

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

The Government of the Republic of Italy and the Government of the Republic of Tunisia, wishing to conclude a Convention for the avoidance of double taxation with respect to taxation of income and the prevention of fiscal evasion, have agreed to the following provisions:

Article 1 - Personal scope

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

Article 2 - Taxes covered

1. This Convention shall apply to taxes on income imposed on behalf of each of the Contracting States or of its political or administrative subdivisions and its local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total 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) with respect to Italy:
 - (i) the tax on income of individuals (imposta sul reddito delle persone fisiche);
 - (ii) the tax on income of legal entities (imposta sul reddito delle persone giuridiche);
 - (iii) the local tax on income (imposta locale sui redditi), even if levied by withholding at source (hereinafter referred to as "Italian tax");
 - (b) with respect to Tunisia:
 - (i) the licence tax (l'imp^ot de la patente);
 - (ii) the tax on profits from non-commercial professions (l'imp^ot sur les b,n,fices des professions non commerciales);
 - (iii) the tax on wages and salaries (l'imp^ot sur les traitements et salaires);

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- (iv) the agricultural tax (l'impôt agricole);
- (v) the tax on income from movable property (l'impôt sur le revenu des valeurs mobilières);
- (vi) the tax on income from debt-claims, deposits, bonds and current accounts (I.R.C.) (l'impôt sur le revenu des créances, dépôts, cautionnements et comptes courants (I.R.C.));
- (vii) the taxes levied by local authorities (les taxes perçues par les collectivités locales);
- (viii) the personal contribution to the State (la contribution personnelle d'Etat) (hereinafter referred to as "Tunisian tax").

4. The Convention shall apply also to any future taxes of an identical or substantially similar nature which are imposed after the date of signature of this 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 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" shall mean the Republic of Tunisia or the Republic of Italy, as the context requires;
- (b) the term "person" includes an individual, a company and any other body of persons;
- (c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (d) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (e) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (f) the term "nationals" means:
 - (i) all individuals possessing the nationality of a Contracting State;
 - (ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
- (g) the term "competent authority" means:
 - (i) in Italy: the Ministry of Finance;
 - (ii) in Tunisia: the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by a Contracting State, any term which is not otherwise defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of that State concerning the taxes which are the subject of the Convention.

Article 4 - *Fiscal residence*

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provision of paragraph 1 an individual is deemed to be 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 to be 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 entities deemed to be partnerships which are founded and organized under the laws of a 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;

(g) a building site or construction or installation project which lasts more than six 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 similar activities of a preparatory or auxiliary character.

4. A person - other than an agent of an independent status mentioned in paragraph 5 - acting in a Contracting State on behalf of an enterprise of the other Contracting State 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 the activities of such person are limited to the purchase of goods or merchandise for that 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 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, shall be taxable in the Contracting State in which the property is situated.

2. The term "immovable property" shall be defined in accordance with 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.

Moreover, "immovable property" also includes 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 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 calculated 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 derived by an enterprise of a Contracting State 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 accepted 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 been obtained by one of the enterprises, but, by reason of those conditions, have not so been obtained, may be included in the profits of that enterprise and taxed accordingly.

Article 10 - *Dividends*

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15% of the gross amount of the dividends. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation 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 shall be taxable in that other Contracting State in accordance with its domestic legislation.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 - *Interest*

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State 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 12% 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 derived from one of the Contracting States shall be exempt from tax in that State if:

(a) the payer of the interest is the Government of that Contracting State or one of its local authorities; or

(b) the interest is paid to the Government of the other Contracting State or one of its local authorities or an institution or body (including financial institutions) belonging entirely to that Contracting State or one of its local authorities.

4. The term "interest" as used in this Article means income from government securities, from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and from debt-claims of every kind, as well as all other amounts from sums borrowed treated as income by the tax laws of the State in which such 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 shall be taxable in that other Contracting State in accordance with its domestic legislation.

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 Contracting 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 interest paid, 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 also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the person receiving the royalties is the beneficial owner thereof the tax so charged shall not exceed:

(a) 16% of the gross amount of the royalties relating to a trade mark, to cinematograph and television films, to industrial, commercial or scientific equipment;

(b) 5% of the gross amount of royalties relating to royalties on literary, artistic or scientific work;

(c) 12% in other cases.

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 recordings 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 shall be taxable in that other Contracting State in accordance with its domestic legislation.

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 giving rise to the royalties 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 paid, 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 as defined in paragraph 2 of Article 6 may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property constituting 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 total alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State. However, gains from the alienation of ships or aircraft operated in international traffic as well as movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

Article 14 - *Independent personal services*

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State. However, such income shall be taxable in the other Contracting State if:

(a) the interested party has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much of the income as is attributable to that fixed base; or

(b) the remuneration for his services in that other State is paid by residents of that State and such payments exceed the amount of \$7,000 during the fiscal year concerned.

2. The term "professional services" includes in particular 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 14 and 15, income derived by entertainers, such as theatre, motion picture, radio or television artistes, and musicians, as well as athletes, from their personal activities as such shall be taxed in the Contracting State in which 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*

Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 19 - *Government service*

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to 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 remuneration 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. The provisions of Articles 15, 16 and 18 shall apply to remuneration paid in respect of services rendered in connection with a business carried on by one of the Contracting States or a political or administrative subdivision or a local authority thereof.

Article 20 - *Students*

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 amounts arise from sources outside that State or are received as remuneration for an activity exercised in that other State, to the extent such income is reasonable in view of permitting him to pursue his education or professional training.

Article 21 - *Other income*

1. Items of income of a resident of a Contracting State, wherever arising, which are 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 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 case the elements of income shall be taxable in that other Contracting State in accordance with its domestic legislation.

Article 22 - *Provisions for the elimination of double taxation*

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

2. Where a resident of Italy derives elements of income which may be taxed in Tunisia, Italy, in establishing the taxes on income mentioned in Article 2 of this Convention, shall include in the taxable base of such taxes those elements of income unless the provisions of this Convention otherwise provide. In such case, Italy shall deduct from the taxes so established the tax on income paid in Tunisia, but the amount of such deduction may not exceed that portion of the Italian tax attributable to those elements of income in proportion to their share in the total income. However, no deduction shall be granted if the element of income is subject in Italy to tax by way of withholding at the source by virtue of the recipient's request in accordance with Italian law.

3. Where a resident of Tunisia derives income which, in accordance with the provisions of this Convention, may be taxed in Italy, Tunisia shall deduct from the tax it levies on such income of a resident an amount equal to the tax paid in Italy. However, the amount deducted may not exceed that portion of the tax on income, calculated prior to deduction, corresponding to the income taxable in Italy.

4. Where, by virtue of the laws of one of the Contracting States, the taxes to which this Convention applies are not totally or partially withheld for a limited period of time, such taxes shall be deemed to have been paid in full for the application of paragraphs 2 and 3 above solely with respect to:

(a) dividends, interest and royalties, up to the maximum limit indicated in Article 10, paragraph 2, Article 11, paragraph 2 and Article 12, paragraph 2, respectively; and

(b) profits of enterprises mentioned in Article 7, up to a maximum limit of 25%.

Article 23 - Non-discrimination

1. Nationals of a Contracting State, whether or not 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 other State in the same circumstances are or may be subjected. In particular, nationals of a Contracting State who are taxable in the other Contracting State shall enjoy the exemptions, personal allowances, reliefs and reductions from taxes or duties granted on account of their civil status or their family responsibilities.

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 in applying the provisions of Article 9, paragraph 7 of Article 11 or paragraph 6 of Article 12, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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

5. The term "taxation" as used in this Article means taxes of every kind and description.

Article 24 - Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of the other Contracting State or both 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 national laws 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 23, 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 Convention.

2. That 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 question 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 national law 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 avoidance 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 25 - Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention, as well as the prevention of 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 mentioned above shall use the information only for such purposes. These persons or authorities may disclose the information in public court proceedings or in judicial decisions.

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

(a) to carry out administrative provisions 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 or that of the other Contracting State;

(c) to transmit 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 26 - 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 27 - Requests for refunds

1. Taxes deducted in one of the Contracting States by withholding at the source shall be refunded upon request of the party concerned or of the State of which he is resident when the right to levy such taxes is limited by the provisions of this Convention.

2. Requests for refunds, which must be presented within the time limits established in the laws of the Contracting State required to carry out such refund, must be accompanied by an official document from the Contracting State of which the taxpayer is a resident certifying the existence of those conditions necessary in order to benefit from the exemptions or reductions provided in this Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement, in accordance with the provisions of Article 24, the means of application of this Article.

Article 28 - Entry into force

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

2. This Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

(a) with respect to taxes withheld at source, on income credited or paid as from 1 January of the year following that in which the exchange of instruments of ratification takes place;

(b) with respect to other taxes, for taxable periods ending as of 1 January of the year in which the exchange takes place.

3. The Convention between Italy and Tunisia for the avoidance of double taxation of income arising from the operation of ships and aircraft in international traffic, signed at Tunis on 20 November 1969, shall be terminated and cease to be applicable to any Italian or Tunisian tax pertaining to a period for which this Convention applies with respect to such tax, in accordance with paragraph 2 of this Article.

Article 29 - Termination

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

(a) with respect to taxes withheld at source, on income credited or paid at the latest on 31 December of the year of termination;

(b) with respect to other taxes, to taxable periods ending at the latest on 31 December of that year.

In witness whereof the plenipotentiaries of the two States have signed this Convention and placed their seals.

Done at Tunis, 16 May 1979, in duplicate in the Italian and French languages, the latter prevailing in case of dispute.

For the Government of the Republic of Italy:
Arnaldo Forlani,
Minister of Foreign Affairs

For the Government of the Republic of Tunisia:
Mohamed Fitouri,
Minister of Foreign Affairs

PROTOCOL OF AGREEMENT

At the moment of signing the Convention concluded today between the Republic of Italy and the Republic of Tunisia for the avoidance of double taxation with respect to taxes on income 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) the provisions of Article 4, paragraph 3, shall not prevent the taxation of profits of de facto companies or any other group of persons in accordance with each Contracting State's own laws;
- (b) with respect to Article 7, paragraph 3, "expenses which are incurred for the purposes of the permanent establishment" means expenses directly pertaining to the activities of the permanent establishment;
- (c) the term "royalties" mentioned in paragraph 3 of Article 12 includes technical and economic studies of an industrial or commercial character;
- (d) with respect to paragraph 1 of Article 24, the expression "irrespective of the remedies provided by the national law" means that beginning the mutual agreement procedure is not an alternative with regard to national contentious procedures, to which, in any event, previous recourse must be had, if the conflict refers to an application of Italian taxes which is not in accordance with the Convention;
- (e) the provision of paragraph 3 of Article 27 does not exclude the interpretation that the competent authorities of the Contracting States may by mutual agreement establish other procedures for the application of the tax reductions to which the Convention gives rise.

Done at Tunis, 16 May 1979, in duplicate in the Italian and French languages, the latter prevailing in case of dispute.

For the Government of the Republic of Italy:
Arnaldo Forlani,
Minister of Foreign Affairs

For the Government of the Republic of Tunisia:
Mohamed Fitouri,
Minister of Foreign Affairs