

## **1993 Income Tax Convention (English Translation)**

**Signed date:** March 28, 1993

**In force date:** November 15, 1993

**Effective date:** January 1, 1994. See Article 29.

**Status:** In Force

### **CONVENTION BETWEEN THE GOVERNMENT OF THE TUNISIAN REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF POLAND FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME**

[TRANSLATION]

The government of the Tunisian Republic and the Government of the Republic of Poland, Desiring to conclude a convention for the avoidance of double taxation with respect to taxes on income have agreed on the following provisions:

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 the taxes on income levied on behalf of each of the Contracting States, the political subdivisions or local authorities thereof, whatever the system of collection.
- 2) There shall be regarded as taxes on income the taxes levied on total income or on items of income, including the taxes on the gains from the alienation of movable or immovable property and the taxes on capital appreciation.
- 3) The current taxes to which the Convention shall apply are, notably:
  - a) in the case of Tunisia:
    - l'impôt sur le revenu des personnes physiques; (individual income tax);
    - l'impôt sur les sociétés; (company tax);
  - b) in the case of Poland:
    - the individual income tax;
    - the tax on the income of legal entities;
    - the agricultural tax.
- 4) The Convention shall apply also to any identical or substantially similar taxes which are imposed in the future 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) In this Convention, unless the context otherwise required:
  - a) The terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Tunisia or Poland;
  - b) The term "Tunisia" means the territory of the Tunisian Republic and the zones adjacent to the territorial waters of Tunisia over which, in accordance with international law, Tunisia may exercise rights to the sea bed, the ocean underground and the natural resources thereof;
  - c) The term "Poland" means the Republic of Poland, including any zone situated outside the territorial waters of Poland which, in accordance with international law, has been or may be designated under Polish law as a zone over which Poland may exercise its rights of sovereignty with respect to the exploration and exploitation of the natural resources of the sea bed or the ocean underground;
  - 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 "national" means any individual possessing the nationality of a Contracting State and all bodies corporate, partnerships and associations constituted in accordance with the laws in force in a Contracting State;

h) The term "international traffic" means any transport by a ship or an aircraft or a road vehicle operated by an enterprise the place of effective management of which is situated in a Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State;

i) The term "competent authority" means:

- in the case of Tunisia, the Minister of Finance or his authorized representative;
- in the case of Poland, the Minister of Finance or his authorized representative.

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.

2) Where by reason of the provisions of paragraph 1 of this Article, an individual is a resident of both Contracting States, then his status shall be determined as follows:

- a) Said resident 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 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 Contracting State in which this person has his center of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3) Where by reason of the provisions of paragraph 1 a person other than an individual is 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 construction site, or temporary assembly operation or supervisory activities performed thereon, where this site, these temporary assembly operations or supervisory activities following the sale of machine or equipment last for a period greater than 6 months or where these mounting operations or supervisory activities following the sale of machines or equipment last for more than 4 months and the costs of mounting or supervision exceed 10% of the price of such machines and equipment.

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 use of a fixed place of business solely for the purpose of advertising;
- e) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the enterprise;
- f) the maintenance of a fixed place of business solely for the purpose of any other activity which has a preparatory or auxiliary character for the enterprise.

g) the maintenance of a fixed place of business solely for the purpose of the activities cited in subparagraphs a) through e), provided that all the activities of the fixed place of business representing the total of such activities retains a preparatory or auxiliary character.

4) A person acting in a Contracting State on behalf of an enterprise in the other Contracting State (other than an agent of an independent status to whom paragraph 6 hereinafter applies) shall be considered to be a "permanent establishment" in the first-mentioned State:

a) if he has in that State general authority that he normally exercises to negotiate and conclude contracts for the enterprise or on behalf of the enterprise;

b) if he normally keeps in the first-mentioned State an inventory of goods and merchandise from which he regularly takes goods and merchandise for delivery for the enterprise or on behalf of the enterprise;

c) if he normally takes orders in the first-mentioned State exclusively, or almost exclusively, for the enterprise itself or for the enterprise and other enterprises which are controlled by that enterprise or which have a majority interest in that enterprise or which are placed under joint control;

5) An insurance enterprise of one Contracting State shall be deemed to have a permanent establishment in the other State if it collects premiums in the territory of that State or insures risks incurred therein through an employee or a representative who does not fall under the category of persons described in paragraph 6 hereinafter.

6) An enterprise of one Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7) Where an enterprise of a Contracting State carries on in the territory of the other State several activities, some of which are included in the field of action of the permanent establishment while others are excluded from therefrom, all such activities, even if they are conducted from different places in that State shall be considered to be a single and same permanent establishment.

8) 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 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, 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 assigned to international traffic shall not be regarded as immovable property.

3) The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

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

### **Article 7 Business Profits**

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

2) Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including real executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

However, there shall be allowed no deduction for sums, if any, which are paid by the permanent establishment to the headquarters of the enterprise or to any one of its other establishments as royalties, fees, or other similar payments in respect of operating licenses, patents or other rights, as commissions (other than the reimbursement of actual expenditures made) for services rendered or for a management activity or, except in the case of a banking institution, as interest on sums loaned to the permanent establishment.

Likewise, in determining the profits of a permanent establishment, there shall not be considered among the costs of the headquarters of the enterprise or of any of its other establishments, royalties, fees, or other similar payments in respect of operating licenses, patents or other rights, as commissions (other than the reimbursement of actual expenditures made) for services rendered or for a management activity or, except in the case of a banking institution, as interest on sums loaned to the headquarters of the enterprise or to any one of its other establishments.

4) If it is customary in a Contracting State to determine the profits chargeable to a permanent establishment on the basis of a distribution of the profits of the enterprise among its various parts, no provision of paragraph 2 of this Article shall prevent that Contracting State from determining the taxable profits according to the customary distribution; the distribution method adopted must, however, be such that the result obtained is in accordance with the principles set out in this Article.

5) 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.

6) 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.

7) The interests of a partner in the profits of an enterprise constituted in the form of a partnership, a de facto partnership, an undisclosed partnership or a limited partnership may be taxed only in the State in which said enterprise has a permanent establishment.

### **Article 8 International Transport**

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

If the place of effective management of a maritime navigation enterprise is aboard a ship, this place of effective management is deemed to be situated in the Contracting State in which the home harbor of this ship is situated or, if there is no home harbor, in the Contracting State of which the operator of the ship is a resident.

2) The profits derived from the operation of boats or aircraft between points situated in a Contracting State shall be taxable only in that State.

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 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 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.

2) Where a Contracting State includes in the profits of an enterprise of that State--and taxes accordingly--profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits.

In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

### **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 be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State; but where the resident of the other Contracting State is the beneficial owner of the dividends, the tax so charged shall not exceed:

- 5 percent of the gross amount of the dividends if the beneficiary is a company which holds directly at least 25 percent of the capital of the company paying the dividends;  
- 10 percent in all other cases.

3) The term "dividends" as used in this Article means income from shares, "jouissance" shares, founders' shares or other rights not being debt claims, participating in profits, as well as the income from other corporate rights subject to the same tax treatment as income from shares by the tax 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 in the other Contracting State of which the company paying the dividends is a resident, a trade or business through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the holding by virtue of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

5) Where a company which is a resident of a Contracting State earns profits or income from the other Contracting State, the other Contracting State may not impose any tax on the dividends paid by the company, except insofar as these dividends are paid to a resident of that other Contracting State or insofar as the holding by virtue of which the dividends are paid effectively arises from a permanent establishment or fixed base in that other State, or subject the company to a tax on 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 they arise in accordance with the laws of that State but, if the recipient of the interest is the beneficial owner thereof, the tax so levied may not exceed 12 percent of the gross amount of the interest. The competent authorities of the Contracting States shall determine by mutual agreement the conditions for the application of this limit.

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 paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on a trade or 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 provisions of Article 7 or Article 14, as the case may be, shall apply.

5) Interest shall be considered as arising in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. However, where the payer of the interest, whether or not he is a resident of a Contracting State, has in a Contracting State a permanent establishment or a fixed base for which the debt in respect of which the payment of the interest is made has been contracted, or which supports the cost of such interest, such interest shall be considered as arising in the 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 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, such royalties may be taxed in the Contracting State in which they arise if the laws of that State so provide, but the tax so levied may not exceed 12 percent of the gross amount of the royalties.

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, any patent, trade mark, design or model, plan, secret formula or process, or for the use or for the right to use an industrial, commercial, agricultural, port or scientific equipment, or for information concerning industrial, commercial or scientific experience, or for technical or economic studies or for technical assistance.

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 a trade or 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 interest 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.

5) Royalties shall be considered as arising in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. However, where the payer of the royalties, whether or not he is a resident of a Contracting State, has in a Contracting State a permanent establishment or a fixed base for which the debt in respect of which the payment of the interest is made has been contracted, or which supports the cost of such interest, such interest shall be considered as arising in the 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 service 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 from the alienation of immovable property as defined in paragraph 2 of Article 6 may be taxed in the Contracting State in which such property is situated.

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

3) Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic or 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 in the following cases:

a) If the interested party has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base;

b) If his stay in the other Contracting State extends over a period or periods which is equal to or exceeds, in the aggregate, 183 days during the tax year.

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 accountants.

#### **Article 15 Dependent Personal Services**

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

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

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days 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 only 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 supervisory board or a similar body of a company which is a resident of the other Contracting State may be taxed in that other State.

#### **Article 17 Artistes and Athletes**

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

2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3) Notwithstanding the provisions of paragraphs 1 and 2 of this Article, the income described herein shall be exempt from tax in the Contracting State in which the activity of the entertainer or athlete is exercised if such activity is financed in large part by public funds of that State or of the other State if the activity is exercised by virtue of a cultural agreement or convention concluded by the Contracting States.

#### **Article 18 Pensions**

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

#### **Article 19 Government Service**

1)

a) Remuneration, including pensions, paid by a Contracting State or a political subdivision or a local authority thereof, either directly or by withdrawal from funds they have constituted, to an individual in respect of services rendered to that State or subdivision or authority in the exercise of public duties, 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 if 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 for the purpose of rendering the services.

2)

a) Pensions paid by a Contracting State or a political subdivision or a local authority thereof, either directly or by withdrawal from funds they have constituted, 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 pensions shall be taxable only in the other Contracting State if the services are rendered in that State and if the individual is a resident of that State and a national thereof.
- 3) The provisions of Articles 14, 15, 16 and 18 shall apply to remuneration or pensions paid in respect of services rendered in connection with a trade or business carried on by one of the Contracting States or a political subdivision or a local authority thereof.

### **Article 20 Students, Apprentices, Scholarship Holders, Miscellaneous**

- 1) Any resident of one of the Contracting States who temporarily resides in the other State solely:
- a) as a student registered in a university, college or school of that other State;
  - b) as an apprentice in trade or business;
  - c) as the recipient of a scholarship, subsidy or grant given as compensation which is paid to him by a religious, charitable, scientific or educational institution, the purpose of which is to allow him to continue studies or research shall be exempt from tax in that other State with respect to the sums which he receives from abroad for his maintenance, studies or training, with respect to any scholarship which he holds, or with respect to any sum which he receives as compensation for non-independent professional services he performs in that other State in order to acquire practical training.
- 2) Any individual of one of the Contracting States who stays temporarily in the other Contracting State for one year or more as an agent of an enterprise of the first-mentioned State or one of the organizations described in sub-paragraph c of the first paragraph of this Article, or by virtue of a contract signed with said enterprise or organization, solely in order to acquire technical or professional experience or business experience with a person other than said enterprise or said organization, shall be exempt from tax in that other State with respect to the compensation he receives during said period.

### **Article 21 Other Income**

- 1) Items of income of a resident of a Contracting State 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 a trade or 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 provisions of Article 7 or Article 14, as the case may be, shall apply.

### **Article 22 Elimination of Double Taxation**

Double taxation shall be avoided as follows:

1) In the case of Poland:

- 1) Where a resident of Poland receives income which, in accordance with the provisions of this Convention, may be taxed in Tunisia, Poland shall exempt such income from taxation, subject to the provisions of sub-paragraph 2 hereinafter, but may, in order to calculate the amount of the tax on the rest of the income, apply the same taxation rates as if the income in question were not exempt.
- 2) Where a resident of Poland derives income which, in accordance with the provisions of Articles 10, 11, and 12, may be taxed in Tunisia, Poland shall allow, as a deduction from the tax that it collects on the income of this resident, an amount equal to the tax paid in Tunisia. The deduction shall not, however, exceed that part of the tax, as computed before deduction, which is appropriate to the income received from Tunisia.

2) In the case of Tunisia:

- 1) Where a resident of Tunisia derives income which, in accordance with the provisions of this convention, may be taxed in Poland, Poland shall allow, as a deduction from the tax that it collects on the income of this resident, an amount equal to the tax paid in Poland. The deduction shall not, however, exceed that part of the tax, as computed before deduction, which is appropriate to the income taxable in Poland.
- 2) Where, in accordance with any provision of this Convention, the income received by a resident of Tunisia is exempt from tax in Tunisia, Tunisia may, however, in order to compute the tax on the rest of the income of this resident, take into account the income exempted.
- 3) The tax which, for a limited period, is subject to an exemption or reduction in one of the Contracting States by virtue of the national laws of said State, shall be considered as if it has been paid, and it must be deducted in the other Contracting State from the tax which would have been levied on said income if such exemption or reduction had not been granted.

### **Article 23 Non-Discrimination and Investment Incentives**

- 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 to which nationals of that other State in the same circumstances are or may be subjected.
- 2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting 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 a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
- 3) Except where the provisions of paragraph 3 of Article 7, Article 9, paragraph 6 of Article 11, or paragraph 4 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
- 4) Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
- 5) The term "taxation" means in this Article taxes of all types or denomination covered in Article 2 of this Convention.
- 6) The provisions of this Convention must not prevent the application of more favorable tax provisions provided by the laws of one of the Contracting States to encourage investments.

#### **Article 24 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 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 three 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 Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.
- 3) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention within the time periods stipulated in paragraph 1 of this Article.
- 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, if exchanges of oral views seem to facilitate that agreement. These exchanges of views may take place within a commission composed of representatives of the competent authorities of the Contracting States within the time periods stipulated in paragraph 1 of this Article.

#### **Article 25 Exchange of Information**

- 1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information exchanged in this way 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 this Convention.
- 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 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 26 Diplomatic and Consular Officials**

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

#### **Article 27 Entry Into Force**

- 1) This Convention shall be approved in accordance with the provisions of the domestic laws in force in each of the Contracting States.
- 2) The Convention shall enter into force as of the exchange of notifications declaring that in both cases such provisions have been satisfied.

The provisions of this Convention shall apply for the first time:

- a) with respect to withholding, on the amounts paid to non-residents or credited to them on or after the first day of January of the calendar year following the year in which the instruments of ratification have been exchanged; and
- b) with respect to other taxes, for any tax year starting on or after the first day of January of the calendar year following the year in which the instruments of ratification have been exchanged.

#### **Article 28 Termination**

This Convention is concluded for an indefinite period, however each Contracting State may terminate it by writing to the other Contracting State or through diplomatic channels, through June 30 of any calendar year beginning on the fifth year from the date of its ratification.

In the event of termination before July 1 of such a year, the Convention shall apply for the last time:

- a) to withholding on income attributed or paid after December 31 of the year of termination;
- b) to other taxes for the tax periods beginning after December 31 of the year of termination.

In witness whereof, the undersigned, duly authorized to that effect, have signed this Convention.

Done in duplicate at Tunis, this 28th day of March 1993, in the Arabic, Polish, and French languages, each version being equally authentic. In the event of a dispute, the French language shall prevail.

**THE GOVERNMENT OF THE TUNISIAN REPUBLIC:**

**THE GOVERNMENT OF THE REPUBLIC OF POLAND:**