

1994 Income Tax Convention (English Translation)

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

[TRANSLATION]

The Swiss Federal Council 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:

Article 1 Personal Scope

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

Article 2 Taxes Covered

1. This Convention shall apply to taxes on income and capital imposed on behalf of a Contracting State, a political subdivision or a local authority thereof, 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 amount of salaries as well as taxes on capital appreciation.

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

a) with regard to Switzerland:

les impôts fédéraux, cantonaux et communaux sur le revenu (federal, cantonal and local income tax) (revenu total [total income], produit du travail [earnings from work], revenus de la fortune [income from capital], bénéfices industriels et commerciaux [business profits], gains en capital [capital gains] and autres revenus [other income]);

(hereinafter referred to as "Swiss tax");

b) with regard to Tunisia:

- l'impôt sur le revenu des personnes physiques (individual income tax);

- l'impôt sur les sociétés (corporate income tax);

(referred to hereinafter as "Tunisian tax").

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

5. The Convention shall not apply to the federal tax levied at source on lottery winnings.

Article 3 General Definitions

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

a) the terms "a Contracting State" and "the other Contracting State" mean Switzerland or Tunisia, depending on the context;

b) the term "Switzerland" means the Swiss Confederation;

c) the term "Tunisia" means the territory of the Republic of Tunisia and the areas adjacent to the Tunisian territorial waters, over which, in accordance with international law, Tunisia may exercise the rights pertaining to the sea bed, the marine substratum and the natural resources thereof;

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; any legal person, partnership or association deriving its status as such from the laws in force in a Contracting State;

h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise whose effective place of management is situated in a Contracting State, except where the ship or aircraft is operated solely between places situated in the other Contracting State.

i) the term "competent authority" means:

(i) in Switzerland, the Head of the Federal Tax Authority or his authorized representative;

(ii) in Tunisia: 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. The term "resident of a Contracting State" also means associations as well as partnerships deriving their status under the laws of a Contracting State.

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) such person shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

b) if the State in which such person has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

c) if such person 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 such person is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5 Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop,

f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

g) a building site or construction or installation project or supervisory activities pertaining thereto lasting longer than 183 days.

3. 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 or display 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, delivery or display;

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 purchasing goods or merchandise or of collecting information for the enterprise;

e) the use of a fixed place of business for the enterprise, for the sole purpose of advertising;

f) the use of a fixed place of business for the sole purpose of carrying out for the enterprise any other activity of a preparatory or auxiliary character;

g) the use of a fixed place of business solely for any combination of activities mentioned in subparagraphs a) through f), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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

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

b) if he habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise for the enterprise or on behalf of the enterprise.

5. Notwithstanding the preceding provisions of this Article, an insurance enterprise of a Contracting State shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 6 hereinafter applies.

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 a permanent establishment of the other.

Article 6 Income From Immovable Property

1. Income derived by a resident of a Contracting State in respect of immovable property (including income from agriculture and forestry) situated in the other Contracting State shall be taxed in that other State.

2. The term "immovable property" shall have the meaning attributed to it by the laws 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, sharecropping 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. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including the actual executive expenses and the real general administrative expenses so incurred, either in the State in which such 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 of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of

apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

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

8. The interest owned by a partner in the profits of an enterprise created as an association or partnership shall be taxable in the State in which said enterprise has a permanent establishment

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 or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 shall also apply to profits derived by a Contracting State from 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 competent authorities of the Contracting States shall consult each other for the purpose of seeking an agreement on the elimination of double taxation.

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 laws of that State, but if the person who receives the dividends is the beneficial owner thereof, the tax so charged may not exceed 10 percent of the gross amount of the dividends. The competent authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this limitation.

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent

establishment or fixed base. In such case, the 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 to residents of the first-mentioned State, except 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 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 it arises, according to the laws of that State, but if the person who receives the interest is the beneficial owner thereof, the tax so charged may not exceed 10 percent of the gross amount of the interest. The competent authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this limitation.

3. 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 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 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, 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, then such interest shall be deemed to arise 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 under the laws of each Contracting State and 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 may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise, under the laws of that State, but if the person who receives the royalties is the beneficial owner thereof, then the tax so charged may not exceed 10 percent of the gross amount of the royalties. The competent authorities of the Contracting State shall settle by mutual agreement the mode of application of this limitation.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience, or for technical or economic research pertaining to the disclosure of such information or the application thereof.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the income, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State

independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the 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 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 obligation to pay the royalties was agreed to, and such royalties are paid by such permanent establishment, then such royalties 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 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 under the laws of each Contracting State and in accordance with 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 as defined in Article 6, and situated in the other Contracting State, may be taxed in that other State.

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

3. Gains from the alienation of ships or aircraft operated in international traffic, or from movable property pertaining to the operation of such ships or aircraft or boats, 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 a similar 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 resident has a fixed base available to him in the other Contracting State for the purpose of performing his activities; in such case, only that portion of the income which is attributable to said fixed base shall be taxable in the other Contracting State or

b) If his stay in the other Contracting State lasts for a period or periods equal to or greater than 183 days during the fiscal year; in such case, such income shall be taxable in that other State but only insofar as it arises in respect of activities carried out in that other State.

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 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 in 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 by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 Directors' Fees

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

Article 17 Entertainers and Athletes

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

2. Where income from activities exercised personally, and in such capacity, by an entertainer or athlete accrues to a person other than the entertainer or athlete himself, such 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. The provisions of paragraph 2 shall not apply if it is established that neither the entertainer nor the athlete, nor any persons associated with him, participate directly or indirectly in the profits of the person referred to in said paragraph.

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 previous employment shall be taxable only in that State.

Article 19 Government Service

1.a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof, or out of funds created by them, to an individual in respect of services rendered to that State or subdivision or authority while performing duties of a public character shall be taxable only in that State.

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

- is a national of said State; or

- did not become a resident of said State solely for the purpose of rendering the services.

2. Pensions paid by a Contracting State or a political subdivision or a local authority thereof either directly or out of funds created by them, to an individual in respect of services rendered to that State or to that subdivision or local authority, shall be taxable in that State. However, such pensions may also be taxed in the other Contracting State, if the individual is a resident of that other State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions paid in respect of services rendered in connection with a business carried on by a Contracting State, a political subdivision or a local authority thereof.

Article 20 Students and Business Apprentices

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

2. Any individual who is or was previously a resident of a Contracting State and who is present in the other Contracting State for the purpose of pursuing his education, research or training in order to acquire technical or business experience therein, shall be exempt from taxation in that other Contracting State for a period or periods not to exceed twelve months in the aggregate, for remuneration in respect of a paid employment in that other State, provided that such employment is directly related to his education, research, training or apprenticeship and that the remuneration in respect of such employment does not exceed 6,000 Swiss francs or the equivalent in Tunisian currency at the official exchange rate.

Article 21 Other Income

1. Items of income of a resident of a Contracting State, irrespective of where such income arises, which are not mentioned in the foregoing Articles of this Convention may be taxed only in that State.

2. The provisions of paragraph 1 shall not apply to income other than income in respect of immovable property as defined in paragraph 2 of Article 6, where the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 22 Elimination of Double Taxation

1. With regard to Switzerland double taxation shall be avoided as follows:

a) Where a resident of Switzerland receives income which, in accordance with the provisions of the Convention, is taxable in Tunisia, then Switzerland shall exempt such income from taxation, subject to the provisions of sub-paragraph b), but it may, in computing the amount of tax on the remainder of the income of such resident, apply the same rate as if the income in question had not been exempted. However, such exemption shall apply to the pensions referred to in paragraph 2 of Article 19 only after submitting proof of the effective taxation in Tunisia.

b) Where a resident of Switzerland receives dividends, interest or royalties which, in accordance with the provisions of Articles 10, 11 and 12 may be taxed in Tunisia, then Switzerland shall allow a deduction to such resident upon request; such deduction shall consist of the following:

- a deduction equal to the amount of tax paid in Tunisia in accordance with the provisions of Articles 10, 11 and 12 from the tax on the income of that resident; such deduction shall not, however, exceed that portion of the Swiss tax, as computed before the deduction is given, which is attributable to the income which is taxable in Tunisia, or

- a flat rate reduction in the Swiss tax, computed according to pre-established standards, taking into account the general deduction principles set forth in the preceding sub-section, or

- a partial exemption of the dividends, interest or royalties in question from the Swiss tax, but at least a deduction of the tax paid in Tunisia from the gross amount of the dividends, interest or royalties.

c) Where a resident of Switzerland receives interest or royalties which, in accordance with the Tunisian laws promoting investment, are exempt from Tunisian tax, then Switzerland shall allow as a deduction to that resident, upon request, a deduction in an amount equal to 10 percent of the gross amount of the interest or royalties. The provisions of sub-paragraph b) of this paragraph shall similarly apply.

d) A company which is a resident of Switzerland and which receives dividends from a company which is a resident of Tunisia, shall be allowed the same reductions in the Swiss tax on such dividends as those which it would receive if the company paying the dividends were a resident of Switzerland.

2. With regard to Tunisia, double taxation shall be avoided as follows:

a) Where a resident of Tunisia receives income which, in accordance with the provisions of this Convention may be taxed in Switzerland, then Tunisia shall deduct from the tax levied by it on the income of such resident an amount equal to the income tax paid in Switzerland.

b) However, the sum deducted may not, in either case, exceed that portion of the income tax as computed before the deduction is given, which is attributable, as the case may be, to the income which may be taxed in the other Contracting State.

Article 23 Non-Discrimination

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

3. Except where the provisions 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. The provisions of paragraph 3 of this Article 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.

5. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned 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.

6. The term "taxation" means in this Article the taxes referred to in Article 2 of this Convention.

Article 24 Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to the competent authority 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 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 Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also cooperate for the purpose of eliminating double taxation in cases not referred to in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching agreement as indicated in the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 25 Diplomatic Agents and Consular Officers

1. The provisions of this Convention shall not affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or the provisions of specific agreements.

2. Notwithstanding the provisions of Article 4, any individual who is a member of a diplomatic mission, a consular post or a permanent delegation of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed a resident of the accrediting State, provided that:

a) in accordance with international law, he is not subjected to tax in the accredited State for income from sources outside that State; and

b) he is subject in the accrediting State to the same requirements with respect to taxation on all his income as the residents of that State.

3. This Convention shall not apply to international organizations, to any bodies or employees thereof, nor to persons who are members of a diplomatic mission, a consular post or a permanent delegation from a third State, where they are situated in the territory of a Contracting State and are not treated as residents in either of the Contracting States with respect to taxes on income.

Article 26 Entry Into Force

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

2. The Convention shall enter into force upon the exchange of instruments of ratification, and the provisions thereof shall apply:

a) with respect to taxes withheld from amounts paid to non-residents or attributed to them on or after January 1 of the calendar year following the year in which the instruments of ratification are exchanged; and

b) with respect to other taxes, to the entire tax year starting on or after January 1 of the calendar year following the year in which the instruments of ratification are exchanged.

3. The agreement concluded April 3, 1970 between the Swiss Federal Council and the Government of the Republic of Tunisia for the avoidance of double taxation on income from the operation of ships and aircraft shall be repealed as of the date of entry into force of this Convention.

Article 27 Termination

1. This Convention shall remain in force with no term limitation. However, each of the Contracting States, may, with a minimum of six months' notice through diplomatic channels, terminate it effective at the end of a calendar year.

2. In such case, the provisions thereof shall apply for the last time:

a) with respect to taxes withheld from amounts paid to non-residents or attributed to them no later than December 31 of the year of termination;

b) with respect to other taxes for tax periods ending on 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 tenth day of February 1994, in the French and Arabic languages, each version being equally authentic.

FOR THE SWISS FEDERAL COUNCIL:

Delamuraz

FOR THE GOVERNMENT OF THE REPUBLIC OF TUNISIA:

Zorgati