

No. 30679

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**MEXICO  
and  
GERMANY**

**Agreement for the avoidance of double taxation with respect to taxes on income and on capital (with protocol). Signed at Mexico City on 23 February 1993**

*Authentic texts: Spanish and German.*

*Registered by Mexico on 17 February 1994.*

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**MEXIQUE  
et  
ALLEMAGNE**

**Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et d'impôts sur la fortune (avec protocole). Signé à Mexico le 23 février 1993**

*Textes authentiques : espagnol et allemand.*

*Enregistré par le Mexique le 17 février 1994.*

## [TRANSLATION — TRADUCTION]

[AGREEMENT<sup>1</sup> BETWEEN THE UNITED MEXICAN STATES AND THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL]<sup>2</sup>

The United Mexican States and the Federal Republic of Germany,  
Desiring to foster their economic relations by removing obstacles of a fiscal nature,  
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 and on capital imposed on behalf of the two Contracting States or of their federative entities, political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply are in particular:

(a) In the United Mexican States:

(aa) The income tax (*el impuesto sobre la renta*),

(bb) The tax on business property (*el impuesto al activo*),

(hereinafter referred to as “Mexican tax”);

(b) In the Federal Republic of Germany:

(aa) The income tax (*Einkommensteuer*),

(bb) The corporation tax (*Körperschaftsteuer*),

(cc) The tax on capital (*Vermögensteuer*),

(dd) The business tax (*Gewerbesteuer*),

(hereinafter referred to as “German tax”);

4. The Agreement shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Agreement in addition to

<sup>1</sup> Came into force on 30 December 1993, i.e., 30 days after the exchange of the instruments of ratification, which took place at Bonn on 30 November 1993, in accordance with article 28 (2).

<sup>2</sup> The text between brackets does not appear in the authentic German text.

or in place of the existing taxes. The competent authorities of the Contracting States shall notify each other of material 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 terms “a Contracting State” and “the other Contracting State” mean the United Mexican States or the Federal Republic of Germany, depending on the context, and, when used in the geographical sense for the purposes of this Agreement, the area in which the taxation laws of the State concerned are in force;

(b) The term “person” means an individual or company;

(c) The term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;

(d) The terms “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 an enterprise carried on by a resident of the other Contracting State;

(e) The term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between two places in the other Contracting State;

(f) The term “competent authority” means, in the case of the United Mexican States, the Ministry of Finance and Public Credit and, in the case of the Federal Republic of Germany, the Federal Ministry of Finance.

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 or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, 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 not a permanent home available to him in either State, he shall be deemed to be a resident of the Contracting State in which he has a habitual abode;

(c) If he has a 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 not a national of either Contracting State, or if under German law he is a national of both States, the competent authorities of the two Contracting States shall settle the question by mutual agreement.

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

#### Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Agreement, 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, an oil or gas well, a quarry or any other place of extraction of natural resources.

3. The term “permanent establishment” likewise encompasses a building site, a 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.

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, 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 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, such activities as advertising, supply of information, scientific research, preparations for the placement of loans, or any other activity of a preparatory or auxiliary character;

(f) The maintenance of a fixed place of business solely for the purpose of carrying on a combination of the activities referred to in subparagraphs (a) to (e), provided that the combined activities of the fixed place of business retain their 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 7 applies — is acting on behalf of an enterprise and has and habitually exercises in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of all the activities which that person undertakes for 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.

6. Notwithstanding the provisions of this article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business through a broker, a general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business and that conditions are not made or imposed in their commercial or financial relations with such enterprises which differ from those which would generally be made by independent agents.

8. 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 a 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. 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; 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 share-cropping, 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 activities.

#### *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 State through a