No. 8968

ISRAEL
and
FEDERAL REPUBLIC OF GERMANY

Convention for the avoidance of double taxation with respect to taxes on income and to the *Gewerbesteuer* (trade tax) (with exchange of letters). Signed at Bad Godesberg, on 9 July 1962

Official texts: Hebrew, German and English.

Registered by Israel on 13 February 1968.

ISRAËL
et
RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE

Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et de contribution des patentes (avec échange de lettres). Signée à Bad Godesberg, le 9 juillet 1962

Textes officiels hébreu, allemand et anglais.

Enregistré par Israël le 13 février 1968.

No. 8968. CONVENTION[1] BETWEEN THE GOVERNMENT OF THE STATE OF ISRAEL AND THE GOVERNMENT OF THE FEDERAL REPUBLIC OF GERMANY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND TO THE *GEWERBESTEUER* (TRADE TAX). SIGNED AT BAD GODESBERG, ON 9 JULY 1962

The Government of the State of Israel and the Government of the Federal Republic of Germany,

Desiring to avoid double taxation with respect to taxes on income have agreed as follows:

Article 1

(1) This Convention shall apply to taxes on income imposed on behalf of the State of Israel or the Federal Republic of Germany, a Land or a political subdivision or local authority thereof, 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 the elements of income, including taxes on profits derived from the alienation of movable or immovable property, as well as taxes on capital appreciation and the *Gewerbesteuer* imposed by the Federal Republic of Germany.

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

(*a*) in the Federal Republic of Germany:

(*aa*) the *Einkommensteuer* (income tax) including the *Lohnsteuer*, the *Kapitalertragsteuer* and the *Aufsichtsratsteuer*.

(*bb*) the *Koerperschaftsteuer* (corporation tax),

(*cc*) the *Gewerbesteuer* (trade tax),

(hereinafter referred to as "Federal Republic tax");

(*b*) in the State of Israel:

(*aa*) the income tax including the company tax,

(*bb*) the land betterment tax,

(hereinafter referred to as "Israeli tax".

[1] Came into force on 21 August 1966, one month after the exchange, which took place at Bonn on 21 July 1966, of the instruments certifying that the constitutional requirements had been fulfilled, in accordance with article 25.

(4) This 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 State of Israel and the Federal Republic of Germany shall, if necessary, notify to each other any changes which have been made in their respective taxation laws.

(5) The competent authorities of the State of Israel and the Federal Republic of Germany shall by mutual agreement resolve any doubts which arise as to taxes to which this Convention ought to apply.

(6) This Convention applies to persons who are residents of the territories of either or both of the Contracting Parties.

Article 2

(1) For the purposes of this Convention:

1. The term "Federal Republic" means the Federal Republic of Germany; the term "Israel" means the State of Israel.

2. The terms "one of the territories" and "the other territory" mean the Federal Republic or Israel, as the context requires.

3. The term "person" means natural persons and companies.

4. The term "company" means any body corporate and any entity which is treated as a body corporate for tax purposes.

5. (*a*) The term "resident of one of the territories" means a resident of the Federal Republic or a resident of Israel, as the context requires. The terms "resident of the Federal Republic" and "resident of Israel" mean respectively any person who is resident in the Federal Republic for the purposes of Federal Republic tax (subject to unlimited tax liability) and any person who is resident in Israel for the purposes of Israeli income tax.

(*b*) Where by reason of the provisions of sub-paragraph (*a*) above an individual is a resident of both territories, then this case shall be solved in accordance with the following rules:

(*aa*) He shall be deemed to be a resident of the territory in which he has a permanent home available to him. If he has a permanent home available to him in both territories, he shall be deemed to be a resident of the territory with which his personal and economic relations are closest (centre of vital interests).

(*bb*) If the territory 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 territory, he shall be deemed to be a resident of the territory in which he has an habitual abode. If he has an habitual abode in both territories or

in neither of them, the competent authorities of the territories shall determine the question by mutual agreement.

(*c*) Where by reason of the provisions of sub-paragraph (*a*) above a company is a resident of both territories, then it shall be deemed to be a resident of the territory in which its place of effective management is situated. The same provision shall apply to partnerships and associations which are not companies within the meaning of paragraph (1), sub-paragraph 4 above.

6. The terms "enterprise of one of the territories" and "enterprise of the other territory" mean a Federal Republic enterprise or an Israeli enterprise, as the context requires; the terms "Federal Republic enterprise" and "Israeli enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the Federal Republic and an industrial or commercial enterprise or undertaking carried on by a resident of Israel.

7. (*a*) The term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(*b*) A permanent establishment shall include especially:

(*aa*) a place of management;

(*bb*) a branch;

(*cc*) an office;

(*dd*) a factory;

(*ee*) a workshop;

(*ff*) a mine, quarry or other place of extraction of natural resources;

(*gg*) a building site or construction or assembly project which exists for more than twelve months.

(*c*) The term "permanent establishment" shall not be deemed to include:

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

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

(*cc*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(*dd*) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information for the enterprise;

(*ee*) 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.

(*d*) A person acting in one of the territories on behalf of an enterprise of the other territory—other than an agent of an independent status to whom sub-paragraph (*e*) below applies—shall be deemed to be a permanent establishment in the first-mentioned territory if he has, and habitually exercices in that territory, 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.

(*e*) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business in that other territory 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.

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

8. The term "dividends" means income arising from shares, participations in a limited liability company (*Gesellschaft mit beschraenkter Haftung*), mining shares (*Kuxen*) and "jouissance" shares (*Genussscheine*), and income derived by a sleeping partner, who does not participate in the capital of the undertaking, from his participation as such. The term shall also include distributions on investment trust certificates.

9. The term "national" means:

(*a*) in respect of the Federal Republic:
all Germans in the meaning of Article 116 paragraph 1 of the Basic Law for the Federal Republic of Germany;

(*b*) in respect of Israel:
all Israeli citizens;

(*c*) all companies, partnerships and associations deriving their status as such from the law in force in one of the territories.

10. The term "competent authorities" means in the case of the Federal Republic, the Federal Minister of Finance, and, in the case of Israel, the Minister of Finance or his authorized representative.

(2) Where according to this Convention income from sources within one of the territories shall not be taxable or shall be taxable only at a reduced rate in this territory, and, under the law in force in the other territory, the said income is subject to tax by reference to the amount thereof which is remitted to or received in that

other territory and not by reference to the full amount thereof, then the exemption or reduction in the first-mentioned territory resulting from this Convention shall apply only to such income as is remitted to the other territory. This shall not apply in the case of Article 9, paragraph (2), Article 15 and Article 16, paragraphs (1) to (3) of this Convention.

(3) In the application of the provisions of this Convention by one of the Contracting Parties any term not defined in this Convention shall, unless the context otherwise requires, have the same meaning which it has under the laws in force in the territory of the Contracting Party relating to the taxes which are the subject of this Convention.

Article 3

(1) Income from immovable property may be taxed in the territory in which such property is situated.

(2) The term "immovable property" shall be defined in accordance with the laws of the territory in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment of agricultural and forestry enterprises, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraphs (1) and (2) above shall apply to income derived from the direct use, or from the letting of immovable property or the use in any other form of such property, including income from agricultural or forestry enterprises. They shall likewise apply to profits from the alienation of immovable property.

(4) The provisions of paragraphs (1) to (3) above shall also apply to the income from immovable property of any enterprises other than agricultural or forestry enterprises and to income from immovable property used for the performance of professional services.

Article 4

(1) The profits of an enterprise of one of the territories shall be taxable only in that territory unless the enterprise carries on business in the other territory through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, tax may be imposed in the other territory on the profits of the enterprise but only on so much of them as is attributable to that permanent establishment.

(2) The share of profits of an enterprise accruing to a partner therein who is a resident of one of the territories, shall likewise be taxable only in that territory unless

the enterprise carries on business in the other territory through a permanent establishment situated therein. If it carries on business as aforesaid, tax may be imposed in the other territory on the share of the profits accruing to that partner, but only on so much of them as represents his share of the profits attributable to that permanent establishment.

(3) Where an enterprise of one of the territories carries on business in the other territory through a permanent establishment situated therein, there shall in each territory 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 quite independently with the enterprise of which it is a permanent establishment.

(4) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purpose of the permanent establishment including executive and general administrative expenses so incurred, whether in the territory in which the permanent establishment is situated or elsewhere.

(5) The provisions of paragraph (3) above shall not preclude one of the Contracting Parties from determining 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; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

(6) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(7) For the purposes of paragraphs (1) to (6) above, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

(8) Paragraphs (1) and (2) above shall not be construed as preventing one of the Contracting Parties from imposing pursuant to this Convention tax on income derived from sources within its territory (income from immovable property, dividends, interest, royalties within the meaning of Article 14, paragraphs (2) and (3) of this Convention) by an enterprise of the other territory, even if such income is not attributable to a permanent establishment in the first-mentioned territory.

(9) Paragraphs (1) to (8) above shall likewise apply in respect of the *Gewerbesteuer* (trade tax) computed on a basis other than industrial and commercial profits.

Article 5

(1) Where

(*a*) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory, or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory

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.

(2) Paragraph (1) above shall likewise apply in respect of the *Gewerbesteuer* (trade tax) computed on a basis other than industrial and commercial profits.

Article 6

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

(2) If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the territory in which the home harbour of the ship is situated, or, if there is no such home harbour, in the territory of which the operator of the ship is a resident.

(3) Paragraphs (1) and (2) above shall likewise apply in respect of the *Gewerbesteuer* (trade tax) computed on a basis other than industrial and commercial profits.

Article 7

(1) Subject to the provisions of Article 3 paragraph (3) of this Convention gains from the sale, transfer or exchange of capital assets derived by a resident of one of the territories from sources within the other territory shall be taxable only in the first-mentioned territory.

(2) Paragraph (1) above shall not apply where a resident of one of the territories carries on business in the other territory through a permanent establishment situated therein and such gains are attributable to that permanent establishment; in such event Article 4 of this Convention shall be applicable.

Article 8

(1) Income derived by a resident of one of the territories in respect of professional services or other independent activities of a similar character shall be taxable only in that territory unless he has a fixed base regularly available to him in the other territory for the purpose of performing his activities. If he has such a fixed base, such part of that income as is attributable to that base may be taxed in that other territory.

(2) Notwithstanding the provisions of paragraph (1) above, 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 territory in which these activities are exercised.

(3) Directors' fees and similar payments derived by a resident of one of the territories in his capacity as a member of the board of directors of a company which is a resident of the other territory may be taxed in that other territory.

Article 9

(1) Salaries, wages and other similar remuneration derived by a resident of one of the territories in respect of an employment shall be taxable only in that territory unless the employment is exercised in the other territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other territory.

(2) Notwithstanding the provisions of paragraph (1) above, remuneration derived by a resident of one of the territories in respect of an employment exercised in the other territory shall be taxable only in the first-mentioned territory if :

(*a*) the recipient is present in the other territory for a period or periods 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 territory; and,

(*c*) the remuneration is not deducted from the profits of a permanent establishment or a fixed base which the employer has in the other territory.

(3) Notwithstanding the provisions of paragraphs (1) and (2) above remuneration for personal services performed aboard a ship or aircraft in international traffic may be taxed in the territory in which the place of effective management of the enterprise is situated.

Article 10

(1) Notwithstanding the provisions of Article 9 of this Convention salaries, wages and other similar remuneration paid out of public funds of the Federal Republic, a Land or one of its political sub-divisions or local authorities in respect of services rendered shall be taxable in the Federal Republic; they shall not be taxed in Israel if the payment is made to a German national within meaning of Article 2 paragraph (1) sub-paragraph 9 (*a*) of this Convention.

(2) Notwithstanding the provisions of Article 9 of this Convention salaries, wages and other similar remuneration paid out of public funds of Israel in respect of services rendered shall be taxable in Israel; they shall not be taxed in the Federal Republic if the payment is made to a national of Israel within the meaning of Article 2 paragraph (1) sub-paragraph 9 (*b*) of this Convention.

(3) Paragraphs (1) and (2) above shall not apply to payments in respect of services rendered in connection with any business carried on by the Federal Republic or Israel, a Land or political sub-division or local authority thereof.

(4) Paragraphs (1) and (2) above shall also apply to salaries, wages and other similar remuneration paid, in the case of the Federal Republic by the Deutsche Bundesbank, the Deutsche Bundesbahn and the Deutsche Bundespost, and in the case of Israel by the Bank of Israel.

Article 11

(1) Annuities, pensions and other similar remuneration paid in consideration of past employment shall be taxable only in the territory of which the recipient is a resident.

(2) Notwithstanding the provisions of paragraph (1) above annuities, pensions and other similar remuneration in respect of past employment paid out of public funds of the State of a Contracting Party, a Land or a political sub-division or local authority thereof to a resident of the territory of the State of the other Contracting Party, shall be taxable in the territory of the State of the first-mentioned Contracting Party; they shall not be taxed in the territory of the State of the other Contracting Party.

(3) Paragraph (2) above shall also apply to annuities, pensions and other similar remuneration in respect of past employment paid, in the case of the Federal Republic by the Deutsche Bundesbank, the Deutsche Bundesbahn and the Deutsche Bundespost, and in the case of Israel by the Bank of Israel.

Article 12

(1) Dividends paid to a resident of one of the territories by a company resident of the other territory may not be taxed in that other territory at a rate exceeding 25 percent.

(2) Paragraph (1) above shall not apply where the recipient carries on business in the other territory through a permanent establishment situated therein and such dividend is attributable to that permanent establishment; in such event Article 4 of this Convention shall be applicable.

Article 13

(1) Interest and other income from bonds, securities, notes, debentures or any other form of indebtedness, whether or not secured by mortgages, paid to a resident of one of the territories by a resident of the other territory may not be taxed in that other territory at a rate exceeding 15 percent.

(2) Paragraph (1) above shall not apply where the recipient carries on business in the other territory through a permanent establishment situated therein and such interest is attributable to that permanent establishment; in such event Article 4 of this Convention shall be applicable.

(3) Notwithstanding the provisions of paragraphs (1) and (2) above

(*a*) income within the meaning of paragraph (1) above paid by a resident of Israel to the Deutsche Bundesbank shall be taxable only in the Federal Republic;

(*b*) income within the meaning of paragraph (1) above paid by a resident of the Federal Republic to the Bank of Israel shall be taxable only in Israel.

Article 14

(1) Copyright royalties and other payments, whether recurring or not, paid as consideration for the use of, or the right to use, any literary, dramatic, musical or artistic work (excluding royalties and like payments, whether recurring or not, in respect of motion picture films or films for use in connection with television) shall be taxable only in the territory of which the recipient is a resident.

(2) Royalties and other payments, whether recurring or not, paid as consideration for the use of, or the right to use, any patent, trade mark, design or model, plan, secret process or formula to a resident of one of the territories by a resident of the other territory may not be taxed in that other territory at a rate exceeding 5 percent.

(3) The provisions of paragraph (2) above shall also apply to all royalties and other payments, whether recurring or not, paid as consideration for the use of, or the

right to use, industrial, commercial or scientific equipment and for the supply of information concerning industrial, commercial and scientific experience.

(4) Paragraphs (1) to (3) above shall not apply where the recipient carries on business in the other territory through a permanent establishment situated therein and such royalties or other payments are attributable to that permanent establishment; in such event Article 4 of this Convention shall be applicable.

Article 15

A professor or teacher from one of the territories, who receives remuneration for teaching, during a period of temporary residence not exceeding two years, at a university, college, school or other educational institution in the other territory, shall be exempt from tax in that other territory in respect of that remuneration.

Article 16

(1) An individual from one of the territories who is temporarily present in the other territory solely

(*a*) as a student at a recognized university, college or school in such other territory;

(*b*) as a business apprentice (including in the Federal Republic a *Volontär* or a *Praktikant*), or

(*c*) as the recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organization,

shall not be taxed in the other territory in respect of remittances from abroad for the purposes of his maintenance, education or training, in respect of a scholarship, and in respect of any amount representing remuneration for an employment in that other territory.

(2) An individual from one of the territories who is temporarily present in the other territory for a period not exceeding one year, as an employee of, or under contract with, an enterprise of the former territory or an organization referred to in paragraph (1) sub-paragraph (*c*) above, solely to acquire technical, professional or business experience from a person other than such enterprise or organization shall not be taxed in that other territory on remuneration for such period unless the amount thereof exceeds 15,000 DM or its equivalent in Israeli currency.

(3) An individual from one of the territories temporarily present in the other territory under arrangements with the Government of that other territory solely for the purpose of training, research or study shall not be taxed in that other territory on remuneration received in respect of such training, research or study, unless the amount thereof exceeds 25,000 DM or its equivalent in Israeli currency.

Article 17

The items of income not expressly mentioned in the foregoing Articles shall be taxable only in the territory of which the recipient is a resident.

Article 18

(1) Tax shall be determined in the case of a resident of the Federal Republic as follows:

(*a*) Unless the provisions of sub-paragraph (*b*) below apply, there shall be excluded from the basis upon which Federal Republic tax is imposed, any item of income from sources within Israel, which, according to this Convention, may be taxed in Israel. The Federal Republic, however, retains the right to take into account in the determination of its rate of tax the items of income so excluded.

(*b*) Israeli tax payable under the laws of Israel and in accordance with this Convention on the following items of income shall be allowed as a credit against such Federal Republic tax on income as is payable in respect of these following items of income:

(*aa*) dividends not dealt with in sub-paragraph (*d*) below;

(*bb*) interest within the meaning of Article 13, paragraph (1) of this Convention;

(*cc*) royalties and other like payments referred to in Article 14 of this Convention;

(*dd*) salaries, wages and other similar remuneration paid out of public funds of Israel in respect of services not being exempt from Federal Republic tax under Article 10, paragraphs (2) and (4) of this Convention.

(*c*) If in the cases (*aa*) and (*bb*) of sub-paragraph (*b*) above Israeli tax on dividends or interest has been wholly relieved or reduced for a limited period of time under provisions of Israeli tax law specified by mutual agreement between the Contracting Parties, there shall be allowed as a credit against Federal Republic tax on such income an amount of not less than 25 percent of such dividends or 15 percent of such interest. The credit allowed under the foregoing sentence shall, however, not exceed the tax imposed by Israel if no such relief or reduction had been granted.

(*d*) Notwithstanding sub-paragraphs (*b*) and (*c*) above the provisions of sub-paragraph (*a*) above shall apply to such dividends as are paid to a company being a

resident of the Federal Republic by a company being a resident of Israel 25 percent or more of the voting shares of which are owned by the first-mentioned company.

(*e*) Sub-paragraph (*c*) shall not apply to dividends paid by a company 50 % or more of the assets of which consist of shares in companies managed and controlled outside Israel.

(*f*) Sub-paragraph (*d*) above shall only apply to dividends paid by a company which derives its income exclusively or almost exclusively—

(*aa*) from producing or selling goods or merchandise, rendering services, or doing banking or insurance business, or

(*bb*) from dividends paid by one or more companies, being residents of Israel, more than 50 % of the voting shares of which are owned by the first-mentioned company, which themselves derive their income exclusively or almost exclusively from producing or selling goods or merchandise, rendering services or doing banking or insurance business.

(2) Tax shall be determined in the case of a resident of Israel as follows:

Where there is included in an assessment made in Israel income from sources within the Federal Republic which in accordance with this Convention may be taxed in the Federal Republic, there shall be allowed as credit against Israeli tax on such income a sum equal to the Federal Republic tax actually levied or the Israeli tax on such income, whichever is lower, provided that such credit shall not be allowed in an amount exceeding that proportion of the Israeli tax which such income bears to the entire income subject to the Israeli tax. Where such income is an ordinary dividend paid by a company limited by shares *(Kapitalgesellschaft)* resident in the Federal Republic, the credit shall take into account (in addition to any Federal Republic tax appropriate to the dividend) the Federal Republic tax payable by the company in respect of its profits, and, where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the Federal Republic tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

Article 19

(1) The nationals of the State of one of the Contracting Parties shall not be subjected in the territory of the other Contracting Party to any taxation or any requirement connected therewith which is other or more burdensome than the

taxation and connected requirements to which nationals of the State of that other Contracting Party in the same circumstances are or may be subjected.

(2) Stateless persons shall not be subjected in the territory of one of the Contracting Parties to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of the State of that Contracting Party in the same circumstances are or may be subjected.

(3) The taxation on a permanent establishment which an enterprise of one of the territories has in the other territory shall not be less favourably levied in that other territory than the taxation levied on enterprises of that other territory carrying on the same activities.

This provision shall not be construed as obliging a Contracting Party to grant to residents of the territory of the other Contracting Party any 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 one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other territory, shall not be subjected in the first-mentioned territory 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 territory are or may be subjected.

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

Article 20

(1) The competent authorities shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Convention. No information as aforesaid shall be exchanged by the competent authority of one of the territories which would disclose any trade, business, industrial or professional secret or any trade process to the authority of the other territory.

(2) In no case shall the provisions of paragraph (1) above be construed so as to impose upon one of the Contracting Parties the obligation to carry out administrative

measures at variance with its regulations and practice or which would be contrary to the sovereignty, security or public policy of its State or to supply particulars which are not procurable under the legislation of its own State or the State of the Contracting Party making application.

Article 21

(1) Where a resident of one of the territories shows proof that the action of the tax authorities of the States of the Contracting Parties has resulted or will result in double taxation contrary to the provisions of this Convention, he shall be entitled to present his case to the competent authority of the territory of which he is a resident. Should his claim be deemed worthy of consideration, the competent authority of this territory shall endeavour to come to an agreement with the competent authority of the other territory with a view to avoidance of double taxation.

(2) For the settlement of difficulties or doubts in the interpretation or application of this Convention or in respect of its relations to conventions of the States of the Contracting Parties with third States the competent authorities of the territories shall reach a mutual agreement as quickly as possible.

Article 22

(1) The competent authorities of the two territories may prescribe regulations necessary to carry into effect this Convention within the respective territories.

(2) The competent authorities of the two territories may communicate with each other directly for the purpose of giving effect to the provisions of this Convention.

Article 23

This Convention shall not affect any agreement already in force between the Contracting Parties.

Article 24

This Convention shall also apply to Land Berlin provided that the Government of the State of Israel has not delivered a contrary declaration to the Government of the Federal Republic of Germany within three months from the date of entry into force of the Convention.

Article 25

This Convention shall enter into force one month after the exchange by the plenipotentiaries of the Contracting Parties at Bonn of instruments certifying that the constitutional requirements for such entry into force have been fulfilled, and shall thereupon have effect:

(*a*) in respect of the Federal Republic tax, for taxes which are levied for the calendar year 1961 and for subsequent calendar years, and,

(*b*) in respect of the Israeli tax, for taxes which are levied for the tax year 1961 and for subsequent tax years.

Article 26

This Convention shall continue in effect indefinitely but either of the Contracting Parties may, on or before the 30th day of June in any calendar year not earlier than the year 1965, give to the other Contracting Party written notice of termination and, in such event, the present Convention shall cease to be effective:

(*a*) in respect of the Federal Republic tax, for taxes which are levied for the calendar years following the year in which notice of termination is given;

(*b*) in respect of the Israeli tax, for taxes which are levied for the tax year following the year in which the notice of termination is given.

DONE at Bad Godesberg, on 9th July, 1962, in six originals, two each in the Hebrew, German and English languages, all texts being equally authentic, except in the case of doubt, when the English text shall prevail.

For the Government of the State of Israel:

SHINNAR

For the Government of the Federal Republic of Germany:

G. VON HAEFTEN

EXCHANGE OF LETTERS

I

AUSWÄRTIGES AMT
Ministerialdirektor G. von Haeften

Bad Godesberg, 9th July, 1962

Dear Dr. Shinnar,

With reference to the Convention signed today between the Government of the Federal Republic of Germany and the Government of the State of Israel for the avoidance of double taxation with respect to taxes on income and to the *Gewerbesteuer* (trade tax) I have the honour on behalf of the Government of the Federal Republic to inform you of the following:

Article 18, paragraph (1), sub-paragraph (*c*) of the Convention shall apply, where Israeli tax is wholly relieved or reduced under Section 11 of the "Encouragement of Capital Investments Law 5710-1950" and Sections 46, 47, 47A, 48, 52 and

53 of the "Encouragement of Capital Investments Law 5719-1959" as in effect on the date of entry into force of the Convention. It shall also apply, where such reductions or reliefs are granted under any future provisions amending or substituting the first-mentioned provisions without substantial change to the benefits granted by them. The competent authorities of the two territories shall by mutual agreement resolve any doubts which arise as to the provisions to which the foregoing sentence ought to apply.

If this proposal meets with the approval of the Government of the State of Israel, this letter and your reply thereto could be deemed to be part of the Convention.

Accept the renewed assurance of my highest consideration.

G. v. HAEFTEN

The Head of Israel Mission
Ambassador Dr. F. E. Shinnar
Cologne

II

HEAD OF ISRAEL MISSION
Dr. F. E. Shinnar, Ambassador Extraordinary and Plenipotentiary

Bad Godesberg, 9th July, 1962

Dear Ministerialdirektor von Haeften,

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

[*See letter I*]

I have the honour to inform you that the Government of Israel agrees to the proposal made therein.

Accept the renewed assurance of my highest consideration.

SHINNAR

Ministerialdirektor G. von Haeften
Auswärtiges Amt
Bonn

III

HEAD OF ISRAEL MISSION
Dr. F. E. Shinnar, Ambassador Extraordinary and Plenipotentiary

Bad Godesberg, 9th July, 1962

Dear Ministerialdirektor von Haeften,

With reference to the Convention signed today between the Government of the State of Israel and the Government of the Federal Republic of Germany I have the honour on behalf of the Government of the State of Israel to inform you that annuities, pensions and other recurring or nonrecurring payments made to any individual by the Federal Republic of Germany, a Land or a political sub-division or local authority thereof as compensation for injury or damage sustained as a result of hostilities or political persecution are at present not taxable in Israel. The Government of the State of Israel agrees that this practice shall not be altered.

If this proposal meets with the approval of the Government of the Federal Republic of Germany, this letter and your reply thereto could be deemed to be part of the Convention.

Accept the renewed assurance of my highest consideration.

SHINNAR

Ministerialdirektor G. von Haeften
Auswärtiges Amt
Bonn

IV

AUSWÄRTIGES AMT
Ministerialdirektor G. von Haeften

Bad Godesberg, 9th July, 1962

Dear Dr. Shinnar,

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

[*See letter III*]

I have the honour to inform you that the Government of the Federal Republic of Germany agrees to the proposal made therein.

Accept the renewed assurance of my highest consideration.

G. v. HAEFTEN

The Head of Israel Mission
Ambassador Dr. F. E. Shinnar
Cologne

V

AUSWÄRTIGES AMT
Ministerialdirektor G. von Haeften

Bad Godesberg, 9th July, 1962

Dear Dr. Shinnar,

With reference to the Convention signed today between the Government of the Federal Republic of Germany and the Government of the State of Israel for the avoidance of double taxation with respect to taxes on income and to the *Gewerbesteuer* (trade tax) I have the honour on behalf of the Government of the Federal Republic to inform you of the following:

The competent authorities shall take the necessary steps in order to ensure that with effect from the 1st of January 1965 the rate of tax imposed on royalties and like payments, whether recurring or not, in respect of motion picture films and films for use in connection with television, shall be limited by the state of source in accordance with the principles laid down by the Fiscal Committee of the O.E.E.C. (O.E.C.D.).

If this proposal meets with the approval of the Government of the State of Israel, this letter and your reply thereto could be deemed to be part of the Convention.

Accept the renewed assurance of my highest consideration.

G. v. HAEFTEN

The Head of Israel Mission
Ambassador Dr. F. E. Shinnar
Cologne

VI

HEAD OF ISRAEL MISSION
Dr. F. E. Shinnar, Ambassador Extraordinary and Plenipotentiary

Bad Godesberg, 9th July, 1962

Dear Ministerialdirektor von Haeften,

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

[*See letter V*]

I have the honour to inform you that the Government of Israel agrees to the proposal made therein.

Accept the renewed assurance of my highest consideration.

SHINNAR

Ministerialdirektor G. von Haeften
Auswärtiges Amt
Bonn

VII

AUSWÄRTIGES AMT
Ministerialdirektor G. von Haeften

Bad Godesberg, 9th July, 1962

Dear Dr. Shinnar,

In connection with the signing today of the German-Israeli Convention for the avoidance of double taxation, may I be permitted to note that both the Government of the Federal Republic of Germany and the Government of the State of Israel take the view that the activities of German firms in Israel, including the establishment of branches, as well as the activities of Israeli firms in the Federal Republic of Germany, including the establishment of branches, are subject to no legal provisions other than those applying to foreign firms generally.

I shall be much obliged if you will kindly acknowledge receipt of this letter and intimate the agreement of the Government of the State of Israel to its contents.

Accept the renewed assurance of my highest consideration.

G. V. HAEFTEN

The Head of Israel Mission
Ambassador Dr. F. E. Shinnar
Cologne

VIII

HEAD OF ISRAEL MISSION
Dr. F. E. Shinnar, Ambassador Extraordinary and Plenipotentiary

Bad Godesberg, 9th July, 1962

Dear Ministerialdirektor von Haeften,

I acknowledge receipt of your letter of today's date, reading as follows :

[*See letter VII*]

I wish to inform you that the Government of the State of Israel agrees to the contents of your above letter.

Accept the renewed assurance of my highest consideration.

SHINNAR

Ministerialdirektor G. von Haeften
Auswärtiges Amt
Bonn