No. 13180

BELGIUM
and
ITALY

Convention for the avoidance of double taxation and the regulation of certain other matters with respect to taxes on income (with final protocol). Signed at Brussels on 19 October 1970

Authentic texts: French, Dutch and Italian.
Registered by Belgium on 25 March 1974.

BELGIQUE
et
ITALIE

Convention en vue d'éviter les doubles impositions et de régler certaines autres questions en matière d'impôts sur le revenu (avec protocole final). Signée à Bruxelles le 19 octobre 1970

Textes authentiques : français, néerlandais et italien.
Enregistrée par la Belgique le 25 mars 1974.

[TRANSLATION — TRADUCTION]

CONVENTION[1] BETWEEN BELGIUM AND ITALY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE REGULATION OF CERTAIN OTHER MATTERS WITH RESPECT TO TAXES ON INCOME

His Majesty the King of the Belgians and the President of the Italian Republic,

Desiring to revise, in the light of the changes made in taxation laws in both States, the Convention signed on 11 July 1931 between Belgium and Italy for the Prevention of Double Taxation and for the Settlement of Various Other Questions Connected with Fiscal Matters,[2]

Have decided to conclude a new Convention to replace the earlier Convention and for that purpose have appointed as their Plenipotentiaries:

His Majesty the King of the Belgians:

His Excellency Mr. Pierre Harmel, Minister for Foreign Affairs of Belgium;

The President of the Italian Republic:

His Excellency Mr. Aldo Maria Mazio, Ambassador Extraordinary and Plenipotentiary of Italy in Brussels,

Who, having exchanged their full powers, found in good and due form, have agreed as follows:

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 each Contracting State or of its political 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 wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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[1] Came into force on 23 October 1973, i.e. the fifteenth day following the date of the exchange of the instruments of ratification, which took place at Rome on 8 October 1973, in accordance with article 29(2).

[2] League of Nations, *Treaty Series*, vol. CXXXVI, p. 9.

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

(1) In the case of Belgium:

(*a*) The tax on individuals *(l'impôt des personnes physiques)*,

(*b*) The company tax *(l'impôt des sociétés)*,

(*c*) The tax on legal persons *(l'impôt des personnes morales)*,

(*d*) The non-residents' tax *(l'impôt des non-résidents)*,

including taxes collected in advance *(précomptes)* and supplements to taxes collected in advance *(compléments de précomptes)*, surcharges *(centimes additionnels)* on the aforementioned taxes and advance collections, and the additional communal tax *(taxe communale additionnelle)* to the tax on individuals

(hereinafter called "the Belgian tax");

(2) In the case of Italy:

(*a*) The tax on income from land *(imposta sul reddito dominicale dei terreni)*,

(*b*) The tax on income from buildings *(imposta sul reddito dei fabbricati)*,

(*c*) The tax on income from movable wealth *(imposta sui redditi di ricchezza mobile)*,

(*d*) The tax on agricultural income *(imposta sul reddito agrario)*,

(*e*) The progressive supplementary income tax *(imposta complementare progressiva sul reddito complessivo)*,

(*f*) The company tax, with regard to income *(imposta sulle società, per la componente reddito)*,

(*g*) The charge or tax deducted on profits distributed by companies *(la ritenuta d'acconto o di imposta sugli utili distribuiti dalle società)*,

(*h*) Local taxes on income and on capital appreciation *(le imposte locali sui redditi e le plusvalenze)*

(hereinafter called "the Italian tax").

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

II. DEFINITIONS

Article 3. GENERAL DEFINITIONS

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

(1) The terms "a Contracting State" and "the other Contracting State" mean Belgium or Italy, as the context requires.

(2) The term "person" comprises an individual, a company and any other body of persons.

(3) The term "company" means any body corporate or any other entity which is treated as a body corporate for tax purposes in the State of which it is a resident;

(4) 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;

(5) The term "competent authority" means:

(*a*) In Belgium, the authority which is competent under its national laws, and

(*b*) In Italy, the Ministry of Finance.

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

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person whose income, under the law of that State, is liable to taxation 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, the case shall be determined in accordance with the following rules:

(1) 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 closest (centre of vital interests);

(2) 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 a habitual abode;

(3) If he has a 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;

(4) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting State 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 purposes 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:

(1) A place of management;

(2) A branch;

(3) An office;

(4) A factory;

(5) A workshop;

(6) A mine, quarry or other place of exploitation of natural resources;

(7) A building site or construction or assembly project which exists for more than 12 months.

3. The term "permanent establishment" shall not be deemed to include:

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

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

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

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

(5) 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;

(6) The maintenance of an enterprise of a Contracting State which does not fall within the sphere of application of paragraphs 2 and 4 and which confines itself to letting or granting in the other Contracting State property or rights to which article 12, paragraph 2, applies.

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 company 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.

III. TAXATION OF INCOME

Article 6. INCOME FROM IMMOVABLE PROPERTY

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

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

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of 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 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. Without prejudice to the application 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 acting wholly independently.

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

4. Where there are no regular accounts or other records from which it is possible to determine how much of the profits of an enterprise of a Contracting

State is attributable to its permanent establishment situated in the other Contracting State, the tax in that other State may be determined in accordance with the law of that State, in particular by taking as a basis the normal profits of similar enterprises of that other State carrying on the same or similar activities under the same or similar conditions. However, if this method results in double taxation of the same profits, the competent authorities of the two States shall consult together for the elimination of such double taxation.

In the case referred to in the preceding subparagraph, the profits to be attributed to the permanent establishment may also be determined on the basis of an apportionment of the total profits of the enterprise to its various parts, provided that the result is in accordance with the principles laid down in this article.

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

6. For the 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 ENTERPRISES

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

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

Article 9. INTERDEPENDENT ENTERPRISES

Where:

(1) 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

(2) 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 shall not exceed 15 per cent 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 treated in the same way as income from shares under the taxation law of the State of which the company making the distribution is a resident.

The said term includes, *inter alia,* income—even if paid in the form of interest—which is taxable as income from capital invested by partners in companies, other than joint-stock companies *(sociétés par actions)*, which are residents of Belgium.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State a permanent establishment which is connected in any manner whatsoever with the operations giving rise to the dividends. In such a case, the dividends may be taxed in that other State according to its law.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to any additional taxation, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

The foregoing provision shall not prevent that other State from taxing the aforementioned dividends if they are collected or received in its territory or if the recipient of the dividends, being a resident of the first-mentioned State, has in the other State a permanent establishment which is connected in any manner whatsoever with the operations giving rise to the income.

Article 11. INTEREST

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the amount of the interest. The competent authorities of

the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term "interest" as used in this article means income from government securities, bonds or debentures, whether or not secured by a mortgage and whether or not carrying a right to participate in profits, and debt-claims or deposits of every kind, as well as lottery bond prizes and all other income treated in the same way as income from money lent or deposited under 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 a permanent establishment which is connected in any manner whatsoever with the operations giving rise to the income. In such a case, the interest may be taxed in that other State according to its law.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connexion with which the indebtedness on which the interest is paid was incurred, and the interest is borne as such by the permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest, having regard to the debt-claim or deposit for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the rate limitation provided for in paragraph 2 shall apply only to the last-mentioned amount. In that case, the excess amount 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 applicable to income to which that excess amount may be assimilated.

Article 12. ROYALTIES

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

2. The term "royalties" as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, 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, not being immovable property within the meaning of article 6, or for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State a permanent establishment which is connected in any manner whatsoever with the operations giving rise to the income. In such a case, the royalties may be taxed in that other State according to its law.

4. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connexion with which the contract giving to the royalties was concluded, and the royalties are borne as such by the permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

5. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the 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 recipient in the absence of such relationship, the provisions of paragraph 1 shall apply only to the last-mentioned amount. In that case, the excess amount of the royalties shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention applicable to income to which that excess amount may be assimilated.

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 by a resident of a Contracting State may be taxed in the other Contracting State when the alienator has in that other Contracting State a permanent establishment or a fixed base which is connected in any manner whatsoever with the operations giving rise to the said gains. The rules laid down in article 7, paragraphs 2 and 3, shall apply to the determination of the amount of such gain.

However, gains from the alienation of ships or aircraft operated in international traffic, and of movable property pertaining to the operation of such ships and aircraft, may be taxed only in the Contracting State in which the place of effective management of the enterprise is situated.

3. Except in the case referred to in paragraph 2, first subparagraph, gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, including any interest in a company, shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14. PROFESSIONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other 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 the activities performed through that fixed base.

2. The term "professional services" includes, especially, independent scientific, literary, artistic, educational or teaching activities as well as the inde-

pendent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 15. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1 and subject to the reservation mentioned therein, 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:

(1) It is paid in respect of an activity exercised in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year;

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

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

3. Notwithstanding the provisions of paragraphs 1 and 2 and subject to the reservation mentioned in paragraph 1, remuneration 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, "SINDACI" OF COMPANIES

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

This provision shall also apply to directors' fees and similar payments made to a director by a partnership limited by shares *(société en commandite par actions)*, a limited liability company *(société à responsabilité limitée)* and a co-operative company *(société coopérative)* which is a resident of Italy, and to a general partner *(associé commandité)* by a partnership limited by shares *(société en commandite par actions)* which is a resident of Belgium.

2. Normal remuneration derived by persons of the kind referred to in paragraph 1 in any other capacity may be taxed in the manner provided for in article 14 or article 15, as the case may be.

Article 17. ARTISTS OR ATHLETES

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.

Article 18. PENSIONS

Subject to the provisions 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. PUBLIC REMUNERATION AND PENSIONS

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

This provision shall not apply if the recipient of such income is a national of the other Contracting State but is not at the same time a national of the first-mentioned State.

2. The provisions of paragraph 1 shall not apply to remuneration or pensions in respect of services rendered in connexion with any trade or business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20. TEACHERS

Any remuneration paid to professors and other teachers who are residents of a Contracting State and who are temporarily present in the other Contracting State for the purpose of teaching or carrying on scientific research at a university or other non-profit educational or research institution in that State for a period not exceeding two years shall be taxable only in the first-mentioned State.

Article 21. STUDENTS, BUSINESS TRAINEES OR APPRENTICES

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

Article 22. INCOME NOT EXPRESSLY MENTIONED

A resident of a Contracting State shall not be liable to tax in the other Contracting State in respect of items of income which are of a kind not mentioned in the foregoing articles or are derived from sources not mentioned therein if, under the law of the first-mentioned State, he is liable to tax in that first-mentioned State in respect of such items of income.

IV. METHODS FOR AVOIDANCE OF DOUBLE TAXATION

Article 23

1. Where a resident of a Contracting State derives income, not being income of the kind referred to in paragraph 3 below, which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall exempt such income from tax but may, in calculating its taxes on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

2. Where, under the law of a Contracting State, losses sustained by an enterprise of that State in a permanent establishment situated in the other State have been effectively deducted from the profits of such enterprise for the purpose of its taxation in the first-mentioned State, the exemption provided for in paragraph 1 shall not apply in the first-mentioned State to the profits for other taxable periods which are attributable to such establishment, to the extent that such profits have also been exempted from tax in the other State by reason of their being offset by the said losses.

3. Subject to paragraphs 4 and 5 below, where a resident of a Contracting State derives income which has been effectively taxed in the other Contracting State in accordance with the provisions of article 10, paragraph 2, article 11, paragraphs 2 and 6, and article 12, paragraph 5, the first-mentioned State shall allow as a deduction from the tax payable in respect of such income by that resident an amount equal to 15 per cent of the amount of the aforementioned income which is included in the taxable base of that person.

4. In the case of income mentioned in paragraph 3 which is derived in Belgium by a resident of Italy, the deduction envisaged in that provision shall apply only if the said income is subject to the tax on income from movable wealth.

5. Where a company being a resident of Belgium owns stock or shares in a joint-stock company which is a resident of Italy, any dividends paid to it by the last-mentioned company and treated in the manner specified in article 10, paragraph 2, shall be exempt from the company tax in Belgium, to the extent that such exemption would be granted if both companies were residents of Belgium.

V. SPECIAL PROVISIONS

Article 24. NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The term "nationals" means:

(1) All individuals possessing the nationality of a Contracting State;

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

3. Stateless persons shall not be subjected in a 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 State in the same circumstances are or may be subjected.

4. Individuals being residents of a Contracting State who are liable to tax in the other State shall be entitled in that other State, for the purposes of assessment of the taxes referred to in article 2, to any exemptions, basic abatements, allowances or other advantages which are granted, on account of their family responsibilities, to individuals who are nationals of that other State but are not residents thereof and who are in the same circumstances.

5. 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.

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

7. In this article the term "taxation" means taxes of every kind and description.

Article 25. MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in double taxation not in accordance with this Convention, he may, without prejudice to the remedies provided by the national laws of those States, make written application for a review of the said taxation to the competent authority of the Contracting State of which he is a resident. In order to be admissible, such application must be submitted within two years from the date of notification or of deduction at the source of the second taxation.

2. The said 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 double 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 application of the Convention.

4. The competent authorities of the Contracting States shall agree on the administrative measures required for the implementation of the provisions of this Convention, and in particular on the evidence to be produced by residents of each State in order to enjoy in the other State the tax exemptions or reductions provided for in this Convention.

Article 26. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention, in so far as the taxation thereunder is in accordance with this Convention.

Any information so obtained shall be treated as secret and shall be disclosed—other than to the taxpayer or his agent—only to the person or authorities concerned with the assessment or collection of the taxes which are the subject of this Convention and with appeals relating thereto, and to the judicial authorities.

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

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

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

(3) 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. ASSISTANCE FOR THE COLLECTION OF TAXES

Each Contracting State shall collect all the taxes—as if it were levying them itself—mentioned in article 2 of this Convention which are payable to the other Contracting State and which must be collected in order to prevent persons not so entitled from obtaining the tax exemptions or reductions referred to in this Convention.

Article 28. MISCELLANEOUS PROVISIONS

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and consulates under the general rules of international law or under the provisions of special agreements.

2. The Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission or consulate of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income.

3. Nothing in this Convention shall prevent a Contracting State from levying on companies which are residents of that State taxes payable under its laws in the event of redemption by such companies of their own stock or shares or division of their assets.

4. The Ministers of Finance of the Contracting States or their authorized deputies shall communicate with each other directly for the purposes of this Convention.

Article 29. ENTRY INTO FORCE

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

2. The Convention shall enter into force on the fifteenth day following the date of the exchange of the instruments of ratification and shall apply:

(*a*) To taxes payable by deduction at the source in respect of income accruing and paid after 1 January 1967;

(*b*) To other taxes levied on income for taxable periods ending after 1 January 1967.

3. However, in the case of Belgium:

(1) The provisions of articles 10 and 11 shall apply to income accruing after 1 January 1963;

(2) The provisions of article 23, paragraph 1, shall apply to income for taxable periods ending after 31 December 1963;

(3) The provisions of article 23, paragraphs 3 and 5, shall apply to income for any taxable period which is subject, as the case may be, to the tax on individuals or the company tax;

(4) The provisions of article 24, paragraph 5, shall apply to income for any taxable period ending after 31 December 1962.

4. The Convention between Belgium and Italy for the Prevention of Double Taxation and for the Settlement of Various Other Questions Connected with Fiscal Matters, signed at Brussels on 11 July 1931, shall terminate and cease to apply to all Belgian or Italian taxes covering a period to which this Convention is applicable in respect of the said taxes in accordance with paragraphs 2 and 3 of this article.

Article 30. TERMINATION

This Convention shall continue in effect indefinitely, but either Contracting State may, on or before the thirtieth day of June of any calendar year beginning with the fifth year after the year of ratification, give written notice of termination, through the diplomatic channel, to the other Contracting State. In the event of notice of termination given before the first day of July of any such year, the Convention shall apply for the last time:

(*a*) To taxes payable by deduction at the source in respect of income accruing or paid on or after the thirty-first day of December of the year in which notice of termination is given;

(*b*) To other taxes levied on income for taxable periods ending on or after the thirty-first day of December of the same year.

IN WITNESS WHEREOF the Plenipotentiaries of the two States have signed this Convention and have thereto affixed their seals.

DONE at Brussels, on 19 October 1970, in duplicate in the French, Dutch and Italian languages, the three texts being equally authentic.

For the Kingdom of Belgium:
P. HARMEL

For the Italian Republic:
A. M. MAZIO

[TRANSLATION — TRADUCTION]

FINAL PROTOCOL

On signing the Convention concluded this day between Italy and Belgium for the Avoidance of Double Taxation and the Regulation of certain other Matters with respect to Taxes on Income, the undersigned Plenipotentiaries have agreed upon the following provisions, which form an integral part of this Convention.

1. With regard to dividends paid before 1 January 1967 by a company which is a resident of Belgium, article 10, paragraph 2, shall not prevent Belgium from levying the movable property tax collected in advance at the rate of 15 per cent of the taxable amount of the dividends as determined according to Belgian law.

2. The provisions of article 23, paragraph 5, shall not prevent Belgium from levying on the dividends referred to therein the movable property tax collected in advance payable under its law; however, the rate of that tax on dividends received after 1 January 1967 may not exceed the rate provided for in the Belgian law in force on the date of signature of the Convention.

3. The provisions of article 23, paragraph 5, of the Convention and of section 2 of this Protocol have been designed to take into account the law in force in the two Contractin States.

In the event that significant changes affecting the system of taxing dividends of national or foreign origin are made in the law of either Contracting State following the signature of the Convention, the aforementioned provisions shall be applied in the spirit of the Convention and with a view to ensuring just reciprocity, in accordance with procedures to be determined by mutual agreement by the competent authorities of the Contracting States.

4. Article 24, paragraph 5, shall not prevent Belgium from taxing the total profits attributable to the permanent establishment available in that State to a partnership or body of persons which is a resident of Italy at the maximum rate applicable to the entire profits, or a fraction thereof, of companies which are residents of Belgium.

However, so long as the distributed profits of companies which are residents of Belgium are taxable at a lower rate, that rate shall apply to the fraction of the profits of the Belgian permanent establishment of the partnership or body of persons which is a resident of Italy corresponding to the relationship which the profits distributed by the said partnership or body of persons bears to its total profits.

5. In pursuance of article 24, paragraphs 5 and 6, so long as the profits of partnerships or bodies of persons which are residents of Italy and have a permanent establishment in Belgium are liable in the latter State to taxation which is not more burdensome than the taxation applicable to the entire profits, or a fraction thereof, of companies which are residents of Belgium, and so long as such profits are not taxable in Belgium by reason of their allocation, Italy shall, in respect of partnerships or bodies of persons which are

residents of Belgium and have a permanent establishment in Italy, waive the progressive supplementary tax on the fraction of the profits of such permanent establishment which is attributable to partners who are residents of Belgium, in so far as the said fraction of profits was subject to the Italian company tax.

6. With regard to Italy, the time-limits for claims established by the Unified Text of laws relating to direct taxes of 29 January 1958, No. 645, in so far as they apply to claims for reimbursement or abatement of taxes paid or instituted after 1 January 1967 under the system established in the Convention of 11 July 1931, shall be extended for a period ending one year following the entry into force of this Convention.

DONE at Brussels, on 19 October 1970, in duplicate, in the French, Dutch and Italian languages, the three texts being equally authentic.

For the Kingdom of Belgium:
P. HARMEL

For the Italian Republic:
A. M. MAZIO