

**CONVENTION BETWEEN
THE PORTUGUESE REPUBLIC AND
THE ITALIAN REPUBLIC
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME, AND FOR THE PREVENTION OF FISCAL EVASION WITH RESPECT TO
TAXES ON INCOME¹.**

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

CHAPTER I - Scope of the Convention

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 a Contracting State, its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income, or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which the Convention shall apply are in particular:
 - a) In the case of Portugal:
 - 1) the real property tax (contribuicao predial);
 - 2) the agricultural tax (imposto sobre a industria agricola);
 - 3) the industrial tax (contribuicao industrial);
 - 4) the tax on income from movable capital (imposto de capitais);
 - 5) the professional tax (imposto profissional);

¹ Date of Conclusion: 14 May 1980. Entry into Force: In accordance with Article 28, this Convention entered into force on 15 January 1983. The provisions of the convention have effect: in Portugal: a) on taxes withheld at source, to amounts payable after 31 December 1982; b) on other taxes on income, for calendar years beginning, after 31 December 1982; in Italy: for any taxable period beginning on or after 1 January 1983. However, the principles of Article 8 and of paragraph 3 of Article 13 shall have effect on taxes on income relating to the taxable year 1970 and subsequent years.

- 6) the complementary tax (imposto complementar);
- 7) the tax on capital gains (imposto de mais-valias);
- 8) the tax on income from oil (imposto sobre o rendimento do petróleo);
- 9) the surcharges on the taxes mentioned under 1) to 8);
- 10) other taxes charged by reference to the taxes referred to in 1) to 8) on behalf of corresponding surcharges; (hereinafter referred to as "Portuguese tax").

b) In the case of Italy:

- 1) the income tax on individuals (imposta sul reddito delle persone fisiche);
- 2) the corporation income tax (imposta sul reddito delle persone giuridiche);
- 3) the local income tax (imposta locale sui redditi): even when they are levied through withholding at the source (hereinafter referred to as "Italian tax").

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

CHAPTER II - Definitions

Article 3 - General definitions

1. In this Convention, unless the context otherwise requires:

- a) the terms "a Contracting State" and "the other Contracting State" mean Portugal or Italy, as the context requires;
- b) the term "Portugal" means the Portuguese territory situated within the European Continent and the Archipelagoes of the Azores and Madeira; it includes also any area beyond the maritime sovereignty of Portugal which has been or may hereafter be designated, under the laws of Portugal concerning the Continental Shelf, as an area within which the rights of Portugal with respect to the seabed and subsoil and their natural resources may be exercised;
- c) the term "Italy" means the Italian Republic and includes the areas beyond the territorial waters of Italy and in particular the seabed and subsoil adjacent to the peninsular territory and the Italian Islands, to the limit established by the Italian laws for allowing the exploration and exploitation of the natural resources in such areas;
- 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 "competent authority" means:

- 1) In the case of Portugal, the Minister of Finance, the Director General of Taxation, or their authorised representatives;
- 2) In the case of Italy, the Ministry 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 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 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 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 merchandise for the enterprise.
5. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

CHAPTER III - Taxation of income

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, rights to which the provisions of general law respecting landed property apply. The 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 are also deemed to be immovable property. 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 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 that permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

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

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8 - Shipping and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship 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. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the dividends may be taxed in that other Contracting State, according to 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 15% 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 derived from one of the Contracting States shall be exempt from tax in that State, provided that;
 - a) the debtor of such interest in the Government of that Contracting State or any of its local authorities; or

b) the interest is paid to the Government of the other Contracting State, to any of its local authorities or to an institution or organization (including financial institutions) and is based on the financing under agreements concluded between the Governments of the Contracting States

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

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the interest shall be taxed in that other Contracting State, according to 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 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 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, these 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 may not exceed 12% of the gross amount of the royalties. The competent authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, as well as films or tapes for radio and 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 may be taxed in that other Contracting State, according to 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 or a fixed base in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by that permanent establishment or fixed base, then those royalties shall be deemed to arise in the Contracting State in which the permanent establishment or the fixed base is situated.

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

Article 13 - *Capital gains*

1. Gains derived 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 a fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic, or of 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. However, such income may be taxed in the other Contracting State if:

a) the resident has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in such case only that portion of income which is attributable to that fixed base may be taxed in the other Contracting State; or

b) he is present in the other Contracting State for a period or periods equalling or exceeding in the aggregate 183 days in the calendar year.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational, sporting or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15 - Dependent personal services

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 - Directors' fees

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or similar board of a company which is a resident of the other Contracting State may be taxed in that other State. However, remuneration paid by that company to a member of one of its boards in respect of the exercise of a permanent function is taxable according to the provisions of Article 15 of this Convention.

Article 17 - *Artistes and athletes*

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

Article 18 - *Pensions*

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

Article 19 - *Government services*

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

b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. a) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or local authority shall be taxable only in that State.

b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16, 17 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

Article 20 - *Students*

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 Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State, or are received in respect of an employment temporarily exercised in that State, within reasonable limits, for the purpose of carrying on his education or training.

Article 21 - *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 case the items of income may be taxed in that other Contracting State, according to its domestic legislation.

CHAPTER IV - Elimination of double taxation

Article 22 - *Provisions for 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 items of income which may be taxed in Portugal, Italy may, in calculating its taxes on income referred to in Article 2 of this Convention, include those items of income in such taxable base, unless any provision of this Convention provides otherwise. In that case, Italy shall deduct, from the taxes so calculated, the income tax paid in Portugal, but the amount of the deduction may not exceed that part of the Italian tax which is appropriate to such items of income in the ratio that such income bears to total income. Nevertheless, no deduction shall be granted if the item of income is taxable in Italy by means of a final withholding tax if so requested by the beneficiary of the income, according to Italian law.
3. The provisions of paragraph 2 shall also apply where exemption from or reduction of the Portuguese tax on income has been granted, as if no such exemption or reduction had been granted.
4. Where a resident of Portugal derives income which, in accordance with the provisions of this Convention, may be taxed in Italy, Portugal shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Italy. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to the income which may be taxed in Italy.

CHAPTER VI - Special provisions

Article 23 - Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The term "nationals" means:

a) all individuals possessing the nationality of a Contracting State;

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

3. 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.

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

5. 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.

6. The provisions of this Article shall apply to the taxes covered by this Convention.

Article 24 - 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 23, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to 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 25 - Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by the in accordance with Convention insofar as the taxation thereunder is in accordance with the Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those involved in the assessment or collection of the taxes covered by this Convention, as well as to judiciary authorities.

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

- a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, industrial, commercial or professional secret or process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 26 - Diplomatic agents and consular officers

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

Article 27 - Request for refund

1. Taxes pre-levied in one of the Contracting States shall be refunded at the request of the interested party or of the State of which he is a resident, whenever the provisions of this Convention limit the right to collect such taxes.

2. Applications for a refund, together with an official statement issued by the Contracting State of which the taxpayer is a resident certifying the existence of the conditions which are required to benefit from the exemptions or reductions established in this Convention, must be filed within the time limits established by the law of the Contracting State which is obliged to effect such a refund.

3. The competent authorities of the Contracting States shall settle, by mutual agreement, and according to the provisions of Article 24, the modes of applications of this Article.

CHAPTER VI - Final provisions

Article 28 - Entry into force

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

2. The Convention shall enter into force 30 days after the exchange of instruments of ratification and its provisions shall have effect:

a) In Portugal:

i) in respect to taxes withheld at source, the fact giving rise to them appearing after 31 December of the year in which the exchange of instruments of ratification takes place;

ii) in respect to other taxes on income arising in calendar year beginning after 31 December of the year in which the exchange of instruments of ratification takes place.

b) In Italy:

In respect to income derived during any taxable period beginning on or after 1 January of the calendar year following that in which the exchange of instruments of ratification takes place.

3. The provisions of Article 8 and of paragraph 3 of Article 13 shall apply to taxes on income arising in the taxable year 1970 and subsequent year.

Article 29 - Termination

This Convention shall remain in force until terminated by a Contracting State. 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. In such event, the Convention shall cease to have effect:

a) In Portugal:

i) In respect to taxes withheld at source, the fact giving rise to them appearing after 31 December of the year in which the notice of termination is given.

ii) In respect to other taxes on income arising in the calendar year beginning after 31 December of the year in which the notice of termination is given.

b) in Italy:

In respect to income derived during any taxable period beginning on or after 1 January of the calendar year in which the notice of termination is given.

In witness whereof the Plenipotentiaries of the two States have signed this Convention and have affixed thereto their seals.

Done at Rome, 14 May 1980, in duplicate, in the Portuguese, Italian and French languages, the latter prevailing in case of doubt.

PROTOCOL

At the moment of signing the Convention, concluded today between the Portuguese Republic and the Italian Republic, for the avoidance of double taxation and for the prevention of fiscal evasion with respect to taxes on income the undersigned plenipotentiaries have agreed that the following additional provisions shall form an integral part of the Convention:

It is agreed that:

- a) With reference to Article 6, its provisions shall also apply to income from movable property which, under the tax law of the Contracting State in which such property is situated, is assimilated to income from immovable property.
- b) With reference to paragraph 3 of Article 7, "expenses which are incurred for the purpose of the permanent establishment" shall mean the expenses relating directly to the activity of the permanent establishment.
- c) With reference to paragraph 3 of Article 10, in the case of Portugal, the term "dividends" shall also include profits attributed or paid under an arrangement for participation in profits (conta em participacao).
- d) With reference to Articles 10, 11 and 12, the term "paid" may be construed as including dividends, interest and royalties attributed to a resident of the other Contracting State.
- e) With reference to Article 13, its provisions shall not be construed as restricting the right of Portugal to tax gains arising from the capital increase of companies with their head office or effective management in Portugal, whenever such increase is the result of the allocation of reserves to the capital or of the issue of shares.
- f) With reference to Article 22, where the income of a resident is exempt from tax in accordance with any provision of the Convention, nothing shall preclude one of the Contracting States, in calculating the tax on the remaining income of that resident, from taking into account the exempted income.
- g) With reference to paragraph 3 of Article 22, nothing shall preclude Italy from also applying the benefit provided therein, due regard being had to the evolution of the economic and social situation in Portugal and Italy.
- h) With reference to paragraph 1 of Article 24, the expression "irrespective of the remedies provided by the domestic law" shall mean that the start of the mutual agreement procedure is not an alternative with respect to the domestic legal procedure, which is the one having in any case priority, whenever the conflict refers to an application of the Italian taxes not in accordance with the Convention.
- i) The provision of paragraph 3 of Article 27 may be construed as allowing the competent authorities of the Contracting States to carry out, by mutual agreement, other practices for the allowance of the tax reductions granted by the Convention.

Done at Rome, 14 May 1980, in duplicate in the Portuguese, Italian and French languages, the latter prevailing in case of doubt.