

**TAX TREATY BETWEEN
THE GOVERNMENT OF THE ITALIAN REPUBLIC AND
THE GOVERNMENT OF THE ARGENTINE REPUBLIC
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL
WITH PROTOCOL
ROME, 15 NOVEMBER 1979 ¹**

The Government of the Argentine Republic and the Government of the Italian Republic, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, 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 on capital 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 and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

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

a) in the case of Argentina:

- 1) the income tax (el impuesto a las ganancias);
- 2) the tax on occasional gains (el impuesto a los beneficios de caracter eventual);
- 3) the tax on the capital of enterprises (el impuesto al capital de las empresas);
- 4) the net worth tax (el impuesto al patrimonio neto);

(hereinafter referred to as "Argentine tax").

b) in the case of Italy:

- 1) the individual income tax (imposta sul reddito delle persone fisiche);
 - 2) the corporate income tax (imposta sul reddito delle persone giuridiche);
 - 3) the local income tax (imposta locale sui redditi),
- even if these taxes are collected by means of withholding at source;

(hereinafter referred to as "Italian tax").

¹ Ratified in Italy with Law 27 April 1982, n. 282 (G.U. 27 May 1982, n. 144, S.O). Exchange of ratification instruments: 15 December 1983. Entry into force: 15 December 1983 (G.U.18 February 1984, n. 49). Convention ratified in Argentina with Ley 3 February 1983 n. 22.747 (B.O. n. 49 of 18 February 1984)

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

Article 3 - *General definitions*

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

- a) the term "Argentina" means the Argentine Republic;
- b) the term "Italy" means the Italian Republic;
- c) the terms "a Contracting State" and "the other Contracting State" mean Argentina or Italy, as the context requires;
- 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 "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:
 - i) all individuals possessing the nationality of a Contracting State;
 - ii) all legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State;
- i) the term "competent authority" means:
 - i) in the case of the Argentine Republic: the Ministry of Economic Affairs (Secretaria de Estado de Hacienda);
 - ii) in the case of Italy: the Ministry of Finance.

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. 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.

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 (centre of vital interests);
- b) if the Contracting State in which he has his centre 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 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 building site or installation or construction project which exists for more than nine months.
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, display or delivery of goods or merchandise belonging to the enterprise;
 - b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
 - c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
 - d) the maintenance of a fixed place of business solely for the purpose of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of advertising, for collecting information, for scientific research or for similar activities which have a preparatory or auxiliary character for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State, other than an agent of independent status to whom paragraph 5 applies, shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise.

5. 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.

6. 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 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, live stock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply. Immovable property shall be deemed to include, inter alia, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, 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 executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Similarly, profits derived by an enterprise of a Contracting State from the development of insurance activities covering goods situated in the other Contracting State or persons that are residents of that other State at the moment that the insurance contract was concluded may be taxed in that other State, whether or not the enterprise carries on its activity in that other State through a permanent establishment situated therein, provided that, in the last-mentioned case, the pay or of the premium is a resident of that other State.

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

Article 8 - Shipping and air transport

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

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship 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 from the participation in a pool, a joint business or an international operating agency.

Article 9 - Associated enterprises

Where:

a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10 - Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, provided the person receiving the dividends is the beneficial owner thereof; the tax so charged shall not exceed 15% of the gross amount of the dividends. 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 in that other State, or performs independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the dividends shall be taxed in that other Contracting State according to its internal law.

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 recipient is the beneficial owner of the interest the tax so charged shall not exceed 20% of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

a) the debtor of the interest is that State, a political or administrative subdivision or local authority thereof;

b) the interest is paid to the government of the other Contracting State, a local authority thereof or any entity or body (including a financial institution) wholly owned by that Contracting State or by a local authority thereof; or

c) the interest is paid to other entities or bodies (including a financial institution) by reason of financing contracted by them under agreements concluded between the governments of both Contracting States.

4. 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, and any other income assimilated to income from money lent by the taxation law of the State in which the income arises.

5. 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 in that other State, 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 cases, interest is taxable in that other Contracting State in accordance with its internal law.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of 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 or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner of the interest or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each State, due regard being had to the other provisions of this Convention.

Article 12 - *Royalties*

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

2. However, such royalties shall also be taxable in the Contracting State in which they arise, and in accordance with the legislation of that Contracting State, provided the recipient of the royalties is the beneficial owner thereof; the tax so charged shall not exceed:

a) 10% of the gross amount of the royalties arising from the use of or the right to use any copyright of literary, artistic or scientific work;

b) 18% of the gross amount of the royalties in all other cases.

In any case, the reduction of the tax rate shall only apply for Argentina to the extent that the contracts from which those payments arise have been approved by the competent authorities of Argentina in accordance with the law on the transfer of technology.

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, records or tapes for radio broadcasting or television, 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 studies or research of a scientific or technical nature and concerning industrial, commercial or administrative methods or processes.

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 business in the other Contracting State in which the royalties arise, through a permanent establishment situated in that other State, or performs independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the royalties are taxable in that other Contracting State in accordance with its internal law.

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 incurred, and such royalties are borne by the permanent establishment, then such royalties shall be deemed to arise in the Contracting 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 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 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 a fixed base, may be taxed in that other State.

3. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining directly 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 independent activities of a similar character shall be taxable only in that State. However, such income shall be taxable in the other Contracting State when:

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

b) he is present in this other Contracting State for a period or periods equal to or exceeding in the aggregate 200 days during the calendar year.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational, sporting 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 all the following conditions are satisfied:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

Article 16 - *Directors' fees*

Profit shares, attendance fees and similar payments received by a resident of a Contracting State in his capacity as a member of the executive or supervisory board of a company resident in the other Contracting State may be taxed in that other State.

Article 17 - *Artists and athletes*

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State from the exercise of personal activities in the other Contracting State such as those of a professional entertainer, theatre, motion picture, radio or television artist, musician, as well as an athlete, may be taxed in that other State.
2. Notwithstanding the provisions of Articles 7, 14 and 15, where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person, it may be taxed in the State in which such activities are performed.
3. Notwithstanding the provisions of paragraph 1, remuneration, profit, wages, salaries and other similar income derived by an entertainer or athlete who is a resident of a Contracting State from personal services performed by him as such in the other Contracting State may only be taxed in the first-mentioned State when such activities in the other State are substantially supported by public funds of the first-mentioned State, or of one of its political subdivisions or local authorities.
4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities exercised by an entertainer or athlete in his capacity as such in a Contracting State accrues not to the entertainer or athlete himself but to another person, who is a resident of the other Contracting State, that income may, notwithstanding the provisions of Articles 7, 14 and 15, only be taxed in the other Contracting State, when that other person is substantially financed by public funds of the other State, or of one of its political subdivisions or local authorities.

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 services*

1. a) Remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
 - b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and 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 solely for the purpose of rendering the services.
2. a) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or local authority shall be taxable only in that State.
 - b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

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

Article 20 - Professors and researchers

Professors or researchers who are temporarily present in a Contracting State during a period not exceeding two years for the purpose of teaching or research in a university, college, school or similar institution and who are or were, immediately before their visit, residents of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State as regards remuneration arising from the teaching or research, provided the source of such remuneration is located outside the first-mentioned State.

Article 21 - Students

Payments which a student or 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 Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 22 - Other income

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable in both Contracting States.

Article 23 - Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by 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, may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic, and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24 - Provisions for the elimination of double taxation

1. It is understood that double taxation shall be avoided in accordance with the following paragraphs of this Article.
2. In the case of Italy: where a resident of Italy derives income which is taxable in Argentina, Italy may, in determining its income taxes referred to in Article 2 of this Convention, include the aforesaid income in the taxable base of said taxes, unless otherwise provided in specific provisions of this Conventions. In such a case Italy shall deduct from the taxes so calculated the tax paid in Argentina which is attributable to these elements of income, but in an amount not exceeding that proportion of the Italian tax which such items of income bear to the entire income. However, no deduction will be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of that income under Italian law.
3. In the case of Argentina: where a resident of Argentina derives income from Italy, such income shall be excluded from the basis on which Argentine tax is calculated.
4. For the purposes of application of paragraph 2 of this Article, the Argentine tax shall be always deemed as paid at the rate of:
 - a) 15% of the gross amount of dividends as defined in paragraph 3 of Article 10;
 - b) 20% of the gross amount of interest as defined in paragraph 4 of Article 11;
 - c) 20% of the gross amount of royalties as defined in paragraph 3 of Article 12.
5. If, by virtue of Argentine law, the Argentine tax on profits of enterprises referred to in Article 7 of this Convention is, during a specified period of time, wholly or partly uncollected, such tax shall, for the purposes of paragraph 2 of this Article, be deemed paid to a limit of 15% of such profits.

Article 25 - 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 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 favourably levied in that other Contracting 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 Article 9, paragraph 7 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. 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 capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of 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 that first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 26 - Mutual agreement procedure

1. Where a person considers that the actions of one 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 24, 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. 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 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 application of 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. 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 27 - Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the 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 nor to the prevention of fiscal evasion and fraud. 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

- a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Article 28 - Diplomatic agents and consular officers

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

Article 29 - Refund requests

1. The taxes collected in a State by means of withholding at source shall be refunded on request of the person interested or of the State of which he is a resident where the right to levy the taxes is limited by the provisions of this Convention.
2. Refund requests, to be filed within the terms established in the law of the State from which the refund is due, must be substantiated by an official statement made by the State of which the taxpayer is a resident saying that the conditions established in order to benefit from the exemption or the reductions provided for in the Convention have been met.
3. The competent authorities of the Contracting States shall establish, by mutual agreement, in accordance with the provisions of Article 26 of this Convention, the particulars for the application of this Article.

Article 30 - *Entry into force*

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Buenos Aires as soon as possible.
2. The Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:
 - a) as respects taxes collected by means of withholding at source, to sums paid or credited on or after the date of signing this Convention;
 - b) as respects other taxes on income and taxes on capital, to taxes applicable for each taxable period beginning on or after 1 January of the year of signing this Convention.
3. The Convention for the Avoidance of Double Taxation on Income Arising from International Shipping and Air Transport signed on 12 April 1949 is revoked. The provisions thereof shall cease to have effect with respect to taxes to which this Convention applies under paragraph 2.
4. Requests for refunds or tax credits provided for in this Convention with respect to any taxes due by the residents of one of the Contracting States corresponding to taxable periods beginning on or after 1 January of the year of signature of this Convention and up to its entry into force may be filed within two years as of the entry into force of this Convention or, if this is more advantageous, as of the date on which the tax was collected.

Article 31 - *Termination*

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year as from the fifth year following the entry into force of the Convention. In such case, the Convention shall cease to have effect:

- a) as respects taxes collected by means of withholding at source, to sums paid or credited on or after 1 January of the calendar year following that in which the notice of termination was given;
- b) as respects other taxes on income and taxes on capital, to taxes levied in connection with taxable periods beginning on or after 1 January of the calendar year following the year in which the notice of termination was given.

In witness whereof the undersigned, being duly authorised thereto, have signed this Convention.

Done in Rome, 15 November 1979, in duplicate, in the Italian, Spanish and French languages, the French text prevailing in case of divergence of interpretation.

For the Government of the Italian Republic
Francesco Reviglio

For the Government of the Argentine Republic
Alessandro Estrada

PROTOCOL

At the moment of signing the Convention between the Argentine Republic and the Republic of Italy for the Avoidance of Double Taxation, the undersigned, duly authorized thereto, have agreed upon the following provisions which constitute an integral part of the Convention:

1. With reference to Article 2, paragraph 3, subparagraph a): the provisions of this Article shall also apply, as regards enterprises referred to in Article 8, to all taxes, levies or licence duties imposed on profit-seeking activities carried on in the territory of the Federal Capital and Argentine territories subject to the jurisdiction of the central government (jurisdiccion nacional). Notwithstanding the provisions of Article 30, this clause shall be effective as regards all fiscal years not excluded by the statute of limitations.
2. With reference to Article 2, paragraph 3, subparagraph b): it is understood that in case Italy introduces in the future a tax on capital, this Convention shall apply to such tax and double taxation shall be avoided under the provisions of Article 24.
3. With reference to Article 5, it is understood that Italy shall have the right to invoke the most favored nation clause in case a Convention for the avoidance of double taxation is signed by Argentina as from the date of signature of this Convention in which the maintenance of a fixed place of business solely for the purpose of purchasing merchandise for the enterprise is not considered by Argentina to be a permanent establishment. This provision does not include the Conventions with Belgium, Canada and Spain already initialled by Argentina.
4. With reference to Article 7, paragraph 3, it is understood that "expenses which are incurred for the purposes of the permanent establishment" mean the expenses connected directly with the activities of such permanent establishment.
5. With reference to Article 7, it is understood that where a resident of Italy has a permanent establishment in the Argentine Republic, the Argentine tax on the profits of such permanent establishment, if it is levied either on the permanent establishment as such, or on the aforementioned resident or on both of them, shall not exceed the tax which under Argentine law is applicable on the profits of a company domiciled in the Argentine Republic, plus 15% of such profits as calculated after the deduction of the aforesaid tax.
6. With reference to Article 12, it is understood that Italy shall be entitled to invoke the most favored nation clause, in case a Convention for the avoidance of double taxation is signed by Argentina as from the date of signature of this Convention, in which scientific or technical studies or research concerning industrial, commercial or administrative methods or processes are not included by Argentina in the concept of "royalty" referred to in paragraph 3 of such Article. This provision does not include the Conventions with Austria, Belgium and Finland already initialled by Argentina.
7. With reference to:
 - a) Article 13: capital gains arising from the transfer of movable and immovable property pertaining directly to the specific activities of international transportation shall be taxable only in the Contracting State where the place of effective management of the international transportation enterprise owning the property is situated.

b) Article 23: the capital of an international transportation enterprise pertaining directly to the specific activities of this enterprise shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. Notwithstanding the provisions of Article 30, this clause shall have effect in Argentina with regard to any fiscal year not excluded by the statute of limitations.

8. With reference to Article 25, it is understood that the provisions of Argentine law in force at the moment of signature of this Protocol, referring to the taxation of a permanent establishment that an Italian enterprise has in Argentina, are not less favorable than the provisions relating to taxation applicable to Argentine enterprises developing the same activities.

9. With reference to paragraph 5 of Article 25, it is understood that the tax on profit remittances established by the Argentine Law on Foreign Investments is not covered by this Convention, provided Italian citizens who are not residents of the Argentine Republic receive, for the purposes of the aforesaid law, the same treatment as Argentine citizens residing outside the territory of this last-mentioned country.

10. With reference to paragraph 1 of Article 26, the expression "irrespective of the remedies provided by the domestic law" means that recourse to the mutual agreement procedure is not alternative as regards national remedies, prior recourse to which is necessary whenever the dispute refers to the imposition of taxes not in accordance with this Convention.

11. With reference to paragraph 3 of Article 29, it shall be understood that the provision does not exclude the interpretation that the competent authorities of the Contracting States can by mutual agreement establish other procedures for the implementation of tax rebates or exemptions granted by the Convention.

12. The provision established in paragraph 2, subparagraph b), second paragraph of Article 12 shall not apply to cinematograph films and to records for television, provided they are produced in Italy.

In witness whereof the undersigned, being duly authorized thereto, have signed this Convention.

Done in Rome, 15 November 1979 in duplicate, in the Italian, Spanish and French languages, the French text prevailing in case of divergency of interpretation.

For the Government of the Italian Republic
Francesco Reviglio

For the Government of the Argentine Republic
Alessandro Estrada