

**CONVENTION
BETWEEN THE FEDERAL REPUBLIC OF GERMANY
AND THE REPUBLIC OF ITALY
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME AND ON CAPITAL AND FOR THE PREVENTION OF FISCAL EVASION¹.**

The Federal Republic of Germany and the Italian Republic, desiring, through a new convention, to avoid double taxation on income and capital and to prevent tax evasion, 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, of a "Land" or a political subdivision thereof, 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:

(a) in the Italian Republic:

(i) the individual income tax (l'imposta sul reddito delle persone fisiche);

(ii) the corporate income tax (l'imposta sul reddito delle persone giuridiche); and

(iii) the local income tax (l'imposta locale sui redditi); even if these taxes are levied by withholding at source (hereinafter referred to as "Italian taxes");

(b) in the Federal Republic of Germany:

(i) the individual income tax (die Einkommensteuer);

(ii) the corporate income tax (die Körperschaftsteuer);

(iii) the capital tax (die Vermögensteuer);

(iv) the trade tax (die Gewerbesteuer); and

(v) the land tax (die Grundsteuer);
(hereinafter referred to as "German taxes").

¹ Date of Conclusion: 18 October 1989. Entry into Force: 24 December 1992. Effective Date: 1 January 1993 (see Article 31).

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 taxes mentioned in paragraph 3. The competent authorities of the Contracting States shall notify each other of substantial changes which have been made in their respective taxation laws.

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 the Italian Republic or the Federal Republic of Germany, as the context requires;
- (b) the term "Italian Republic", when used in a geographical sense, means the territory in which the tax law of the Italian Republic is in force;
- (c) the term "Federal Republic of Germany", when used in a geographical sense, means the territory of the Federal Republic of Germany in which the tax law of the Federal Republic of Germany is in force;
- (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 "national" means:
 - (i) in relation to the Italian Republic, any individual possessing the Italian nationality;
 - (ii) in relation to the Federal Republic of Germany, any German within the meaning of paragraph 1 of Article 116 of the Basic Law of the Federal Republic of Germany;
 - (iii) all legal persons, partnerships and other bodies of persons which have been established in accordance with the laws of a Contracting State;
- (i) the term "competent authority" means:
 - (i) in Italy, the Ministry of Finance;
 - (ii) in the Federal Republic of Germany, the Federal Minister of Finance.

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 or capital situated therein.

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 in which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" shall include especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

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

(g) a building site, construction or assembly project which exists for 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 goods or merchandise belonging to the enterprise;

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

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

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or for collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 5 applies - shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where 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 by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, as well as rights to which the provisions of general law respecting landed property apply. Immovable property shall also include 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 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 is 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 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 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.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding paragraph 2 of this Article, the tax on dividends paid by a company resident in Italy to a company of the Federal Republic of Germany which directly owns at least 25% of the capital of the first-mentioned company, shall not exceed 10% of the gross amount of the dividends.

4. Residents of the Italian Republic who, under the tax laws of the Federal Republic of Germany, are not subject to unlimited tax liability concerning dividends paid to them by a company resident in the Federal Republic of Germany are entitled to restitution of the additional amount of corporate tax in accordance with the provisions laid down in Section 52 of the Corporate Income Tax Law of the Federal Republic of Germany.

5. A company of the Federal Republic of Germany which directly owns at least 25% of the capital of a company resident in the Italian Republic and which receives dividends distributed by this company is entitled to a refund of the amount equal to the "maggiorazione di conguaglio" attributable to these dividends, subject to the deduction of the taxes mentioned in paragraph 3 and provided that the "maggiorazione" on these dividends has actually been paid by the company. The refund is to be requested, within the time limits fixed by Italian law, through the intermediary of the distributing company, which in such a case is to act in the name of and on behalf of the company resident in the Federal Republic of Germany.

This provision applies to dividends declared on or after the date of entry into force of this Convention.

The distributing company may pay the amount of the refund to a company of the Federal Republic of Germany at the time of the payment of the dividends due to the last-mentioned company and deduct the amount from tax due in its first income tax return filed after the payment.

A company resident in the Federal Republic of Germany is entitled to a payment equal to the amount of the "maggiorazione di conguaglio" provided that the company is the beneficial owner of the dividends at the moment the dividends are declared and has held the shares for at least 12 months preceding that moment.

If the taxable income of the distributing company is increased in a subsequent redetermination, or its reserves or other funds are subsequently taxed, the reduction of the taxes owed by the company for the tax period in which the adjustment has become final shall be limited to that part of the tax which is attributable to the dividends subject to the "maggiorazione di conguaglio" (and which has actually been paid to the State).

6. The term "dividends" as used in this Article means:

(a) dividends paid on shares, including income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits (including income from participations in limited liability companies); and

(b) other income 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, and, for the purposes of taxation in the Federal Republic of Germany, income of a silent partner in the sense of the German tax laws from his participation as such in a commercial enterprise and distributions on certificates of an investment fund.

7. The provisions of paragraphs 1, 2 and 3 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 a case the dividends may be taxed in that other Contracting State in accordance with its domestic laws.

8. 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 to 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 also 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 10% of the gross 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 mentioned in paragraph 1 shall be taxable only in the Contracting State of which the recipient of the interest is a resident, if the recipient is the beneficial owner of the interest and the interest is paid:
 - (a) in connection with the sale on credit of goods or merchandise delivered by one enterprise to another enterprise;
 - (b) in connection with the sale on credit of industrial, commercial or scientific equipment;
 - (c) for bonds or similar obligations of the Government of a Contracting State, a "Land", a political subdivision or a local authority thereof; or
 - (d) to the Government of a Contracting State, a "Land", a political subdivision or a local authority thereof or to the Central Bank of a Contracting State.
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. However, the term "interest" does not include income mentioned in Article 10.
5. The provisions of paragraphs 1, 2 and 3 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 a case, the interest may be taxed in that other Contracting State in accordance with its domestic laws.
6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a "Land", a political 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 or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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 a 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 may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient of the royalties is the beneficial owner thereof, 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. Notwithstanding the provisions of paragraph 2, copyright royalties and other similar payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work, including royalties in respect of cinematograph films and films or tapes for radio or television broadcasting, arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner of the royalties shall be taxable only in that other State.

4. 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 films or 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.

5. The provisions of paragraphs 1, 2 and 3 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 a case, the royalties may be taxed in that other Contracting State in accordance with its domestic laws.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a "Land", a political 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 or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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 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 a 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 by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.
2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic and 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.
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.

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 and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors 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 7, 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 that other State.

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.

3. The provisions of paragraphs 1 and 2 shall not apply where the visit of the professional artistes or athletes is wholly or to a substantial extent financed from public funds of the other Contracting State, a "Land", a political subdivision or a local authority thereof.

Article 18 - Pensions

Subject to the provisions of paragraphs 2, 3 and 4 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, a "Land" or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State, the "Land" or subdivision or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the State in which the services are rendered, if the recipient of the remuneration is a resident of that State and

(i) is a national of that State not being a national of the other State; or

(ii) not being a national of the other State, was a resident of the first-mentioned State before he rendered his services there.

2. (a) Any pension paid directly by, or out of funds created by, a Contracting State, a "Land" or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State, "Land", subdivision or 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 and a national of that State, without being a national of the State from which the pension originates.

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

However, the provisions of paragraphs 1 and 2 shall apply to remuneration and pensions paid by the following administrations or organizations to their employees:

(a) in the case of Italy:

- the Banca d'Italia (Bank of Italy);

- the Ferrovie dello Stato (F.S.) (Italian Railways);

- the Amministrazione delle poste e delle telecomunicazione (PP.TT.) (Administration of Postal and Telecommunication Services);

(b) in the case of the Federal Republic of Germany:

- the Deutsche Bundesbank (German Federal Bank);

- the Deutsche Bundesbahn (German Federal Railways);

- the Deutsche Bundespost (German Federal Post).

4. Pensions and all other recurring or non-recurring payments under the social security laws of one of the Contracting States by such State, a "Land", a political subdivision or a local authority thereof or by a legal person organized under the public law thereof shall be taxable only in that State, if the recipient is a national of that State not being a national of the other Contracting State.

5. Indemnification paid by a Contracting State, a "Land", a political subdivision or a local authority thereof in the form of pensions, annuities or other recurring or non-recurring payments as compensation for an injury or damage sustained as a result of hostilities or political persecution shall be taxable only in that State.

Article 20 - Students and business apprentices

Payments which a student or business 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 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 21 - Teachers

An individual who visits a Contracting State at the invitation of that State or of a university, college, school, museum or other cultural institution of that Contracting State or under an official programme of cultural exchange for a period not exceeding two years solely for the purpose of teaching, giving lectures or carrying out research at such institution and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned State on his remuneration for such activity, provided that such remuneration is derived 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 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 a case, the income may be taxed in that other Contracting State in accordance with the domestic laws of that State.

Article 23 - Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by 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 by 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, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic, and by 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.

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

Article 24 - *Elimination of double taxation*

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

2. (a) Subject to the provisions of subparagraph (b), where a resident of the Italian Republic derives items of income which may be taxed in the Federal Republic of Germany, the Italian Republic, in determining its income taxes referred to in Article 2, may include such items of income in the taxable base upon which such taxes are imposed, unless specific provisions of this Convention provide otherwise.

In such a case, the Italian Republic shall deduct from the taxes so determined the income tax paid in the Federal Republic of Germany (including, if applicable, the trade tax insofar as levied on profits); the deductible amount shall not, however, exceed that portion of the Italian tax which such items of income bear to the entire income.

Nevertheless, no deduction shall be granted if the item of income is subjected in the Italian Republic, according to Italian law and upon request of the recipient of that income, to taxation by way of withholding at source.

(b) Income from dividends referred to in subparagraph (a) of paragraph 6 of Article 10 shall be excluded from the base upon which Italian tax is levied if the dividends are paid to a company (not including partnerships) being a resident of the Italian Republic by a company being a resident of the Federal Republic of Germany at least 25% of the capital of which is owned directly by the Italian company.

3. Tax shall be determined in the case of a resident of the Federal Republic of Germany as follows:

(a) Unless the provisions of subparagraph (b) apply, there shall be excluded from the base upon which German tax is imposed any item of income from sources within the Italian Republic and any item of capital situated within the Italian Republic which, according to this Convention, may be taxed in the Italian Republic. The Federal Republic of Germany, however, retains the right to take into account in the determination of its rate of tax the items of income and capital so excluded.

As regards income from dividends referred to in subparagraph (a) of paragraph 6 of Article 10, the above provisions shall apply only if the dividends are paid to a company (not including partnerships) being a resident of the Federal Republic of Germany by a company being a resident of the Italian Republic at least 10% of the capital of which is owned directly by the German company.

For the purposes of taxation of capital, there shall likewise be excluded from the base upon which German tax is imposed any shareholding the dividends of which, if paid, would be excluded from the tax base according to the immediately foregoing sentence.

(b) Italian tax levied, under the laws of the Italian Republic and in accordance with this Convention, on the following items of income from sources within the Italian Republic shall be allowed as a credit against the German individual or corporate income tax payable on the same income:

- (i) dividends in the sense of Article 10, insofar as not dealt with in subparagraph (a);
- (ii) interest in the sense of Article 11;
- (iii) royalties in the sense of Article 12;
- (iv) income and remuneration to which the provisions of Articles 16 and 17 apply.

The Italian tax allowed as a credit by virtue of the preceding provision shall not, however, exceed that part of the German tax, as computed before the deduction is given, which is attributable to the items of income which may be taxed in the Italian Republic.

Article 25 - 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. Particularly, there shall be granted to nationals of a Contracting State who are liable to tax in the other Contracting State the exemptions, personal allowances, 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 which it grants to its own residents.

3. Except where the provisions of Article 9, paragraph 7 of Article 11 or paragraph 7 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 a resident 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 State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State 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 26 - 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 25, 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 which is 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 the interpretation or 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 27 - 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, and 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, if the competent authority of the other Contracting State does not object, 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 and administrative practice of that or of the other Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any 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 - Members of diplomatic missions and consular posts

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

Article 29 - Applications for refund

1. Taxes levied in a Contracting State by withholding at source shall be refunded on application by the taxpayer or the State of which he is a resident when the right to levy such taxes is limited by the provisions of this Convention.

2. Applications for refund, which must be filed within the time limits fixed by the law of the Contracting State obliged to make the refund, must be accompanied by a certificate of the Contracting State of which the taxpayer is a resident stating that the conditions required for entitlement to the exemptions or reductions provided for in the Convention have been fulfilled.

3. The competent authorities of the Contracting States shall settle the mode of application of this Article by mutual agreement in accordance with the provisions of Article 26.

Article 30 - "Land" Berlin

This Convention shall also apply to "Land" Berlin, provided that the Government of the Federal Republic of Germany does not make a contrary declaration to the Government of the Italian Republic within three months of the date of entry into force of this Convention.

Article 31 - Entry into force

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

2. The Convention shall enter into force one month after the exchange of instruments of ratification and shall apply to:

(a) taxes on income and on capital which are levied for taxable years beginning on or after 1 January of the calendar year following that in which the instruments of ratification are exchanged;

(b) taxes levied by withholding on dividends, interest and royalties paid on or after 1 January of the calendar year following that in which the instruments of ratification are exchanged.

3. The Convention between the German "Reich" and Italy for the Avoidance of Double Taxation and the Settlement of Other Questions with Respect to Direct Taxes signed at Rome on 31 October 1925 shall terminate when this Convention enters into force and cease to have effect in respect of the taxes to which this Convention applies in accordance with the provisions of paragraph 2. The same applies to the Convention between the Federal Republic of Germany and the Italian Republic for the Avoidance of Double Taxation with Respect to Direct Taxes Imposed on Air Transport Enterprises signed at Rome on 17 September 1968.

4. Where, however, the provisions of the Convention of 31 October 1925 allow a more favourable tax treatment than those of Articles 11 and 12 of this Convention, the first-mentioned Convention shall be applicable until 31 December 1992 if the party concerned so requests, provided that the recipient of the relevant income is the beneficial owner in the sense of Section 9 of the Protocol to this Convention.

Article 32 - *Termination*

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention through diplomatic channels from the fifth year after the year of entry into force, by giving notice of termination at least six months before the end of any calendar year. In such event, the Convention shall have its final application to:

- (a) taxes levied by withholding on items of income payable by 31 December of the year of termination;
- (b) other taxes on income and on capital levied for assessment periods ending on or before 31 December of the above-mentioned year.

In witness whereof the authorized representatives of both States have signed this Convention.

Done at Bonn on 18 October 1989 in duplicate, in the German and the Italian languages, both texts being equally authentic.

For the Federal Republic of Germany:
Dr. Hans Werner Lautenschlager
Dr. Theo Waigel

For the Italian Republic:
Rino Formica

PROTOCOL

At the signing of the Convention concluded this day between the Federal Republic of Germany and the Republic of Italy for the Avoidance of Double Taxation with Respect to Taxes on Income and on Capital and for the Prevention of Fiscal Evasion, the undersigned have agreed on the following provisions which shall form an integral part of the Convention.

1. With reference to Article 2

It is agreed that if a capital tax is introduced in the Italian Republic, the Convention shall also apply to that tax.

2. With reference to Articles 4 to 23

A partnership is deemed to be a resident of a Contracting State in the sense of paragraph 1 of Article 4 if it has been established in accordance with the law of that State or if the main object of its activities is in that State. However, the limitations to the right to tax of the other Contracting State as provided in Articles 6 to 23 apply only insofar as the income derived from that State or the capital situated therein is subject to tax in the first-mentioned State.

3. With reference to Article 4

If an individual is deemed a resident of a Contracting State in the sense of Article 4 for only part of the year and a resident of the other Contracting State for the remainder of that year (change of residence), his tax liability in the first-mentioned State, as far as it is determined by his residence, shall cease at the end of the day on which the change of residence takes place. His tax liability in the other State, as far as it is determined by his residence, shall begin on the day following that of the change of residence.

4. With reference to Articles 6 and 24

For the purpose of taxation of income derived from German immovable property in the sense of Article 6 which is subject to taxation in the Federal Republic of Germany the Italian Republic shall adopt the tax bases on which the German taxation were based, unless the provisions of Italian law allow a more lenient taxation.

5. With reference to Article 7

(a) Profits may be attributed to a permanent establishment which wholly or partly consists of a building site or a construction or installation project, in the Contracting State in which the permanent establishment is situated, only insofar as they arise directly from such activities. In particular, there shall not be attributed to the permanent establishment, by virtue of such activities, any profits which arise from deliveries of materials carried out, whether in connection with such activities or following independently therefrom, by the main permanent establishment or another permanent establishment of the enterprise or by a third person.

(b) In the case of contracts, in particular contracts concerning the planning, delivery, installation or manufacturing of equipment for industrial, commercial or scientific institutions, or in the case of public building activities, when the enterprise has a permanent establishment, the profits of the permanent establishment shall not be determined on the basis of the total value of the contract but merely on the basis of the value of that part of the contract which is actually executed by the permanent establishment in the State in which the permanent establishment is situated. The profits attributable to the part of the contract which is executed in the State in which the place of effective management of the enterprise is situated are taxable only in that State.

(c) As regards paragraph 3 it is agreed that the term "expenses which are incurred for the purposes of the permanent establishment" means expenses which are effectively connected with the actual activities of the permanent establishment.

6. With reference to Article 8

This Article shall also apply to profits derived by an enterprise of a Contracting State from the rental of containers for the transportation of goods or merchandise in international traffic.

7. With reference to Article 9

Where, in accordance with Article 9, a redetermination of the profits of an enterprise has been made by a Contracting State, the other Contracting State shall, to the extent it agrees that such redetermination reflects conditions which would be agreed to between independent enterprises, make a corresponding adjustment to the profits of the associated enterprise of that other Contracting State. Any such adjustment shall be made only in accordance with the provisions of Article 26 concerning the mutual agreement procedure and the related provisions of this Protocol.

8. With reference to Articles 10 and 11

Notwithstanding the provisions of Articles 10 and 11, dividends and interest may be taxed in the Contracting State in which they arise and in accordance with the laws of that State if they are:

(a) based on rights or claims participating in profits (including income of a silent partner from his participation as such and income from profit-sharing loans (partiarisches Darlehen) and profit-sharing bonds (Gewinnobligationen) within the meaning of the law of the Federal Republic of Germany); and

(b) deductible in determining the profits of the debtor of the dividends or interest.

9. With reference to Articles 10, 11 and 12

The recipient of the dividends, interest and royalties is the beneficial owner within the meaning of Articles 10, 11 and 12 if he is entitled to the right upon which the payments are based and the income derived therefrom is attributable to him under the tax laws of both States.

10. With reference to Articles 10, 11, 12 and 22

As regards paragraph 7 of Article 10, paragraph 5 of Article 11, paragraph 5 of Article 12 and paragraph 2 of Article 22, it is agreed that the last sentence included therein cannot be interpreted so that the principles included in Articles 7 and 14 of the Convention are not taken into consideration.

11. With reference to Article 11

Interest in the sense of paragraph 1 of Article 11 which is paid on loans of any kind granted by one banking institution to another shall be exempt from tax in the Contracting State in which it arises. If the domestic law of one of the Contracting States is changed, the competent authorities may discuss the change of the exemption referred to in the preceding provision.

12. With reference to Article 13 Where a Contracting State subjects to tax, on the occasion of emigration of an individual resident in that State, the appreciation of the value of a substantial participation in a company resident in that State, the other State shall, in the case of a subsequent alienation of this participation, to the extent it subjects to tax the gains from such an alienation in accordance with paragraph 4, accept as the acquisition cost for the purpose of determining the gains from the alienation the amount established by the firstmentioned State as the fictional value of the participation at the moment of emigration. The term "substantial participation" means a participation of at least 25% in the capital of the company.

13. With reference to Articles 15 and 24

Notwithstanding the provisions of Article 15, remuneration derived by an employee resident in a Contracting State in respect of dependent personal services rendered in the other Contracting State under a contract with an employment agency may be taxed in that other State. Such remuneration may also, notwithstanding the provisions of Article 24, be taxed in the State of which the employee is a resident. The last-mentioned State shall give a credit for the tax of the other State according to the principles of subparagraph (a) of paragraph 2 or subparagraph (b) of paragraph 3 of Article 24. The Contracting States may, in accordance with their domestic law, request payment of the taxes levied on such remuneration from either the agency or the principal or make them liable therefor.

14. With reference to Article 19

(a) Paragraphs 1 and 2 of Article 19 also apply to remuneration and pensions paid by the "Ente Nazionale Italiano per il Turismo (E.N.I.T)" (Italian National Tourist Office) and the "Istituto Nazionale per il Commercio Estero (I.C.E.)" (Institute for Foreign Trade) to their employees. The same provisions shall also apply to remuneration and pensions paid by the "Deutsche Zentrale für Tourismus" (German Centre for Tourism) and the "Deutsch-Italienische Handelskammer" (German-Italian Chamber of Commerce) to their employees, insofar as such remuneration and pensions are paid out of German public funds and are subject to taxation in the Federal Republic of Germany.

(b) Subparagraph (b)(i) of paragraph 1 of Article 19 shall only apply to contracts concluded after 1 January 1990.

(c) (i) Paragraph 1 of Article 19 shall also apply to remuneration paid to Italian nationals (also when they are German nationals at the same time) who exercise their activities at Italian cultural institutions or at schools, insofar as such remuneration is paid out of Italian public funds and is subject to taxation in the Italian Republic;

(ii) Paragraph 1 of Article 19 shall also apply to remuneration paid to German nationals (also when they are Italian nationals at the same time) who exercise their activities at German cultural institutions or at schools, insofar as such remuneration is paid out of German public funds and is subject to taxation in the Federal Republic of Germany.

(d) The competent authorities of the Contracting States may extend the provisions of this Article to apply also to employees of other similar institutions.

(e) In the case of pensions and all other recurring or non- recurring payments made under the social security laws of a Contracting State to an individual who is a resident and a national of the other Contracting State,

(i) Italian tax shall be levied only on the amount which would be taxable under German law if the recipient were a resident of the Federal Republic of Germany;

(ii) the German tax base, determined in accordance with German law, shall not exceed the amount which would be subject to Italian tax.

The competent authorities shall settle the mode of application of these limitations by mutual agreement.

15. With reference to Article 22

Payments made by an individual resident in a Contracting State for the support of an individual resident in the other Contracting State, including a child, shall be taxable only in the first-mentioned State.

16. With reference to Article 24

(a) If a capital tax is introduced in Italy, the German capital tax levied in accordance with the Convention shall be deducted from the Italian capital tax under the provisions of paragraph 2 of Article 24.

(b) Where a company resident in a Contracting State distributes dividends out of income derived from sources within the other Contracting State, Article 24 shall not preclude the imposition of a compensatory corporation tax in accordance with the tax laws of either Contracting State.

(c) The total amount of credit granted by a Contracting State in accordance with paragraph 2 or subparagraph (b) of paragraph 3 of Article 24 shall not be reduced if the other Contracting State abolishes its withholding tax on dividends to compensate for an increase in its corporate income tax rate.

(d) For the purposes of subparagraph (a) of paragraph 3 of Article 24, items of income of a resident of a Contracting State shall be deemed to arise in the other Contracting State if they have been effectively subjected to tax in the other Contracting State in accordance with the Convention.

(e) Where a resident of a Contracting State derives income in respect of dependent personal services, in the sense of paragraph 2 of Article 15, between 1 January 1989 and the date from which the Convention is applicable in accordance with paragraph 2 of Article 31, then such income may, notwithstanding the provisions of Articles 7 and 11 of the Convention of 31 October 1925, be taxed also in that State. That State shall avoid double taxation by granting a credit for the tax levied in the State in which the work was performed against the tax it levies on such income. The principles of paragraph 2 and subparagraph (b) of paragraph 3 of Article 24 shall apply *mutatis mutandis*.

17. With reference to Articles 24 and 6 to 22

It is agreed that Articles 24 and 6 to 22 shall not prevent the Federal Republic of Germany from:

(a) subjecting to tax, in the case of German nationals to whom Sections 2, 3 and 5 of the Foreign Tax Law of 8 September 1972 apply and in accordance with the German tax laws, items of income arising and capital situated in the Federal Republic of Germany; this provision shall also apply to German nationals who are deemed to be residents of the Italian Republic in accordance with paragraph 2 of Article 4 of the Convention and to whom Sections 2, 3 and 5 of the Foreign Tax Law do not apply merely because they still have a residence or habitual abode in the Federal Republic of Germany.

It is hereby agreed that the income tax levied in Italy does not constitute a low tax in the sense of subparagraph 1 of paragraph 2 of Section 2 of the Foreign Tax Law of 8 September 1972. This shall not apply to persons who are subject to tax only in respect of income from Italian sources;

(b) subjecting to tax amounts which, in accordance with Part IV of the Foreign Tax Law of 8 September 1972, are attributable to a resident of the Federal Republic of Germany.

These provisions do not affect the taxation of above-mentioned items of income or capital by the Italian Republic in accordance with the provisions of the Convention.

The Federal Republic of Germany shall grant, by applying *mutatis mutandis* the provisions of the German tax law concerning credits for foreign taxes, a tax credit for the Italian taxes levied in accordance with the provisions of this Convention on the abovementioned items of income or capital. The German tax, however, may be levied in the amount which would result from the application of the Convention.

18. With reference to Articles 24 and 26

As regards paragraph 3 of Article 24 and Article 26, the following arrangement shall apply: where income is categorized or attributed differently in the Italian Republic and the Federal Republic of Germany and it is not possible to solve this difference by the mutual agreement procedure under Article 26, the following shall apply:

(a) if the relevant income would be subject to double taxation, the Federal Republic of Germany shall avoid such double taxation by a tax credit in accordance with the principles of subparagraph (b) of paragraph 3 of Article 24;

(b) if the relevant income would not be subject to taxation or would only be subject to a reduced taxation in the Italian Republic and at the same time exempt from German tax, the Federal Republic of Germany shall not grant a tax exemption in accordance with subparagraph (a) of paragraph 3 of Article 24 but shall grant a tax credit in accordance with the principles of subparagraph (b) of paragraph 3 of Article 24.

19. With reference to Article 26

The term "irrespective of the remedies provided by the domestic law" in paragraph 1 of Article 26 means that invoking a mutual agreement procedure cannot replace the domestic remedies.

20. With reference to Article 27

As regards the exchange of information provided by Article 27, it is agreed that this exchange will take place in accordance with the domestic laws of both Contracting States implementing EEC Directive 77/799 of 19 December 1977 concerning mutual assistance between the competent authorities of the Member States in the field of direct taxes or any future EEC directives in this area.

21. With reference to Article 29

(a) The tax withheld at source on royalties in accordance with Article 12 of the Convention may, at the request of the creditor of the royalties, be withheld at the rates provided for by the Convention, instead of the rates provided for by the domestic law of the Contracting States. However, the request may also be made by the debtor of the royalties or a third person if they have the creditor's written authority to do so and this authority is presented to the competent authority. The request is to be submitted using the appropriate form which must be completely filled out, signed and accompanied by a certificate of residence of the State in which the creditor of the royalties, being subject to limited tax liability, is a resident.

For all other income subject to withholding of tax at source, a similar procedure may be introduced in accordance with paragraph 3 of Article 29.

(b) Paragraph 3 of Article 29 shall not preclude the interpretation that the competent authorities of the Contracting States may, by mutual agreement, establish other procedures for the application of tax reductions provided for by the Convention.

22. With reference to Article 31

(a) Subparagraph (g) of paragraph 2 of Article 5 shall only apply to building sites and construction or installation projects initiated after the entry into force of the Convention.

(b) Notwithstanding subparagraph (a) of paragraph 2 of Article 31 of the Convention, paragraph (e) of Section 16 of this Protocol shall apply from 1 January 1989.

23. The competent authorities of the Contracting States shall endeavour to solve by mutual agreement any special problems which may arise when the application of the Convention results in a new allocation of the right to tax. This shall also apply in cases where the old Convention has been differently interpreted.

Done at Bonn on 18 October 1989 in duplicate, in the German and the Italian languages, both texts being equally authentic.

For the Federal Republic of Germany:
Dr. Hans Werner Lautenschlager
Dr. Theo Waigel

For the Republic of Italy:
Rino Formica