CONVENTION BETWEEN
THE GOVERNMENT OF THE ITALIAN REPUBLIC
AND THE GOVERNMENT OF THE STATE OF ISRAEL
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL AND FOR THE PREVENTION OF FISCAL EVASION

THE GOVERNMENT OF THE ITALIAN REPUBLIC

AND

THE GOVERNMENT OF THE STATE OF ISRAEL

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital and for the prevention of fiscal evasion,

Have agreed as follows:

Chapter I

SCOPE OF THE CONVENTION

Art. I. Personal scope. - This Convention shall apply to persons who are residents of one or both of the Contracting States.

Art. 2. Taxes covered. - 1) This Convention shall apply to taxes on income and on capital imposed on behalf of each 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, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

a) in the case of Israel:

(i) the income tax (including company tax and tax on capital gains);

(ii) the tax imposed upon gains from the alienation of real property in accordance with the Land Appreciation Tax Law;

(iii) the Property tax;

(Hereinafter referred to as “Israeli Tax”);

b) in the case of Italy:

(i) the personal income tax (imposta sul reddito delle persone fisiche);

(ii) the corporate income tax (imposta sul reddito delle persone giuridiche);

(iii) the local income tax (l'imposta locale sul reddito),

(iv) the tax on net capital of enterprises (l'imposta sul patrimonio netto delle imprese);

whether or not they are collected by withholding at source (hereinafter referred to as « Italian tax »).

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

Chapter II

DEFINITIONS

Art. 3. General definitions. - 1) In this Convention, unless the context otherwise requires:

a) the term "Israel" means the State of Israel; and when used in a geographical sense, the term "Israel" includes its a territorial sea, continental shelf, and other maritime areas over which it exercises rights according to international law,

b) the term «Italy» means the territory of the Italian Republic and includes also any areas beyonds the territorial sea of Italy which , in accordance with the international laws of Italy concerning the exploration and exploitation of natural resource, may be designated as an area within which the rights of Italy, with respect to the seabed and subsoil and natural resource, may be exercised;

c) the terms «a Contracting State» and «the other Contracting State» means as the context requires, Israel or Italy;

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 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 «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;

h) 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;

i) the term «competent authority» means:

(i) in the case of Israel, the Minister of Finance or his authorised representative;

(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 laws of that Contracting State concerning the taxes to which the Convention applies.

Art 4. Fiscal domicile. - 1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any criterion of a similar nature.
But this term does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that State or capital situated therein.

2) Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, than 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 Contracting State in which its place of effective management is situated.

Art. 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 shall include especially:

a) a place of management;

b) a branch;

c) an office;

d) a factory;

e) a workshop;

f) a mine, quarry or other place of extraction of natural resource;

g) a building site or construction or assembly project which exists for more than twelve months.

h) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel, where activities of that nature continue (for the same or a connected project) within the country for a period or periods aggregating more than twelve months.

3) The term “permanent establishment” shall not be deemed to include:

a) the use of the 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 enterprise solely for the purpose of processing by another enterprise;

d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of 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 an independent status to whom paragraph 5 applies- shall be deemed to 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 unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Chapter III

TAXATION OF INCOME

Art. 6. Income from immovable property. - 1) Income derived by a resident of a Contracting State from immovable property situated in the other Contracting State may be taxed in that other State.

2) The term “immovable property” shall be defined in accordance with 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, and 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; shall also be considered as “immovable property”. Ships, boats and aircraft shall not be regarded as immovable property.

3) The provisions of paragraph 1 shall also 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.

Art. 7. Business profits. - 1) The profits of an enterprises of a Contracting State shall be taxable only in that State unless the enterprise carries or 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 the determination of 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) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

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

7) 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.

Art. 8. Shipping and air transport. - 1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in a 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 derived from participation in a pool, a joint business or an international operating agency.

Art. 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.

Art. 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 recipient is the beneficial owner of the dividends, the tax so charged shall not exceed:

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

b) 15 per cent of the gross amount of the dividends in all other cases.

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

3) A resident of Israel who receives dividends distributed by a company resident in Italy is entitled to a refund of the amount corresponding to the << maggiorazione di conguaglio >> owed, if applicable, by that company in respect of those dividends, subject to the deduction of the withholding taxes mentioned in paragraph 2. The refund is to be requested, within the time limits fixed by Italian law, through the intermediary of the distributing company, which in such a case is to act in its own name and on behalf of the aforementioned resident of Israel.
This provision applies to dividends declared on or after the date of entry into force of this Convention.
The distributing company may pay the above-mentioned amount to a resident of Israel at the time of the payment of the dividends due to that resident and deduct that amount from tax due in its first income tax return filed after the payment.
The payment of the amount corresponding to the << maggiorazione di conguaglio >> to a resident of Israel is allowed on condition that he is the beneficial owner of the dividends on the date the dividends are declared and, in cases mentioned in paragraph 2 a), the shares have been held for a period of 12 months preceding that date.
If the taxable income of the distributing company is increased in a subsequent redetermination, or its reserves or other funds are subsequently taxed, the reduction of the tax owed by the company for the tax period, in which the adjustment has become final shall be limited to that part of the tax which is attributable to the dividends subject to the "maggiorazione di conguaglio" and which has actually been paid to the State.

4) The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of paragraphs 2 and 3.

5) 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 taxation law of the State of which the company making the distribution is a resident.

6) 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, carries on business in the other Contracting State of which the company paying the dividens is a resident, through a permanent establishment situated therein, or performs in that other State independent professional service 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 a case the dividends are taxable in that other Contracting State in according to its own law.

7) 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.

Art. 11. Interest.- 1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed only in that other State.

2) However, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State, but if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

The competent authorities of the Contracting State shall by mutual agreement settle the mode of application of this limitation.

3) The term “interest” as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

4) The provisions of paragraphs 1 and 2 hall 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 Contracting 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 interest is taxable in that other Contracting State according to its own law.

5) 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 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 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.

Art. 12. Royalties. - 1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2) However, such royalties may also be taxed in the Contracting State in which they arise, and according to the law of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3) Notwithstanding the provisions of paragraph 2, royalties in respect of payments of any kind received as a consideration for the use, or the right to use, any copyright of literary, artistic or scientific work (excluding cinematograph films and tapes for television or broadcasting) arising in a Contracting State shall be exempt from tax in that State.

4) 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 software, cinematograph films or films or tapes for television or broadcasting any patent, trademark, 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.

5) 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 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 a case, the royalties are taxable in that other Contracting State according to its own law.

6) Royalties 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 royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties 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 or between both of them and some other person, the amount of the royalties exceeds, for whatever reason, 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 payment shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Art. 13. Capital gains. - 1) Gains form the alienation of immovable property, as defined in Article 6, may be taxed in the Contracting State in which property is situated.

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

5) Gains derived by a resident of a Contracting State from the alienation of shares or rights, other than those referred to in paragraph 4, in a company or other legal person of the other Contracting State may be taxed in that other State, but only in the resident of the first-mentioned Contracting State owned either directly or indirectly at any time within the 24-month period preceding such alienation shares or rights possessing 10% or more of the voting power of the company or other legal person. The rate of tax on gains described in the preceeding sentence imposed by the other State may not exceed 20 per cent of the amount of the gain.

6) Gains from the alienation of any property other than that mentioned in paragraphs 1, 2, 3, 4, and 5 shall be taxable only in the Contracting State of which the alienator is a resident.

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

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.

Art. 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 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 only in the Contracting State in which the place of effective management of the enterprise is situated.

Art. 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.

Art. 17. Artistes 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 theatre, motion picture, radio or television artist, 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 in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Art. 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.

Art. 19. Government service. - 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 Contracting State in which the services are rendered if the individual is a resident of that State, not being a national of the other Contracting 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 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 national of and a resident 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 one a Contracting States, or a political or administrative subdivision or a local authority thereof.

Art. 20. Professors and teachers. - A professor or a teacher who makes a temporary visit to a Contracting State for the purpose of teaching or conducting research at a university, college, school or other educational institution, and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of remuneration for such teaching or research for a period of 2 years.

Art. 21. Students. - 1) 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 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.

Art. 22. Other income. - 1) 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 only in that State.

2) The provisions of paragraph 1, shall not apply to income, other than income from immovable property as defined in paragraph 2 of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on 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 items of income are taxable in that other Contracting State according to its own law.

Chapter IV

TAXATION OF CAPITAL

Art. 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.

Chapter V

Art. 24. Elimination of double taxation. – 1) It is agreed that double taxation shall be avoided in accordance with the following paragraph of this Article.

2) a) If a resident of Italy derives items of income that, in accordance with the provisions of this Convention, may be taxed in Israel, Italy in determining its income taxes specified in Article 2 of this Convention, may include in the basis upon which such taxes are imposed the said items of income, unless specific provisions of this Convention provide otherwise.
In such a case, Italy shall deduct from the taxes so calculated the income tax paid in Israel, but in an amount not exceeding that proportion of the aforesaid 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 the said income in accordance with the Italian law.

b) If a resident of Italy owns items of capital that, in accordance with the provisions of this Convention, may be taxed in Israel, the tax o in capital paid in Israel shall be allowed as a credit against Italian tax on capital on the same item of capital. The credit shall not, however, exceed that proportion of the Italian tax which the item of capital owned in Israel bears to the entire capital.

3) Where a resident of Israel derives profits, income or capital gains or owns capital that, in accordance with the provisions of this Convention, may be taxed in Italy, in Israel:

a) Italian tax paid, whether directly or by deduction in respect of income, profits or capital gains from sources within Italy shall be allowed as a credit against any Israeli tax payable in respect of that income, profits or capital gains provided that such credit shall not exceed that proportion of the Israeli tax which such income, profits or capital gains bears to the entire income, profits or capital gains.

b) Tax on capital paid in Italy shall be allowed as a credit against Israeli tax on capital in respect of the same item of capital. This credit cannot, however, exceed that proportion of the Israeli tax which the item of capital owned in Italy bears to the entire capital.

c) However, no deduction will be granted if the item of income is subjected in Israel to a final withholding tax by request of the recipient of the said income in accordance with the Israeli law.

4) For the purposes of paragraphs 2 and 3 of this Article, where dividends are exempted from tax or are subject to a reduced rate of tax in a Contracting State in accordance with special laws for the encouragement of capital investment and the promotion of economic development, the terms “income tax paid in Israel” and “Italian tax paid”, respectively, shall mean, in respect of such dividends, the rate of tax paid in accordance with the provisions of this Convention, such rate being increased by 10 percentage points.

Chapter VI

SPECIAL PROVISIONS

Art. 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 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 6 of Article 11, or paragraph 7 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.

Similary, 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 the 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.

Art. 26. 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 25, to that of the Contracting States 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 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.

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.

Art. 27. 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 taxex covered by this Convention insofar as the taxation thereunder is not contrary to the Convention as well as to prevent fiscal evasion. 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 one of the Contracting State the obligation:

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

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

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

Art. 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.

Art. 29. Refunds. - 1) Taxes withheld at the source in a Contracting State will be refunded by request of the taxpayer if the right to collect the said taxes is affected by the provisions of this Convention.

2) Claims for refunds, that shall be produced within the time limit fixed by the law of the Contracting State which is obliged to carry out the refund, shall be accompanied by an official certificate of the Contracting State of which the taxpayer is a resident certifying the existence of the conditions required for being entitled to the application of the allowances provided for by this Convention.

3) The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 26 of this Convention.

Art. 30. Limitation on benefits. - The competent authorities of the Contracting States, upon their mutual agreement, may deny the benefits of this Convention to any person, or with respect to any transaction, if in their opinion the receipt of those benefits, under the circumstances, would constitute an abuse of the Convention according to its purposes.

Chapter VIII

FINAL PROVISIONS

Art. 31. Entry intoforce. - 1) This Convention shall be ratified and the Istruments of Ratification shall be exchanged as soon as possible.

2) The Convention shall enter into force on the date of the exchange of Instruments of Ratification and its provisions shall be effective in respect of income assessable for the taxable periods commencing on or after the first of January in the calendar year next following that in which the exchange of Instruments of Ratification takes place.

3) The existing Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital signed in Rome on the 22nd of April 1968 shall terminate and cease to have effect upon the entry into force of this Convention.

Art. 32. Termination. - This Convention shall remain in force until denounced by one of the Contracting State. Either Contracting State may denounce the Convention, through diplomatic channels, not earlier than five years after its entry into force by giving notice of termination at least six months before the end of the calendar year. In such case, the Convention shall cease to be effective in respect of income assessable for the taxable periods commencing on or after the first of January in the calendar year next following that in which the notice of termination is given.

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

Done in Rome on 8th September 1995 corresponding to 13 Elul 5755, in duplicate in the Italian, Hebrew and English languages, all texts being equally authentic, except in case of doubt, when the English text shall prevail.

ADDITIONAL PROTOCOL

To the Convention between the Government of the Italian Republic and the Government of the State of Israel for the avoidance of double taxation with respect to taxes on income and on capital and for the prevention of fiscal evasion.

At the signing of the Convention concluded today between the Government of the Italian Republic and the Government of the State of Israel for the avoidance of double taxation with respect of taxes on income and on capital and for the prevention of fiscal evasion the undersigned duly authorized thereto, have agreed that the following provisions shall form an integral part of the Convention:

a) With reference to Article 7, paragraph 3, the expression “expenses which are incurred for the purposes of the permanent establishment” means the expenses directly connected with the activity of the permanent establishment,

b) If, in accordance with Article 9 of the Convention, a redetermination has been made by a Contracting State with respect to a person, the other Contracting State shall, to the extent it agrees that such redetermination reflects arrangements or conditions which would be made between independent persons, make the corresponding adjustments with respect to persons who are related to such person and are subject to the taxing jurisdiction of that other State. Any such adjustment shall be made only in accordance with the mutual agreement procedure in Article 26 of this Convention.

c) With reference to paragraph 1 of Article 26, the expression “irrespective of the remedies provided by the domestic laws” means that the mutual agreement procedure is not alternative to the national contentious proceeding which shall be, in any case preventively initiated, when the claim is related to an assessment of the taxes not in accordance with this Convention;

d) The provisions of paragraph 3 of Article 29 shall not prevent the competent authorities of the Contracting States from the carrying out, by mutual agreement, of other practices for the allowance of the reductions for taxation purposes provided for in this Convention.

Done at Rome on 8 September 1995 corresponding to 13 Elul 5755, in duplicate in the Italian, Hebrew and English languages, all texts being equally authentic, except in case of doubt, when the English text shall prevail.