

**CONVENTION BETWEEN
THE ITALIAN REPUBLIC AND
THE KINGDOM OF SWEDEN,
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL¹.**

The Government of the Italian Republic and
the Government of the Kingdom of Sweden,
desiring to conclude a convention for the avoidance of double taxation and the prevention of fiscal
evasion with respect to taxes on income and capital, have agreed as follows:

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 and on capital imposed on behalf of a Contracting State or of its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

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

3. The existing taxes to which the Convention shall apply are in particular:

a) in the case of Italy:

- 1) the personal income tax (imposta sul reddito delle persone fisiche);
- 2) the corporate income tax (imposta sul reddito delle persone giuridiche); and
- 3) the local income tax (imposta locale sui redditi); even if they are collected by withholding taxes at the source; (hereinafter referred to as "Italian tax");

b) in the case of Sweden:

- 1) the State income tax (den statliga inkomstskatten), including the sailors' tax (sjömansskatten) and the coupon tax (kupongskatten);
- 2) the tax on the undistributed profits of companies (ersättningskatten);
- 3) the tax on distributions of a company (utskiftningsskatten);

¹ Date of Conclusion: 6 March 1980. Entry into Force: In accordance with Article 30, the Convention entered into force on 5 July 1983. Its provisions have effect: in Sweden, with respect to income derived on or after 1 January 1984, and with respect to tax on capital imposed from 1985; in Italy, with respect to income derived during taxable periods beginning on or after 1 January 1984.

4) the tax on public entertainers (bevillningsavgiften f r vissa offentliga f rest llningar);

5) the communal income tax (den kommunalskatten); and

6) the State capital tax (den statliga f rm genhetsskatte (hereinafter referred to as "Swedish tax").

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

5. The Convention shall not apply to taxes (even when deducted at source) payable on lottery winnings, on premiums other than those on securities, and on winnings from games of chance or skill, competitions and betting.

Article 3 - *General definitions*

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

a) the terms "a Contracting state" and "the other Contracting State" mean, as the context requires, Sweden or Italy;

b) the term "Italy" means the Italian Republic and includes the areas outside the territorial sea of Italy and in particular the sea-bed and sub-soil adjacent to the territory of the Italian peninsula and islands and situated outside the territorial sea up to the limit provided for under Italian laws allowing exploration and exploitation of the natural resources of such areas;

c) the term "Sweden" means the Kingdom of Sweden and includes any area outside the territorial sea of Sweden within which under the laws of Sweden and in accordance with international law the rights of Sweden with respect to the exploration and exploitation of the natural resources on the sea-bed or in its sub-soil may be exercised;

d) the term "person" includes an individual, a company and any other body of persons;

e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes; f) the 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) all individuals possessing the nationality of a Contracting State;

2) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;

i) the term "competent authority" means:

1) in Italy: the Ministry of Finance;

2) in Sweden: the Minister of the Budget or his authorized representative.

2. As regards the application of the Convention by a Contracting State any term not otherwise 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 - *Fiscal domicile*

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 that they derive from sources in that State or capital that they own in that State.

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

a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

b) if the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

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

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is deemed a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. This provision shall apply to partnerships as well as to companies deemed partnerships which have been founded and organized in accordance with the laws of Contracting State.

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; and
- g) a building site or construction or installation project if it lasts more than twelve months.

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

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or 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, publicity, supplying information, scientific research or any other similar activity of a preparatory or auxiliary character.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of independent status to whom paragraph 5 applies - shall be deemed to have a "permanent establishment" in the first-mentioned State if he has, and habitually exercises, in that Contracting State an authority to conclude contracts in the name of the enterprise, unless the activities of that person are limited to the purchasing of goods or 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 the 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, as well as rights to which the provisions of general law respecting landed property apply. Also deemed "immovable property" are the usufruct of immovable property and rights to variable or fixed royalties 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 enunciated 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 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. With respect to profits derived by the Swedish, Danish and Norwegian air transport consortium known as Scandinavian Airlines System (SAS), the provisions of paragraph 1 shall apply, but only to such part of the profits as corresponds to the shareholding in that consortium held by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

4. The provisions of paragraphs 1 and 3 shall also apply to profits 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:

a) 10% of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 51% of the capital of the company paying the dividends;

b) 15% of the gross amount of the dividends in all other cases. 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 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 dividends are taxable in that other Contracting State according to its national laws.

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 may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15% of the amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

a) the payer of the interest is the Government of that Contracting State or a local authority thereof; or

b) the interest is paid to the Government of the other Contracting State or local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that other Contracting State or local authority thereof; or

c) the interest is paid to any other agency or instrumentality (including a financial institution) in relation to loans made in application of an agreement concluded between the Governments of the Contracting States.

4. The term "interest" as used in this Article 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 debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

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 interest is taxable in that other Contracting State according to its national laws.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

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

Article 12 - *Royalties*

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

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 5% of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and tapes for radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the royalties are taxable in that other Contracting State according to its national laws.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the contract under which the royalties are paid was concluded, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

Article 13 - *Capital gains*

1. Gains derived from the alienation of immovable property referred to in paragraph 2 of Article 6 may be taxed in the Contracting State in which they are 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 global 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.

3. Gains derived from the alienation of movable property mentioned in paragraph 3 of Article 23 shall be taxable only in the Contracting State where the property in question is itself taxable by virtue of that Article. These provisions shall also apply to gains derived by the air transport consortium Scandinavian Airlines System (SAS), but only to such proportion of the gains as corresponds to the shareholding in that consortium held by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

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

5. The provisions of paragraph 4 shall not affect the right of a Contracting State to tax, according to its own legislation, any gain from the alienation of shares in a company the main assets of which consist of immovable property situated in that Contracting State, provided the alienator is an individual resident of the other Contracting State, who

- a) is a national of the first-mentioned Contracting State;
- b) has been resident in the first-mentioned Contracting State during any part of a five-year period immediately preceding the alienation; and
- c) at the time of the alienation alone or together with a closely related person had a decisive influence on the company.

Article 14 - Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar 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, sporting 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, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in 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 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 entertainers, such as theatre, motion picture, radio or television artistes, or musicians, or athletes, from their personal activities as such may be taxed in the Contracting State where such activities are 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, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 18 - Pensions and other similar remuneration

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

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid in carrying out the Social Security Law of a Contracting State, as well as amounts paid with respect to a retirement policy concluded in a Contracting State, are taxable in that State. These provisions apply only to nationals of the Contracting State from which the payments are made.

Article 19 - Government services

1. a) Remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient of the payment is a resident of that State who:

(i) is a national of that State; or

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

2. a) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative subdivision or a local authority thereof to an 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 recipient is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

Article 20 - Teachers

Remuneration paid to professors and other members of the teaching profession who are residents of a Contracting State and are present in the other Contracting State to teach or carry out scientific research for a period of less than one year at a university or other educational or non-profit research institution shall be taxable only in the first-mentioned State.

Article 21 - Students

1. Payments which a student or business apprentice who is or was previously a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or professional training receives for the purpose of his maintenance, education or professional training shall not be taxed in that other State, provided that such payments arise from sources outside that other State.
2. Students at a university or other educational institution or business apprentices of a Contracting State who during a temporary stay in the other Contracting State hold an employment in that other State for a period not exceeding 100 days in a fiscal year for the purpose of obtaining practical experience in connection with their studies or professional training are taxable only in that other State only for that part of the employment income which exceeds 1,500 Swedish kronor per calendar month or the equivalent amount in Italian lire. The exemption granted under this paragraph shall not, however, exceed an aggregate amount of 4,500 Swedish kronor or the equivalent amount in Italian lire. Any amount exempted from tax under this paragraph shall include personal allowances for the calendar year in question.
3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the provisions of paragraph 2. The competent authorities may also agree on such changes of the amounts mentioned in that paragraph as may be reasonable with regard to changes in the value of money, amended legislation in a Contracting State or other similar circumstances.

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 if the recipient of income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the items of income are taxable in that Contracting state according to its national laws.

Article 23 - Capital

1. Capital represented by immovable property as defined in paragraph 2 of Article 6 may be taxed in the Contracting State where the property is situated.

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise or by movable property pertaining to a fixed base for the purpose of performing independent personal services may be taxed in the Contracting State where the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24 - Provisions for the avoidance of double taxation

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

2. Notwithstanding the application of paragraph 3, where a resident of Sweden derives income or owns capital which is taxable in Italy in accordance with the provisions of this Convention, Sweden shall deduct:

a) from the Swedish tax on that resident's income an amount equal to the tax on income paid in Italy;

b) from the Swedish tax on that resident's capital an amount equal to the tax on capital paid in Italy. However, the amount deducted shall in neither case exceed that part of the Swedish income tax or capital tax, respectively, as computed before the deduction is given, which is attributable, as the case may be, to the income or capital which may be taxed in Italy.

3. Dividends paid by a company which is a resident of Italy to a company which is a resident of Sweden shall be exempt from tax in Sweden to the extent that the dividends would have been exempt under Swedish law if both companies had been residents of Sweden. This exemption shall only apply if the profits giving rise to the dividends are subject to the Italian income tax in force on the date this Convention is signed or any other income tax which is similar or which replaces it, or if a principal part of the profits of the company paying the dividends arises, directly or indirectly, from business activities other than the management of securities and other similar property and such activities are carried on within Italy by the company paying the dividends or by a company in which it owns at least 25% of the voting power.

4. Where a resident of Italy derives items of income which may be taxed in Sweden, Italy may, in computing its own income taxes referred to in Article 2 of this Convention, include such items of income in the tax base unless otherwise expressly provided by this Convention. In such case, Italy shall allow as a deduction from the tax so computed the income taxes paid in Sweden but the deduction shall not exceed the proportion of Italian tax attributable to such items of income that such items bear to the entire income. No deduction will, however, be allowed in cases where, at the request of the recipient and in accordance with Italian laws, the item of income is subjected to tax in Italy by way of a final withholding.

5. Where a resident of a Contracting State derives income or owns capital which in accordance with the provisions of this Convention shall be taxable only in the other Contracting State, the first-mentioned State may include this income or capital in the tax base but shall allow as a deduction from its income tax or capital tax that part of the income tax or capital tax, respectively, which bears the same proportion to the total income tax or capital tax, as the case may be, as the income derived from or the capital owned in that other State bears to the total income or capital.

6. Where a resident of a Contracting State derives gains mentioned in paragraph 5 of Article 13 or receives payments mentioned in paragraph 2 of Article 18 which are taxable in the other Contracting State, that other State shall allow as a deduction from that resident's income tax an amount equal to the tax on those gains or payments which has been paid in the first-mentioned Contracting State. However, the amount deducted shall in neither case exceed that part of the other Contracting State's tax on gains or payments, respectively, as computed before the deduction is given, which is attributable, as the case may, to the gains or payments which may be taxed in that other State.

7. Where, in accordance with the laws of a Contracting State, the taxes to which this Convention applies are not imposed or are reduced for a limited period of time, such taxes shall be deemed to have been fully paid for the purposes of applying the preceding paragraphs of this Article.

Article 25 - Non-discrimination

1. Nationals of a Contracting State, whether or not they are residents of one of the Contracting States, 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 State in the same circumstances are or may be subjected. In particular, the nationals of a Contracting State who are subject to tax in the other Contracting State shall be granted the same exemptions, basic abatements, deductions and reductions for taxation purposes on account of family responsibilities which are granted to nationals of the other Contracting State in the same circumstances.

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 7 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to residents of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted 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 term "taxation" in this Article means taxes of any nature or description.

Article 26 - Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the 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. Any agreement reached shall be implemented notwithstanding any time limits in the domestic laws of the Contracting States.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 27 - Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the 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, and to prevent fiscal 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 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 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 its own laws and administrative practice or that of the other Contracting State;
- b) to supply information which is not obtainable under its own laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 28 - Diplomatic and consular officers

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

Article 29 - Means of applying limitations on taxes withheld at source

1. Taxes withheld at the source in a Contracting State will be refunded by request of the taxpayer or of the State of which he is a resident if the right to collect the said taxes is affected by the provisions of this Convention. However, the Swedish tax on dividends from shares shall be levied, at the time of payment of the dividends, at the rates as laid down in Article 10 of this Convention. Where, as a result of special circumstances, the Swedish tax on dividends has been levied at the rate laid down in the Swedish tax law, the excess tax shall be refunded upon request of the taxpayer. The procedure and the conditions under which one may benefit from the limitation of the rates laid down in Article 10 of this Convention shall be established by the Swedish authorities.

2. Claims for refund, that shall be produced within the time limit fixed by the law of the Contracting State which is obliged to carry out the refund, shall be accompanied by an official certificate of the Contracting State of which the taxpayer is a resident certifying the existence of the conditions required for being entitled to the application of the allowances provided for by this Convention.

3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 26 of this Convention. They may also, by mutual agreement, establish other procedures for application of the limitations on tax laid down in this Convention.

Article 30 - *Entry into force*

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

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

a) in Sweden:

i) with respect to income derived on or after 1 January of the calendar year following that in which the instruments of ratification are exchanged;

ii) with respect to capital tax imposed as from the second calendar year following that in which the instruments of ratification are exchanged.

b) in Italy:

with respect to income derived in taxable periods beginning on or after 1 January of the calendar year following that in which the instruments of ratification are exchanged.

3. The Convention of 20 December 1956 between Sweden and Italy for the avoidance of double taxation and the settlement of certain other questions with respect to taxes on income and capital, as modified by the Supplementary Convention of 7 December 1965, is abrogated. Its provisions shall no longer be effective with respect to the taxes to which this Convention applies in accordance with paragraph 2.

Article 31 - *Termination*

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30 June in any calendar year beginning after the expiration of a period of five years from the date of its entry into force, give to the other Contracting State, through diplomatic channels, written notice of termination. In such event, the Convention shall cease to have effect:

a) in Sweden:

i) with respect to income derived on or after 1 January of the calendar year following that in which such notice is given;

ii) with respect to capital tax imposed as from the second calendar year following that in which such notice is given.

b) in Italy:

with respect to income derived in taxable periods beginning on or after 1 January of the calendar year following that in which such notice is given.

In witness whereof the plenipotentiaries of the two States have placed their signatures and affixed their seals at the end of this Convention.

Done at Rome, 6 March 1980, in duplicate in the Italian, Swedish and French languages, the latter prevailing in case of doubt.

For the Government of the Italian Republic:
Bucci

For the Government of the Kingdom of Sweden:
Lewenhaupt

PROTOCOL

At the moment of signing the Convention, this day concluded by Italy and Sweden, for the avoidance of double taxation with respect to taxes on income and capital and the prevention of fiscal evasion, the undersigned plenipotentiaries have agreed to the following supplementary provisions which shall form an integral part of the Convention.

It is understood that:

- a) with respect to Article 2, if a capital tax should be introduced in Italy in the future, the Convention shall also apply to such tax;
- b) notwithstanding the provisions of paragraph 2 of Article 4, where an individual in accordance with paragraph 1 of that Article is deemed a resident of Italy and also of Sweden by virtue of the provision known as the "three-year rule" in Swedish tax law, the competent authorities of the Contracting States shall by mutual agreement resolve the question of that individual's residence. The provisions of the first sub-paragraph of this paragraph shall apply only to Swedish nationals and their application is limited to the first three years succeeding the date of emigration from Sweden. These provisions are based on the provisions of Section 53 of the Swedish law on the communal income tax which have been introduced into Swedish tax law with the intention of avoiding fiscal evasion;
- c) with respect to paragraph 3 of Article 7, the term "expenses which are incurred for the purposes of the permanent establishment" means expenses pertaining to the business of the permanent establishment;
- d) the provisions of paragraph 5 of Article 13 have been made part of the Convention with the intention of avoiding fiscal evasion. The application of these provisions presupposes that all the conditions stated in sub-paragraphs (a)-(c) of the paragraph have been satisfied;
- e) for the purposes of paragraph 3 of Article 15, the place of effective management of the air transport consortium Scandinavian Airlines System (SAS) is deemed to be situated in Sweden;
- f) in the event a capital tax should be introduced in Italy, the Swedish capital tax, levied in accordance with the provisions of this Convention, shall be allowed as a deduction from such Italian capital tax under the conditions mentioned in paragraph 4 of Article 24;
- g) the provisions of the first sub-paragraph of paragraph 2 of Article 25 shall not imply in a Contracting State an exemption regarding dividends or other payments made to a company which is a resident of the other Contracting State. These provisions shall also not prevent a Contracting State from taxing, according to its national law, the income received by a permanent establishment which is part of a company of the other Contracting State. However, in such latter case, the tax may not exceed the tax applicable to companies which are residents of the first-mentioned Contracting State with respect to their undistributed profits;
- h) with regard to paragraph 1 of Article 26, the term "irrespective of the remedies provided by the domestic law" means that the introduction of a mutual agreement procedure is not an alternative to the national legal procedures to which, in all cases, recourse must first be had when the conflict relates to an application of Italian taxes which is not in accordance with the Convention.

Done at Rome, 6 March 1980, in duplicate in the Italian, Swedish and French languages, the latter prevailing in case of doubt.

For the Government of the Italian Republic:

Bucci

For the Government of the Kingdom of Sweden:

Lewenhaupt