

**CONVENTION BETWEEN  
THE ITALIAN REPUBLIC AND  
THE UNITED MEXICAN STATES  
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL  
EVASION WITH RESPECT TO TAXES ON INCOME<sup>1</sup>**

The Government of the United Mexican States 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, hereinafter referred to as the "Convention",  
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 imposed on behalf of each of the Contracting States, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.
3. The existing taxes to which this Convention shall apply are in particular:
  - (a) in the case of the United Mexican States:
    - the income tax (el impuesto sobre la renta);
    - the assets tax (el impuesto al activo) (hereinafter referred to as "Mexican tax");
  - (b) in the case of the Italian Republic:
    - the individual income tax (l'imposta sul reddito delle persone fisiche);
    - the corporate income tax (l'imposta sul reddito delle persone giuridiche); even where such taxes are collected by means of withholding at source (hereinafter referred to as "Italian tax").
4. The Convention shall apply also 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 significant changes which have been made in their respective taxation laws.

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<sup>1</sup> Date of Conclusion: 8 July 1991. Entry into Force: 12 March 1995. Effective Date: 1 January 1996 (see Article 27).

### Article 3 - *General definitions*

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

(a) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, the United Mexican States or the Italian Republic;

(b) the term "Mexico" means the territory of the United Mexican States, which comprises the integrated parts of the Federation, the islands, including the reefs and cays in the adjacent waters; the islands of Guadalupe and Revillagigedo; the continental shelf and the seabed and subsoil of the islands, cays and reefs; the waters of the territorial seas to the extent and limits established by international law and the inland waters; and the air space above the national territory to the extent and conditions established by the international law;

(c) the term "Italy" means the Italian Republic, including the airspace above the national territory, as well as any area beyond the territorial sea of Italy within which in accordance with international law and the laws of Italy the rights of Italy relating to the exploration and exploitation of natural resources are designated as areas within which Italy may exercise rights with respect to the national resources of the seabed and subsoil;

(d) the term "person" includes an individual, a company and any other body of persons;

(e) the term "company" means any legal person 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 solely operated between places situated in the other Contracting State;

(h) the term "national" means:

(i) any individual possessing the nationality of a Contracting State; and

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

(i) the term "competent authority" means:

(i) in the case of Mexico, the Ministry of Finance and Public Credit;

(ii) in the case of Italy, the Ministry of Finance.

2. In 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 relating to the taxes which are the subject of the Convention.

#### 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 taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. This term does not include, however, any person who is liable to taxation 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 State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

(b) if the State in which he has his centre of vital interests cannot be determined or if he does not have a permanent home available to him in either 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 States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

(d) if he is not a national of either State or if, under the terms of the Italian laws, he is a national of both States, 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.

#### Article 5 - Permanent establishment

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

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

3. The term "permanent establishment" likewise encompasses a building site, a construction, installation or assembly project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period exceeding 8 months.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of 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 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 carrying on any other activities of an auxiliary or preparatory character, for the enterprise.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business. However, when the activities of such an agent are exercised wholly or almost wholly on behalf of that resident, that agent will not be considered an agent of an independent status within the meaning of this paragraph.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

#### *Article 6 - Income from immovable property*

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, 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 sharecropping, or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

#### *Article 7 - Business profits*

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 4, 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. For the purposes of paragraphs 1 and 2, income or gains which are attributable to a permanent establishment during its existence shall be taxable in the Contracting State in which such permanent establishment is situated, even if the payments are deferred until such permanent establishment has ceased to exist.
4. 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 business 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.
5. 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.

6. 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.

7. 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.

8. 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. Profits referred to in paragraph 1 shall not include profits derived from the operation of hotels or a transport activity other than the operation of ships or aircraft in international traffic.

3. 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.

4. The provisions of paragraphs 1 and 2 shall also apply to profits from the participation in a pool 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 but, if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 15% of the gross amount of the dividends. The provisions of 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" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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

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 15% of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest referred to in paragraph 1 shall be taxable only in the Contracting State of which the beneficial owner of the interest is a resident, if any of the following requirements is fulfilled:

(a) the beneficial owner is a Contracting State or a political or administrative subdivision or local authority thereof;

(b) the interest is paid by any of the persons mentioned in the preceding subparagraph (a);

(c) the interest is paid in respect of a loan granted for a period of three years or more by or guaranteed by a financial or credit institution of a public character with the objective to promote exports by means of granting credits or guarantees under preferential conditions.

4. The term "interest" as used in this Article means income from government securities, from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and from debt-claims of every kind, as well as any other income which is treated as income from money lent by the taxation laws of the State in which the income arises.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases, the interest shall be taxable in that other Contracting State in accordance with its domestic laws.

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 thereof 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 exceeds for any 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 payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

8. The provisions of this Article shall not apply where the debt-claim in respect of which the interest is paid was agreed upon or assigned with the sole objective of taking advantage of this Article.

## Article 12 - *Royalties*

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

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 15% of the gross amount of the royalties.

3. Notwithstanding the provisions of paragraphs 1 and 2, copyright royalties and other similar payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (but not including royalties in respect of motion picture films and films, magnetic tapes or other means of reproduction for use in connection with radio or television broadcasting) arising in a Contracting State and paid to a resident of the other Contracting State who is subject to tax thereon shall be taxable only in that other 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 cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience. The term "royalties" also includes gains derived from the alienation of any such right or property referred to in this paragraph to the extent that the sum received with respect to that alienation is contingent on the productivity or use thereof.

5. The provisions of paragraphs 1, 2 and 3 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 cases the royalties may be taxed in that other Contracting State in accordance with its domestic laws.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision or local authority thereof 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 a 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 of the royalties or between both of them and some other person, the amount of the royalties paid for any reason 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.

8. The provisions of this Article shall not be applicable if the right or the property in respect of which the royalty is paid was agreed upon or assigned with the sole objective of taking advantage of this Article.

#### Article 13 - *Capital gains*

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

2. Gains from the alienation of shares, participations or other rights in a company or other body corporate the assets of which principally, directly or indirectly, consist of immovable property situated in a Contracting State or rights pertaining to such immovable property, may be taxed in that State. For these purposes, immovable property used by such company or body corporate in its industrial, commercial or agricultural activities or in the conduct of professional services shall not be taken into account.

3. Gains from alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
4. 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.
5. Gains from the alienation of property or rights which are referred to in Article 12 of this Convention shall be taxable only in accordance with the provisions of that Article.
6. Gains from the alienation of any property other than that referred to in this Article shall be taxable only in the Contracting State of which the alienator is a resident.

#### *Article 14 - Independent personal services*

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State, except in the following circumstances, where such income may also be taxed in the other Contracting State:
  - (a) if such resident has a fixed base regularly available to him in that other Contracting State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other Contracting State; or
  - (b) if the individual is present in the other Contracting State for a period or periods in the aggregate of 183 days or more within any 12-month period; in that case, only so much of the income as is attributable to the activities performed by him in that other State may be taxed in that other State.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

#### *Article 15 - Dependent personal services*

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and 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 120 days in the fiscal year concerned;

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

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

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

#### *Article 16 - Directors' fees*

Directors' fees, attendance fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or supervisory board and, in the case of Mexico, in his capacity as "administrador" (sole administrator) or "comisario" (overseer) of a company which is a resident of the other Contracting State may be taxed in that other State.

#### *Article 17 - Artists and sportsmen*

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State. Income referred to in this paragraph shall include any incidental income relating to the reputation of such resident, provided that such income is based on his presence in the other State and is derived from that other State.

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

#### *Article 18 - Pensions*

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

#### Article 19 - *Government service*

1. (a) 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 other 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 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 - *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 State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxable in that State, provided that such payments arise from sources outside that State.

#### Article 21 - *Other income*

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

#### Article 22 - *Method for elimination of double taxation*

1. In the case of Mexico, double taxation shall be avoided as follows:
  - (a) residents of Mexico may credit on the tax on income paid in Italy in any amount not exceeding the tax payable in Mexico on such income;

(b) under the conditions provided for in Mexican law, companies which are residents of Mexico may credit against their Mexican income tax on dividends paid by companies which are residents of Italy the Italian income tax paid by such companies on the profits out of which the dividends were paid.

2. In the case of a resident of the Italian Republic, double taxation shall be avoided as follows:

Where a resident of Italy derives income which is taxable in Mexico, Italy may, in determining the income taxes referred to in Article 2 of this Convention, include the said income in the taxable base of such taxes, unless otherwise established in specific provisions of this Convention. In such a case, Italy shall deduct from the taxes so calculated the income tax paid in Mexico, but the amount of the deduction may not exceed that part of the Italian tax appropriate to such income in accordance with the ratio of such income to total income. No deduction shall be granted, however, if the income is subjected in Italy to a final withholding tax at source by request of the recipient of the income, in accordance with the provisions of the Italian laws.

3. For the purposes of this Article, a tax of 15% shall be deemed to have been paid on dividends distributed by a company which is a resident of Mexico, provided that the profits out of which such dividends are paid are derived principally from business carried on in Mexico.

#### *Article 23 - Non-discrimination*

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

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 should 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 which it grants to its own residents on account of civil status or family responsibilities.

3. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 7 of Article 12 apply, interest, royalties or other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

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

#### Article 24 - *Mutual agreement procedure*

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

#### Article 25 - *Exchange of information*

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. 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 imposed on behalf of that State. Such persons or authorities shall use the information only for tax 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 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 administrative practice of that or of the other Contracting State;
  - (c) to supply information which would disclose any trade, industrial, or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

*Article 26 - 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 special agreements.

*Article 27 - Entry into force*

1. This Convention shall enter into force on the thirtieth day following the date of the exchange of the Diplomatic Notes showing that the formalities required by the domestic laws of each Contracting State have been complied with.

2. The provisions of this Convention shall have effect:

(a) in respect of taxes withheld at source, for amounts paid or credited on or after 1 January following the date on which the Convention enters into force;

(b) in respect of other taxes on income, for any tax period beginning on or after 1 January following the date on which this Convention had entered into force.

*Article 28 - Termination*

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

(a) in respect of taxes withheld at source, for amounts paid or credited on or after 1 January following the date of expiration of the said period of six months;

(b) in respect of other taxes, for any tax period beginning on or after 1 January following the date of expiration of the said period of six months.

Done in duplicate at Mexico City, on 8 July 1991, in the Spanish and Italian languages, both texts being equally authentic.

## PROTOCOL

At the moment of signing the Convention between the Government of the United Mexican States and the Government of the Italian Republic for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed upon the following provisions, which shall form an integral part of the Convention:

1. For the purposes of paragraph 4 of Article 5, the term "permanent establishment" shall be deemed not to include the maintenance of a fixed place of business in a Contracting State solely for the purpose of advertising, for the supply of information, for scientific research or for the preparations relating to the placement of loans, provided that such activities have a preparatory or auxiliary character, for the enterprise. In the case of preparations relating to the placement of loans, it shall be understood that such activities have a preparatory or auxiliary character when the loans are made with resources which do not arise in that Contracting State.
2. For the purposes of paragraph 1 of Article 7, profits derived by the head office of the enterprise or any of its branch offices from the sale in a Contracting State of goods or merchandise of the same or similar kind as those sold by the permanent establishment shall be deemed to be profits of the permanent establishment, if the advertising, the marketing, the storage, the display or the delivery of such goods is or was carried on by said permanent establishment.
3. With reference to paragraphs 1 and 2 of Article 7, in the case of public work contracts (principally contracts relating to research, supply, installation or construction of industrial, commercial or scientific equipment or plants) carried out by an enterprise resident of a Contracting State which has a permanent establishment in the other Contracting State, then the profits of such permanent establishment shall not be determined on the basis of the total sum mentioned in the contract, but only on the basis of that part of the contract effectively carried out by such permanent establishment in the Contracting State in which it is situated.
4. With reference to paragraph 4 of Article 7, the term "expenses which are incurred for the purposes of the permanent establishment" means the expenses directly connected with the activity of such permanent establishment.
5. With reference to paragraph 4 of Article 7 mentioned before, the Contracting States shall apply the provisions contained therein in accordance with their domestic laws and in the sense given to such paragraph in the Commentaries of the 1977 Model Convention.
6. With reference to paragraph 2 of Article 11, if under a Convention for the avoidance of double taxation concluded between Mexico and any other Member State of the European Community, Mexico limits its taxation at source on interest to a rate of tax which is lower than the rate established in this Article, then the agreed reduced rate, but not in any event a rate below 10%, shall automatically apply for the purposes of this Convention.
7. The competent authorities of the Contracting States shall develop appropriate administrative procedures for the implementation of paragraph 7 of Article 11 with a view to limiting the phenomenon of thin capitalization of the persons concerned.



8. With reference to paragraph 1 of Article 24, the term "irrespective of the remedies provided by the national laws" means that the mutual agreement procedure is not alternative as regards national contentious proceedings, prior recourse to which is, in all cases, necessary when the dispute refers to an assessment of taxes in Italy not in accordance with this Convention.

9. The taxes collected in a Contracting State by means of withholding at source shall be refunded upon request of the person concerned or the State of which he is a resident, where the right to levy such taxes is limited under the provisions of the Convention. Refund requests, to be filed within the time limits established in the laws of the Contracting State from which the refund is due, must be substantiated by an official statement from the Contracting State of which the taxpayer is a resident, certifying that the conditions to benefit from the exemptions or reductions established in this Convention have been fulfilled. The competent authorities of the Contracting States shall establish, by mutual agreement, in accordance with the provisions of Article 24 of this Convention, the modes of application of this provision.

Done in duplicate at Mexico City, on 8 July 1991, in the Spanish and Italian languages, both texts being equally authentic.