Convention between the Argentine Republic and the Federative Republic of Brazil for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income

Unofficial translation

PUBLICATION-DATE: May 17, 1980

Entry into Force: In accordance with Article XXVIII of the Convention, it entered into force on 7 December 1982. The provisions of the Convention have effect, in general, as from 1 January 1983.

The Government of the Argentine Republic and the Government of the Federative Republic of Brazil, with the purpose of concluding a Convention for the avoidance of double taxation and the prevention of tax evasion with respect to taxes on income,

Have agreed as follows:

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ARTICLES:

Article I Personal scope

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

Article II Taxes covered

1. The existing taxes to which the Convention shall apply are:

(a) in the Argentine Republic:
   -- the income tax ("impuesto a las ganancias");
   -- the capital gains tax ("impuesto a los beneficios eventuales")
   (hereinafter referred to as "Argentine tax");

(b) in the Federative Republic of Brazil:
   -- the income tax, exclusive of the taxes on excess remittances and on activities of minor importance
   (hereinafter referred to as "Brazilian tax").

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

Article III General definitions

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

(a) the term "Argentina" means the Argentine Republic;

(b) the term "Brazil" means the Federative Republic of Brazil;

(c) the term "nationals" means:

(i) all individuals having the nationality of one of
Article IV Resident

1. For further purposes of this Convention, the term
"resident of a Contracting State" means any person who, under the laws of that State, is deemed to be a resident thereof by reason of his domicile or residence, place of management 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 Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (center of vital interests);

(b) if the Contracting State in which he has his center of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

(c) if he has an habitual abode in both Contracting States or in neither of them he shall be deemed to be a resident of the Contracting State of which he is a national;

(d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article V Permanent establishment

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;
(d) a factory;

(e) a workshop;

(f) a mine, a quarry or any other place of extraction of natural resources;

(g) a building site or construction or installation project which lasts more than six months.

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

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for 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 any other activity of a preparatory or auxiliary character, for the enterprise.

4. A person who is acting in a Contracting State on behalf of an enterprise of the other Contracting State -- other than an agent of an independent status to whom paragraph 5 applies -- shall be deemed to be a permanent establishment in the first-mentioned State if he has and habitually exercises in that 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. However, an insurance company of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it receives premiums or insures risks in that other State.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting 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, provided that such persons are acting in the ordinary course of their business.
6. 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.

7. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it provides in that other State the services of artistes or athletes to whom Article XVII applies.

Article VI Income from immovable property

1. Income derived from immovable property, including income from agriculture or forestry, may be taxed in the Contracting State in which such property is situated.

2. (a) Subject to the provisions of paragraphs (b) and (c) below, 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.

(b) The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.

(c) 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, renting 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 VII Business profits

1. The profits of an enterprise of a Contracting State
shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

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

3. In determining 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.

4. 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.

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

Article VIII Air transport, land transport, shipping and inland waterways transport

1. Profits from international traffic derived by enterprises engaged in air transport, land transport, shipping and inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, in the Contracting State of which the operator of the ship or boat is a resident.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business
4. The Convention between Argentina and Brazil of June 21, 1949 for the avoidance of double taxation on income from the operation of shipping and air transport and the agreement between Argentina and Brazil of March 15, 1972 for the avoidance of double taxation on income from the operation of inland transportation in international traffic shall cease to apply as regards taxes covered by this Convention during the period in which this Convention is in force.

Article IX Associated enterprises

Where

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

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

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

Article X 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.

3. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment or a fixed base with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of
Articles VII or XIV, as the case may be, shall apply.

4. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident.

5. Where a company which is a resident of Argentina has a permanent establishment in Brazil, the permanent establishment can be subject to a tax withheld at source in accordance with Brazilian law.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article XI 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.

3. Notwithstanding the provisions of paragraphs 1 and 2:

(a) interest arising in a Contracting State and paid to the Government of the other Contracting State, a political subdivision thereof or an agency (including a financial institution) wholly owned by that Government or political subdivision shall be exempt from tax in the first-mentioned Contracting State;

(b) interest from public debt, securities or bonds issued by the Government of a Contracting State, a political subdivision thereof or an agency (including a financial institution) wholly owned by that Government or political subdivision shall be taxable only in that State.
4. The term "interest" as used in this Article means income from public debt, securities or bonds, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and from debt-claims of every kind, as well as other income which under the tax law of the State in which they arise is subject to the same treatment as income from loans.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision thereof 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 on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment or a fixed base in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article VII or Article XIV, as the case may be, shall apply.

7. Where, by reason of a special relationship between the payer and the creditor 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 creditor in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article XII Royalties

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

2. However, the aforesaid royalties may be taxed in the Contracting State in which they arise under the laws of that State.
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, films or 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. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision or local authority thereof, 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 obligation to pay the royalties was incurred and such royalties are borne by the permanent establishment or fixed base, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment or fixed base, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article VII or Article XIV, as the case may be, shall apply.

6. Where, by reason of a special relationship between the payer and the creditor 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 creditor in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article XIII Capital gains

1. Gains derived from the alienation of property may be taxed in the Contracting States according to the domestic law of each State.

2. Notwithstanding the provisions of paragraph 1, gains from the alienation of vehicles operated in international
traffic, or of immovable /1/ property pertaining to the
operation of such vehicles, belonging to an enterprise to
which Article VIII applies, shall be taxable only in the
Contracting State in which the place of effective
management of the enterprise is situated.

Footnote./1/ In the Portuguese official text the word
"immovable" is used. Translator wonders whether this is a
printing error and that the word "movable" is meant.

Article XIV 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
unless:

(a) the payment of such services or activities is
borne by a company which is a resident of the other
Contracting State or is due by a permanent
establishment or fixed base situated in that other
State; or

(b) such services or activities are rendered in the
other Contracting State and the beneficial owner

(i) is present in that other State for a period
or periods exceeding in the aggregate 183 days in
the fiscal year; or

(ii) has in that other State a fixed base
habitually available to him for the exercise of
his activities, but only in so far as the income
is attributable to that fixed base.

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

Article XV Dependent personal services

1. Subject to the provisions of Articles XVI, XVIII, XIX,
XX and XXI, 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 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 vehicle operated in international traffic, by an enterprise to which Article VIII applies, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Article XVI 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 or any other board of a company which is a resident of the other Contracting State may be taxed in that other State.

Article XVII Artists and athletes

Notwithstanding the provisions of Articles XIV and XV, income derived by an entertainer, such as a theater, motion picture, radio or television artist, or a musician, or as an athlete, from his personal activities as such may be taxed in the Contracting State in which the activities are exercised.

Article XVIII Pensions and annuities

1. Pensions and other similar remuneration paid in consideration of past employment, as well as the annuities and similar income, shall be taxable only in the Contracting State from which they are paid.

2. In this Article:
(a) the term "pensions and other similar remuneration" means periodical amounts paid after retirement in consideration of past employment or as a compensation for damages sustained in connection with past employment;

(b) the term "annuities and similar income" means a stated sum payable periodically at stated times, during life or during a previously specified or ascertainable period of time, under an obligation to make the payments in return for full and adequate consideration in money or money's worth (other than services rendered).

Article XIX Government service and social security payments

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:

(i) is a national of that State; or

(ii) not being a national of that State, was a resident of that State during the period preceding the rendering of the services.

2. 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 shall be taxable only in that State.

3. The provisions of Articles XV, XVI and XVIII shall apply to remuneration and pensions paid 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.

4. Pensions paid out of funds belonging to the Social Security system of a Contracting State shall be taxable only in that State.

Article XX Professors and researchers
An individual who is, or was immediately before visiting a Contracting State, a resident of the other Contracting State and who, invited by the first-mentioned Contracting State or by an University, college-level teaching establishment, school, museum or other cultural institution of the first-mentioned Contracting State, or who, under an official program of cultural exchange, is present in that State for a period not exceeding two years with the sole purpose of teaching, lecturing or researching at the aforementioned institutions, shall be exempt from taxation in that State as regards remuneration received for those activities, provided the payment of the remuneration originates outside that State.

Article XXI Students and apprentices

1. An individual 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 Contracting State solely:

(a) as a student at a University, college or school of the first-mentioned Contracting State;

(b) as a beneficiary of a scholarship, subvention or prize granted by a religious, charity, scientific, or teaching institution with the primary purpose of performing study or research;

(c) as a member of a technical cooperation program developed by the Government of the other Contracting State; or

(d) as an apprentice

is exempt from tax in the first-mentioned Contracting State as regards sums received from abroad to finance his expenses, education or training.

2. An individual 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 Contracting State solely for the purpose of his study or training, is exempt from tax in the first-mentioned Contracting State for a period not exceeding 3 consecutive fiscal years, as regards remuneration arising from employment exercised in that State for the purpose of his study or training.

Article XXII Other income

Items of income of a resident of a Contracting State not
Article XXIII Methods for the avoidance of double taxation

1. Where a resident of Brazil derives income which in accordance with the provisions of this Convention may be taxed in Argentina, Brazil, notwithstanding the provisions of paragraph 2, shall allow as a deduction from the tax it levies on the income of that resident an amount equal to the income tax paid in Argentina.

However, such deduction shall not 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 Argentina.

2. Dividends which are taxable in Argentina under the provisions of this Convention, paid by a company being a resident of Argentina to a company being a resident of Brazil which holds more than 10 percent of the capital of the paying company, shall be exempt from tax in Brazil.

3. Where a resident of Argentina derives income which under the provisions of this Convention is taxable in Brazil, Argentina shall exempt such income from tax, unless it is deemed to arise in Argentina.

Article XXIV 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 favorably levied in that other State than the taxation levied on enterprises of that other Contracting 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. Enterprises of a Contracting State, the capital of which


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

4. This Article applies only to taxes covered by this Convention.

Article XXV Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

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

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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

Article XXVI Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for
carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention and levied under the same Convention. Any information received by a Contracting State shall be treated as secret and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of the taxes covered by the Convention.

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 commercial, industrial or professional secret or trade process, or information the disclosure of which would be contrary to public policy (ordre public).

Article XXVII 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 XXVIII Entry into force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Brasilia as soon as possible.

2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

-- as regards taxes withheld at source, to amounts paid on or after January 1 of the calendar year immediately following the year in which the Convention enters into force;

-- as regards other taxes covered by this Convention to the taxable period beginning on or after January 1 of the calendar year immediately following the year in which the Convention enters into force.

Article XXIX Termination
This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year as of the third year following its entry into force. In such event the Convention shall apply for the last time:

-- as regards taxes withheld at source to amounts paid before the end of the calendar year in which notice of termination has been given;

-- as regards other taxes covered by this Convention to amounts received during the taxable period beginning in the calendar year in which notice of termination has been given.

In witness whereof the Plenipotentiaries of the two Contracting States have signed this Convention and have affixed hereto their Seals.

Done in Buenos Aires on May 17, 1980, in two copies, in the Spanish and Portuguese languages each text being equally authentic.

For the Government of the Argentine Republic:

Carlos W. Pastor

For the Government of the Federative Republic of Brazil:

Ramiro Saraiva Guerreiro

PROTOCOL

At the moment of the signature of the Convention for the avoidance of double taxation with respect to taxes on income between the Argentine Republic and the Federative Republic of Brazil, the undersigned, duly authorized for that purpose, have agreed upon the following provisions which constitute an integral part of the Convention.

1. With reference to Article II

It is understood that the tax on profit remittances provided for in the Argentine foreign investment law is not covered by the provisions of Article II and, therefore, is not an integral part of the Convention.

2. With reference to Article V

It is understood that cases to which Article V, paragraphs 3(d) and 4, applies are also covered by paragraph 2 of this Article, where the purchase is followed by exportation of the goods or merchandise.
3. With reference to Article VII, paragraph 1

It is understood that in case of amendments in the Brazilian income tax law involving a change in the treatment applicable to branches of Brazilian enterprises located abroad as in force on the date of the signature of this Protocol, Argentina may request the revision of Article VII, paragraph 1, of the Convention.

4. With reference to Article X, paragraph 4

It is understood that, in the case of Brazil, the term "dividends" also covers any distribution corresponding to certificates of an investment fund resident of Brazil.

5. With reference to Article XI, paragraph 3

It is understood that, for the purposes of Article XI paragraph 3, the term "an agency" covers those institutions specified by mutual agreement of the competent authorities and

(a) in the case of Argentina: the Central Bank of the Argentine Republic, the National Bank of Development and the National Mortgage Bank;

(b) in the case of Brazil: the Central Bank of Brazil, the National Bank of Economic Development, the regional and state development banks and the National Bank of Housing.

6. With reference to Article XI, paragraph 5

It is understood that:

(a) in the case of Argentina, interest is deemed to arise in that State when the capital on which the interest is paid is placed or economically used in its territory;

(b) in the case of Brazil, interest is deemed to arise in that State, when it is paid by a person resident or domiciled in Brazil or by a permanent establishment or fixed base situated therein and belonging to non-resident persons or to persons domiciled abroad.

7. With reference to Article XII, paragraph 3

It is understood that the provisions of paragraph 3 of Article XII apply to income arising from the use or the right to use international news and from the rendering of technical services and of technical, scientific, administrative and similar assistance.

8. With reference to Article XII, paragraph 4
It is understood that:

(a) in the case of Argentina, "royalties" are deemed to arise in that State when the property from the transfer of which they arise is placed or economically used in its territory;

(b) in the case of Brazil, "royalties" are deemed to arise in that State when they are paid by a person resident or domiciled in Brazil or by a permanent establishment or fixed base situated therein and belonging to non-resident persons or to persons domiciled abroad.

9. With reference to Article XIV

It is understood that provisions of Article XIV apply even if the activities are performed by a company.

10. With reference to Article XXIII

It is understood that exemptions and deductions from the Argentine tax on profits, whether total or partial, shall not apply as far as those exemptions or deductions can result in a transfer of revenue to the Brazilian treasury.

11. With reference to Article XXIII, paragraph 3

It is understood that income from property situated, placed or economically used in Argentine territory, from performing therein any action or activity that may produce profits, or from events which have occurred therein, is deemed to arise in Argentina.

12. With reference to Article XXIV, paragraph 2

(a) It is understood that the provisions of paragraph 5 of Article X are not at variance with the provisions of paragraph 2 of Article XXIV.

(b) Article XXIV, paragraph 2, is not deemed to cover the provisions of Argentine law regarding the taxation of a permanent establishment that an enterprise of Brazil has in Argentina.

13. With reference to Article XXIV, paragraph 3

The provisions of Brazilian law disallowing the deduction for the computation of the taxable income of a company resident of Brazil of "royalties", as defined in paragraph 3 of Article XII, paid by the company resident of Brazil to a resident of Argentina which holds at least 50 percent of the voting capital of that company are not at variance with the provisions of paragraph 3 of Article XXIV of the Convention.
In witness whereof the Plenipotentiaries of the two Contracting States have signed this Protocol and have affixed hereto their Seals.

Done in Buenos Aires on May 17, 1980, in two copies in the Spanish and Portuguese languages, each text being equally authentic.

For the Government of the Argentine Republic:

Carlos W. Pastor

For the Government of the Federative Republic of Brazil:

Ramiro Saraiva Guerreiro