No. 7083

DENMARK
and
CEYLON

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and property. Signed at Colombo, on 16 February 1963

Official texts: Danish, Sinhalese and English.

Registered by Denmark on 4 February 1964.

DANEMARK
et
CEYLAN

Convention tendant à éviter la double imposition et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune. Signée à Colombo, le 16 février 1963

Textes officiels danois, cingalais et anglais.

Enregistrée par le Danemark le 4 février 1964.

No. 7083. CONVENTION[1] BETWEEN THE GOVERNMENT OF THE KINGDOM OF DENMARK AND THE GOVERNMENT OF CEYLON FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND PROPERTY. SIGNED AT COLOMBO, ON 16 FEBRUARY 1963

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

Article I

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

(*a*) In Denmark :

National income taxes and communal income taxes, and national property tax

(hereinafter referred to as " Danish tax ").

(*b*) In Ceylon :

The income tax and expenditure tax, the profits tax and the wealth tax (hereinafter referred to as " Ceylon tax ").

(2) This Convention shall also apply to any other taxes of a substantially similar character imposed in Denmark or Ceylon subsequently to the date of signature of this Convention.

Article II

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

(*a*) The term " Denmark " means the Kingdom of Denmark, excluding the Faroe Islands and Greenland;

(*b*) The terms " one of the territories " and " the other territory " mean Denmark or Ceylon, as the context requires;

[1] Came into force on 8 October 1963, the date of the exchange of the instruments of ratification at New Delhi, in accordance with article XIX.

(*c*) The term " competent authority " means, in the case of Denmark, the Minister of Finance or his authorised representative and in the case of Ceylon, the Commissioner of Inland Revenue;

(*d*) The term " tax " means Danish tax or Ceylon tax, as the context requires;

(*e*) The term " person " includes any individual, company and any body of persons, corporate or not corporate;

(*f*) The term " company " means any body corporate and any entity with juridical personality;

(*g*) The terms " resident of Denmark " and " resident of Ceylon " mean respectively any person who is resident in Denmark for the purposes of Danish tax and not resident in Ceylon for the purposes of Ceylon tax, and any person who is resident in Ceylon for the purposes of Ceylon tax and not resident in Denmark for the purposes of Danish tax; a company shall be regarded as resident in Denmark, if its business is managed and controlled in Denmark, or if it is incorporated under the laws of Denmark and not managed and controlled in Ceylon; a company shall be regarded as resident in Ceylon, if its business is managed and controlled in Ceylon, or if it is incorporated under the laws of Ceylon and not managed and controlled in Denmark;

(*h*) The terms " resident of one of the territories " and " resident of the other territory " mean a person who is a resident of Denmark or a person who is a resident of Ceylon, as the context requires;

(*i*) The terms " Danish enterprise " and " Ceylon enterprise " mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of Denmark and an industrial or commercial enterprise or undertaking carried on by a resident of Ceylon; and the terms " enterprise of one of the territories " and " enterprise of the other territory " mean a Danish enterprise or a Ceylon enterprise, as the context requires ;

(*j*) The term " industrial or commercial profits " includes, in particular, profits from the business of agriculture, mining, banking, insurance, life insurance or dealing in investments, and profits from rents or royalties in respect of cinematograph films, but does not include income in the form of dividends, interest, rents, royalties (other than rents or royalties in respect of cinematograph films), management charges, or remuneration for personal services;

(*k*) The term " permanent establishment " when used with respect to an enterprise of one of the territories means a branch, management, factory or other fixed place of business, an agricultural or farming estate, a mine, quarry or any other place of natural resources subject to exploitation. It does not include an agency unless the agent has, and habitually exercises a general authority to negotiate and conclude contracts on behalf of the enterprise or has a stock of merchandise from which he regularly fills orders on its behalf.

In this connection

(i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a bona fide broker acting in the ordinary course of his business as such;

(ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise;

(iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) In the application of the provisions of this Convention in one of the territories any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that territory relating to the taxes which are the subject of this Convention.

Article III

(1) The industrial or commercial profits of an enterprise of one of the territories shall not be subject to tax in the other territory unless the enterprise carries on a trade or business in that other territory through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits in that other territory, but only on so much of them as is attributable to that permanent establishment; provided that nothing in this paragraph shall affect the method of taxation of income from the business of insurance under the provisions of the law of either territory at the date of signature of this Convention.

(2) Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were

an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

Provided that nothing in this paragraph shall affect the computation of the profits derived by a Danish enterprise from the production of tea or other agricultural product in Ceylon in accordance with the provisions of the law of Ceylon at the date of signature of this Convention.

(3) No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

Article IV

Where

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

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory,

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

Article V

(1) When a resident of Denmark, operating ships or aircraft, derives profits from Ceylon through such operations carried on in Ceylon, such profits shall be subject to tax in Denmark as well as in Ceylon; but the tax so charged in Ceylon shall be reduced by an amount equal to 50 per cent of the tax so charged, and the reduced amount of Ceylon tax payable on the profits shall be allowed as a credit against Danish tax charged in respect of such income.

(2) When a resident of Ceylon, operating ships or aircraft, derives profits from Denmark through such operations carried on in Denmark, such profits shall be subject to tax in Ceylon as well as in Denmark; but the tax so charged in Denmark shall be reduced by an amount equal to 50 per cent of the tax so