

1999 Income Tax Convention (English Translation)

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CONVENTION BETWEEN THE PORTUGUESE REPUBLIC AND THE REPUBLIC OF TUNISIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

[TRANSLATION]

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

Chapter I

Scope of Application of the Convention

Article 1 Personal Scope

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

Article 2 Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries as well as taxes on capital appreciation.
3. The existing taxes to which the treaty shall apply are in particular:
 - a) insofar as Portugal is concerned:
 - 1) tax on income of natural persons (imposto sobre o rendimento das pessoas singulares - IRS);
 - 2) tax on income of legal persons (imposto sobre o rendimento das pessoas colectivas - IRC);
 - 3) local tax on the income of legal persons (derrama);(which shall be referred to hereinafter as "Portuguese Tax");
 - b) insofar as Tunisia is concerned:
 - 1) tax on income of natural persons (l'impôt sur le revenu des personnes physiques);
 - 2) corporation tax (l'impôt sur le sociétés);(which shall be referred to hereinafter as "Tunisian tax").
4. The Convention shall apply also to any identical or substantially similar taxes which come into effect after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the 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 requires a different interpretation:
 - a) the term "Contracting State" or "the other Contracting State" refers to Portugal or Tunisia, according to the context herewith.
 - b) the term "Portugal" means the territory of the Republic of Portugal located on the European continent, the archipelagos of the Azores and of Madeira, the respective territorial waters as well as other areas over which, in accordance with Portuguese laws and international law, the Portuguese Republic has sovereign rights to conduct research and exploration of the natural resources of the sea bed, its subsoil as well as the water column.
 - c) the term "Republic of Tunisia" means the territory of the Republic of Tunisia and its areas adjacent to the territorial waters of Tunisia on the same, in conformity with international law, Tunisia can exercise the rights pertaining to the sea bottom, the subsea bottom and their natural resources.
 - d) the term "Person" refers to any individual or company or group of people.
 - e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

- f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- h) the term "nationals" means all individuals possessing the nationality of a Contracting State as well as all bodies corporate, societies of persons and associations constituted in conformity with the laws in effect in that State.
- i) the term "competent authority" refers to:
- 1) insofar as Portugal is concerned, the Minister of Finance, the Executive Manager of the Tax Administration, or his authorized representatives;
 - 2) insofar as Tunisia is concerned, 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 Contracting 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 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 Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
 - c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the 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 virtue 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 Contracting 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, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A construction or assembly site or supervisory activities carried out thereon shall only be deemed a permanent establishment as long as their duration exceeds six months.
4. Notwithstanding the 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 merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - c) the maintenance of a stock of 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 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, any other activity of a preparatory or auxiliary character;
- f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) through (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character overall.
5. Notwithstanding the provisions of Paragraphs 1 and 2, where a person - other than an agent of an independent status to whom Paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that Contracting State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in Paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that Paragraph.
6. An insurance enterprise of a Contracting State shall be deemed to maintain a permanent establishment in the other Contracting State if it collects premiums in the territory of the other State and insures risks through an employee or a representative other than an independent agent as defined by Paragraph 7 below.
7. 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.
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 be sufficient to make either company a permanent establishment of the other.

Chapter III

Taxation of Income

Article 6 Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, 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, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to income arising out of immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.
5. The above provisions shall also apply to income derived from movable property which, in accordance with the tax laws of the Contracting State in which such goods are located, is similar to income derived from immovable goods.

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 are 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 executive and general administrative expenses incurred for aforesaid purposes, whether in the State in which the permanent establishment is situated or elsewhere.

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

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of 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 present Convention, then the provisions of those Articles shall not be affected by the provisions of this present Article.

Article 8 Sea and Air Traffic

1. Profits from the operation of ships and 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 or boat, then it shall be deemed to be situated in the Contracting State in which the home harbor of the ship or boat 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.

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 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.

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 the other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits, as long as such other State considers the adjustment justified. 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 also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the person receiving the dividends is the beneficial owner of the dividends, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

This Paragraph does not affect the taxation of companies for profits out of which dividends are distributed.

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.

Insofar as Portugal is concerned, the term "dividends" also includes income derived from or paid on the basis of a profit-sharing agreement (joint venture).

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

Article 11 Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the person receiving such interest is the beneficial owner of such interest, the tax so charged shall not exceed 15 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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 an industrial or commercial activity 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 therewith. 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 in case the payer is such Contracting State, one of its political or administrative subdivisions, one of its local authorities, or a resident of such Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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 Contracting State.

2. These royalties, however, are also taxable in the Contracting State in which they arise and in accordance with the laws of this Contracting State; however, in case the person receiving the royalties is their beneficial owner, the tax established in such a manner can not exceed 10 percent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations

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 recording tapes for radio and television broadcasting, of any patent, trade mark, design or model, plan, secret formula or process as well as for the use of, or the right to use, any industrial, commercial, or scientific equipment or for information concerning experience acquired in the industrial, commercial, or scientific sector.

The term "royalties" also includes remuneration paid in consideration of technical assistance or technical or economic studies related with the use, or the right to use, the rights and property as well as the information mentioned in this present paragraph.

4. The provisions of Paragraph 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on an activity in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected therewith. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State in case the payer is such Contracting State, one of its political or administrative subdivisions, one of its local authorities, or a resident of such Contracting State. However, in case the payer of the royalties, whether a resident of a Contracting State or not, has a permanent establishment or a fixed base in a State for which the contract giving rise to the payment of the royalties has been entered and which as such incurs the charge thereof, these royalties are deemed to arise in the Contracting 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 Contracting State, due regard being had to the other provisions of this Convention.

Article 13 Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other Contracting State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including 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 Contracting State.

3. Gains 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 Contracting State. However, such income can be taxed in the other Contracting State in the following cases:

a) if the individual habitually maintains a fixed base in the other Contracting State in order to carry out his activities; in this case, only the part of the income attributable to that fixed base is taxable in the other Contracting State; or

b) if the resident is present in the other Contracting State for a period or periods exceeding, in the aggregate, 183 days during the fiscal year in question.

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 a Contracting State in respect of paid 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 hereof, remuneration derived by a resident of a Contracting State in respect of a paid employment exercised in the other Contracting State shall be taxable only in the first-mentioned Contracting State if:

- a) the beneficiary owner is present in the other State for a period or periods not exceeding in the aggregate 183 days during the fiscal year in question; 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 paid employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 Directors' Fees

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

Article 17 Artistes and Sportsmen

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

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

Article 18 Pensions

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

Article 19 Government Service

1) a) Remunerations, other than retirement pay, paid by a Contracting State or one of its political or administrative subdivisions or local authorities to an individual in respect of services rendered to that State or subdivision or authority thereof shall be taxable only in that State.

b) However, these remunerations shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State and

i) is a national of that State, or

ii) did not become a resident of that State solely for the purpose of rendering these services.

2) a) Any retirement pay paid by a Contracting State or one of its political or administrative subdivisions or local authorities, whether directly or by drawing on funds provided for that purpose, to an individual in respect of services rendered to that State or to that subdivision or local authority thereof shall be taxable only in that State.

b) However, such retirement pay shall only be taxable in the other Contracting State if the individual is a resident and a national of that State.

3) The provisions of Articles 15, 16, and 18 shall apply to remunerations as well as retirement pay in respect of services rendered in connection with an industrial or commercial activity carried on by a Contracting State or one of its political or administrative subdivisions or local authorities.

Article 20 Students and Interns

1. Any resident of one of the Contracting States who is only present in the other Contracting State:

- a) as a student enrolled at a university, college, or school of that other State;

b) as a commercial or industrial apprentice, or
c) as a recipient of a stipend, grant or financial aid from a religious, charitable, scientific or educational institution and whose main purpose is to allow such individual to pursue his studies or research, shall be exempt from tax in that other State in terms of the payments he receives from abroad for the purpose of his maintenance, education or training, in terms of any stipend he holds or in terms of any payments he receives in consideration for any paid employment which he pursues in that other State for the purpose of acquiring practical training, for a period of five years and up to a maximum amount of USD 5,000 per year or its equivalent in the currencies of one of the Contracting States.

2. Any individual residing in one of the Contracting States who is present in the other Contracting State as an employee of an enterprise of the first-mentioned State or one of organizations listed under letter c) of the first paragraph of this present Article or on the basis of a contract signed with aforesaid enterprise or aforesaid organization, for the sole purpose of acquiring technical, professional, or business experience with an enterprise or organization other than aforesaid enterprise or aforesaid organization shall be exempt from tax in that other State insofar as the remuneration such person receives for one year and up to a maximum amount of USD 5,000 in the currency of one of the Contracting States is concerned.

Article 21 Other Income

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this present 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 beneficial owner of such income, being a resident of a Contracting State, carries on an activity 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 therewith. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Chapter IV

Methods for Elimination of Double Taxation

Article 22 Elimination of Double Taxation

1. Where a resident of a Contracting State receives income which, in accordance with the provisions of this present Convention, is taxable in the other Contracting State, the first-mentioned State shall grant, on the tax it charges on the income of such resident, a deduction in an amount corresponding to the income tax paid in such other State.

In this case, however, this deduction may not exceed the fraction of income tax, calculated before making such deduction, which corresponds to such income which is taxable in that other State.

2. a) Insofar as Article 7 is concerned, for the application of Paragraph 1, the term "income tax paid in such other State" includes any tax which would have been paid in that Contracting State if it had not been exempted, deducted or reduced on a temporary basis under the laws in effect in that Contracting State for the purpose of promoting economic development.

b) Insofar as Article 10, Paragraph 2, is concerned, for the application of Paragraph 1, the term "income tax paid in such other State" includes any tax which would have been paid in that Contracting State if it had not been exempted, deducted or reduced under the laws in effect in that Contracting State. This deduction may not exceed the amount corresponding to the application of the rate provided for under Paragraph 2 of Article 10.

This system does not apply to dividends paid by a company being a resident of Tunisia to a company being a resident of Portugal as long as such company benefits from the deduction from the tax base of 95 percent of the dividends, in accordance with Portuguese tax laws.

3. Where, in accordance with any provision of the Convention, the income which a resident of a Contracting State receives is exempt from tax in that State, such exempted income can nonetheless be included to calculate the tax on the rest of the income of such resident.

Chapter V

Special Provisions

Article 23 Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected, in particular in terms of residence. This provision shall, notwithstanding the

provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The 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 1 of Article 9, Paragraph 6 of Article 11, or Paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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

Article 24 Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this present Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under Paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

2. That 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.

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. In the event that oral communications appear suitable to reach an agreement, such exchange of opinions may take place via a joint commission consisting of representatives of the competent authorities of the Contracting States.

Article 25 Exchange of Information

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

- a) to carry out administrative measures violating 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 administrative practice of that or of the other Contracting State;

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

Article 26 Members of Diplomatic Missions and Consular Posts

The provisions of this present Convention shall not 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.

Article 27 Other Provisions

The provisions of this present Convention can not be construed to limit in any manner whatsoever the exemptions, allowances, deductions, credits or other relief granted

a) under the laws of a Contracting State, for the purpose of determining the tax levied by such State, or

b) under any other special agreement entered into by a Contracting State.

Chapter VI

Final Provisions

Article 28 Entry into Force

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

2. The Convention shall come into effect one month after the exchange of the instruments of ratification, and the provisions of the Convention shall apply for the first time:

a) to taxes levied at the source who are based on circumstances arising after December 31 of the year during which the instruments of ratification are exchanged

b) to other taxes on income pertaining to tax periods commencing after December 31 of the year during which the instruments of ratification are exchanged.

Article 29 Termination

This Convention shall remain in force until terminated by one of the Contracting States. Each Contracting State can terminate this Convention by notifying the other Contracting State thereof in writing through diplomatic channels at least six months before the end of each calendar year, for the first time during the fifth year following the year during which the instruments of ratification were exchanged. In this case, the Convention shall no longer apply to the following:

In this case, its provisions shall no longer apply to the following:

a) to taxes levied at the source who are based on circumstances arising after December 31 of the year during which the Convention was terminated;

b) to other taxes on income pertaining to tax periods commencing after December 31 of the year during which the Convention was terminated.

In witness whereof the undersigned, duly authorized to that effect by their respective Governments, have signed this present Convention.

Done in Lisbon on February 24, 1999, in two original copies, in French, Portuguese and Arabic, with all three texts being equally valid. In the case of discrepancies, the French language version shall prevail.

FOR THE GOVERNMENT OF THE PORTUGUESE REPUBLIC:

FOR THE GOVERNMENT OF THE REPUBLIC OF TUNISIA: