

MINISTRY OF FINANCE**(Department of Revenue)****NOTIFICATION**

New Delhi, the 30th March, 2026

(Income-Tax)

S.O. 1647(E).—Whereas, the Protocol, amending the Convention and the Protocol between the Government of the Republic of India and the Government of the Federative Republic of Brazil for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, which was signed at New Delhi on the 26th April, 1988, as amended by the Protocol signed at Brasilia on the 15th October, 2013, was signed at Brasilia on the 24th August, 2022, as set out in the Annexure appended to this notification (hereinafter referred to as the said Amending Protocol);

And whereas, the date of entry into force of the said amending Protocol is the 18th October, 2025, being 30th day after the date of the receipt of the later of the notifications of the completion of the legal requirements and procedures for entry into force of the said Amending Protocol in accordance with paragraph 2 of Article 22 of the said Amending Protocol;

And whereas, sub-paragraph (a) of paragraph 2 of Article 22 of the said Protocol provides that the provisions of this Agreement shall have effect in India in respect of income arising in any previous year on or after the first day of April immediately following the calendar year in which the Amending Protocol enters into force.

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 90 of the Income-tax Act, 1961 (43 of 1961), the Central Government hereby notifies that all the provisions of the said Amending Protocol, as set out in the Annexure hereto, shall be given effect to in the Union of India.

[No. 39/2026 F. No. CBDT/1/2022-FT&TR-V Section-CBDT(Part-1)]

Shri BHASKAR GOSWAMI, Jt. Secy.

PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF INDIA AND THE GOVERNMENT OF THE FEDERATIVE REPUBLIC OF BRAZIL FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT NEW DELHI ON 26 APRIL 1988 (AS AMENDED BY THE PROTOCOL SIGNED IN OCTOBER 2013)

The Government of the Republic of India and the Government of the Federative Republic of Brazil,

Desiring to amend the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at New Delhi on 26 April 1988 (as amended by the protocol signed in October 2013) (hereinafter referred to as “the Convention”);

Have agreed as follows:

ARTICLE 1

The preamble to the Convention shall be deleted and replaced by the following:

“The Republic of India and the Federative Republic of Brazil,

Intending to conclude a Convention for the elimination of double taxation with respect to taxes on income without creating opportunities for non-taxation or reduced taxation through tax evasion or avoidance (including through treaty-shopping arrangements aimed at obtaining reliefs provided in this Convention for the indirect benefit of residents of third States),

Have agreed as follows:”

ARTICLE 2

The following new paragraph 2 shall be included in Article 1 of the Convention:

“2. This Convention shall not affect the taxation, by a Contracting State, of its residents except with respect to the benefits granted under Articles 19, 20, 21, 23, 24, 25 and 27.”

ARTICLE 3

Article 2 of the Convention shall be deleted and replaced by the following:

“ARTICLE 2

Taxes covered

1. This Convention 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. The taxes to which the Convention shall apply are:
 - a) in the case of India:
the income tax including any surcharge thereon;
(hereinafter referred to as "Indian tax");
 - b) in the case of Brazil:
the federal income tax
(hereinafter referred to as "Brazilian tax").
3. The Convention shall also apply 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 abovementioned taxes. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.”

ARTICLE 4

Article 3 of the Convention shall be deleted and replaced by the following:

“ARTICLE 3

General definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the term “India” means the territory of India and includes the territorial sea and airspace above it, as well as any other maritime zone in which India has sovereign rights, other rights and jurisdiction according to the Indian law and in accordance with international law;
 - b) the term “Brazil” means the Federative Republic of Brazil and, when used in a geographical sense, means the territory of the Federative Republic of Brazil, as well as the area of the sea-bed, its subsoil and the superjacent water column adjacent to the territorial sea, wherein the Federative Republic of Brazil exercises sovereign rights or jurisdiction in conformity with international law and its national legislation for the purpose of exploring, exploiting, conserving and managing the living and non-living natural resources or for the production of energy from renewable sources;
 - c) the terms "a Contracting State" and "the other Contracting State" means the Republic of India or the Federative Republic of Brazil, as the context requires;
 - d) the term "person" includes an individual, a company, a body of persons and any other entity which is treated as a taxable unit under the taxation laws in force in the respective Contracting States;
 - e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - f) the terms "enterprise of 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;
 - g) the term "enterprise" applies to the carrying on of any business;
 - h) the term "international traffic" means any transport by a ship or aircraft, except when the ship or aircraft is operated solely between places in a Contracting State and the enterprise that operates the ship or aircraft is not an enterprise of that State;
 - i) 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 law in force in a Contracting State;
 - j) the term "tax" means Indian tax or Brazilian tax, as the context requires

- k) the term "competent authority" means:
 - (i) in India: the Finance Minister, Government of India or his authorized representative;
 - (ii) in Brazil: the Minister of Economy, the Special Secretary of the Federal Revenue of Brazil or their authorized representative;
- l) the term "fiscal year" means:
 - (i) In the case of India: the financial year beginning on the first day of April;
 - (ii) In the case of Brazil: the calendar year beginning on the first day of January

2. As regards the application of the Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State for the purposes of the taxes to which the Convention applies and any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State."

ARTICLE 5

Article 4 of the Convention shall be deleted and replaced by the following:

"ARTICLE 4

Resident

1. For the purposes of this Convention, 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, legal head office, place of incorporation, place of management or any other criterion of a similar nature and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. When 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 not a 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 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 only of the State in which its place of effective management is situated. If the State in which its place of effective management is situated cannot be determined, then the Competent Authorities of the Contracting States shall endeavour to settle the question by mutual agreement. In the absence of such agreement, such person shall not be entitled to any relief or exemption from tax provided by this Convention except to the extent and in such manner as may be agreed upon by the competent authorities of the Contracting States."

ARTICLE 6

Article 5 of the Convention shall be deleted and replaced by the following:

"ARTICLE 5

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, an oil or gas well, a quarry or other place of extraction of natural resources;
- g) a building site or construction or assembly project which exists for more than six months.

3. The term "permanent establishment" also encompasses the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only if activities of that nature continue within a Contracting State for a period or periods aggregating more than 183 days in any 12-month period commencing or ending in the fiscal year concerned.

4. For the sole purpose of determining whether the six month period referred to in subparagraph g) of paragraph 2 has been exceeded,

- a) where an enterprise of a Contracting State carries on activities in the other Contracting State at a place that constitutes a building site or construction or assembly project and these activities are carried on during one or more periods of time that, in the aggregate, exceed 30 days without exceeding six months, and;
- b) connected activities are carried on at the same building site or construction or assembly project during different periods of time, each exceeding 30 days, by one or more enterprises closely related to the first-mentioned enterprise,

these different periods of time shall be added to the period of time during which the first-mentioned enterprise has carried on activities at that building site or construction or assembly project.

5. 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;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) to e),

provided that such activity or, in the case of subparagraph f), the overall activity of the fixed place of business, is of a preparatory or auxiliary character.

5.1. Paragraph 5 shall not apply to a fixed place of business that is used or maintained by an enterprise if the same enterprise or a closely related enterprise carries on business activities at the same place or at another place in the same Contracting State and

- a) that place or other place constitutes a permanent establishment for the enterprise or the closely related enterprise under the provisions of this Article, or
- b) the overall activity resulting from the combination of the activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, is not of a preparatory or auxiliary character,

provided that the business activities carried on by the two enterprises at the same place, or by the same enterprise or closely related enterprises at the two places, constitute complementary functions that are part of a cohesive business operation.

6. Notwithstanding the provisions of paragraphs 1 and 2, but subject to the provisions of paragraph 7, where a person is acting in a Contracting State on behalf of an enterprise and, in doing so, habitually concludes contracts, or habitually plays the principal role leading to the conclusion of contracts that are routinely concluded without material modification by the enterprise, and these contracts are

- a) in the name of the enterprise, or
- b) for the transfer of the ownership of, or for the granting of the right to use, property owned by that enterprise or that the enterprise has the right to use, or
- c) for the provision of services by that enterprise,

that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 5 which, if exercised through a fixed place of business (other than a fixed place of business to which paragraph 5.1 would apply), would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

7. Paragraph 6 shall not apply where the person acting in a Contracting State on behalf of an enterprise of the other Contracting State carries on business in the first-mentioned State as an independent agent and acts for the enterprise in the ordinary course of that business. Where, however, a person acts exclusively or almost exclusively on behalf of one or more enterprises to which it is closely related, that person shall not be considered to be an independent agent within the meaning of this paragraph with respect to any such enterprise.

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 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.

9. For the purposes of this Article, a person or enterprise is closely related to an enterprise if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same persons or enterprises. In any case, a person or enterprise shall be considered to be closely related to an enterprise if one possesses directly or indirectly more than 50 per cent of the beneficial interest in the other (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) or if another person or enterprise possesses directly or indirectly more than 50 per cent of the beneficial interest (or, in the case of a company, more than 50 per cent of the aggregate vote and value of the company's shares or of the beneficial equity interest in the company) in the person and the enterprise or in the two enterprises."

ARTICLE 7

Article 8 of the Convention shall be deleted and replaced by the following:

"ARTICLE 8

Shipping and Air Transport

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

2. Profits derived by a transportation enterprise which is a resident of a Contracting State from the use, maintenance, or rental of containers (including trailers and other equipment for the transport of containers) used for the transport of goods or merchandise which is incidental to the income from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State unless the containers are used solely within the other Contracting State.

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."

ARTICLE 8

1. Paragraph 2 of Article 10 of the Convention shall be deleted and replaced by the following:

"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 beneficial owner of the dividends is a resident

of the other Contracting State, the tax so charged shall not exceed:

- a) 10 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 20 per cent of the capital of the company paying the dividends throughout a 365 day period that includes the day of the payment of the dividend (for the purpose of computing that period, no account shall be taken of changes of ownership that would directly result from a merger or divisive reorganisation, or from a change of legal form, of the company that holds the shares or that pays the dividend); or
- b) 15 per cent of the gross amount of the dividends in all other cases.”

2. Paragraph 4 of Article 10 of the Convention shall be deleted and replaced by the following:

“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.”

3. Paragraph 6 of Article 10 of the Convention shall be deleted and replaced by the following:

“6. 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 in so far as such dividends are paid to a resident of that other State or in so far 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 9

1. Paragraphs 2 and 3 of Article 11 of the Convention shall be deleted and replaced by the following:

“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 beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed:

- a) 10 per cent of the gross amount of the interest if the beneficial owner is a bank and the loan has been granted for at least five years for the financing of the purchase of equipment or of investment projects; or
- b) 15 per cent of the gross amount of the interest in all other cases.”

2. Subparagraph a) of paragraph 3 of Article 11 of the Convention shall be deleted and replaced by the following:

“a) interest arising in Contracting State and paid to the Government of the other Contracting State, a political subdivision or local authority thereof, the Central Bank or any agency (including a financial institution) wholly owned by that Government or political subdivision shall be exempt from tax in the first-mentioned State, unless subparagraph b) applies;”

3. Paragraphs 5, 6 and 7 of Article 11 of the Convention shall be deleted and replaced by the following:

“5. The provisions of paragraphs 1 and 2 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 such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

6. The tax rate limitation provided for in paragraph 2 shall not apply to interest arising in a Contracting State and paid to a permanent establishment of an enterprise of the other Contracting State which is situated in a third State if such interest is effectively taxed at a lower rate in the other State than it would be if the interest was directly paid to the enterprise of that other State.

7. Interest shall be deemed to arise in a Contracting State when the payer is 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 State in which the permanent establishment or fixed base is situated.”

ARTICLE 10

1. Paragraph 2 of Article 12 of the Convention shall be deleted and replaced by the following:

“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 beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed:

- a) 15 per cent of the gross amount of the royalties arising from the use or the right to use trademarks;
- b) 10 per cent of the gross amount of the royalties in all other cases.”

2. Paragraphs 4 and 5 of Article 12 of the Convention shall be deleted and replaced by the following:

“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 such permanent establishment or fixed base. 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 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 a 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, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.”

ARTICLE 11

The following new Article 12-A shall be inserted immediately after Article 12 of the Convention:

“ARTICLE 12-A

Fees for technical services

1. Fees for technical services arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, notwithstanding the provisions of Article 14 and subject to the provisions of Articles 8, 16 and 17, fees for technical services arising in a Contracting State may also be taxed in the Contracting State in which they arise and according to the laws of that State, but the beneficial owner of the fees is a resident of the other Contracting State, the tax so charged shall not exceed 10 percent of the gross amount of the fees.
3. The term “fees for technical services” as used in this Article means any payment in consideration for any service of a managerial, technical or consultancy nature, unless the payment is made:
 - a) to an employee of the person making the payment;
 - b) for teaching in an educational institution or for teaching by an educational institution; or
 - c) by an individual for services for the personal use of an individual.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of fees for technical services, being a resident of a Contracting State, carries on business in the other Contracting State in which the fees for technical services arise through a permanent establishment situated in that other State, or performs in the other Contracting State independent personal services from a fixed base situated in that other State, and the fees for technical services are effectively connected with such permanent establishment or fixed base. In such cases the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. For the purposes of this Article, subject to paragraph 6, fees for technical services shall be deemed to arise in a Contracting State if the payer is a resident of that State or if the person paying the fees, whether that person 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 obligation to pay the fees was incurred, and such fees are borne by the permanent establishment or fixed base.
6. For the purposes of this Article, fees for technical services shall be deemed not to arise in a Contracting State if the payer is a resident of that State and carries on business in the other Contracting State

through a permanent establishment situated in that other State or performs independent personal services through a fixed base situated in that other State and such fees are borne by that permanent establishment or fixed base.

7. Where, by reason of a special relationship between the payer and the beneficial owner of the fees for technical services or between both of them and some other person, the amount of the fees, having regard to the services 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 fees shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.”

ARTICLE 12

Article 13 of the Convention shall be deleted and replaced by the following:

“ARTICLE 13

Capital gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6, which is 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 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 that an enterprise of a Contracting State that operates ships or aircraft in international traffic derives from the alienation of such ships or aircraft, or of movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.
4. Gains from the alienation of shares in a company which is a resident of a Contracting State may be taxed in that State.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 may be taxed in both Contracting States.”

ARTICLE 13

Article 14 of the Convention shall be deleted and replaced by the following:

“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, when 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 any twelve-month period commencing or ending 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 other State.
2. The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.”

ARTICLE 14

1. Paragraphs 2 and 3 of Article 15 of the Convention shall be deleted and replaced by the following:

“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 by a resident of a Contracting State in respect of an employment, as a member of the regular complement of a ship or aircraft, that is exercised aboard a ship or aircraft operated in international traffic, other than aboard a ship or aircraft operated solely within the other Contracting State, shall be taxable only in the first-mentioned State.”

ARTICLE 15

Article 17 of the Convention shall be deleted and replaced by the following:

“ARTICLE 17

Artistes and sportspersons

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as theatre, motion picture, radio or television artist, or a musician, or as a sportsperson, 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 sportsperson in his capacity as such accrues not to the entertainer or sportsperson 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 sportsperson are exercised.
3. The provisions of paragraphs 1 and 2 of this Article shall not apply to income derived from activities performed in a Contracting State by an entertainer or a sportsperson if the visit to that Contracting State is substantially supported by public funds of, or sponsored by the other Contracting State, including those of any political subdivision or local authority.”

ARTICLE 16

Paragraphs 2 and 3 of Article 19 of the Convention shall be deleted and replaced by the following:

“2.

- a) Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration 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.
- b) However, such pensions and other similar remuneration 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, 17 and 18 shall apply to salaries, wages, pensions, and other similar remuneration 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 17

Article 23 of the Convention shall be deleted and replaced by the following:

“ARTICLE 23

Methods for the elimination of double taxation

1. Where a resident of a Contracting State derives income which may be taxed in the other Contracting State, in accordance with the provisions of this Convention (except to the extent that these provisions allow taxation by that other State solely because the income is also income derived by a resident of that State), the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the income tax paid in that other State. Such deduction in either case shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in that other State.
2. Where, in accordance with any provision of this Convention, income derived by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.”

ARTICLE 18

Paragraph 2 of Article 24 of the Convention shall be deleted and replaced by the following:

“2. The taxation of 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. This provision shall not be construed as preventing a Contracting State from charging the profits of a permanent establishment which a company of the other Contracting State has in the first-mentioned State at a rate of tax which is higher than that imposed on the profits of a similar company of the first-mentioned Contracting State, nor as being in conflict with the provisions of paragraph 3 of Article 7.”

ARTICLE 19

Paragraph 1 of Article 25 of the Convention shall be deleted and replaced by the following:

“1. Where a person 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. 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 Convention.”

ARTICLE 20

The following new Article 26-A shall be inserted immediately after Article 26 of the Convention:

“ARTICLE 26-A**Entitlement to benefits**

1. Except as otherwise provided in this Article, a resident of a Contracting State shall not be entitled to a benefit that would otherwise be accorded by this Convention (other than a benefit under paragraph 3 of Article 4 or Article 25) unless such resident is a “qualified person”, as defined in paragraph 2, at the time that the benefit would be accorded.
2. A resident of a Contracting State shall be a qualified person at a time when a benefit would otherwise be accorded by the Convention if, at that time, the resident is:
 - a) an individual;
 - b) that Contracting State, or a political subdivision or local authority thereof, or an agency or instrumentality of that State, political subdivision or local authority;
 - c) a company or other entity, if the principal class of its shares is regularly traded on one or more recognised stock exchanges;
 - d) a person, other than an individual, that is a non-profit organisation agreed upon by the competent authorities of the Contracting States;
 - e) a person other than an individual if, at that time and on at least half of the days of a twelve-month period that includes that time, persons who are residents of that Contracting State and that are entitled to benefits of this Convention under subparagraphs a) to d) own, directly or indirectly, at least 50 per cent of the shares of the person.
3.
 - a) A resident of a Contracting State shall be entitled to benefits under this Convention with respect to an item of income derived from the other Contracting State, regardless of whether the resident is a qualified person, if the resident is engaged in the active conduct of a business in the first-mentioned State and the income derived from the other State emanates from, or is incidental to, that business. For purposes of this Article, the term “active conduct of a business” shall not include the following activities or any combination thereof:
 - (i) operating as a holding company;
 - (ii) providing overall supervision or administration of a group of companies;
 - (iii) providing group financing (including cash pooling); or
 - (iv) making or managing investments, unless these activities are carried on by a bank or

financial institution agreed upon by the competent authorities of the Contracting States, insurance enterprise or registered securities dealer in the ordinary course of its business as such.

- b) If a resident of a Contracting State derives an item of income from a business activity conducted by that resident in the other Contracting State, or derives an item of income arising in the other State from a connected person, the conditions described in subparagraph a) shall be considered to be satisfied with respect to such item only if the business activity carried on by the resident in the first-mentioned State to which the item is related is substantial in relation to the same or complementary business activity carried on by the resident or such connected person in the other Contracting State. Whether a business activity is substantial for the purposes of this paragraph shall be determined based on all the facts and circumstances.
 - c) For purposes of applying this paragraph, activities conducted by connected persons with respect to a resident of a Contracting State shall be deemed to be conducted by such resident.
4. A resident of a Contracting State that is not a qualified person shall nevertheless be entitled to a benefit that would otherwise be accorded by this Convention with respect to an item of income if, at the time when the benefit otherwise would be accorded and on at least half of the days of any twelve-month period that includes that time, persons that are equivalent beneficiaries own, directly or indirectly, at least 75 per cent of the shares of the resident.
5. If a resident of a Contracting State is neither a qualified person pursuant to the provisions of paragraph 2 of this Article, nor entitled to benefits under paragraph 3 or 4, the competent authority of the Contracting State in which benefits are denied under the previous provisions of this Article may, nevertheless, grant the benefits of this Convention, or benefits with respect to a specific item of income, taking into account the object and purpose of this Convention, but only if such resident demonstrates to the satisfaction of such competent authority that neither its establishment, acquisition or maintenance, nor the conduct of its operations, had as one of its principal purposes the obtaining of benefits under this Convention. The competent authority of the Contracting State to which a request has been made, under this paragraph, by a resident of the other State, shall consult with the competent authority of that other State before either granting or denying the request.
6. For the purposes of this and the previous paragraphs of this Article:
- a) the term “recognised stock exchange” means:
 - (i) any stock exchange established and regulated as such under the laws of either Contracting State; and
 - (ii) any other stock exchange agreed upon by the competent authorities of the Contracting States;
 - b) with respect to entities that are not companies, the term “shares” means interests that are comparable to shares;
 - c) the term “principal class of shares” means the class or classes of shares of a company or entity which represents the majority of the aggregate vote and value of the company or entity;
 - d) two persons shall be “connected persons” if one owns, directly or indirectly, at least 50 per cent of the beneficial interest in the other (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) or another person owns, directly or indirectly, at least 50 per cent of the beneficial interest (or, in the case of a company, at least 50 per cent of the aggregate vote and value of the company's shares) in each person. In any case, a person shall be connected to another if, based on all the relevant facts and circumstances, one has control of the other or both are under the control of the same person or persons.
 - e) the term “equivalent beneficiary” means any person who would be entitled to benefits with respect to an item of income accorded by a Contracting State under the domestic law of that Contracting State, this Convention or any other international agreement which are equivalent to, or more favourable than, benefits to be accorded to that item of income under this Convention. For the purposes of determining whether a person is an equivalent beneficiary with respect to dividends received by a company, the person shall be deemed to be a company and to hold the same capital of the company paying the dividends as such capital the company claiming the benefit with respect to the dividends holds.
7. The competent authorities of the Contracting States may by mutual agreement settle the mode of

application of this Article.

8.

a) Where

- (i) an enterprise of a Contracting State derives income from the other Contracting State and the first-mentioned State treats such income as attributable to a permanent establishment of the enterprise situated in a third jurisdiction, and
- (ii) the profits attributable to that permanent establishment are exempt from tax in the first-mentioned State,

the benefits of this Convention shall not apply to any item of income on which the tax in the third jurisdiction is less than the lower of 15 per cent of the amount of that item of income and 60 per cent of the tax that would be imposed in the first-mentioned State on that item of income if that permanent establishment were situated in the first-mentioned State. In such a case any income to which the provisions of this paragraph apply shall remain taxable according to the domestic law of the other State, notwithstanding any other provisions of the Convention.

- b) The preceding provisions of this paragraph shall not apply if the income derived from the other State emanates from, or is incidental to, the active conduct of a business carried on through the permanent establishment (other than the business of making, managing or simply holding investments for the enterprise's own account, unless these activities are banking, insurance or securities activities carried on by a bank, insurance enterprise or registered securities dealer, respectively).
- c) If benefits under this Convention are denied pursuant to the preceding provisions of this paragraph with respect to an item of income derived by a resident of a Contracting State, the competent authority of the other Contracting State may, nevertheless, grant these benefits with respect to that item of income if, in response to a request by such resident, such competent authority determines that granting such benefits is justified in light of the reasons such resident did not satisfy the requirements of this paragraph (such as the existence of losses). The competent authority of the Contracting State to which a request has been made under the preceding sentence shall consult with the competent authority of the other Contracting State before either granting or denying the request.

9. Notwithstanding the other provisions of this Convention, a benefit under this Convention shall not be granted in respect of an item of income if it is reasonable to conclude, having regard to all relevant facts and circumstances, that obtaining that benefit was one of the principal purposes of any arrangement or transaction that resulted directly or indirectly in that benefit, unless it is established that granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention."

ARTICLE 21

The Protocol to the Convention shall be deleted and replaced by the following:

"Protocol

It is agreed that the following provisions constitute an integral part of the Convention:

1. With reference to the Convention

It is understood that the provisions of this Convention shall in no case prevent a Contracting State from the application of the provisions of its domestic laws and measures concerning tax avoidance or evasion, whether or not described as such.

2. With reference to Article 2

It is understood that in the case of Brazil the social contribution on the net profits (Contribuição Social sobre o Lucro Líquido, CSLL) created by Law 7,689 of 15 December 1988 is included in the taxes referred to in subparagraph a) of paragraph 2 of Article 2.

3. With reference to Article 3

It is understood that the term "tax" in subparagraph j) of paragraph 1 of Article 3 shall not include any amount which is payable in respect of any default or omission in relation to the taxes to which this

Convention applies or which represents a penalty or fine imposed relating to those taxes. Further, the amounts payable for the aforementioned default, omission, penalty or fine shall not be taken into account for giving tax credit.

4. With reference to Articles 9 and 25

It is understood that the absence of a clause providing for an obligation of a Contracting State to make an appropriate corresponding adjustment cannot be construed so as to hinder a Contracting State to make such an appropriate adjustment if it has been agreed to in the course of a mutual agreement procedure.

5. With reference to Article 11

It is understood that, in respect of paragraph 4 of Article 11, interest paid as “interest on the company’s equity” (“juros sobre o capital próprio” in Portuguese) in accordance with Brazilian tax law is also considered interest for the purposes of paragraph 4 of Article 11.

6. With reference to Article 12-A

It is understood that the provisions of paragraph 3 of Article 12-A shall apply to payments of any kind received as consideration for the rendering of technical assistance.

7. With reference to Article 20

It is understood that the terms “museum or other cultural institution” shall refer only to such organizations which have been approved in this regard by the competent authority of the Contracting State concerned.

8. With reference to Article 24

a) It is understood that the provisions of paragraph 5 of Article 10 are not in conflict with the provisions of paragraph 2 of Article 24.

b) It is understood that the provisions of the Brazilian tax law on the limitation of deductibility of royalties, as defined in paragraph 3 of Article 12, while determining taxable income of a permanent establishment under paragraph 3 of Article 7 are not in conflict with the provisions of paragraph 2 of Article 24 of the present Convention.”

ARTICLE 22

1. Each of the Contracting States shall notify the other in writing, through the diplomatic channel, of the completion of the procedures required by its laws for the bringing into force of this Protocol.

2. This Protocol shall enter into force on the 30th (thirtieth) day after the date of the receipt of the later of the notifications referred to in paragraph 1 and shall have effect:

a) in India:

in respect of income arising in any previous year beginning on or after the first day of April immediately following the calendar year in which the Protocol enters into force;

b) in Brazil:

(i) in respect of taxes withheld at source, to amounts paid or credited on or after the first day of January of the calendar year immediately following that in which the Protocol enters into force;

(ii) in respect of other taxes covered by the Convention, for the taxable year beginning on or after the first day of January of the calendar year immediately following that in which the Protocol enters into force.

ARTICLE 23

This Protocol shall cease to have effect at such time as the Convention ceases to have effect in accordance with Article 29 of the Convention.

In witness whereof the undersigned, being duly authorized thereto by their respective Governments, have signed this Protocol.

Done at Brasillia this 24th day of August, 2022 in duplicate in the Hindi, Portuguese and English languages, all three tests being equally authentic. Incase of any divergence of interpretation the English text shall prevail.

FOR

**THE FEDERATIVE REPUBLIC OF
BRAZIL**

CARLOS ALBERTO FRANCO FRANCE

FOR

THE REPUBLIC OF INDIA

S. JAISHANKAR
EXTERNAL AFFAIRS MINISTERS