

**CONVENTION BETWEEN
THE KINGDOM OF MOROCCO AND
THE ITALIAN REPUBLIC¹**

CHAPTER I - Scope of Convention

Article 1 - Persons covered

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

Article 2 - Taxes covered

(1) This Convention shall apply to taxes on income imposed on behalf of each Contracting State or its political subdivisions or local authorities, irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income, taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

a) in the case of Morocco:

1) the tax on business profits and investment reserves (l'impôt sur les bénéfices professionnels et la réserve d'investissements);

2) the levy on public and private wages, remuneration, emoluments, salaries, pensions and life annuities (le prélèvement sur les traitements publics et privés, les indemnités et emoluments, les salaires, les pensions et les rentes viagères);

3) the urban tax (la taxe urbaine) and taxes related thereto;

4) the agriculture tax (l'impôt agricole);

5) the supplementary individual income tax (la contribution complémentaire sur le revenu global des personnes physiques);

6) tax on income from shares and similar income (la taxe sur les produits des actions ou parts sociales et revenus assimilés); (hereinafter referred to as "Moroccan tax").

b) in the case of Italy:

1) the individual income tax (imposta sul reddito delle persone fisiche);

¹ Date of Conclusion: 7 June 1972; Additional Protocol: 28 May 1979. Entry into Force: 10 March 1983. Effective Date: Retroactively, 1 January 1970 (Convention); 1 January 1974 (Additional Protocol) (see Article 26).

Note: For the reader's convenience, the Additional Protocol has been incorporated in the Convention.

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

3) the local income tax (imposta locale sui redditi), even when deducted at source; (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. The competent authorities of the Contracting States shall notify each other of any changes which have been made in their respective tax laws.

CHAPTER II - Definitions

Article 3 - General definitions

(1) In this Convention, unless the context otherwise requires:

a) the term "Morocco" means the Kingdom of Morocco;

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

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

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

e) the term "company" means any body corporate or any other 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 Morocco: The Minister of Finance or his representative;

2) in Italy: The Minister of Finance or his duly delegated or authorized representative;

(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 laws of that 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 a 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. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

b) if the Contracting State in which he has his centre of vital interests cannot be determined or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;

d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where, by reason of the provisions of paragraph (1), a person other than an individual is a resident of both Contracting States, 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 sales office;

f) a workshop;

g) a mine, quarry or other place of extraction of natural resources;

h) a building site;

i) a construction or assembly project which exists for more than six months.

(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 of the enterprise in the first-mentioned State if he has, and habitually exercises in that State an authority to conclude contracts in the name of the enterprise unless his activities are limited to the purchase of goods or merchandise for the enterprise.

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

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

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 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) shall also apply to income from immovable property of an enterprise and to income from immovable property used in 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 general expenses incurred for the benefit of that permanent establishment whether in the State in which the permanent establishment is situated or elsewhere.

(4) In so far 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) 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.

Article 8 - Shipping and air transport

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

(2) The provisions of paragraph 1) shall also apply to the profits of such enterprises from participation in a sea or air transport pool of any kind whatever.

(3) If the place of effective management of a sea transport enterprise is aboard a ship it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated or, in the absence of a home harbour, in the Contracting State of which the operator of the ship is a resident.

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 and 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 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 so charged may not exceed:

- a) 10 percent of the gross amount of the dividends where the recipient is a company (excluding a partnership) which holds directly at least 25 percent of the capital of the company paying the dividends;
- b) 15 percent of the gross amount of the dividends in all other cases. The competent authorities of the Contracting States shall come to an agreement as to the way in which this limitation shall be applied. The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) The term "dividends" as used in this Article means income from shares, "jouissance" 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 assimilated to income from shares by the taxation 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 recipient of the dividends, being a resident of one of the Contracting States, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such case, the dividends shall be taxed in that other Contracting State in accordance with its own domestic 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 to persons who are not residents of 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 that 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 be taxed in the Contracting State in which it arises and according to the law of that State, but the tax so charged may not exceed 10 percent of the gross amount of the interest. The competent authorities of the Contracting States shall come to an agreement as to the way in which this limitation shall be applied. Notwithstanding the preceding provisions of this paragraph, interest arising in one of the Contracting States shall be exempt from taxes in that said State:

a) if the payer of the interest is the Government of that said Contracting State or a local authority thereof; or

b) if the interest is paid to the Government of the other Contracting State or a local authority thereof or an institution or body (including financial institutions) belonging entirely to that Contracting State or one of its local authorities; or

c) if the interest is paid to other institutions or bodies (including financial institutions) in respect of loans granted by them within the framework of agreements concluded between the Governments of the Contracting States.

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

(4) The provisions of paragraphs (1) and (2) 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 that case, the interest shall be taxed in that other Contracting State in accordance with its own domestic law.

(5) Interest shall be deemed to be derived from a Contracting State when the payor is that State itself, a political subdivision or a local authority thereof or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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 be derived from the Contracting State in which the permanent establishment is situated.

(6) Where, owing to a special relationship between the payor 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 payor 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 interest shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12 - *Royalties*

(1) Royalties derived from the use of immovable property or the exploitation of mines, quarries, or other natural resources shall be taxable in the Contracting State in which such property, mines, quarries or other natural resources are situated.

(2) Royalties other than those referred to in paragraph (1) arising in a Contracting State and paid to a person domiciled in the other Contracting State shall be taxable in that other State. However, such royalties may be taxed in the Contracting State in which they arise if the law of that State so provides in the manner and subject to the limits specified below:

a) royalties in respect of the use of, or the right to use, any copyright of literary, artistic or scientific work excluding cinematograph and television films paid in one of the Contracting States to a person domiciled in the other Contracting State may be taxed in the first-mentioned State but the tax so charged may not exceed 5 percent of the gross amount of the royalties;

b) royalties from sources situated in the territory of one of the Contracting States in respect of the right to use any patent, design or model, secret formula or process and paid to a person domiciled in the other State may be taxed in the first-mentioned State but the tax so charged may not exceed 10 percent of the gross amount of the royalties;

c) the following shall be treated as royalties within the meaning of subparagraph b) above: sums paid for the right to use trademarks and cinematograph and television films and similar payments made for information concerning industrial, commercial or scientific experience and remuneration for technical or economic studies. The same shall apply to payments made for the use or right to use agricultural, industrial, harbour, commercial or scientific equipment.

(3) Where any royalty exceeds a fair and reasonable consideration in respect of rights for which it is paid, the provisions of paragraphs (1) and (2) shall only apply to so much of that royalty as represents such fair and reasonable consideration.

(4) The provisions of paragraphs (1) and (2) shall not apply where the recipient of the royalties or other remuneration has in the Contracting State from which such income is derived a permanent establishment or fixed base used in performing professional services or for other activities of an independent nature and such royalties or other remuneration are attributable to that permanent establishment or fixed base. In that case, that State shall have the right to tax such income in accordance within its laws.

Article 13 - *Capital gains*

- (1) Gains from the alienation of immovable property, as defined in Article 6, paragraph (2) 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 in the other Contracting State for the purpose of performing professional services, including such gains from the total alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other State.
- (3) Gains from the alienation of any property other than that mentioned in paragraphs (1) and (2) 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 from the performance of professional services or other independent activities of a similar character shall be taxable only in that State. In the following cases such income shall be taxable in the other Contracting State:
 - 1) if the person in question has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; but only so much of it as is attributable to that fixed base, or
 - 2) if he performs his activities in the other Contracting State for a period or periods--including normal absences from work--exceeding in the aggregate 183 days in the calendar year 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 and 19, salaries, wages and other similar remunerations derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.
- (2) Notwithstanding the provisions of paragraph (1), remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - a) the recipient is present in the other State for a period or periods--including normal absences from work--not exceeding in the aggregate 183 days in the fiscal year concerned;

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

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

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment 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, attendance fees and other remuneration received by a resident of a Contracting State in his capacity as a member of the board of directors or supervisory board of a company which is resident in the other Contracting State shall be taxable in that other State.

Article 17 - Artists and athletes

(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. The rule laid down above shall also apply to profits derived by persons exploiting or organising the above-mentioned activities.

(2) The provisions of paragraph (1) shall not apply to income from activities exercised in a Contracting State by non-profit organisations of the other Contracting State or by their personnel, unless such persons are acting on their own account.

Article 18 - Pensions

Pensions and other similar remuneration paid to a resident of a Contracting State in respect of past employment shall only be taxable in that State.

Article 19 - Governmental functions

(1) Remuneration paid by a Contracting State or a political subdivision, local authority or public body thereof to an individual resident in the other Contracting State in respect of services rendered shall be taxable in the first-mentioned State. Such remuneration shall, however, be exempt from tax in the other State when the recipient possesses the nationality of the first-mentioned State without at the same time possessing the nationality of the other State. The provisions of this paragraph shall also apply to persons carrying on activities in a Contracting State within the framework of cooperation agreements.

(2) The provisions of Articles 15 and 16 shall apply to income paid in respect of services rendered in connection with commercial or industrial activities carried on by a Contracting State, or by a political subdivision, local authority or public body of that State.

Article 20 - Income not expressly mentioned

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

CHAPTER IV - Provisions for the avoidance of double taxation

Article 21 - Credit method

(1) In the case of residents of Morocco, double taxation shall be avoided as follows:

a) where a resident of Morocco derives income other than that referred to in Articles 10, 11 and 12 and which may be taxed in Italy in accordance with the provisions of this Convention, Morocco shall exempt such income from tax but may in calculating the taxes on the remaining income of such resident apply the rate which would have been applicable if the income in question had not been so exempted.

b) in the case of income referred to in Articles 10, 11 and 12 above, Morocco may, in accordance with the provisions of its domestic law, include such income in the basis of the taxes referred to in Article 2; however, Morocco shall allow against the amount of the taxes on such income, and only to the extent of that amount, a deduction equal to the amount of the taxes levied by Italy on that same income.

(2) In the case of residents of Italy, double taxation shall be avoided as follows:

Where a resident of Italy derives items of income which are taxable in Morocco, Italy may, in computing its own income taxes referred to in Article 2 of this Convention, include such items of income in the base of those taxes unless otherwise expressly provided by this Convention. In such case, Italy shall allow as a deduction from the tax so computed the income tax paid in Morocco, but the deduction shall not exceed the proportion of Italian tax attributable to such items of income that such items bear to the entire income. No deduction shall, however, be allowed in cases where, at the request of the recipient of the income and in accordance with Italian law, the item of income is subjected to tax in Italy by way of a final withholding.

(3) Where, under the laws of one of the Contracting States, any taxes to which this Convention applies have been wholly relieved or reduced for a limited period of time then, for the purposes of the application of paragraphs (1) and (2) above only, such taxes shall be deemed to have been paid in their entirety with regard to:

a) the profits of enterprises referred to in Article 7 at the maximum rate of 25 percent;

b) dividends within the maximum limits mentioned in Article 10, paragraph (2);

c) interest within the maximum limit mentioned in Article 11, paragraph (2).

CHAPTER V - Special provisions

Article 22 - 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 Contracting State in the same circumstances are or may be subjected.

(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. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State, the personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

(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 that 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 23 - Mutual agreement procedure

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

(2) That competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an 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 authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the avoidance 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 as referred to in 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 24 - Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of the provisions of this Convention and of the domestic laws of the Contracting States 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 persons or authorities other than those concerned with the assessment--including appeals relating thereto--or collection of the taxes referred to in this Convention.

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

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

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

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

Article 25 - Diplomatic and consular officials

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

(2) In so far as, due to fiscal privileges granted to diplomatic or consular officials under the general rules of international law or under the provisions of special international treaties, income is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

(3) For the purposes of this Convention, an individual who is a member of a diplomatic or consular mission of a Contracting State in the other Contracting State or in a third State and who is a national of the sending State, shall be deemed to be a resident of the sending State if he is subject therein to the same obligations in respect of taxes on income as are residents of that State.

(4) This Convention shall not apply to international organisations, to organs or officials thereof nor to persons who are members of a diplomatic or consular mission of a third State when they are present in a Contracting State and are not treated as residents of either Contracting State with respect to taxes on income.

Article 26 - Entry into force

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

(2) This Convention shall enter into force upon the exchange of instruments of ratification and it shall apply:

1) to taxes deducted at source on income paid or payable on or after January 1, 1970;

2) to other taxes levied on income for taxable periods commencing on or after January 1, 1970;

(3) Claims for the repayment of tax or the credit of tax provided for in this Convention with respect to taxes due by residents of one of the Contracting States must be presented within a period of two years from the date of entry into force of this Convention or the date on which the tax was levied, whichever of those two dates is the more favourable.

Article 27 - Termination

This Convention shall remain in force indefinitely; however, either Contracting State may, as from the fifth year after the year in which ratification took place, denounce the Convention after giving six months' prior notice through diplomatic channels. In that event, the Convention shall apply for the last time:

1) to taxes deducted at source on income paid or payable on or before December 31 of the year in which notice of termination is given;

2) to other taxes levied on income for taxable periods ending on or before December 31 of the same year.

Done at Rabat, the seventh day of June, 1972, in duplicate, in the Arabic, Italian and French languages, all three texts being equally authentic, except in the case of doubt when the French text shall prevail.

PROTOCOL

On signing the tax Convention concluded this day between the Kingdom of Morocco and the Italian Republic, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

Ad Article 3

Should Italy and Morocco adhere to an international convention on the law of the seas then both delegations shall make an agreement by means of the exchange of diplomatic notes so that the territorial waters--to the extent laid down in that said international convention--be included in the terms "Morocco and Italy".

Ad Article 19 /1/

For the purposes of the application of Article 19, both delegations have agreed that the said Article does not cover remuneration from teaching activities.

Footnote./1/ Deleted by the Additional Protocol of May 8, 1979.

Ad Article 21

For the purposes of the application of Article 21:

1) with respect to the application of paragraph 1, should a general tax on income be introduced in Morocco then double taxation shall be avoided for residents of Morocco by application of Article 23 b) of the O.E.C.D. Model Convention;

(/1/ with respect to interest, the provisions of) (paragraph 3 a) of Article 21 shall apply for 3) (years as from the date on which the loan contract) (was signed.)

2) Paragraph 3 c) of Article 21 shall apply, with respect to interest from Moroccan sources, to specialised organisations set up to promote the economic developments of Morocco, a list of which organisations follows:

- Caisse nationale de credit agricole;
- Fonds d'equipement communal;
- Office cherifien des phosphates;
- Office national de l'electricite;
- Offices regionaux de mise en valeur agricole;
- Bureau de recherches et de participations minieres;
- Bureau d'etudes et de participations industrielles;
- Office national marocain du tourisme;
- Office national des chemins de fer;

- Office de commercialisation et d'exportation;
- Regie d'aconage du port de Casablanca;
- Credit hotelier et immobilier du Maroc;
- Banque nationale pour le developpement economique;
- Banque centrale populaire;
- Maroc-Chimie;
- Complex Textile de Fez (C.O.T.E.F.);
- Societe cherifienne des petroles (S.C.P.);
- Societe anonyme marocaine italienne de raffinage (S.A.M.I.R.);
- Compagnie marocaine de navigation (C.O.M.A.N.A.V.);
- Royal Air Maroc (R.A.M.);
- Societe d'exploitation des pyrotines de Kettara
- Societe d'exploitation des mines de fer du Rif (S.E.F.E.R.I.F.);
- Lignes maritimes du detroit (L.I.M.A.D.E.T.);
- Societe marocaine de construction automobile (S.O.M.A.C.A.).

This list may be changed or supplemented to take account of information supplied by the Moroccan authorities to the competent Italian authorities.

(/1/ with respect to dividends, the provisions of) (paragraph 3 b) of Article 21 shall apply to three) (distributions of dividends made by enterprises) (approved by the Investment Commission in) (accordance with Dahir of December 31, 1960.)

Done at Rabat, the seventh day of June, 1972, in duplicate, in the Arabic, French and Italian languages, both texts being equally authentic.

For the Kingdom of Morocco:
Mustapha Faris

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Giovanni Ludovico Borromeo