subdivision or a local authority thereof.

3. Paragraph 1 shall not apply in so far as services are rendered to a State in the other State by an individual who is a resident and a national of that other State.

Article 21. STUDENTS

1. An individual who, immediately before visiting one of the States, is a resident of the other State and is temporarily present in the first-mentioned State for the primary purpose of:

(*a*) studying at a recognized university, college or school in that first-mentioned State, or

(*b*) receiving training as a business apprentice,

shall be exempt from tax in the first-mentioned State in respect of:

(i) all remittances from abroad for the purpose of his maintenance, education or training, and

(ii) any remuneration for personal services performed in the first-mentioned State up to an amount not exceeding 5,000 Dutch guilders or the equivalent thereof in Surinamese guilders in any taxable year.

The benefits under this paragraph shall extend only for such period of time as is reasonable or customarily required to fulfil the purpose of the visit.

2. An individual who, immediately before visiting one of the States, is a resident of the other State and is temporarily present in the first-mentioned State for a period not exceeding three years for the purpose of study, of scientific research or of training solely as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organization, or under a technical assistance programme in which one of the two States, a political subdivision or a local authority thereof participates, shall be exempted from tax in the first-mentioned State in respect of:

(*a*) the amount of such grant, allowance or award; and

(*b*) any remuneration for personal services performed in the first-mentioned State, provided such services are in connexion with his study, research or training or are incidental thereto up to an amount not exceeding 5,000 Dutch guilders or the equivalent thereof in Surinamese guilders.

3. An individual who, immediately before visiting one of the States, is a resident of the other State and is temporarily present in the first-mentioned State for a period not exceeding 12 months as an employee of, or under contract with, the last-mentioned State, a political subdivision or local authority thereof or an enterprise of the last-mentioned State, for the purpose of acquiring technical, professional or business experience, shall be exempted from tax in the first-mentioned State on:

(*a*) all remittances from the last-mentioned State for the purpose of maintenance education or training; and

(*b*) any remuneration for personal services performed in the first-mentioned State, provided such services are in connexion with his study or training or are incidental thereto up to an amount not exceeding 15,000 Dutch guilders or the equivalent thereof in Surinamese guilders.

However, the benefits under this paragraph shall not be granted if the technical, professional or business experience is acquired from a company of which 50 per cent or more of the voting stock is owned by the State, the political subdivision or the local authority thereof or the enterprise having sent the employee or the person working under contract.

Article 22. INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of one of the States which are not expressly mentioned in the foregoing articles of this Convention shall be taxable only in that State.

CHAPTER IV. TAXATION OF CAPITAL

Article 23. CAPITAL

1. Capital represented by immovable property, as defined in article 6, paragraph 2, may be taxed in the State in which such property is situated.

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the State in which the permanent establishment is situated.

3. Notwithstanding the provisions of paragraph 2, capital represented by ships and aircraft operated in international traffic, and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the State in which the place of effective management of the enterprise is situated, in accordance with the provisions of article 8, paragraph 2.

4. All other elements of capital of a resident of one of the States shall be taxable only in that State.

CHAPTER V

Article 24. ELIMINATION OF DOUBLE TAXATION

1. Each of the States, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income or capital which, according to the provisions of this Convention, may be taxed in the other State.

2. Without prejudice to the application of the provisions concerning the compensation of losses in its respective regulations for the avoidance of double taxation, each of the States shall allow a deduction from the amount of tax computed in conformity with paragraph 1 of this article equal to such part of that tax which bears the same proportion to the aforesaid tax as the part of the income or capital included in the basis mentioned in paragraph 1 of this article and taxed in the other State in accordance with articles 6, 7 and 10 (paragraph 5), article 11 (paragraph 5), article 12 (paragraph 4), article 14 (paragraphs 1 and 2), articles 15 and 16 (paragraph 1), articles 17 and 20 (paragraph 1) and article 23 (paragraphs 1 and 2) of the Convention bears to the total income or capital which forms the basis mentioned in paragraph 1 of this article.

3. Each of the States shall, moreover, allow a deduction from the tax computed in accordance with the preceding paragraphs of this article with respect to the items of income which may be taxed in the other State in accordance with article 10, paragraph 2, article 12, paragraph 2, and article 18 and are included in the basis mentioned in paragraph 1 of this article. The amount of this deduction shall be the lesser of the following amounts:

(*a*) the amount equal to the tax charged in the other State;

(*b*) the amount equal to the part which bears the same proportion to the amount of tax computed in conformity with paragraph 1 of this article as the amount of the said items of income which forms the basis mentioned in paragraph 1 of this article.

4. Where, by reason of relief given under the provisions of the Surinamese Investments Ordinance or on the basis of any other special legislation for promoting the economic development of Surinam, the Surinamese tax actually levied on dividends paid by a company which is a resident of Surinam and operates solely or almost solely as a bank or whose activities are chiefly concerned with agriculture, crops, forestry, fisheries, livestock, mining, industry, transport, public housing, tourism, infrastructure or any other production sector, amounts to less than the tax which Surinam could have levied under article 10, paragraph 2, subparagraph (*c*), the amount equal to the tax levied in Surinam on the dividends shall, for the purpose of the application by the Netherlands of paragraph 3 of this article, be deemed to be 20 per cent of the gross amount thereof.

5. Where, by reason of relief given under the Surinamese Investments Ordinance or on the basis of any other special legislation for promoting the economic development of Surinam, the Surinamese tax actually levied on interest arising in Surinam as provided for in article 11, paragraph 2, subparagraph (*b*), which is owed by a company operating solely or almost solely as a bank or by an enterprise whose activities are carried out chiefly in the sectors specified in paragraph 4 of this article, amounts to less than the tax which Surinam could have levied under article 11, paragraph 2, subparagraph (*b*), the amount equal to the tax levied in Surinam on the interest, shall, for the purpose of the application by the Netherlands of paragraph 3 of this article, be deemed to be the amount of the tax actually levied by Surinam thereon, increased by twice the difference between such amount and 10 per cent of the gross amount of the interest.

6. With respect to interest, as mentioned in article 11, paragraph 2, subparagraph (*a*), and royalties, as mentioned in article 12, paragraph 2, subparagraph (*b*), arising in Surinam, the amount equal to the Surinamese tax levied on the interest or royalties, as the case may be, shall, for the purpose of the application by the Netherlands of paragraph 3 of this article, be deemed to be 15 per cent of the gross amount thereof.

Where, however, by reason of relief given under the provisions of the Surinamese Investments Ordinance or on the basis of any other special legislation for promoting the economic development of Surinam, the Surinamese tax actually levied on the interest or on the royalties, as the case may be, is less than 5 per cent of the gross amount thereof, the percentage of 15 shall be raised by one percentage point for each percentage point below 5 levied by Surinam.

7. The provisions of paragraphs 4, 5 and 6 of this article shall not impose on the Netherlands any obligation to allow, in respect of the Surinamese tax on dividends, as mentioned in paragraph 4, or on interest, as mentioned in paragraph 5, or on royalties, as mentioned in paragraph 6, as the case may be, a deduction from the Netherlands tax larger than the tax which Surinam under its laws would have levied on the dividends, interest or royalties, as the case may be, in the absence of this Convention or of the obligations laid down in the Surinamese Investments Ordinance or in any other special legislation for the economic development of Surinam.

8. Where a resident of one of the States derives gains which may be taxed in the other State in accordance with article 14, paragraph 5, that other State shall allow a deduction from its tax on such gains up to an amount equal to the tax levied in the first-mentioned State on the said gains.

CHAPTER VI. SPECIAL PROVISIONS

Article 25. NON-DISCRIMINATION

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

2. Individuals who are residents of one of the States shall be entitled in the other State to any personal allowances, reliefs and reductions which are granted

by that other State to its own residents by reason of their civil status or family responsibilities.

3. The taxation on a permanent establishment which an enterprise of one of the States has in the other State shall in principle not be levied in that other State less favourably than the taxation levied on enterprises of that other State carrying out the same activities in otherwise similar circumstances.

4. Enterprises of one of the States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other 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 in that first-mentioned State are or may be subjected.

Article 26. MUTUAL AGREEMENT PROCEDURE

1. Where a resident of one of the States considers that the actions of one or both of the States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the State of which he is a resident.

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

3. The competent authorities of the States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

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

Article 27. EXCHANGE OF INFORMATION

The competent authorities of the States shall exchange such information as is necessary for the carrying out of this Convention or of the domestic laws of the States concerning the taxes covered by this Convention, in so far as the levying of such taxes is not at variance with this Convention. The exchange of information shall not be limited to article 1. All information obtained from one of the States shall be treated as secret, in the same way as information obtained under the domestic law of that State, and shall be disclosed only to persons or authorities (including judicial authorities and public bodies) concerned with assessment or collection, enforcement or judicial proceedings, or ruling on appeals, in respect of the taxes which are the subject of this Convention. The said persons or authorities shall not make use of such information otherwise than for the aforesaid purposes. These persons and authorities may disclose the information in public courts or in judicial decisions.

Article 28. ASSISTANCE

1. The States undertake to lend assistance to each other in the collection of taxes which are the subject of this Convention, including interest, costs, additions to taxes, and fines of a non-penal character.

2. In the cases of applications for the collection of taxes, tax claims of each State which have been finally determined shall be accepted for collection by the other State and collected in that State in accordance with the laws applicable to the collection of its own taxes, provided that such claims shall not enjoy priority in the latter State. The State applied to shall not be required to enforce executory measures for which there is no provision in the law of the applicant State.

3. All applications must be accompanied by documents establishing that under the law of the applicant State the taxes have been finally determined as provided in paragraph 2 of this article.

Article 29. LIMITATION OF ARTICLES 27 AND 28

The provisions of articles 27 and 28 shall not be construed as imposing on either State the obligation:

(*a*) to carry out administrative measures at variance with the law or administrative practice of that State or of the other State;

(*b*) to supply information which is not obtainable under the law or in the normal course of the administration of that State or of the other State;

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

Article 30. DIPLOMATIC AND CONSULAR OFFICIALS

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

Article 31. REGULATIONS

1. The competent authorities of the States shall regulate by mutual agreement the way in which article 10, paragraph 2, article 11, paragraphs 2 and 3, and article 12, paragraph 2, are to be applied.

2. The competent authorities of each of the States may, in accordance with the practices of that State, prescribe such regulations as may be necessary for carrying out the remaining provisions of this Convention.

Article 32. TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to the Netherlands Antilles. 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 upon in notes to be exchanged through the diplomatic channel.

2. Unless otherwise agreed, the termination of the Convention shall not terminate the application of the Convention to the Netherlands Antilles if it is extended to that country pursuant to this article.

CHAPTER VII. FINAL PROVISIONS

Article 33. ENTRY INTO FORCE

This Convention shall enter into force on the date on which the Contracting Parties have notified each other in writing that the internal formalities required in their respective countries for its entry into force have been complied with, and its provisions shall have effect for taxable years and periods on or after the date on which Surinam became independent.

Article 34. TERMINATION

1. This Convention shall remain in force until denounced by one of the Contracting Parties. Either Party may denounce the Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year after the year 1981. In such event the Convention shall cease to have effect for taxable years and periods beginning after the end of the calendar year in which the notice of termination is given.

2. Notwithstanding the provisions of paragraph 1, either of the Contracting Parties may denounce the application of article 8 of the Convention with respect to profits from the operation of ships separately, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year after the year 1977. In such event the said article shall cease to apply in respect of such profits to taxable years and periods beginning after the end of the calendar year in which the notice of termination is given.

3. Notwithstanding the provisions of paragraph 1, either of the Contracting Parties may denounce the application of article 8 of the Convention with respect to profits from the operation of aircraft separately, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year after the year 1980. In such event the said article shall cease to apply in respect of such profits to taxable years and periods beginning after the end of the calendar year in which the notice of termination is given.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Convention.

DONE, in two originals, in the Dutch language, at Paramaribo on 25 November 1975.

For the Government of the Kingdom of the Netherlands:

J. M. DEN UYL

For the Government of the Republic of Surinam:

H. A. E. ARRON

PROTOCOL

At the time of signing the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, this day concluded between the Kingdom of the Netherlands and the Republic of Surinam, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

I

Ad *article 4*. An individual living aboard a ship without any real domicile in either of the States shall be deemed to be a resident of the State in which the ship has its home harbour.

II

Ad *article 4*. Where a company, which is established under Surinamese law for the sole or virtually sole purpose of holding all or virtually all the share capital of other companies and is deemed to be a resident of the Netherlands in accordance with the provisions of article 4, paragraph 4, the profits which that company derives from the said holdings may be taxed in Surinam, but only at a rate of not more than 4 per cent. This provision shall not, however, affect the right of the Netherlands to levy taxes pursuant to the provisions of the Convention.

III

Ad *article 7*. Where a company which is a resident of the Netherlands carries on its business wholly or partly in Surinam with the assistance of a permanent establishment situated therein, the tax which Surinam may levy pursuant to article 7, paragraph 1, shall also include the tax which may be payable in Surinam in respect of transferred profits. The last-mentioned tax shall not, however, exceed 7.5 per cent of the amount transferred.

IV

Ad *article 7*. In the application of article 7, paragraph 3, no deduction shall be allowed in respect of amounts—except for those attributable to expenses actually incurred—which are charged by the head office of the enterprise or one of its other offices to the permanent establishment as royalties, compensation or other similar payments for the use of patents or other rights, or as commission for services rendered or for exercising management, or, except in the case of an enterprise carrying on banking operations, as interest on money made available to the permanent establishment. Similarly, in assessing the income of a permanent establishment, allowance shall not be made for amounts—except for those attributable to expenses actually incurred—which are charged by the permanent establishment to the head office of the enterprise or one of its other offices.

V

Ad *articles 7 and 25*. The provisions of article 7, paragraphs 2 and 3, and of article 25, paragraph 3, shall not entitle Surinam to tax under its own laws the profits accruing to the permanent establishment of an insurance enterprise.

VI

Ad *article 10*. The provisions of article 10, paragraph 2, shall not apply in respect of dividends paid by a company which is a resident of Surinam to a company which is a resident of the Netherlands, if the latter company is subject in the Netherlands to corporate tax on the dividends received. In such cases the provision in article 10, paragraph 2, subparagraph (*c*), shall apply.

VII

Ad *articles 10, 11 and 12*. Applications for the refund of taxes collected contrary to the provisions of articles 10, 11 and 12 must be submitted to the competent authority of the State which collected the tax within a period of five years after the end of the calendar year in which the tax was collected.

VIII

Ad *article 21*. The competent authorities of the States may adjust the amounts specified in article 21 by mutual agreement.

IX

Ad *article 24*. It is understood that:

(*a*) in so far as relates to the Netherlands income tax or company tax, the basis referred to in article 24, paragraph 1, is the gross income or the profits within the meaning of the Netherlands laws relating to the income tax or the company tax, as the case may be; and

(*b*) in so far as relates to the Surinamese income tax, this basis, in the case of individuals, is the gross income and, in the case of companies, the profits within the meaning of the Surinamese Ordinance on income tax.

X

Ad *article 24*. After a period of 10 years subsequent to the entry into force of this Convention, the competent authorities shall enter into negotiations with each other in order to determine whether there are grounds for amending the provisions of article 24, paragraphs 4, 5 and 6, of the Convention.

XI

Ad *article 28*. Neither State shall be required to imprison any person for the purpose of collecting taxes of the other State.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Protocol.

DONE, in two originals, in the Dutch language, at Paramaribo on 25 November 1975.

For the Government of the Kingdom of the Netherlands:

J. M. DEN UYL

For the Government of the Republic of Surinam:

H. A. E. ARRON