

## AGREEMENT OF 8<sup>TH</sup> MAY, 1990

CONVENTION BETWEEN THE KINGDOM OF THE NETHERLANDS AND THE REPUBLIC OF ITALY  
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON  
CAPITAL AND THE PREVENTION OF FISCAL EVASION

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

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

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

*a)* in the case of the Netherlands:

- de inkomstenbelasting (income tax);
- de loonbelasting (tax on fees, salaries and wages, pensions);
- de vennootschapsbelasting (corporation tax), including the Government's share in the net profits from the exploitation of natural resources established under the Mining Law of 1810 ("Mijnwet 1810") in respect of rights to exploit which have been granted since 1967, or under the Mining Law for the Continental Shelf of 1965 ("Mijnwet Continentaal Plat 1965");
- de dividendbelasting (tax on dividends);
- de vermogensbelasting (tax on capital);
- de gemeentelijke onroerend-goedbelasting (communal tax on buildings);

even if said taxes are collected through withholding

(which shall be referred to hereinafter as "Netherlands tax");

*b)* in the case of Italy:

- l'imposta sul reddito delle persone fisiche (individual income tax);
- l'imposta sul reddito delle persone giuridiche (corporate income tax);

- l'imposta locale sui redditi (local income tax)

even if said taxes are collected through withholding

(which shall be referred to hereinafter as the "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 significant changes which have been made in their respective taxation laws.

## **Chapter II. Definitions**

### **Article 3 General Definitions**

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

- a) the term "State" means, as the context requires, the Netherlands or Italy; the term "States" means the Netherlands and Italy;
- b) the term "Netherlands" means the part of the Kingdom of the Netherlands which is situated in Europe and the part of the sea bed and its sub-soil situated below the North Sea for which the Kingdom of the Netherlands, in accordance with international law, may exercise sovereign rights;
- c) the term "Italy" means the Republic of Italy and includes the areas outside the territorial waters of Italy and which, in accordance with customary international law and the laws of Italy with respect to the exploration and exploitation of natural resources, may be considered to be areas in which Italian sovereign rights in respect of the bed and sub-soil and their natural resources may be exercised;
- d) the term "person" includes an individual, a company and any other body of persons;
- e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of one of the States and an enterprise carried on by a resident of the other 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) any individual possessing the citizenship of one of the States;
  - ii) any body corporate, partnership or association constituted in accordance with the law in force in a State;
- i) the term "competent authority" means:

- i) in the case of the Netherlands, the Minister of Finance or his duly authorized representative;
- ii) in the case of Italy, the Ministry of Finance.

2. As regards the application of the Convention by each of the States 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 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 State with which his personal and economic relations are closer (center of vital interests);
- b) if the State in which he has his center 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, and
- f) a mine, a quarry or any other place of extraction of natural resources.
- g) a building site or construction project if it lasts more than twelve months.

3. The term “permanent establishment” shall 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, supply of information, scientific research or similar activities of a preparatory or auxiliary character.

4. A person acting in one of the States on behalf of an enterprise of the other State – other than an agent of an independent status to whom paragraph 5 applies – is deemed to be a “permanent establishment” in the first State if it has in this State, and habitually exercises, an authority to conclude contracts in the name of the enterprise, unless the activity of said person is limited to the purchase of goods and merchandise for the enterprise.

5. An enterprise shall not be deemed to have a permanent establishment in a 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 one of the States controls or is controlled by a company which is a resident of the other 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 one of the States from immovable property (including income from agriculture or forestry) situated in the other 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 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. There shall also be regarded as “immovable property” 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. 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, farming out, 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 one State shall be taxable only in that State unless the enterprise carries on business in the other 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 one of the States carries on business in the other State through a permanent establishment situated therein, there shall in each 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 one of the States 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 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 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 or boat, then it shall be deemed to be situated in the State in which the home harbor of the ship or boat is situated, or, if there is no such home harbor, in the State of which the operator of the ship or boat 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**

1. Where:

- a) an enterprise of one of the States participates directly or indirectly in the management, control or capital of an enterprise of the other State; or
- b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the States and an enterprise of the other 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 one of the States to a resident of the other State may be taxed in that other State.

2. However, such dividends may also be taxed in the State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- a)
  - i) 5 percent of the gross amount of the dividends if the beneficial owner is a company which owns more than 50 percent of the voting stock of the company paying the dividends for a period of 12 months preceding the date on which the distribution of the dividends was voted; and
  - ii) 10 percent of the gross amount of the dividends if the beneficial owner is a company with no right to the treatment stipulated in the preceding point (i), but which owns 10 percent or more of the voting stock of the company paying the dividends for a period of 12 months preceding the date on which the distribution of the dividends was voted; and
- b) 15 percent in all other cases.

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

3. A person who is a resident of the Netherlands and receives dividends distributed by a company resident of Italy has the right to the reimbursement of the amount corresponding to the “maggiorazione di conguaglio” tax in respect of these dividends due, if applicable, by said company, subject to the deduction of the tax stipulated in paragraph 2. This reimbursement must be requested, within the periods stipulated by the laws of Italy, through the same company which acts in this case in the name and on behalf of said resident of the Netherlands.

This provision applies to dividends the distribution of which has been voted on or after the date this Convention enters into force.

The distributing company may pay the amount described hereinabove to a resident of the Netherlands at the same time as the payment of the dividends due said resident, and deduct this amount from the tax for which it is liable in the first income declaration following said payment.

The payment of the amount corresponding to the “maggiorazione di conguaglio” reverts to a resident of the Netherlands provided that said resident is the beneficial owner of the dividends on the date of the vote to distribute the dividends and, in the cases described in paragraph 2a), that he has owned the shares for a period of 12 months preceding that date.

In the event of a subsequent adjustment which increases the taxable income of the distributing company or in the event reserves or other funds become liable for taxation, the reduction of the tax due by the company for the fiscal period in which the adjustment became final is limited to the portion of the tax attributable to the dividends liable for the “maggiorazione de conguaglio” and actually paid to the Treasury.

4. The competent authorities of both States shall determine by mutual agreement the conditions governing the application of paragraphs 2 and 3.

5. a) The term “dividends” as used in this Article means income from shares, “jouissance” shares or “jouissance” rights, mining shares, founders’ shares or other rights participating in profits, as well as income from other debt-claims carrying the right to profits and income from other corporate interests which are 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.

b) There shall also be considered to be dividends paid by a resident company of Italy the gross sums reimbursed for the “maggiorazione di conguaglio” described in paragraph 3, which are levied in respect of the dividends paid by this company.

6. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of one of the States, carries on a trade or business in the other 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 taxed in said other State in accordance with its own domestic laws.

7. Where a company which is a resident of a State derives profits or income from the other 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 one of the States and paid to a resident of the other State may be taxed in that other State.

2. However, such interest may also be taxed in the 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 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in one of the States shall be exempt from tax in said State if:

a) the person paying the interest is the Government of said State or one of its political or administrative subdivisions or one of its local authorities; or

b) the interest is paid to the Government of the other State, to one of its political or administrative subdivisions, or to one of its local authorities or to institutions or establishments (including financial institutions) which belong wholly to that State, to one of its political or administrative subdivisions, or to one of its local authorities; or

- c) the interest is paid to other institutions or establishments (including financial institutions) in respect of financing granted by such institutions or establishments under agreements concluded between the Governments of the States.

4. The competent authorities of both States shall determine by mutual agreement the conditions governing the application of paragraphs 2 and 3.

5. The term “interest” as used in this Article means income from public funds, loan obligations, whether or not secured by mortgage, as well as all other revenue classified as income from sums loaned by the tax laws of the State in which the income arises; however, it does not include the income described in Article 10.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of one of the States, carries on a trade or business in the other 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 may be taxed in that other State in accordance with its own domestic laws.

7. Interest shall be deemed to arise in one of the States 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 one of the States or not, has in one of the States 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.

8. 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 State, due regard being had to the other provisions of this Convention.

## **Article 12**

### **Royalties**

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

2. However, said royalties may be taxed in the State in which they arise and under the laws of this State but, if the person collecting the royalties is the beneficial owner of said royalties, the tax so established may not exceed 5 percent of the gross amount of the royalties. The competent authorities of both States shall determine by mutual agreement the conditions governing the application of this paragraph.

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 broadcasts, 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 one of the States, carries on a trade or business in the other 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 said State in accordance with its own domestic laws.

5. The royalties are deemed to arise in one of the States when the payer is that State itself, a political or administrative sub-division, a local authority or a resident of that State. However, when the payer of the

royalties, whether or not he is a resident of one of the States, has in one of the States a permanent establishment or a fixed base for which the contract resulting in the payment of the royalties was concluded and to which said royalties are charged, these royalties are deemed to arise in the State in which the permanent establishment or 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 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 Article 6 may be taxed in the other State in which this 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 one of the States has in the other State or of movable property pertaining to a fixed base available to a resident of one of the States in the other 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, or movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the State in which the place of effective management of the enterprise is situated, due regard being had to the provisions of paragraph 2 of Article 8.

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

5. The provisions of paragraph 4 shall not affect the right of either of the States to levy, according to its own law, a tax on gains from the alienation of “jouissance” shares or “jouissance” rights of a company which is a resident of that State and the capital of which is divided, wholly or partly, into shares, when such gains are realized by an individual who is a resident of the other State, who is a national of the first-mentioned State without being a national of the other State and who has been a resident of the first-mentioned State at any time during the five years prior to the alienation.

### **Article 14**

#### **Independent Personal Services**

1. Income derived by a resident of one of the States in respect of professional services or other activities of an independent character shall be taxable only in that State unless the resident has a fixed base regularly available to him in the other 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, 19 and 20, salaries, wages and other similar remuneration derived by a resident of one of the States in respect of an employment shall be taxable only in that State unless the employment is exercised in the other 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 one of the States in respect of an employment exercised in the other 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 only in that State.

#### **Article 16** **Directors' Fees**

1. Directors' fees and other similar payments derived by a resident of one of the States in his capacity as a member of the board of directors or supervisory board of a company which is a resident of the other State may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, the payments described hereinabove which are received by persons carrying on real and permanent activities in a permanent establishment situated in the State other than the State of which the company is a resident and which are borne as such by said permanent establishment may be taxed in that other State.

#### **Article 17** **Entertainers and Athletes**

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of one of the States as an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other 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 State in which the activities of the entertainer or athlete are exercised.

#### **Article 18** **Pensions**

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

2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration not periodic in character and paid to a resident of one of the States who is a national of the other State without being a national

of the first-mentioned State, in respect of a past employment carried on in that other State, may be taxed in that other State.

## **Article 19**

### **Government Service**

1.
  - a) Remuneration, other than a pension, paid by one of the States 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 State in which the services are rendered if the beneficial owner is a resident of that State who:
    - i) is a national of that State without being a national of the other State; or
    - ii) without being a national of the other State, was a resident of the first-mentioned State before rendering the services therein.
2.
  - a) Any pension paid by, or out of funds created by, one of the States 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 pension shall be taxable only in the other State if the beneficial owner is a resident of, and a national of, that State without having the nationality of the State in which the pension arises.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions paid in respect of services rendered in connection with a trade or business carried on by one of the States or a political or administrative subdivision or a local authority thereof.

## **Article 20**

### **Teachers and Researchers**

1. The remuneration which a teacher or another member of the teaching corps, or a researcher, who is, or who was, immediately before visiting one of the States a resident of the other State and who is present in the first-mentioned State solely for the purpose of teaching or pursuing scientific research therein, receives in respect of these activities, may not be taxed in that State for a period not to exceed two years.
2. The provisions of paragraph 1 shall not apply to remuneration received in respect of research work that is undertaken not in the public interest, but primarily to receive a specific advantage which benefits one or several specific persons.

## **Article 21**

### **Students**

Payments which a student or business apprentice who is or was immediately before visiting one of the States a resident of the other 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 22**  
**Other Income**

1. Items of income of a resident of one of the States, 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 one of the States, carries on a trade or business in the other 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 shall be taxed in that other State in accordance with its own internal laws.

**Chapter IV.**  
**Taxation on Capital**

**Article 23**  
**Capital**

1. Capital represented by immovable property referred to in Article 6, owned by a resident of one of the States and situated in the other 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 one of the States has in the other State or by movable property pertaining to a fixed base available to a resident of one of the States in the other 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 State in which the place of effective management of the enterprise is situated, due regard being had to the provisions of paragraph 2 of Article 8.
4. All other elements of capital of a resident of one of the States shall be taxable only in that State.

**Chapter V.**

**Article 24**  
**Provisions for Elimination of Double Taxation**

1. The Netherlands, in withholding taxes from its residents, may include in their tax basis, the items of income or capital which may be taxed in Italy in accordance with the provisions of this Convention.
2. However, where a resident of the Netherlands obtains items of income or owns items of capital which, by virtue of Articles 6, 7, 10 paragraph 6, 11 paragraph 6, 12 paragraph 4, 13 paragraphs 1 and 2, 14, 15 paragraph 1, 16, 19, 22 paragraph 2 and 23 paragraphs 1 and 2 of this Convention, may be taxed in Italy and which are included in the basis referred to in paragraph 1, the Netherlands shall exempt said items by granting a reduction in the tax on such items. This reduction shall be computed in accordance with the provisions of Netherlands law for the elimination of double taxation as such law may be modified without changing the general principle hereof. For this purpose, the items cited above shall be deemed to be included in the total amount of the items of income or capital which, by virtue of these provisions, are exempt from Netherlands tax.
3. In addition, the Netherlands shall allow a deduction on the Dutch tax as computed for the items of income taxable in Italy under Articles 10 paragraph 2, 11 paragraph 2, 12 paragraph 2 and 17 of this Convention, insofar as such items are included in the basis described in paragraph 1. The amount of this deduction is equal to the tax paid in Italy in respect of these items of income, but shall not exceed the amount of the reduction which would be allowed if the items of income so included in the taxable base were the only items

of income exempt from the Netherlands tax under the provisions of Netherlands law for the elimination of double taxation.

4. Where a resident of Italy receives items of income which may be taxed in the Netherlands and Italy in establishing its taxes on the income described in Article 2 of this Convention, it may include in the tax basis for said taxes these items of income, unless specific provisions of this Convention prohibit such.

In such a case, Italy must deduct from the taxes so established the income tax paid in the Netherlands, but the amount of the deduction may not exceed the share of Italian tax attributable to said items of income in the proportion that said items contribute to making up the total income.

However, no deduction shall be allowed in the case where the item of income is liable in Italy for the withholding tax at the request of the recipient of the income in accordance with Italian laws.

Neither the investment distributions nor payments on investments set forth by the Netherlands Law on Investment Funds (“Wet Investeringsrekening”) shall be considered in determining the amount of the Netherlands tax.

5. If gains which may be taxed in one of the States under Article 13 paragraph 5, or if income which may be taxed in one of the States in accordance with Article 18 paragraph 2, revert or are paid to a resident of the other State, the first-mentioned State shall allow on the tax it levies on these gains or income a deduction in an amount equal to the tax levied by the other States on these gains or income. In such case, the deduction shall not, however, exceed that part of the tax on these gains or income, as computed before the deduction is given, corresponding to the gains or income taxable in the first-mentioned State.

## **Chapter VI. Special Provisions**

### **Article 25 Non-Discrimination**

1. Nationals of one of the States shall not be subjected in the other 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 States.

2. The taxation on a permanent establishment which an enterprise of one of the States has in the other State shall not be less favorably 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 one of the States to grant to residents of the other State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of Article 9, paragraph 8 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of one of the States to a resident of the other 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 one of the States to a resident of the other 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 one of the States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other 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 apply, notwithstanding the provisions of Article 2, 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 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 State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to that of the 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 endeavor, 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 State, with a view to the avoidance of taxation which is not in accordance with the Convention.

3. The competent authorities of the States shall endeavor 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 States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

## **Article 27**

### **Exchange of Information**

1. The competent authorities of both States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- a) to carry out administrative measures at variance with the laws and administrative practice of that or the other 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 State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

## **Article 28**

### **Diplomatic 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 29**

### **Territorial Extension**

1. This Convention may be extended, as is or with the necessary changes, to the parts of the Kingdom of the Netherlands which are not situated in Europe if these parts levy taxes which are similar in nature to the taxes to which the Convention applies. Such an extension shall enter into force as of the date, with the changes and under the conditions, including the conditions with respect to termination, which shall be defined by mutual agreement by exchange of diplomatic notes or in accordance with any other procedure that complies with the constitutional provisions of the two States.

2. Unless stipulated otherwise, when the Convention is terminated, it shall cease to apply to the parts of the Kingdom of the Netherlands to which it has been extended in accordance with this Article.

## **Chapter VII.**

### **Final Provisions**

## **Article 30**

### **Entry Into Force**

1. This Convention shall enter into force the thirtieth day following the date on which both Governments communicate to each other that the constitutional formalities required in their respective countries have been completed.

2. The Convention shall apply:

- a) in respect of withholding tax: on income attributed or paid on or after the first day of the month following the month of entry into force;
- b) in respect of other taxes: for the years and fiscal periods beginning on or after the first day of January of the year of entry into force.

3. The entry into force of this Convention shall terminate the Convention between the Kingdom of the Netherlands and the Republic of Italy for the elimination of double taxation with respect to taxes on income and on capital, with the exchange of letters, signed in The Hague on January 24, 1957. The provisions of the Convention shall cease to apply as of the date on which the corresponding provisions of this Convention shall apply for the first time in accordance with paragraph 2 hereinabove.

## **Article 31**

### **Termination**

This Convention shall remain in force as long as it has not been terminated by one of the States. Each State may terminate the Convention through diplomatic channels with a minimum prior notice of six months before the end of each calendar year after the fifth calendar year following the entry into force of the Convention. In such a case, the Convention shall apply for the last time:

- a) in respect of withholding tax: on income attributed or paid no later than December 31 of the year of termination;
- b) in respect of other taxes: for the years and fiscal periods ending no later than December 31 of the year of termination.