

**CONVENTION BETWEEN
THE GOVERNMENT OF THE ITALIAN REPUBLIC AND
THE GOVERNMENT OF THE REPUBLIC OF VENEZUELA
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME AND THE PREVENTION OF TAX AVOIDANCE, EVASION AND FRAUD ¹.**

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

CHAPTER I - Scope of the Convention

Article 1 - Personal scope

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

Article 2 - Taxes covered

1. This Convention shall apply to taxes on income imposed on behalf of 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 all 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 salaries paid by enterprises, as well as taxes on capital appreciation.

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

(a) in the case of Italy:

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

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

(3) the local tax on income (imposta locale sui redditi), even if these taxes are collected by means of withholding at source (hereinafter referred to as "Italian tax");

(b) in the case of Venezuela:

(1) the income tax (impuesto sobre la renta);

(2) the local licence taxes on industry and commerce, even if these taxes are collected by means of withholding at source (hereinafter referred to as "Venezuelan tax").

¹ Date of Conclusion: 5 June 1990. Entry into Force: 14 December 1993. Effective Date: 1 January 1994 (see Article 29).

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.

CHAPTER II - Definitions

Article 3 - *General definitions*

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

- (a) the term "Italy" means the Italian Republic;
- (b) the term "Venezuela" means the Republic of Venezuela;
- (c) the terms "a Contracting State" and "the other Contracting State" mean, as the context requires, Italy or Venezuela;
- (d) the term "person" includes an individual, a company and any other body of persons;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) the terms "enterprise of a State" and "enterprise of the other State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
- (g) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (h) the term "nationals" means:
 - (i) individuals possessing the nationality of a Contracting State;
 - (ii) legal persons, partnerships and associations established in accordance with the laws in force in a Contracting State;
- (i) the term "competent authority" means:
 - (i) in the case of Italy: the Ministry of Finance;
 - (ii) in the case of Venezuela: the Sectorial General Directorate of Revenue of the Ministry of Finance (Dirección General Sectorial de Rentas del Ministerio de Hacienda).

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 State concerning the taxes to which the Convention applies.

Article 4 - *Residents*

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, nationality, 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.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - (a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either 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 workshop;
 - (f) a mine, a quarry or any other place of extraction of natural resources;
 - (g) a building site or installation project which exists for more than twelve months from the date in which the works are effectively started.

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 merchandise belonging to the enterprise;

(b) the maintenance of a stock of merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(c) the maintenance of a stock of 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 merchandise or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State - other than an agent of an independent status to whom paragraph 5 applies - shall be deemed to 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 merchandise for the enterprise.

5. 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.

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 either company a permanent establishment of the other.

CHAPTER III - Taxation of income

Article 6 - Income from immovable property

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, as well as rights to which the provisions of general law respecting landed property apply. Immovable property shall be deemed to include, inter alia, 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 paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 7 - Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In 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. No profits shall be attributed to a permanent establishment by reason of the mere purchase by it of merchandise for the enterprise.

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

7. Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Article 8 - *Shipping and air transport*

The taxation of profits from the operation of ships or aircraft in international traffic shall be governed by the Conventions between Italy and Venezuela, signed, respectively, on 24 November 1987 and 3 March 1978 in Caracas, which shall apply to taxes foreseen in Article 2 of this Convention from the date of its entry into force.

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 10% of the gross amount of the dividends. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation. 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 laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the dividends shall be taxable in that other Contracting State according to its internal 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 10% of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

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

(b) the interest is paid to the Government of the other Contracting State, a local authority thereof or any entity or body (including a financial institution) wholly owned by that Contracting State or by a local authority thereof; or

(c) the interest is paid to other entities or bodies (including a financial institution) by reason of financing contracted by them under agreements concluded between the Governments of both Contracting States.

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

5. The provisions of paragraphs 1 and 2 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 shall be taxable in that other Contracting State in accordance with its internal law.

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 payer of the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

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, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12 - *Royalties*

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

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

(a) 7% of the gross amount of the royalties arising from the use of, or right to use, any copyright of literary, artistic or scientific work, including cinematographic films and tapes for radio or television;

(b) 10% of the gross amount of the royalties in all other cases. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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 cinematographic films and tapes for radio or television, 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 paragraph 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the royalties are taxable in that other Contracting State in accordance with its internal law.

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 Contracting State. Where, however, the payer of the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by the permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, 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 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 13 - *Capital gains*

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in paragraph 2 of 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 shares in a stock company, the property of which is principally formed, directly or indirectly, by immovable property situated in a Contracting State, may be taxed in that State.

5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4, 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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

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 or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and
 - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 - *Directors' fees*

Profit shares, 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 of the supervisory 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.

Article 18 - *Pensions*

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

Article 19 - *Government service*

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.
3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions paid 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 - *Professors and researchers*

Professors or researchers who are temporarily present in a Contracting State during a period not exceeding two years for the purpose of teaching or research in a university, college, school or similar institution and who are or were, immediately before their visit, residents of the other Contracting State, shall be exempt from tax in the first-mentioned Contracting State as regards remuneration arising from the teaching or research.

Article 21 - *Students*

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

Article 22 - *Other income*

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

CHAPTER IV

Article 23 - Provisions for the elimination of double taxation

1. It is understood that double taxation shall be avoided in accordance with the following paragraphs of this Article.
2. In the case of Italy: where a resident of Italy derives income which is taxable in Venezuela, Italy may, in determining its income taxes referred to in Article 2, include the aforesaid income in the taxable base of said income, unless otherwise provided in specific provisions of this Convention.
3. In the case of Venezuela: where a resident of Venezuela derives income which, in accordance with the provisions of this Convention, may be taxed in Italy, such income shall be exempt from Venezuelan income tax. In such a case, Italy shall deduct from the taxes so calculated the tax on income paid in Venezuela, but the amount of the deduction may not exceed that part of the Italian tax appropriate to such income in the ratio of such income to total income. However, no deduction shall be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of the income under Italian law.
4. Where, in accordance with Venezuelan legislation designed to promote economic development, the taxes to which this Convention applies are, during a limited period of time, wholly or partly not imposed, such taxes shall, for the purposes of paragraph 3 of this Article, be deemed to be wholly paid.

CHAPTER V - Special provisions

Article 24 - Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of Article 9, paragraph 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. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 25 - 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 24, 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. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 26 - Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention nor to the prevention of fiscal avoidance, evasion and fraud. The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on 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 trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 27 - 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 28 - Refunds

1. The taxes collected in a Contracting State by means of withholding at source shall be refunded on request of the person interested or of the State of which he is a resident where the right to levy the taxes is limited by the provisions of this Convention.
2. Refund requests, to be filed within the terms established in the law of the Contracting State from which the refund is due, must be substantiated by an official statement made by the Contracting State of which the taxpayer is a resident stating that the conditions established in order to benefit from the exemptions or reductions provided for in the Convention have been met.
3. The competent authorities of the Contracting States shall establish, by mutual agreement, in accordance with the provisions of Article 25, the particulars for the application of this Article.

CHAPTER VI - Final provisions

Article 29 - 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 date of the exchange of instruments of ratification and its provisions shall have effect:
 - (a) as respects taxes collected by means of withholding at source, to amounts paid or credited as from 1 January of the year following the year in which the instruments of ratification are exchanged;
 - (b) as respects other taxes on income, to taxes levied for tax periods beginning on or after 1 January of the year following the year in which the instruments of ratification are exchanged.

Article 30 - Termination

1. 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 as from the fifth year following the entry into force of the Convention.

2. In such case, its provisions shall apply for the last time:

(a) as respects taxes collected by means of withholding at source, to amounts paid or credited not later than 31 December of the calendar year in which the notice of termination was given;

(b) as respects other taxes on income, to taxes levied for tax periods closing not later than 31 December of the calendar year in which the notice of termination was given.

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

Done in Rome, 5 June 1990, in duplicate, in the Italian, Spanish and French languages, all texts being equally authentic, the French text prevailing in case of doubt or divergence of interpretation.

PROTOCOL

At the signing of the Convention concluded today between the Government of the Italian Republic and the Government of the Republic of Venezuela for the avoidance of double taxation with respect to taxes on income and the prevention of tax avoidance, evasion and fraud, the parties have agreed upon the following provisions which shall form an integral part of the Convention.

It is understood that:

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

(b) with reference to Article 12, royalties paid for the use of, or the right to use, any records of sounds or images, except for those used for broadcasting or telecasting, fall under the scope of sub-paragraph 2(b);

(c) with reference to Article 18, pensions and other similar remuneration paid in accordance with the social security laws of a Contracting State shall be taxable only in that State;

(d) the provisions of paragraphs 1 and 2 of Article 19 shall apply, inter alia, to remuneration and pensions paid to the personnel of the following Italian services or organizations: the State Railways Service (Amministrazione delle Ferrovie dello Stato - F.S.); the Postal and Telecommunications Service (Amministrazione delle Poste e delle Telecomunicazioni - PP.TT.); the National Agency for Tourism (Ente Nazionale per il Turismo - E.N.I.T.); the Institute for Foreign Trade (Istituto per il Commercio Estero - I.C.E.); and the Italian Central Bank (Banca d'Italia), as well as any equivalent Venezuelan services or organizations;

(e) with reference to paragraph 1 of Article 25, the expression "irrespective of the remedies provided by internal law" means that the mutual agreement procedure is not alternative as regards national remedies, prior recourse to which is necessary when the dispute refers to the imposition of taxes not in accordance with this Convention;

(f) the provision of paragraph 3 of Article 28 shall not exclude the interpretation that the competent authorities of the Contracting States may by mutual agreement establish other procedures for the implementation of the tax rebates or exemptions granted by the Convention.

In witness whereof the undersigned have signed this Protocol.

Done in Rome, 5 June 1990, in duplicate, in the Italian, Spanish and French languages, all texts being equally authentic, the French text prevailing in case of doubt or divergence of interpretation.