

**TAX TREATY BETWEEN
THE REPUBLIC OF THE IVORY COAST AND
THE GOVERNMENT OF THE ITALIAN REPUBLIC
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME AND FOR THE PREVENTION OF TAX EVASION
WITH PROTOCOL AND EXCHANGE OF NOTES
ABIDJAN, 30 LUGLIO 1982¹**

The Government of the Republic of the Ivory Coast
and the Government of the Italian Republic,
desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on
income and for the prevention of tax evasion,
have agreed as follows:

Article 1 - Personal scope

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

Article 2 - Taxes covered

1. This Convention shall apply to taxes on income and on capital gains imposed on behalf of a Contracting State or of its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital gains all taxes imposed on total income, capital gains, 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 the Convention shall apply are in particular:

(1) in the case of Italy:

(a) the individual income tax (l'imposta sul reddito delle persone fisiche);

(b) the corporate income tax (l'imposta sul reddito delle persone giuridiche);

even when collected through withholding at the source (hereinafter referred to as "Italian tax");

(2) in the case of the Ivory Coast:

(a) the tax on industrial, commercial and agricultural profits (l'impôt sur les bénéfices industriels et commerciaux et sur les bénéfices agricoles);

(b) the tax on non-commercial profits (l'impôt sur les bénéfices non-commerciaux);

(c) the tax on wages and salaries and the charge on employers (l'impôt sur les traitements et salaires et la contribution la charge de l'employeur);

¹ Ratified in Italy with L. 27 May 1985, n. 293 (G. U. 21 June 1985, n. 145, S. O). Exchange of ratification instruments: 15 April 1987. Entry into force: 15 May 1987 (G. U. 27 April 1987, n. 96).

(d) the tax on income from movable capital (l'impôt sur le revenu des capitaux mobiliers);

(e) the general income tax (l'impôt general sur le revenues)

(hereinafter referred to as "Ivory Coast tax").

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

Article 3 - *General definitions*

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

(a) the term "Ivory Coast" means the national territory and the areas of the sea subject to the national laws of the Republic of the Ivory Coast, including any area beyond the territorial waters of the Ivory Coast which has been or may hereafter be designated, under the laws of the Ivory Coast concerning the Continental Shelf, as an area within which the rights of the Ivory Coast with respect to the seabed and sub-soil and their natural resources may be exercised;

(b) the term "Italy" means the Italian Republic and includes the areas beyond the territorial waters of Italy, in particular the seabed and sub-soil adjacent to the peninsular territory of Italy and the Italian Islands beyond the territorial waters to the limit established by Italian law for allowing the exploration and exploitation of the natural resources of such areas;

(c) the term "national" means:

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

(ii) all legal persons, partnerships and associations established under the laws in force in a Contracting State;

(d) the terms "a Contracting State" and "the other Contracting State" mean the Ivory Coast or Italy, as the context requires;

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

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

(g) 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;

(h) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(i) the term "competent authority" means:

- (1) in the case of the Ivory Coast, the Minister of Finance or his authorised representative;
- (2) in the case of Italy, the Minister of Finance or his authorised representative.

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

Article 4 - *Fiscal domicile*

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

2. Where by reason of the provisions of paragraph 1 of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:

(a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the 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 has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the 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 a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

Article 5 - *Permanent establishment*

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

- (c) an office;
- (d) a factory;
- (e) a sales outlet;
- (f) a workshop;
- (g) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (h) a building site or a temporary assembly chain or supervisory activities carried on in that place, if such building site, temporary chain or activity lasts more than 6 months or where such temporary chain or activity, following the sale of machinery or equipment, lasts less than 6 months and the expenses incurred for the purpose of such chain or activity exceed 10% of the sales price of the machinery or equipment;
- (i) a fixed place of business used for the purpose acquiring merchandise.

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

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, scientific research or similar activities of a preparatory character.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person-other than an agent of an independent status to whom paragraph 6 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 or any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 3. In particular, such agent shall be deemed to exercise the authority referred to in the preceding paragraph, if he habitually has available in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders received on behalf of the enterprise.

5. An insurance company of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State from the moment it collects premiums in the territory of that State or insures risks situated therein through a representative who does not fall in the category of persons within the meaning of paragraph 6.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

However, if the activities of such an agent are carried on exclusively or nearly exclusively on behalf of such enterprise, then that agent shall not be deemed to be an independent agent in the meaning of this Article.

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

Article 6 - Income from immovable property

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, live stock and equipment used in agriculture and forestry and rights to which the provisions of general law respecting landed property apply. In addition, "immovable property" includes usufruct of immovable property, 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 leasing, or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 of this Article 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. 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 enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. 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.

6. 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.

7. For the purposes of this Article, the term "profits" includes profits derived by a partner from his participation in a partnership.

Article 8 - Shipping and air transport

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

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

3. The provisions of paragraph 1 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency. This provision shall only apply to that portion of the profits which, by statute, is attributed to the Ivory Coast partner of the multinational company Air-Afrique.

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:
 - (a) 18% of the gross amount of the dividends when they are paid by a company which is a resident of the Republic of the Ivory Coast and which is exempt from tax on its income or which is not subject to that tax at the normal rate;
 - (b) 15% of the gross amount of the dividends in all other cases.

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the tax law of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the dividends may be taxed in that other Contracting State in accordance with its law.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11 - *Interest*

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.
2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15% of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2 of this Article, interest arising in a Contracting State is exempt from tax in that State, if paid to the Government of the other Contracting State being the beneficial owner thereof, or to a local authority, or to an entity or body which is wholly owned by that Government or local authority.

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

5. The provisions of paragraphs 1 and 2 of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the interest may be taxed in such other Contracting State according to its 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 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 or between both of them and some other person, the amount of the interest exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12 - *Royalties*

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

2. However, such royalties may be taxed in the other 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 10% 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 and films and tapes for radio and television broadcasting), 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.

4. The provisions of paragraphs 1 and 2 of this Article 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 case, the royalties may be taxed in such other Contracting State according to its laws.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. However, when the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the obligation to pay the royalties was incurred and such royalties are borne by the permanent establishment or fixed base, then the royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between one of them and some other person, the amount of the royalties, for whatever 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 be taxable according to its laws, in the Contracting State in which the royalties arise, due regard being had to the other provisions of this Convention.

Article 13 - *Capital gains*

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

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

3. Gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 of 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 provided that such resident:

- (a) has not a fixed base available in the other Contracting State for the purpose of performing his activities; or

(b) does not perform professional services or other activities of an independent character for a period or periods-including normal interruptions of work- exceeding in the aggregate 183 days in the fiscal year concerned. In such case, the income may be taxed in such other Contracting State but only so much of it as is attributable to the activities through this fixed base, or carried on during that period or periods concerned.

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, 19 and 20, 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 of this Article, 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-including normal interruptions of work- not exceeding in the aggregate 183 days in the fiscal year concerned; and

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

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

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

Article 16 - *Directors' fees*

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 similar board of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 - *Artistes and athletes*

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

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

3. The provision of paragraphs 1 and 2 of this Article shall not apply to remuneration or other profits, salaries, wages and similar income which an artist derives from activities performed in a Contracting State if the visit of the artist in such State is entirely or substantially paid out of public funds of the other Contracting State.

Article 18 - *Pensions*

1. 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, as well as annuities paid to that resident, shall be taxable only in that State.

2. The term "annuity" means fixed sums paid periodically at stated times, during life or a specified or ascertainable period of time, under an obligation to make the payments for adequate and full consideration in money or money's worth.

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 Contracting State and the individual is a resident of that State who:

(i) is not a national of the first-mentioned Contracting State referred to in paragraph (a);

(ii) did not become a resident of that other Contracting 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 Contracting State or subdivision or authority shall be taxable only in that Contracting State;

(b) however, such pension shall be taxable only in the other Contracting State if the individual is a resident of that other Contracting State and does not have the nationality of the first-mentioned Contracting State referred to in letter (a).

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, researchers and business apprentices

Payments which a researcher, 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 or for carrying on research receives for the purpose of his maintenance, education, training or research shall not be taxed in that other State, provided that such payments arise from sources outside that other State.

Article 21 - Other income

Items of income of a resident of a Contracting State, where- ever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

Article 22 - Elimination of double taxation

1. It is agreed that double taxation shall be avoided in accordance with the provisions of the following paragraphs in this Article.

2. In the case of the Ivory Coast double taxation shall be avoided as follows: the tax authorities of the Ivory Coast may not include the items of income in the taxable base which are taxable in the other Contracting State in accordance with this Convention. However, the Republic of the Ivory Coast retains the right, in calculating the rate of the tax, to take into account the items of income so excluded.

3. Where a resident of Italy derives items of income which may be taxed in the Ivory Coast, Italy may, in calculating its taxes on income referred to in Article 2 of the Convention, include those items of income in the taxable base thereof, unless any provision of this Convention provides otherwise. In that case Italy shall deduct from the taxes so calculated the income tax paid in the Ivory Coast, but the amount of the deduction may not exceed that part of the Italian tax which is appropriate to such income in the ratio that such income bears to total income.

Nevertheless, no deduction shall be granted if the item of income is taxable in Italy by means of a final withholding tax if so requested by the beneficiary of the income, according to Italian law.

4. Where, in accordance with the laws of a Contracting State, the taxes to which this Convention applies are not levied, entirely or partly, for a limited period of time, such taxes shall be deemed to be entirely paid for the application of paragraphs 2 and 3.

5. For the application of paragraphs 2 and 3 of this Article, profits, income or capital gains of a resident of a Contracting State, which have been subjected to taxation in the other Contracting State in accordance with this Convention, shall be deemed to be derived from sources situated in that other Contracting State.

Article 23 - Non-discrimination

1. Nationals of a Contracting State, whether they are residents of a Contracting State or not, 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 shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of Article 9, paragraph 7 of Article 11 or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
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 that first-mentioned State are or may be subjected.
5. For the purposes of this Article the term "taxation" means taxes of every kind and description.

Article 24 - Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.
2. Such competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the 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 and for any other purpose provided for in this Convention.

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 there under is not contrary to the Convention as well as for the prevention of tax evasion. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

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

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

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 the provisions of special agreements.

Article 27 - *Request for refund*

1. Taxes levied in one of the Contracting States by way of withholding at the source shall be refunded at the request of the interested party or of the State of which he is a resident, whenever the provisions of this Convention limit the right to collect such taxes.

2. Applications for a refund, together with an official statement issued by the Contracting State of which the taxpayer is a resident certifying the existence of the conditions which are required to benefit from the exemptions or reductions established in this Convention, must be filed within the time limits established by the law of the Contracting State which is obliged to effect such a refund.

3. The competent authorities of the Contracting States shall settle, by mutual agreement, and according to the provisions of Article 24, the modes of applications of this Article.

Article 28 - Entry into force

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

2. This Convention shall enter into force on the thirtieth day after the date of the exchange of instruments of ratification, and shall apply as from this moment:

(a) to taxes withheld at the source on income paid or payable as of 1 January of the year following that in which the Convention enters into force;

(b) to other taxes imposed on income of the tax periods which end on or after 1 January of the year following that in which the Convention enters into force.

Article 29 - Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiry of 5 years from the date of its entry into force. In such event, the Convention shall cease to have effect:

(a) in respect of taxes withheld at source, to income derived or payable after 31 December of the year of termination;

(b) in respect of other taxes on income derived during tax periods ending after 31 December of that year.

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

Done at Abidjan, on 30 July 1982, in duplicate in the Italian and French languages, both texts being equally authentic.

For the Government of the Republic of the Ivory Coast
Abdoulaye Kon,

For the Government of the Italian Republic
Giuseppe Scaglia

PROTOCOL

At the moment of signing the Convention, concluded today between the Republic of the Ivory Coast and the Italian Republic, for the avoidance of double taxation with respect to taxes on income and for the prevention of fiscal evasion, the undersigned plenipotentiaries have agreed that the following additional provisions shall form an integral part of the Convention:

It is agreed that:

- (a) for purposes of paragraph 3 of Article 7 "expenses which are incurred for the purposes of the permanent establishment" mean expenses directly related to the activities of the permanent establishment;
- (b) in connection with the provisions of Article 8, profits which an enterprise of a Contracting State derives from the operation of ships or aircraft in international traffic shall not be subject to any local income tax in the other Contracting State;
- (c) in connection with paragraph 1 of Article 24, the expression "irrespective of the remedies provided by the domestic laws" shall be construed as meaning that the commencement of a mutual agreement procedure shall not replace the litigation procedure under domestic law, which domestic procedure must, in any case, first have been instituted where the dispute concerns an application of the Italian taxes not in accordance with the Convention;
- (d) the provisions of paragraph 3 of Article 7 may be interpreted so that the competent authorities of the Contracting States may mutually agree upon a different procedure for the application of the tax reliefs available under the Convention;
- (e) remuneration paid to an individual with respect to services rendered to the Italian State Post Office (PPTT), to the Institute for Foreign Trade (ICE) and to the Italian Tourist Office (ENIT), as well as to similar public entities of the Ivory Coast is included within the scope of application of the provisions relating to Government service and, consequently, of paragraphs 1 and 2 of Article 19 of the Convention.

Done at Abidjan, on 30 July 1982, in duplicate in the Italian and French languages, both texts being equally authentic.

For the Government of the Republic of Ivory Coast
Abdoulaye Kon,

For the Government of the Italian Republic
Giuseppe Scaglia

EXCHANGE OF NOTES

Excellency,

I have the honour to refer to the Convention between Italy and the Ivory Coast for the avoidance of double taxation with respect to taxes on income and for the prevention of tax evasion and, in particular to the date that the Convention is effective and to the tax treatment of profits of enterprises from the operation of ships and aircraft in international traffic.

For the purpose of defining all problems relating to the taxation of such enterprises, I have the honour to propose that the following paragraph be considered a clause which shall form an integral part of the Convention:

"However, the two Governments have agreed that neither party may submit a request for collection of taxes relating to income derived from the carrying on of maritime navigation or air transport of the tax years preceding the year of entry into force of the Convention. "

If the Government of the Ivory Coast agrees with this clause, I have the honour to propose that the present Note and Your Excellency's reply thereto shall be regarded as an exchange of notes, which enters into force on the same date as the above-mentioned Convention.

I request Your Excellency to be assured of my highest consideration.

Giuseppe Scaglia

Excellency,

I have the honour to acknowledge receipt of your letter of today's date.....

I have the honour to inform Your Excellency that the Government of the Ivory Coast is in agreement with the above proposal.

Be assured, Your Excellency, of my highest consideration.

Abdoulaye Kon,