

**CONVENTION BETWEEN
THE GOVERNMENT OF ITALIAN REPUBLIC AND
THE GOVERNMENT OF THE UNITED REPUBLIC OF TANZANIA
FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME¹.**

The Government of the United Republic of Tanzania and
the Government of the Italian Republic,
desiring to conclude a Convention to avoid double taxation and to prevent fiscal evasion with
respect to taxes on income, have agreed upon the following measures:

CHAPTER I - Scope of the Convention

Article 1 - Personal scope

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

Article 2 - Taxes covered

1. This Convention shall apply to taxes on income imposed on behalf of each Contracting State 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 property.
3. The existing taxes to which the Convention shall apply are, in particular:
 - (a) In the case of Tanzania:
 - (1) the income tax;
 - (2) the personal tax (hereinafter referred to as "Tanzanian tax").
 - (b) In case of Italian Republic:
 - (1) the tax on income from land (imposta sul reddito dei terreni);
 - (2) the tax on income from buildings (imposta sul reddito dei fabbricati);
 - (3) the tax on income from movable wealth (imposta sui redditi di ricchezza mobile);
 - (4) the tax on agricultural income (imposta sul reddito agrario);

¹ Date of Conclusion: Convention: 7 March 1973; Protocol: 31 January 1979. Entry into force: The Convention and Protocol entered into force upon the exchange of instruments of ratification on 6 May 1983. The provisions of the Convention have retroactive effect as of 1 January 1970 and the provisions of the 1979 Protocol as of 1 January 1974.

(5) the complementary tax (imposta complementare progressiva sul reddito);

(6) the tax on companies (imposta sulle società) in so far as the tax is charged on income and not on capital; and

(7) the tax on profits distributed by companies (imposta sugli utili distribuiti dalle società); (hereinafter referred to as "Italian tax").

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

CHAPTER II - Definitions

Article 3 - General definitions

1. In this Convention, unless the context otherwise requires:

(a) the term "Tanzania" means the United Republic of Tanzania;

(b) the term "Italy" means the Italian Republic;

(c) the terms "a Contracting State" and "the other Contracting State" mean Tanzania or Italy as the context requires;

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

(e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(g) the term "Competent authority" means:

(1) in the case of Tanzania, the Ministry of Finance;

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

2. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the law of that Contracting State relating to the taxes which are the subject of the Convention.

Article 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 other criterion of similar nature.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his case shall be determined in accordance with the following rules:
 - (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. For the purpose of this article, a permanent home shall be where he dwells with his family. If he has a permanent home available to him in both the 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 which 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 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.

Article 5 - *Permanent establishment*

1. For the purpose of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the 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, oil well, quarry or other place of extraction of natural resources;
 - (g) a building site or construction or assembly project which exists for more than twelve months;
 - (h) a farm or plantation;
 - (i) the provision of supervisory activities for more than twelve months on a building site of construction or assembly project.

3. The term "permanent establishment" shall not be deemed 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 for 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 be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods 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 State (whether through a permanent establishment or otherwise), shall not of itself constitute for either company a permanent establishment of the order.

CHAPTER III - Taxation of income

Article 6 - Income from immovable property

1. Income from immovable property may be taxed in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with 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 use in any other form of immovable property.

4. The provisions of paragraph 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 professional 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. 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 laid down 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 purpose 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.

Article 8 - Shipping and air transport

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or if there is such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. The exemption provided in paragraph 1 of this Article shall apply to a share of the profits from the operation of aircraft in international traffic derived by an enterprise of a Contracting State through participation in a pooled service, in a joint air transport operation or in 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 a 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 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 enterprise, 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 are taxable according to the law of each Contracting State.
2. Should these dividends, because of a modification of the legislation of the Contracting States, be subjected to taxation in both States, the States themselves will agree to define the limits of this taxation.

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 be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "Interest" as used in this Article means income from 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 for the State in which the income arises.

4. The provisions of paragraph 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a 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, an administrative sub-division, 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

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 be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, 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.

4. The provisions of paragraph 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is affectively connected. In such a case, the royalties are taxable in that other Contracting State according to its own law.

5. Where, owing to a special relationship between the payer and the recipient or between both of them and some other persons, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payment shall remain taxable according to the law of each contracting State, due regard being had to the other provisions of this Convention.

Article 13 - *Capital gains*

1. Gains from the alienation of immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such 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 for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.
3. Gains from the alienation of any property other than those mentioned in paragraph 1 and 2 shall be taxable only in the Contracting State of which the alienation is a resident.

Article 14 - *Independent personal services*

1. Income by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity in the other Contracting State shall be taxed only in the first Contracting State, unless the provisions of paragraph 2 of this Article apply.
2. Income derived by an individual who is a resident of one of the Contracting States, from the performance of personal services in an independent capacity in the other Contracting State may be taxed by that other Contracting State if:
 - (a) the individual is present in that other Contracting State for a period or periods aggregating 183 days or more in the taxable year, or
 - (b) the individual maintains a fixed base in that other Contracting State, but only so much of it as is attributable to such fixed base.

Article 15 - *Dependent personal services*

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - (a) the recipient is present in the other State for a period 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 proceeding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 - Directors' fees

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

Article 17 - Artists and athletes

Notwithstanding the provisions of Article 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which those activities are exercised, provided such income is not derived from a visit sponsored officially by the other Contracting State, the cost of which is borne wholly or mainly out of the public funds of that other Contracting State.

Article 18 - Pensions

Subject to the provisions of paragraph 1 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 functions

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or an administrative subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a Governmental nature may be taxed in that State.

2. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business other than the provision of public utilities carried on by one of the Contracting States or a political subdivision or a local authority thereof.

Article 20 - Professors, teachers and students

1. A professor or teacher from one of the Contracting States who receives remuneration for teaching, during a period not exceeding two years, at a university, college, school or other educational institution in the other Contracting State shall not be taxed in that other Contracting State in respect of that remuneration.

2. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

Article 21 - Income not expressly mentioned

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.

CHAPTER IV - Method of elimination of double taxation

Article 22 - Credit method

1. It is agreed that double taxation shall be avoided in the following manner:

(a) In the case of a resident of Tanzania who:

(1) Derives income from sources within Italy which, in accordance with the provisions of this Convention, is exempt from Tanzania tax but may be taxed in Italy; then Tanzania may, in calculating tax on the remaining income of such resident, apply the rate of tax which would have been applicable if the income derived from sources within Italy had not been so exempted.

(2) Derives income from sources within Italy, which, apart from the provisions of this Article, may be taxed in both Contracting States, then Tanzania shall allow as a deduction from the tax on the income of such resident, an amount equal to the tax paid in Italy. Such deduction, however, shall not exceed that part of the Tanzanian tax as computed before the deduction is given, which is appropriate to the income derived from Italy.

(b) In the case of a resident of the Italian Republic: The Italian Republic in determining its income taxes specified in Article 2 of this Convention in the case of its residents may, regardless of any other provision of this Convention, include in the basis upon which such taxes are imposed all items of income; The Italian Republic shall, however, deduct from the taxes so calculated the Tanzanian tax on income (not exempt in Tanzania under this Convention) in the following manner:

(1) If the item of income is, according to the Italian law, subjected to the tax on income from movable wealth, the tax paid in Tanzania shall be deducted from the tax on income from movable wealth, and from the taxes imposed on behalf of Regions, provinces, Municipalities, Chambers of Commerce on the same income, but in an amount not exceeding that proportion of the aforesaid Italian tax which such item of income bears to the entire income. Where the tax paid in Tanzania on such income is higher than the deduction so calculated the difference shall be deducted from the complementary tax or from the tax on companies, as the case may be, but in an amount not exceeding that proportion of such complementary or company tax which the item of income bears to the entire income.

(2) If the item of income is only subjected to complementary tax or to the tax on companies the deduction shall be granted from the complementary tax or from the tax on companies, as the case may be, but for that part of the tax paid in Tanzania which exceeds 35 per cent of such item of income. The deduction cannot, however, exceed that proportion of the complementary tax or of the tax on companies, which such income bears to the entire income.

CHAPTER V - Special provisions

Article 23 - Non-discrimination

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. In particular, nationals of a Contracting State who are taxable in the other Contracting State shall, if they are residents of that other Contracting State, receive any personal allowances, reliefs and reductions for taxation purposes on account of civil status which that other Contracting State grants to its residents, but not otherwise.

2. The term "nationals" means:

(a) all individuals possessing the nationality of a Contracting State;

(b) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. 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.

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

5. In this Article the term "taxation" means taxes of every kind and description.

Article 24 - Mutual agreement procedure

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of these States, present his case to the competent authority of the Contracting State of which he is a resident. The claim must be lodged within two years from the date of the assessment or of the withholding of tax at the source, whichever is later.

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 any appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The competent authority of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. 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 the carrying out of this Convention and of the domestic laws of the Contracting States or preventing fraud of fiscal evasion concerning taxes covered by this Convention in so far as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject to the Convention.

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

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

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

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

Article 26 - Diplomatic and consular officials

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

CHAPTER VI - Final provisions

Article 27 - Entry into force

1. This Convention shall be ratified and instrument of ratification shall be exchanged at Rome as soon as possible.
2. The Convention shall enter into force on the date of the exchange of instruments of ratification and its provision shall be effective in respect of income assessable for the taxable period commencing on or after the first day of January, 1970.

Article 28 - Termination

This Convention shall remain in force until denounced by one of the Contracting States. 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 event, the Convention shall cease to be effective in respect of income assessable for any taxable period commencing on or after the first day of January in the calendar year next following that in which the notice of termination is given.

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

Done in duplicate of Dar-es-Salaam the 7th day of March 1973 in the English and Italian languages, both texts being equally authoritative.

For the Government of Tanzania:
C.D. Msuya

For the Government of Italy:
Giangiorgio Fabri Trissino

PROTOCOL

At the signing of the Convention between Tanzania and Italy for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes in Income, the undersigned have agreed upon the following provisions which shall form an integral part of the said Convention:

Notwithstanding the provisions of paragraph 2 Article 27, the provisions of Article 8 shall be applicable as respects income derived during the taxable years beginning on or after the first day of January, 1965.

Done in duplicate at Dar-es-Salaam the 7th day of March, 1973 in the English and Italian languages, both texts being equally authoritative.

For the Government of Tanzania:
C.D. Msuya

For the Government of Italy:
Giangiorgio Fabri Trissino

PROTOCOL

The Government of Italian Republic and the Government of the United Republic of Tanzania, desiring to conclude a Protocol to amend the Convention between the Contracting Parties for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and Protocol, signed at Dar-Es-Salaam on 7th March, 1973 (hereinafter referred to as "the Convention"); have agreed as follows:

Article 1

Paragraph 3 of Article 2 of the Convention shall be deleted and replaced by the following:

"3. The existing taxes to which the Convention shall apply are, in particular:

(a) In the case of Tanzania:

the tax on income or any amount deemed to be income, and the capital gains tax under the Income Tax Act (hereinafter referred to as "Tanzanian tax");

(b) In the case of Italy:

(1) the personal income tax (imposta del reddito delle persone fisiche);

(2) the corporate income tax (imposta sul reddito delle persone giuridiche); even if they are collected by withholding taxes at the source (hereinafter referred to as "Italian tax"); "

Article 2

Paragraph 1 (g) of article 3 of the Convention shall be deleted and replaced by the following:

"(g) the term "Competent Authority" means:

(1) in the case of Tanzania, the Minister for Finance and Planning; or his authorized representative;

(2) in the case of Italy, the Ministry of Finance."

Article 3

Article 8 of the Convention shall be deleted and replaced by the following:

"1. Profits from the operation of 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 from the operation of ships in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. However, such profits may be taxed in the other Contracting State, but the tax so charged shall be reduced by fifty percent.

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 provision of paragraphs 1 and 2 shall also apply to profits derived from the participation in a pool, a joint business or in an international operating agency."

Article 4

Article 10 of the Convention shall be deleted and replaced by the following:

"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 law of that State, but the tax charged shall not exceed 10 percent of the gross amount of the dividends.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founder's 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.

4. The provision of paragraphs 1 and 2 shall not apply if the recipient 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 professional 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 of fixed base. In such a case, the dividends are taxable in that other Contracting State according to its own law.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on 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 5

Article 14 of the Convention shall be deleted and replaced by the following:

"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 Contracting 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."

Article 6

Article 17 of the Convention shall be deleted and replaced by the following:

"1. Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

2. Where income in respect of personal activities as such of an entertainer or athlete accrues not to that entertainer or athlete himself but to another person, that income way, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraph 1 and shall not apply to services of public entertainers and athletes, if their visit to a Contracting State is supported wholly of substantially from public funds of the other Contracting State."

Article 7

Paragraph 2 of Article 20 of the Convention shall be deleted and replaced by the following:

"2. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in the first-mentioned State, provided that such payments are made to him from sources outside that State.

3. An individual being a resident of a Contracting State who, while a student of a university or other recognized educational institution in the other Contracting State, is employed in that other Contracting State for a period or periods not exceeding a total of 183 days during the calender year concerned shall not be taxed in that other Contracting State where the employment is exercised in respect of his remuneration therefrom if:

(a) the employment is directly related to his studies or educational training; and

(b) he was not, immediately before the commencement of his studies at the University or institution, a resident of that other Contracting State."

Article 8

Article 21 of the Convention shall be deleted and replaced by the following:

- "1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention except management fees shall be taxable only in the State.
2. Management fees paid in a Contracting State to a resident of the other Contracting State may be taxed in both Contracting States.
3. For the purpose of this Article the term "management fees" means payments of any kind received by a person who is not an employee of the person making the payments, for or in respect of, the provisions of industrial and commercial advice, or management or technical services, or similar services, but it does not include payment for independent personal services mentioned in Article 14.
4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of 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 professional 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 a case the items of income are taxable in that other Contracting State according to its own law."

Article 9

Paragraph 1 (b) of article 22 of the Convention shall be deleted and replaced by the following:

"(b) If a resident of Italy owns items of income that are taxable in Tanzania, 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 mentioned items of income, unless express provisions of this Convention otherwise provide. In that case, Italy shall deduct from the taxes so calculated the tax paid in Tanzania on the same items of income but the amount of deduction cannot exceed that proportion of Italian tax which the items of income bear to the entire income. However, no deduction shall be granted if the item of income is subjected to tax in Italy by a final withholding tax at request of the recipient of income, under Italian laws."

In Article 22 of the Convention shall be added the following new paragraph:

- "2. For the purpose of paragraph 1 of this Article, where tax on dividends, interest or royalties arising in a Contracting State is exempted or reduced for a limited period of time in accordance with the laws of that State, any such tax which has been exempted or reduced shall be deemed to have been paid in an amount not exceeding:
 - (a) 10 percent of the gross amount of the dividends referred to in Article 10;
 - (b) 12.5 percent of the gross amount of the interest referred to in Article 11; and
 - (c) 15 percent of the gross amount of the royalties referred to in Article 12."

Article 10

1. This Protocol, which shall form an integral part of the Convention signed at Dar-Es-Salaam on 7th March, 1973, shall be ratified and the instruments of ratification shall be exchanged at Dar-Es-Salaam as soon as possible.
2. This Protocol shall enter into force on the date of the exchange of instruments of ratification and its provision shall have effect in respect of income assessable for any taxable period commencing on or after 1st January, 1974.
3. Claims for refund or credits arising in accordance with this Protocol and with the Convention in respect of any tax payable by residents of either of the Contracting States shall be lodged within three years from the date of entry into force of this Protocol or from the date the tax was charged, whichever is later.

In witness whereof the undersigned, duly authorised thereto, have signed the present Protocol.

Done in duplicate at Rome this 31st day of January 1979, in the Italian and English languages, both texts being equally authoritative.

For the Government of Italy:
Mario Mondello

For the Government of Tanzania:
George Samuel Magombe

EXCHANGE OF NOTES

I

Excellency,

I have the honour to refer to the Protocol signed today at Rome amending the Convention between Italy and Tanzania for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and Protocol, signed at Dar-Es-Salaam on 7th March, 1973 and to propose on behalf of the Government of the Republic of Italy that the two Governments shall agree:

(a) that, with reference to Article 3 of the said Protocol:

(i) profits of an enterprise of a Contracting State derived from the operation of aircraft in international traffic shall not be subject to any local income tax imposed in the other Contracting State;

(ii) when a Contracting State determines the profits derived from the operation of ships in international traffic by a percentage of the gross amount derived by an enterprise from transporting passengers or freight embarked in that State, this percentage shall not exceed 2 percent of said gross amount;

(iii) if the Government of the United Republic of Tanzania concludes an Agreement with any other OECD country giving a treatment of shipping profits more favourable than that fixed by Article 3 of the above-mentioned Protocol and this Exchange of letters, the two Governments shall consult each other in order to extend the same treatment of Italy. The Government of Tanzania shall inform the Government of Italy about any new Agreement with OECD countries, which fixes the said more favourable treatment, as soon as possible;

(b) that, with reference to Article 11, paragraph 2 of the Convention, the rate of 15 percent mentioned therein shall be reduced to 12.5 percent;

(c) that, with reference to Article 8 of the said Protocol, the tax imposed in a Contracting State on management fees paid to a resident of the other Contracting State shall not exceed 20 percent of such management fees.

I have furthermore, the honour to propose that the present Note and Your Excellency's reply confirming the acceptance by the Government of Tanzania of the above proposals shall be regarded as constituting an agreement between the two Governments concerning the matters above mentioned.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

Mario Mondello

II

Excellency,

I have the honour to acknowledge receipt of your letter of today's date, which reads as follows:

(see Note I)

I have the honour to inform you that the Government of the United Republic of Tanzania is in agreement with the above proposals.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

George Samuel Magombe

Visto, il Ministro degli affari esteri Colombo