

1997 Income and Capital Tax Agreement (English Translation)

Signed date: June 23, 1977

In force date: September 4, 1978

Effective date: January 1, 1979. See Article 28.

Status: In Force

AGREEMENT BETWEEN THE REPUBLIC OF AUSTRIA AND THE REPUBLIC OF TUNISIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

[TRANSLATION]

The Republic of Austria and the Republic of Tunisia, desiring to conclude an agreement for the avoidance of double taxation with respect to taxes on income and on capital, have agreed as follows:

Chapter I. Scope of the Agreement

Article 1 Personal Scope

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

Article 2 Taxes Covered

(1) This Agreement shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property and taxes on capital appreciation.

(3) The existing taxes to which the Agreement shall apply are in particular:

a) in Tunisia:

i) l'impôt de la patente y compris la taxe de Formation Professionnelle (trade tax, including the tax for professional training);

ii) l'impôt sur les bénéfices des professions non commerciales (tax on non-commercial profits);

iii) l'impôt sur les plus values (value-added tax);

iv) l'impôt sur les traitements et salaires (tax on wages and salaries);

v) l'impôt agricole (agricultural tax)

vi) l'impôt sur le revenu des Valeurs Mobilières (tax on income from movable property);

vii) l'impôt sur le revenu des créances, dépôts, cautionnements et comptes courants (I.R.C.) (tax on income from receivables, deposits, guarantees, and current accounts);

viii) la Contribution Personnelle d'Etat (supplementary tax on the total income of individuals); which shall be referred to hereinafter as "Tunisian tax";

b) in Austria:

i) die Einkommensteuer (income tax);

ii) die Körperschaftsteuer (corporation tax);

iii) die Aufsichtsratsabgabe (directors' tax);

iv) die Vermögensteuer (capital tax);

v) die Abgabe von Vermögen, die der Erbschaftssteuer entzogen sind (tax on property eluding death duties);

vi) die Gewerbesteuer einschließlich der Lohnsummensteuer (tax on commercial and industrial enterprises, including the tax levied on the sum of wages);

vii) die Grundsteuer (land tax);

viii) die Abgabe von land- und forstwirtschaftlichen Betrieben (tax on agricultural and forestry enterprises);

ix) die Beiträge von land- und forstwirtschaftlichen Betrieben zum Ausgleichsfonds für Familienbeihilfen (contributions from agricultural and forestry enterprises to the fund for the equalization of family burdens);

x) die Abgabe vom Bodenwert bei unbebauten Grundstücken (tax on the value of vacant plots); which shall be referred to hereinafter as "Austrian tax."

(4) The Agreement shall also apply to any identical or substantially similar taxes which are imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall

notify each other at the end of each year of changes which have been made in their respective taxation laws.

Chapter II. Definitions

Article 3 General Definitions

(1) For the purposes of this Agreement, unless the context otherwise requires:

- a) the terms "a Contracting State" and "the other Contracting State" mean the Republic of Tunisia or the Republic of Austria, depending on the context;
- b) the term "person" includes an individual, a company, and any other body of persons;
- c) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- d) the term "international traffic" means any transportation by ship or aircraft which is operated by an enterprise whose effective place of management is in a Contracting State, unless the ship or aircraft is operated exclusively between places in the other Contracting State;
- e) 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;
- f) the term "competent authority" means:
 1. in Tunisia: the Minister of Finance or his authorized representative;
 2. in Austria: the Federal Minister of Finance.

(2) As regards the application of the Agreement 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 Agreement applies.

Article 4 Resident

(1) For the purposes of this Agreement, 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.

(2) Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, the following shall apply:

- 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 (center of vital interests);
- b) if the State in which he has his center of vital interests cannot be determined, or if he does not have 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 State, 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 Agreement, 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, an assembly project, or supervisory activities in connection therewith if such site, project, or activities continue for a period of more than six months, or an assembly project or supervisory activities following the sale of machinery or equipment if such project or activities continue for a period of more than three months and the costs of the project or activities exceed 10 percent of the price for the machinery or equipment.

(3) Notwithstanding preceding provisions of this Article, 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 for the enterprise 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, any other activity of a preparatory or auxiliary character, provided that no orders are taken at that location;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(4) Where a person -- other than an agent of an independent status referred to in paragraph 6 -- is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned State if such person has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise, unless the activities of such person are limited to the purchase of goods or merchandise for the enterprise.

(5) An insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it derives premiums there or insures risks situated therein through an employee or an agent -- other than an agent referred to in paragraph 6.

(6) 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.

(7) 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 as a permanent establishment of the other.

Chapter III. Taxation of Income

Article 6 Income From Immovable Property

(1) Income derived from immovable property (including income from agriculture or forestry) may be taxed in the Contracting State in which such property is situated.

(2) The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, 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, 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 and leasing, or use in any other form of immovable property.

(4) The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7 Business Profits

(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State, but only so much of them as is attributable to that permanent establishment.

(2) 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the business 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (other than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees, or other similar payments in return for the use of patents or other rights, or by way of commissions, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment.

(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) The participation in enterprises which are established in the form of companies constituted under civil law, general commercial partnerships, or limited commercial partnerships, as well as the participation in "sociétés de fait" or "associations en participation" under Tunisian law or in "stille Gesellschaften" under Austrian law, may be taxed in the Contracting State in which the respective enterprise has a permanent establishment.

(8) Where profits include items of income which are dealt with separately in other articles of this Agreement, 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 harbor of the ship is situated, or, if there is no such home harbor, in the Contracting State of which the operator of the ship or boat is a resident.

Article 9 Associated Enterprises

(1) 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 the tax so charged shall not exceed

a) 10 percent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 percent of the capital of the company paying the dividends;

b) 20 percent of the gross amount of the dividends in all other cases.

(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 provisions of Article 7 or Article 14, as the case may be, shall apply.

(5) Companies which are residents of Austria and maintain a permanent establishment in Tunisia shall remain subject to the Tunisian tax on income from movable capital under the conditions of taxation for the permanent establishments of foreign companies; however, the tax base shall be formed by the Tunisian profits and the tax rate referred to in paragraph 2 sub-paragraph a) shall apply.

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 the tax so charged shall not exceed 10 percent of the gross amount of the interest.

(3) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and, in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds, or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

(4) The provisions of paragraph 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, 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 provisions of Article 7 or Article 14, as the case may be, shall apply.

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

(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 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 Agreement.

Article 12 Royalties

(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but the tax so charged shall not exceed:

a) 10 percent of the gross amount of royalties paid for the use or right to use any copyright of literary, artistic, or scientific works, with the exception of cinematograph films and television films;

b) 15 percent of the gross amount of royalties paid for technical or economic studies, for the use of, or the right to use, cinematograph films or television films, patents, trademarks, designs, models, plans, secret formulas, or processes, or for the use of, or the right to use industrial, commercial, or scientific equipment, or for information concerning industrial, commercial, or scientific experience.

(3) The provisions of paragraphs 1 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 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 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 provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority, or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

(5) 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 Agreement.

Article 13 Capital Gains

(1) Gains derived from the alienation of immovable property referred to in Article 6 paragraph 2 may be taxed in the Contracting State in which such property is situated.

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State. However, gains from the alienation of movable property referred to in Article 22 paragraph 2 shall be taxable only in the Contracting State in which such movable property may be taxed in accordance with the provisions of that Article.

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

Article 14 Independent Personal Services

(1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State except in the following circumstances, when such income may also be taxed in the other Contracting State:

- a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
- b) if his stay in the other Contracting State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned.

(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, and business trustees.

Article 15 Dependent Personal Services

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

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

- a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days during the fiscal year concerned;
- b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

Article 16 Directors' Fees

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

Article 17 Artistes and Athletes

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

(2) Where income in respect of personal activities of artistes or athletes accrues not to such persons 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 such artiste or athlete are exercised.

Article 18 Pensions

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

Article 19 Government Service

(1) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of an employment shall be taxable only in that State. However, if such employment is exercised in the other Contracting State by a resident of that State who is not a national of the first-mentioned State, such remuneration shall be taxable only in that other State.

(2) The provisions of Articles 15 and 16 shall apply to remuneration paid with respect to an employment exercised in connection with a profit-oriented commercial or industrial activity of a Contracting State or a political subdivision or local authority thereof.

(3) The provisions of paragraph 1 shall apply analogously to remuneration paid in connection with a development aid program of a Contracting State or a political subdivision or local authority thereof from funds provided exclusively by such State or political subdivision or local authority to experts who were sent to the other Contracting State with the approval of such State, political subdivision, or local authority.

Article 20 Students, Apprentices, and Interns

(1) Payments which a student, business apprentice, or intern who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education, or training shall not be taxed in that other State, provided that such payments arise from sources outside that State.

(2) Remuneration derived by persons referred to in paragraph 1 in respect of an employment exercised in the other State exclusively for the purpose of gaining practical professional experience for a period or periods not exceeding in the aggregate 183 days during the calendar year concerned shall not be taxable in that State.

Article 21 Other Income

Items of income of a resident of a Contracting State not dealt with in the foregoing articles of this Agreement shall be taxable only in that State.

Chapter IV. Taxation of Capital

Article 22 Capital

(1) Capital represented by immovable property referred to in Article 6 paragraph 2 shall be taxable only in the Contracting State in which such property is situated.

(2) Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise or by movable property pertaining to a fixed base available for the purpose of performing independent personal services shall be taxable only in the Contracting State in which such permanent establishment or fixed base is situated.

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

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

Chapter V. Methods for Elimination of Double Taxation

Article 23 Elimination of Double Taxation

(1) Where a resident of Tunisia derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Austria, Tunisia shall deduct from the tax to be levied on the income or capital of such resident an amount equivalent to the taxes on income and capital paid in Austria. The amount so credited shall not, however, exceed that portion of the tax on income or on capital, as computed before the deduction is given, which would apply to income which may be taxed in Austria or to capital which may be taxed in Austria.

(2) Where a resident of Austria derives income or owns capital which, in accordance with the provisions of this Agreement, may be taxed in Tunisia, Austria shall, subject to the provisions of paragraph 3, exempt such income or capital from tax; however, in determining the tax for the remaining income or the remaining capital of such person, Austria may employ the tax rate which would apply if the income or capital in question were not exempt from taxation. The foregoing shall apply even if the income or capital is wholly or partly exempt from taxation in Tunisia.

(3) Where a resident of Austria derives items of income which, in accordance with the provisions of Articles 10, 11, and 12, may be taxed in Tunisia, Austria shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Tunisia. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from Tunisia.

(4) With respect to the application of the provisions of paragraph 3, the Tunisian tax shall be deemed to have been paid with the following amounts, including in instances of full or partial exemption:

- for dividends referred to in Article 10 paragraph 2 sub-paragraph a) with 10 percent;
 - for dividends referred to in Article 10 paragraph 2 sub-paragraph b) with 20 percent;
 - for interest referred to in Article 11 paragraph 2 with 10 percent;
 - for royalties referred to in Article 12 paragraph 2 sub-paragraph a) with 10 percent;
 - for royalties referred to in Article 12 paragraph 2 sub-paragraph b) with 15 percent
- of the gross amount of such income.

Chapter VI. Special Provisions

Article 24 Non-Discrimination and Investments

(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.

(2) The term "national" means:

- a) any individual possessing the nationality of a Contracting State;
- b) any legal person, partnership, or association deriving its 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, or reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

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

(6) This Agreement shall not affect the application of more favourable tax regulations provided under the laws of a Contracting State in favor of investments.

Article 25 Mutual Agreement Procedure

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Agreement, 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.

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

(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 Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

(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 26 Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Agreement. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities involved in the assessment or collection of the taxes covered by the Agreement.

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

a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

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

c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 27 Members of Diplomatic Missions and Consular Posts

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

Chapter VII. Final Provisions

Article 28 Entry Into Force

(1) This Agreement shall be ratified; the instruments of ratification shall be exchanged at Tunis as soon as possible.

(2) The Agreement shall enter into force on the 60th day after the exchange of the instruments of ratification and its provisions shall have effect in each Contracting State

a) on the taxes levied by way of deduction on income derived or paid after the 1st day of January of the year immediately following the year in which the instruments of ratification were exchanged;

b) on other taxes for taxation periods ending after the 31st day of December of the year in which the instruments of ratification were exchanged.

Article 29 Termination

This Agreement shall remain in force for an indefinite period; however, five years after the end of the year in which the instruments of ratification were exchanged, either Contracting State may terminate the Agreement by giving notice of termination to the other Contracting State in writing, through diplomatic channels, before the 30th day of June of any calendar year. In case termination is effected prior to the 1st day of July of such a year, the Agreement shall have effect for the last time

a) on the taxes levied by way of deduction on income derived or paid by the 31st day of December of the year in which the termination is pronounced;

b) on other taxes for the taxation periods ending prior to the 31st day of December of the same year.

Done in duplicate at Vienna, this 23rd day of June 1977, in the French language.

FOR THE REPUBLIC OF AUSTRIA:

Lanc

FOR THE REPUBLIC OF TUNISIA:

Nouira