

**AGREEMENT BETWEEN THE GOVERNMENT OF THE SOCIALIST
REPUBLIC OF VIETNAM AND THE GOVERNMENT OF THE KINGDOM
OF DENMARK FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE
PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON
INCOME**

**The Government of
the Socialist Republic of
Vietnam
and
the Government of
the Kingdom of Denmark,**

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income.

Have agreed as follows:

**ARTICLE 1
PERSONAL SCOPE**

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

**ARTICLE 2
TAXES COVERED**

1. This Agreement shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, 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 Agreement shall apply are:

a. in Vietnam:

- (i) the personal income tax;
- (ii) the profit tax; and
- (iii) the profit remittance tax;
(hereinafter referred to as "Vietnamese tax");

b. in Denmark:

- (i) the income tax to the State;
- (ii) the municipal income tax;
- (iii) the income tax to the country municipalities; and
- (iv) taxes imposed under the Hydrocarbon Tax Act;
(hereinafter referred to as "Danish tax").

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

ARTICLE 3 GENERAL DEFINITIONS

1. For the purposes of this Agreement, unless the context otherwise requires;
 - a. the term "Vietnam" means the Socialist Republic of Vietnam; when used in a geographical sense, it means all its national territory, including its territorial sea and any area beyond and adjacent to its territorial sea, within which Vietnam, by Vietnamese legislation and in accordance with international law, has sovereign rights of exploration for and exploitation of natural resources of the seabed and its subsoil and superjacent watermass;
 - b. the term "Denmark" means the Kingdom of Denmark including any area outside the territorial sea of Denmark which in accordance with international law has been or may hereafter be designated under Danish laws as an area within which Denmark may exercise sovereign rights with respect to the exploration and exploitation of the natural resources of the seabed or its subsoil and superjacent waters and with regard to other activities for the economic exploitation and exploration of the said area; the term does not comprise the Faroe Islands and Greenland;
 - c. the term "a Contracting State" and "the other Contracting State" mean Vietnam or Denmark as the context requires;
 - d. the term "person" includes an individual, a company and any other body of persons;
 - e. the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - f. the term "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and a enterprise carried on by a resident of the other Contracting State;
 - g. the term "nationals" means:
 - (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
 - h. the term "international traffic" means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State; and
 - i. The term "competent authority" means:
 - (i) in the case of Vietnam, the Minister of Finance or his authorized representative; and
 - (ii) in the case of Denmark, the Minister for Taxation or his authorized representative.
2. As regards the application of the Agreement by a Contracting State any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Agreement applies.

ARTICLE 4

RESIDENT

1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of registration or any other criterion of a similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a. he shall be deemed to be a resident 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 closer (centre of vital interests);
 - b. if the State in which he has his centre of vital interests cannot be determined, or if he has no permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - c. if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national.
 - d. if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provision of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of registration is situated. However, where such person has its place of registration in one of the States and its place of effective management in the other State, then the competent authorities of the Contracting State shall determine by mutual agreement the State of which the person shall be deemed to be a resident for the purposes of this Agreement. In the absence of such mutual agreement for the purposes of this Agreement, the person shall in each Contracting State be deemed not to be a resident of the other Contracting State.

ARTICLE 5 **PERMANENT ESTABLISHMENT**

1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business through which the business of the enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes especially:
 - a. a place of management;
 - b. a branch;
 - c. an office;
 - d. a factory;
 - e. a workshop; and
 - f. a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. The term "permanent establishment" likewise encompasses:
 - a. a building site, construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period of more than six months;

b. the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than six months within any 12-month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

- a. the use of facilities solely for the purpose of storage 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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f. the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a.) to (e.) provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned Contracting State in respect of any activities which that person undertakes for the enterprise, if such a person.

- a. has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph; or
- b. has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

ARTICLE 6

INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated and shall include any option or similar right in respect thereof. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provision of general law respecting landed property apply, usufruct of immovable property, rights to explore for or to exploit mineral deposits, sources and other natural resources and rights to amounts computed by reference to the amount or value of production from such resources; ships, boats and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to:
 - a. that permanent establishment; or
 - b. sales in that other State of goods or merchandise of the same or similar kind as those sold through that permanent establishment; or
 - c. other business activities carried on in that other State of the same or similar kind as those effected through that permanent establishment.

The provisions of subparagraphs (b) and (c) shall not apply if the enterprise shows that such sales or activities could not reasonably have been undertaken by that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business of the

permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. Nothing in this Article shall affect the application of any law of a Contracting State relating to the determination of the tax liability of a person in cases where the information available to the competent authority of that State is inadequate to determine the profits to be attributed to a permanent establishment, provided that such law shall be applied, so far as the information available to the competent authority permits, consistently with the principles of this Article.

5. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

7. 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.

8. Where profits include items of income which are dealt with separately in other Article of this Agreement, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8 **SHIPPING AND AIR TRANSPORT**

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

2. For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:

- a. income from rental on a bareboat basis of ships or aircraft; and
- b. profits from the use, maintenance or rental of containers (including trailers and related equipment for transport of containers) used for transport of goods or

merchandise, where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

4. With respect to profits derived by the Danish, Norwegian and Swedish air transport consortium, known as the Scandinavian Airlines System (SAS), the provisions of paragraphs 1 and 3 shall apply only to such proportion of the profits as corresponds to the participation in that consortium held by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).

ARTICLE 9 ASSOCIATED ENTERPRISES

1. Where

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

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

2. Nothing in this Article shall affect the application of any law of a Contracting State relating to the determination of the tax liability of a person, including determinations in cases where the information available to the competent authority of that State is inadequate to determine the income to be attributed to an enterprise, provided, that such law shall be applied, so far as it is practicable to do so, consistently with the principles of this Article.

3. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting state has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Agreement and the competent authorities of the Contracting State shall, if necessary, consult each other.

ARTICLE 10 DIVIDENDS

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

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

- a. 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 70 per cent or has invested at least twelve millions USD of the capital of the company paying the dividends;
- b. 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds less than 70 per cent but at least 25 per cent of the capital of the company paying the dividends;
- c. 15 per cent 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 or other rights, not being debt-claims, participating in profits, and 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.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other Contracting State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, not subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11 INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraphs 1 and 2,

a. interest arising in Vietnam shall be exempt from Vietnamese tax if the interest is paid to:

- (i) the State of Denmark, a political subdivision, a local authority or statutory body thereof;
 - (ii) the National Bank of Denmark;
 - (iii) any other institution the capital of which is wholly or mainly owned by the government of Denmark, as may be agreed from time to time between the competent authorities of the Contracting States;
- b. Interest arising in Denmark shall be exempt from Danish tax if the interest is paid to:
- (i) The Government of Vietnam, a political subdivision, a local authority or statutory body thereof;
 - (ii) The State Bank of Vietnam;
 - (iii) a statutory body, or any other institution the capital of which is wholly or mainly owned by the Government of Vietnam, as may be agreed from time to time between the competent authorities of the Contracting States.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, but not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.
5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the debt-claim in respect of which the interest is paid is effectively connected with (a) such permanent establishment or fixed base, or with (b) business activities referred to under (c) of paragraph 1 of Article 7. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness in which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 12

ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other Contracting State.
2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 15 per cent of the gross amount of the royalties. Notwithstanding the preceding sentence, if the royalties are paid with respect to any patent, design or model, plan, secret formula or process, or for information concerning industrial or scientific experience or for the use of or the right to use industrial, commercial or scientific equipment involving a transfer of know-how, the tax so charged shall not exceed 5 per cent of the gross amount of the 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, or films or tapes used for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment or for information concerning industrial, commercial or scientific experience.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with (a) such permanent establishment or fixed base or with (b) business activities referred to under (c) of paragraph 1 of Article 7. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, or a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, the such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Agreement.

ARTICLE 13

GAINS FROM THE ALIENATION OF PROPERTY

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains derived by a resident of a Contracting State from the alienation of shares or comparable interests in a company, the assets of which consist wholly or principally of immovable property situated in the other Contracting State, may be taxed in that other State.
4. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, or containers (including trailers and related equipment for transport of containers), the use of which is incidental to the operation of such ships or aircraft, shall be taxable only in that Contracting State. The provisions of this paragraph, however, shall not apply if the containers or trailers and related equipment are used for transport solely between places within the other Contracting State.
5. With respect to gains derived by the Danish, Norwegian and Swedish air transport consortium Scandinavian Airlines System (SAS), the provisions of paragraph 4 shall apply only to such proportions of the gains as corresponds to the participation in that consortium held by Det Danske Luftfartsselskab (DDL), the Danish partner of Scandinavian Airlines System (SAS).
6. Gains from the alienation of shares other than those mentioned in paragraph 3 representing a participation of at least 10 per cent in a company which is a resident of a Contracting State may be taxed in that State.
7. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4, 5 and 6 shall be taxable only in the Contracting State of which the alienator is a resident.
8. In the case of an individual who was a resident of a Contracting State and has become a resident of the other Contracting State, paragraphs 6 and 7 of this Article shall not affect the right of the first-mentioned State under its national laws to tax the individual on a capital appreciation up to the change of residence in respect of shares.

Where the shares are subsequently alienated and the gains from such alienation are taxed in the other Contracting State in accordance with this Article, that other State shall allow as a deduction from the tax on the income, an amount equal to the income tax which was paid in the first-mentioned State.

Such deduction shall not, however, exceed that part of the income tax as computed before the deduction is given which is attributable to the income which may be taxed in the first-mentioned State in accordance with the first sentence of this paragraph.

ARTICLE 14
INDEPENDENT PERSONAL
SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, where such income may also be taxed in the other Contracting State:

- a. if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- b. if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned; in that case, only so much of the income as is derived from his activities performed in that other State may be taxed in that State.

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

ARTICLE 15
DEPENDENT PERSONAL
SERVICES

1. Subject to the provisions of Articles 16, 18, 19 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a. the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending in the fiscal year concerned, and
 - b. the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
- c. the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic by an enterprise of a Contracting State shall be taxable only in that State.

4. Where a resident of Denmark derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Denmark.

ARTICLE 16 **DIRECTORS' FEES**

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE 17 **ARTISTES AND SPORTSMEN**

1. Notwithstanding the provisions of Articles 14 and 15, income derived by an resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsmen, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.
3. Notwithstanding the provisions of paragraphs 1 and 2, income derived by entertainers or sportsmen who are residents of a Contracting State from activities in the other Contracting State under a plan of cultural exchange between the Governments of both Contracting States shall be exempt from tax in that other Contracting State.

ARTICLE 18 **PENSIONS AND** **SIMILAR PAYMENTS**

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.
2. In the case of an individual who was a resident of a Contracting State and has become a resident of the other Contracting State, paragraph 1 of this Article shall not affect the right of the first State under its national laws to tax pensions, other similar remuneration and annuities accruing to such individual from the first State.
3. The term "annuities" means stated sums payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

ARTICLE 19 GOVERNMENT SERVICE

- 1.a. Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- b. However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
- 2.a. Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority may be taxed in that State.
- b. However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that other State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 20 STUDENTS AND APPRENTICES

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.
2. Notwithstanding the provisions of paragraph 1, remuneration which a student or a business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training derives from services rendered in that other State shall not be taxed in that other State provided that such services are in connection with his education or training and that the remuneration for such services is necessary to supplement the resources available to him for the purpose of his maintenance.

ARTICLE 21 TEACHERS, PROFESSORS AND RESEARCHERS

An individual who is, or immediately before visiting a Contracting State was, a resident of the other Contracting State and is present in the first-mentioned Contracting State for the primary purpose of teaching, giving lectures or conducting research at a university, college, school or educational institution or scientific research institution accredited by the Government of the first-mentioned Contracting State shall be exempt from tax in the first mentioned Contracting State, for a period of two years from the

date of his arrival in the first-mentioned Contracting State, in respect of remuneration for such teaching, lectures or research.

ARTICLE 22 OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Agreement shall be taxable only in that State.
2. However, any such income derived by a resident of a Contracting State from sources in the other Contracting State may also be taxed in that other State.
3. The provisions of paragraph 1 shall not apply to the income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

ARTICLE 23 ACTIVITIES IN CONNECTION WITH PRELIMINARY SURVEYS, EXPLORATION OR EXTRACTION OF HYDROCARBONS

Notwithstanding the provisions of Article 5 and Article 14, a person who is a resident of a Contracting State and carries on activities in connection with preliminary surveys, exploration or extraction of hydrocarbons situated in the other Contracting State shall be deemed to be carrying on in respect of those activities a business in that other Contracting State through a permanent establishment or fixed base situated therein.

ARTICLE 24 ELIMINATION OF DOUBLE TAXATION

1. In Vietnam double taxation shall be eliminated as follows:

Where a resident of Vietnam derives income which, in accordance with this Agreement, may be taxed in Denmark, Vietnam shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid thereon in Denmark.

Such deduction shall not, however, exceed that part of the income tax in Vietnam as computed before the deduction is given, which is attributable to the income which may be taxed in Denmark.

2. In Denmark double taxation shall be eliminated as follows:

a. Subject to the provisions of subparagraph (c.), where a resident of Denmark derived income which, in accordance with the provisions of this Agreement, may be taxed in

Vietnam, Denmark shall allow as a deduction from the tax on the income of that resident, an amount equal to the income tax paid in Vietnam.

b. Such deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Vietnam.

c. Where a resident of Denmark derives income which, in accordance with the provisions of the Agreement, shall be taxable only in Vietnam, Denmark may include this income in the tax base, but shall allow as a deduction from the income tax that part of the income tax, which is attributable to the income derived from Vietnam.

d. For the purposes of subparagraphs (a.) and (b.) of this paragraph the Vietnamese tax paid in respect of royalties received (which can not according to paragraph 2 of Article 12 exceed 5 per cent of the gross amount of such royalty) as a consideration for the use of any patent, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience shall, where it has been used in an activity (other than business activities in the financial sector) which has been carried out in Vietnam, be deemed to have been paid at a rate of 12,5 per cent of the gross amount of the royalties.

This provision shall not apply where royalties are paid in respect of assets, as mentioned in this subparagraph, which are sold by the payer and leased back by the recipient to the payer (or an associated enterprise within the meaning of Article 9) of the royalties.

e. Where exemption from or reduction of Vietnamese tax, payable in accordance with the provisions of Article 7 in respect of profits derived by a Danish enterprise from a permanent establishment situated in Vietnam, has been granted under Vietnamese law, then, for the purposes of subparagraphs (a.) and (b.), deduction from Danish tax for Vietnamese tax shall be allowed as if no such exemption or reduction had been granted, provided that the permanent establishment is engaged in business activities (other than business) activities in the financial sector) and that no more than 25 per cent of such profits consist of interest and gains from the alienation of shares and bonds or consist of profits derived from third State.

f. Where dividends are paid by a company which is a resident of Vietnam to a person (being a Company) which is a resident of Denmark, and which owns directly or indirectly not less than 25 per cent of the share capital of the first-mentioned company, then such dividends shall be exempt from tax in Denmark, provided that the company paying the dividends is engaged in business activities (other than business activities in the financial sector) and that no more than 25 per cent of the company's profits consist of interest and gains from the alienation of shares and bonds or consist of profits derived from third States.

g. In the case of a dividend paid by a company which is a resident of Vietnam to a company which is a resident of Denmark and which owns at least 10 per cent of the share capital of the company paying the dividends, if the dividend is not exempt from Danish tax in accordance with subparagraph (f), the credit for the purposes of subparagraphs (a.) and (b.) of this paragraph shall take into account the Vietnamese tax payable by the company paying the dividend in respect of the profits out of which such dividend is paid.

h. The provisions in subparagraphs (d.), (e.) and (f.) shall apply for the first ten years for which the Agreement is effective. The competent authorities shall consult each other in order to determine whether this period shall be extended. Any such extension

shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting State in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

ARTICLE 25 **LIMITATION OF BENEFITS**

Without prejudice to subparagraph (f.) of paragraph 1 of Article 24, where any person derives income from a source situated outside Vietnam and such income is exempt from tax under the laws of Vietnam and also exempt from tax in Denmark under this Agreement, Denmark may tax such income under its own laws notwithstanding the provisions of this Agreement.

ARTICLE 26 **NON-DISCRIMINATION**

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. The provisions of paragraphs 2 and 4 of this Article shall not apply to the Vietnamese profit remittance tax, which in any case shall not exceed 10 per cent of the gross amount of profits remitted, and the Vietnamese taxation in respect of agricultural production activities.

6. Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.
7. The provisions of this Article shall apply only to the taxes which are the subject of this Agreement.
8. Notwithstanding the provisions of this Article, for so long as Vietnam continues to grant to investors licenses under the Law on Foreign Investment in Vietnam, which specify the taxation to which the investor shall be subjected, the imposition of such taxation shall not be regarded as breaching the terms of paragraphs 2 and 4 of this Article.

ARTICLE 27 **MUTUAL AGREEMENT** **PROCEDURE**

1. Where a person who is a resident of a Contracting State considers that the actions of the competent authority of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which that person is a resident, or if his case comes under paragraph 1 of Article 26, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Agreement.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance of taxation which is not in accordance with this Agreement. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall jointly endeavour to resolve any difficulties or doubts arising as to the application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.
4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. The competent authorities, through consultations, shall develop appropriate bilateral procedures, conditions, methods and techniques for the implementation of the mutual agreement procedure provided for in this Article. In addition, a competent authority may devise appropriate unilateral procedures, conditions, methods and techniques to facilitate the above-mentioned bilateral actions and the implementation of mutual agreement procedures.

ARTICLE 28 **EXCHANGE OF INFORMATION**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement or of the domestic laws of the Contracting States concerning taxes covered by the Agreement insofar as the taxation thereunder is not contrary to the Agreement. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Agreement. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.
2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:
 - a. to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
 - b. to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
 - c. to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

ARTICLE 29 **DIPLOMATIC AGENTS AND** **CONSULAR OFFICERS**

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

ARTICLE 30 **TERRITORIAL EXTENSION**

1. This Agreement may be extended, either in its entirety or with any necessary modifications to the territories under Denmark's sovereignty which are specifically excluded from the application of the agreement or to any territory for whose international relations Denmark is responsible, and which imposes taxes substantially similar in character to those to which the Agreement applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the termination of the agreement by one of them under Article 32 shall also terminate, in the manner provided for in that Article, the application of the Agreement to any territory to which it has been extended under this Article.

ARTICLE 31 **ENTRY INTO FORCE**

1. The Governments of the Contracting States shall notify to each other that the constitutional requirements for the entry into force of this Agreement have been complied with. This Agreement shall enter into force on the date of the later of these notifications.

2. This Agreement shall have effect:

a. in Vietnam:

- (i) in respect of taxes withheld at source, in relation to taxable amounts paid on or after 1 January following the calendar year in which the Agreement enters into force;
- (ii) in respect of other Vietnamese taxes, in relation to income, profits or gains arising in the calendar year following the calendar year in which the Agreement enters into force;

b. in Denmark:

- (i) in respect of taxes withheld at source, in relation to taxable amounts paid on or after 1 January following the calendar year in which the Agreement enters into force;
- (ii) in respect of other Danish taxes, in relation to income, profits or gains arising in the tax year beginning on or after 1 January in the calendar year following the year in which the Agreement enters into force.

ARTICLE 32 **TERMINATION**

This Agreement shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Agreement, through diplomatic channels, by giving to the other Contracting State written notice of termination at least six months before the end of any calendar year after the expiry of five years from the date of entry into force of the Agreement. In such event the Agreement shall cease to have effect:

a. in Vietnam:

- (i) in respect of taxes withheld at source, in relation to taxable amounts paid on or after 1 January following the calendar year in which the notice of termination is given;
- (ii) in respect of other Vietnamese taxes, in relation to income, profits or gains arising in the calendar year following the calendar year in which the notice of termination is given, and in subsequent calendar years;

b. in Denmark:

- (i) in respect of taxes withheld at source, in relation to taxable amounts paid on or after 1 January following the calendar year in which the notice of termination is given;

(ii) in respect of other Danish taxes, in relation to income, profits or gains arising in the tax year beginning on or after 1 January in the calendar year following the year in which the notice of termination is given, and in subsequent calendar years.

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

DONE in duplicate at Copenhagen this 31st day of May of the year one thousand nine hundred and ninety-five in the Vietnamese, Danish and English languages, all three texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the Socialist Republic of Vietnam: (signed)	For the Government of the Kingdom of Denmark: (signed)
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PROTOCOL

At the moment of signing the Agreement between the Government of the Socialist Republic of Vietnam and the Government of the Kingdom of Denmark for the on income the undersigned have agreed upon the following provisions which shall constitute an integral part of the Agreement.

With respect to Article 5, paragraphs 4 and 5

In respect of subparagraphs (a.) and (b.) of paragraph 4 of Article 5, it is understood that the maintenance of a stock of goods or merchandise solely for the purpose of future delivery or facilities used solely for the purpose of future delivery of goods or merchandise of an enterprise of a Contracting State in the other Contracting State shall not constitute a permanent establishment in the other Contracting State as long as the conditions of subparagraph (b.) of paragraph 5 of the same Article are not fulfilled.

With respect to Article 13, paragraph 8

The competent authorities of a Contracting State shall upon request of the other Contracting State inform the competent authorities of that other State in cases where tax is levied in accordance with the provisions of this paragraph. Details shall be given about the calculation of the tax and about the tax base.

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

DONE in duplicate at Copenhagen this 31st day of May of the year one thousand nine hundred and ninety-five in the Vietnamese, Danish and English languages, all three texts being equally authentic. In case of divergence of interpretation, the English text shall prevail.

For the Government of the Socialist Republic of Vietnam: (signed)	For the Government of the Kingdom of Denmark: (signed)
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This Agreement entered into force on 24 Apr. 1996