

**TAX TREATY BETWEEN  
THE ITALIAN REPUBLIC AND  
THE CZECHOSLOVAK SOCIALIST REPUBLIC,  
FOR THE AVOIDANCE OF DOUBLE TAXATION IN THE FIELD OF TAXES ON  
INCOME AND THE PREVENTION OF TAX EVASION  
5 MAY 1981<sup>1</sup>**

The Italian Republic and the Czechoslovak Socialist Republic,

Desiring to conclude a Convention for the avoidance of double taxation in the field of taxes on income and the prevention of tax evasion, have agreed upon the following provisions:

*Article 1 - Personal scope*

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

*Article 2 - Taxes covered*

1. This Convention shall apply to taxes on income on behalf of each of the Contracting States, of its political subdivisions or local entities, irrespective of the manner in which they are levied.

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

3. The existing taxes to which the Convention applies are:

a) in the case of Czechoslovakia:

- 1) the levy and the tax on profit (odvod ze zisku a dan ze zisku);
  - 2) the wages tax (dan ze mzdy);
  - 3) the tax on income from literary and artistic activities (dan z prjmu z liter rni a umeleck, cinnosti);
  - 4) the tax on agriculture (dan zemedelsk );
  - 5) the tax on the income of the inhabitants (dan z prjmu obyvateľstva);
  - 6) the house tax (dan domovnj);
- including the taxes withheld at the source, the deductions (prècomptes) and advance tax levied (hereinafter referred to as "Czechoslovak tax");

b) in the case of Italy:

- 1) the individual income tax (l'imposta sul reddito delle persone fisiche);
- 2) the tax on the income of legal entities (l'imposta sul reddito delle persone giuridiche);
- 3) the local income tax (l'imposta locale sui redditi)  
even if withheld at the source  
(hereinafter referred to as "Italian tax").

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<sup>1</sup> Ratified in Italy with Law 2 maggio 1983, n. 303 (G.U. 27 June 1983, n. 174, S.O.). Exchange of ratification instruments: 26 June 1984. Entry into force: 26 June 1984 (G.U. 16 July 1984, n. 194). The Czechoslovak Socialist Republic dissolved on 31 December 1992. The new Czech Republic and the Slovak Republic declared their intention to honour all bi-lateral and multi-lateral agreements entered into by the Czechoslovak Socialist Republic as from 1 January 1993.

4. The Convention shall apply also to any identical or substantially similar taxes which enter into force after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of the essential modifications with regard to their respective taxation laws.

### Article 3 - *General definitions*

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

- a) the term "Czechoslovakia" means the Czechoslovak Socialist Republic;
- b) the term "Italy" means the Italian Republic;
- c) the term "Contracting State" and "the other Contracting State" mean Czechoslovakia or Italy as the case requires;
- d) the term "person" comprises individuals, companies and all other bodies of persons;
- e) the term "company" means any legal entity or any other body which is treated as a legal entity 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 "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 places in the other Contracting State;
- h) the term "nationals" means:
  - 1) individuals possessing the nationality of a Contracting State;
  - 2) legal entities, partnerships and associations constituted under the laws in force in a Contracting State;
- i) the term "competent authority" means:
  - 1) in the case of Italy, the Ministry of Finance;
  - 2) in the case of Czechoslovakia, the Minister of Finance of the Czechoslovak Socialist Republic or his authorised representative.

2. As regards the application of the Convention 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 Convention applies.

### 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, 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.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- b) if the State in which he has his centre of vital interests cannot be determined, or if he has 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 of the State in which its place of effective management is situated.

#### 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, a quarry or any other place of extraction of natural resources;
- g) a building site or construction project if it lasts more than twelve months.

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

- a) the use of facilities solely for the purpose of storage, display or delivery of 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 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 merchandise or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business by an enterprise solely for the purpose of publicity, of providing information, of scientific research, and of similar activities of a preparatory or auxiliary character;

4. A person other than an agent of an independent status to whom paragraph 5 applies, acting in a Contracting State on behalf of an enterprise of the other Contracting State, is 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 the activities of this person are limited to the purchase of merchandise for the enterprise.

5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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.

#### *Article 6 - 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 this property is situated.

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. Also deemed immovable property are the right of 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 use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

#### *Article 7 - Business profits*

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

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

5. 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.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

7. 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 8 - Shipping and air transport*

1. Profits from the operation of ships or aircraft in international traffic 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 is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

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

#### *Article 9 - Associated enterprises*

Where

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

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, 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 10 - *Dividends*

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

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15% of the gross amount of the dividends. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "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 State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on commercial or industrial activities 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 dividends are taxable in that other Contracting State according to its legislation.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other 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 11 - *Interest*

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable in that other State if such resident is the beneficial owner thereof.

2. For the purposes of this Article the term "interest" means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and from debt-claims of every kind, as well as all other income assimilated to income from money lent by the taxation laws of the Contracting State in which the income arises.

3. The provision of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on commercial or industrial activities 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 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 interest is taxable in that other Contracting State in accordance with its legislation.

4. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments is taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

#### Article 12 - *Royalties*

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the royalties.

2. Notwithstanding the provisions of paragraph 1, the royalties indicated in paragraph 3, letter b, may also be taxed in the Contracting State in which they arise in accordance with the law of that State, but, when the recipient of the royalties is the beneficial owner thereof, the tax thus applied may not exceed 5% of the gross amount of the royalties.

3. For the purposes of this Article the term "royalties" means:

a) payments of any kind for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and television films;

b) payments of any kind for the use of, or the right to use patents, trade-marks, designs or models, plans, secret formulae or processes and for the use of or the right to use industrial, commercial or scientific equipment which does not constitute immovable property as meant in Article 6, and for information concerning experience of an industrial, commercial or scientific nature.

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 commercial or industrial activities 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 case the royalties are taxable in that other Contracting State in accordance with its legislation.

5. Royalties shall be deemed to be derived from a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. However, where the debtor of the royalties, whether or not he is a resident of a Contracting State, has in a Contracting State a permanent establishment, in connection with which the obligation to pay the royalties was incurred and which carries the burden of paying the royalties, then those royalties shall be deemed to arise in the Contracting State in which that permanent establishment is situated.

6. Where, owing to a special relationship between the debtor and the beneficial owner, or between both of them and some other person, the amount of the royalties paid, having regard to the reason why they are paid, exceeds the amount which would have been agreed upon by the debtor and the beneficial owner in the absence of such a relationship, the provisions of this Article shall apply only to that last-mentioned amount. In that case, the excess part of the payments shall remain taxable in accordance with the law of each Contracting State, due regard being had to the other provisions of this Convention.

#### Article 13 - *Capital gains*

1. Gains derived by a resident of a Contracting State from the alienation of immovable property, as defined in Article 6 paragraph 2, are taxable in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.

However, gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

3. Gains from the alienation of any property other than that referred to in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident.

#### 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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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 15 - *Dependent personal services*

1. Subject to the provisions of Articles 16, 18 and 19, 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 ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

#### *Article 16 - Directors' fees*

Directors' fees, attendance 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 supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

#### *Article 17 - Artistes and athletes*

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in the Contracting State in which that activity is exercised.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15 paragraph 1, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived from activities indicated in paragraph 1 is exempt from tax in the State in which that activity is carried out provided that these activities are carried out within the scope of a convention or cultural agreement concluded between the Contracting States.

#### *Article 18 - Pensions*

Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

#### Article 19 - *Government service*

1. a) Remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to any 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 recipient is a resident of that Contracting State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of performing the services.

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with an industrial or commercial activity carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

#### Article 20 - *Professors and teachers*

Professors and teachers who temporarily visit a Contracting State, for a period not exceeding 2 years, for the purpose of teaching or scientific research at a university, college or other educational institution who do not have the object of making profit and who are or were immediately before that visit resident in the other Contracting State, are exempt from tax in the first-mentioned Contracting State on the remuneration derived from teaching or research.

#### Article 21 - *Students*

Payments which a student or an apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

#### Article 22 - *Other income*

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on a commercial or industrial activity in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the items of income are taxable in the other Contracting State in accordance with its own law.

### *Article 23 - Method for elimination of double taxation*

It is agreed that double taxation shall be eliminated in accordance with the following paragraphs of this Article.

#### 1. In the case of Italy:

Where a resident of Italy owns items of income which are taxable in Czechoslovakia, Italy may, in calculating its own taxes on the income specified in Article 2 of this Convention, include in the taxable base of such taxes these items of income, unless this Convention provides otherwise. In that case, Italy shall deduct from the taxes so calculated the tax on income paid in Czechoslovakia, but the amount of the deduction shall not exceed the amount of Italian tax which is appropriate to these items of income.

However, no deduction shall be granted where an item of income is, at the request of the beneficiary of the income and in accordance with Italian law, subject to a final withholding tax.

#### 2) In the case of Czechoslovakia:

a) Where a resident of Czechoslovakia receives income which, in accordance with the provisions of this Convention, is taxable in Italy, Czechoslovakia shall, with the exception of the provisions of letter b, exempt this income from tax. Czechoslovakia may, however, in calculating the amount of tax on the other income of that resident, apply the rate which would have been applicable, had such income not been exempted.

b) When levying tax on its own residents, Czechoslovakia may include in the taxable base of the taxes items of income which, in accordance with the provisions of Articles 10, 12, 16 and 17 of this Convention, are also taxable in Italy. Czechoslovakia shall grant, on the amount of tax it levies on income of that resident, a deduction equal to the tax paid in Italy. Such deduction, however, shall not exceed the amount of Czechoslovak tax, calculated before the deduction, corresponding to the items of income arising in Italy.

### *Article 24 - 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. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of Article 9, paragraph 4 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

#### *Article 25 - Mutual agreement procedure*

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 or, if his case comes under paragraph 1 of Article 24, to that of the Contracting State of which he is a national. The case must be presented 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 endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to application of 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 26 - 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 insofar as the taxation thereunder is not contrary to the Convention, as well as to prevent tax evasion. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use

the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

a) to carry out administrative measures at variance with the laws or the 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 industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

#### *Article 27 - Diplomatic agents and consular officers*

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

#### *Article 28 - Requests for reimbursement*

1. Taxes withheld at the source in a Contracting State shall, at the request of the taxpayer or the State of which he is a resident, be refunded to the extent that the right to levy such taxes is limited by this Convention.

2. Requests for refunds, submitted within the time limits laid down in the law of the Contracting State obliged to make such refund, must be accompanied by an official certificate of the State of which the taxpayer is a resident, stating that the conditions for claiming the reliefs of this Convention have been met.

3. The competent authorities of the Contracting States shall settle by mutual agreement, in accordance with Article 25 of this Convention, the manner in which this Article shall be applied. They may, among others, establish by mutual agreement other procedures for the application of the reductions of taxes mentioned in this Convention.

#### *Article 29 - Entry into force*

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

2. This Convention will enter into force on the date of the exchange of the instruments of ratification and its provisions shall be applicable:

a) with respect to taxes withheld at the source, to sums payable or paid on or after the first of January of the year following the year of the exchange of the instruments of ratification;

b) with respect to other taxes on income, to taxes related to tax periods ending on or after the first of January of the year following the year of the exchange of the instruments of ratification.

3. The provisions of the Conventions between the Italian Republic and the Czechoslovak Socialist Republic for the avoidance of double taxation on income and capital with respect to the carrying out of shipping and aircraft operations, concluded in Prague, 28 August 1973, cease to be effective as from the entry into force of this Convention.

*Article 30 - Termination*

1. This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention through diplomatic channels, after the expiry of 5 calendar years from the date of its entry into force, six months before the end of any calendar year.

2. In that case, the Convention shall cease to apply:

a) with respect to taxes levied at source, to sums payable or paid as of the 1st of January of the calendar year following the year of the notification of termination;

b) with respect to other taxes on income, to taxes related to tax periods starting on or after the 1st of January of the calendar year following the year of notification of termination.

In witness whereof, the undersigned, being duly authorized thereto, have concluded this Convention.

Done in duplicate at Prague on 5 May 1981, in the Italian, Czech and French languages, the latter prevailing in case of doubt.

## *PROTOCOL*

At the signing of the Convention concluded on this date between the Italian Republic and Czechoslovak Socialist Republic for the avoidance of double taxation with respect to taxes on income and the prevention of tax evasion, the undersigned have agreed upon the following provisions which form an integrated part of the Convention:

a) with respect to paragraph 3 of Article 7, "expenses which are incurred for the purposes of the permanent establishment" shall mean expenses directly related to the activities of the permanent establishment;

b) with respect to paragraph 1 of Article 25, the term "irrespective of the remedies provided by the domestic law" shall be construed as meaning that the commencement of a mutual agreement procedure shall not replace the litigation procedure under domestic law, which domestic procedure must, in any case, first have been instituted, where the dispute concerns an application of taxes not in accordance with the Convention.

In witness whereof, the undersigned have concluded this protocol.

Done in duplicate at Prague on 5 May 1981, in the Italian, Czech and French languages, the latter prevailing in case of doubt.