No. 13913

BELGIUM
and
MOROCCO

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 Rabat on 4 May 1972

Authentic texts: French and Dutch.

Registered by Belgium on 23 April 1975.

BELGIQUE
et
MAROC

Convention tendant à éviter les doubles impositions et à régler certaines autres questions en matière d'impôts sur le revenu (avec protocole final). Signée à Rabat le 4 mai 1972

Textes authentiques : français et néerlandais.

Enregistré par la Belgique le 23 avril 1975.

[TRANSLATION — TRADUCTION]

CONVENTION[1] BETWEEN BELGIUM AND MOROCCO 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 His Majesty the King of Morocco,

Desiring to avoid double taxation and to regulate certain other matters with respect to taxes on income, have decided to conclude a Convention and for that purpose have appointed as their plenipotentiaries :

His Majesty the King of the Belgians: H.E. Baron Roland d'Anethan, Ambassador Extraordinary and Plenipotentiary of His Majesty the King of the Belgians to Morocco;

His Majesty the King of Morocco: H.E. Mr. Mustapha Faris, Minister of Finance in the Government of His Majesty the King of Morocco;

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, as well as taxes on capital appreciation.

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

(1) In the case of 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 referred to as "Belgian tax");

[1] Came into force on 5 March 1975, i.e., the fifteenth day following the date of the exchange of instruments of ratification, which took place at Rabat on 18 February 1974, in accordance with article 26

(2) In the case of Morocco:

(*a*) The business profits tax (*l'impôt sur les bénéfices professionnels*) and the investment reserve (*la réserve d'investissements*);

(*b*) The tax on public and private salaries, emoluments, fees, wages, pensions and annuities (*le prélèvement sur les traitements publics et privés, les indemnités et émoluments, les salaires, les pensions et les rentes viagères*) and the compulsory loan (*l'emprunt obligatoire*);

(*c*) The urban tax (*la taxe urbaine*) and related taxes;

(*d*) The agricultural tax (*la taxe agricole*);

(hereinafter referred to as "Moroccan tax").

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

II. DEFINITIONS

Article 3. General definitions

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

(1) (*a*) The term "Belgium", when used in a geographical sense, means the territory of the Kingdom of Belgium; it includes any territory outside Belgian national sovereignty which, by Belgian legislation concerning the continental shelf and in accordance with international law, has been or may hereafter be designated as territory over which the rights of Belgium with regard to the sea-bed and subsoil and their natural resources may be exercised;

(*b*) The term "Morocco", when used in a geographical sense, means the territory of the Kingdom of Morocco; it includes any territory outside Moroccan national sovereignty which, by Moroccan legislation concerning the continental shelf and in accordance with international law, has been or may hereafter be designated as territory over which the rights of Morocco with regard to the sea-bed and subsoil and their natural resources may be exercised;

(2) The terms "a Contracting State" and "the other Contracting State" mean Belgium or Morocco, as the context requires;

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

(4) The term "company" means any body corporate or any entity which is liable to taxation as such in respect of its income in the State of which it is a resident;

(5) 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;

(6) The term "competent authority" means:

(*a*) In the case of Belgium, the authority which is competent under Belgian law, and

(*b*) In the case of Morocco, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that 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 who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature; it also means any company or partnership under Belgian law—other than a company or partnership limited by shares (*société par actions*)—which has elected to have its profits subjected to the tax on individuals.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this 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 States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then 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 or business;

(2) A branch;

(3) A sales outlet;

(4) An office;

(5) A factory;

(6) A workshop;

(7) A mine, quarry or other place of extraction of natural resources;

(8) A building site or construction or assembly project which exists for more than six 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 enterprises;

(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 for sales or processing facilities of the enterprise situated outside the State in which the fixed place of business is situated;

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

4. A person—other than an agent of an independent status to whom paragraph 5 applies—acting in a Contracting State on behalf of an enterprise of the other Contracting State 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; this provision shall not apply if his activities are limited to the purchase of goods or merchandise for the enterprise, provided that such goods or merchandise are not resold in the first-mentioned State.

An agent who habitually has available to him in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders received by him on behalf of the enterprise shall be deemed in particular to exercise such an authority.

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.

This provision shall not apply to an agent acting on behalf of an insurance enterprise who has and habitually exercises an authority to conclude contracts in the name of that enterprise.

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.

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 income of a permanent establishment which an enterprise of a Contracting State has in the other State, account shall be taken:

— Firstly, of actual costs and expenses borne by the enterprise in the State in which the permanent establishment is situated and incurred directly and specially for the purposes of the acquisition and maintenance of that income;

— Secondly, of actual costs borne by the place of effective management of the enterprise and justified by services rendered to the permanent establishment.

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 State, the tax in that other State may be determined in accordance with the law of that other 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.

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

6. The share of a partner or associate in the profits of an enterprise constituted in the form of a *de facto* partnership or association may be taxed in the State in which the enterprise has a permanent establishment. The same shall apply to income which, under the law of one of the Contracting States, may be taxed as profits derived by partners in or members of partnerships and other bodies of persons.

7. Where profits include items of income which are dealt with separately in other articles of this Convention, then the provisions of this article shall not preclude the application of the provisions of those other articles as concerns the taxation of such items of income.

Article 8. SHIPPING AND AIR TRANSPORT

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

2. If the place of effective management of a shipping enterprise 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 financing of an enterprise of the other Contracting State, or

(2) The same persons participate directly or indirectly in the management, control or financing 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, if the law of that State so provides, but the tax so charged shall not exceed 15 per cent of the gross amount of the said dividends.

The provisions of this paragraph shall not limit 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 also includes income—even if paid in the form of interest—which is taxable as income from capital invested by partners in partnerships—other than partnerships limited by shares—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, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the dividends may be taxed in that other State in accordance with its law.

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

dividends pertaining to a holding which is effectively connected with a permanent establishment maintained in that other State.

Article 11. INTEREST

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

2. However, such interest may be taxed in the Contracting State in which it arises, if the law of that State so provides, but the tax so charged shall not exceed 15 per cent of the amount of the interest.

3. The term "interest" as used in this article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and, subject to the provisions of the following paragraph, 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. The said term does not include interest assimilated to dividends by article 10, paragraph 3, second sentence.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim or deposit from which the interest arises is effectively connected. In such a case, the interest may be taxed in that other State in accordance with 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 the 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 provisions of this article shall apply only to the last-mentioned amount. In that case, the excess amount of the interest may be taxed in the Contracting State in which the interest arises, in accordance with the law of that State.

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 be taxed in the Contracting State in which they arise, if the law of that State so provides, but the tax so charged shall not exceed:

(1) 5 per cent of the gross amount of royalties paid for the use of, or the right to use, any copyright of literary, artistic or scientific work, excluding cinematograph and television films;

(2) 10 per cent of the gross amount of royalties paid for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, cinematograph or television films, or for the use of, or the right to use, agricultural, industrial, commercial or scientific equipment, not being im-

movable property within the meaning of article 6, or for information concerning agricultural, industrial, commercial or scientific experience, or for the provision of concomitant technical assistance in the use of such property, where such assistance is provided in the State in which the royalties arise.

3. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties may be taxed in that other State in accordance with 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 rise 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 normal amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of paragraphs 1 and 2 shall apply only to the last-mentioned amount. In that case, the excess amount of the royalties may be taxed in the Contracting State in which the royalties arise, in accordance with the law of that State.

Article 13. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

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

However, gains from the alienation of ships or aircraft operated in international traffic, and of 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.

3. Gains from the alienation of any other property 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 similar character shall be taxable only in that State. However, such income may be taxed in the other Contracting State in the following cases:

(1) If the person concerned has a fixed base regularly available to him in the other

Contracting State for the purpose of performing his activities; in such a case, only that part of the income which is attributable to the activities performed through the permanent establishment may be taxed in the other Contracting State; or

(2) If he performs his activities in the other Contracting State for a period or periods—including normal interruptions of work—exceeding in the aggregate 183 days in the calendar year.

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. REMUNERATION FROM THE PRIVATE SECTOR

1. Subject to the provisions of articles 16, 18, and 19, salaries, wages and other similar remuneration—other than remuneration paid out of public funds of a Contracting State or a political subdivision or local authority thereof—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 the following three conditions are fulfilled:

(1) The remuneration is paid in respect of an activity exercised in the other State for a period or periods—including normal interruptions of work—not exceeding in the aggregate 183 days in the calendar year, and

(2) It 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, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be deemed to pertain to an activity exercised in the Contracting State in which the place of effective management of the enterprise is situated and may be taxed in that State.

Article 16. DIRECTORS' FEES

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 of a company limited by shares which is a resident of the other Contracting State may be taxed in that other State. The same shall apply to remuneration derived by a general partner (*associé commandité*) in a partnership limited by shares (*société en commandite par actions*) which is a resident of Belgium or by a managing member and majority stockholder (*associé-gérant majoritaire*) of a private company (*société à responsabilité limitée*) which is a resident of Morocco.

2. However, normal remuneration derived by such persons in any other capacity may be taxed in the manner provided for in article 14 or article 15, paragraph 1, of this Convention, as the case may be.

Article 17. ARTISTS AND ATHLETES

1. Notwithstanding the provisions of articles 7, 14 and 15:

(1) 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;

(2) The rule laid down in subparagraph (1) shall also apply to profits derived by the operators or organizers of shows or entertainments of any kind and to income from the activities exercised by any person participating in the organization or execution of performances by public entertainers or athletes.

2. The provisions of paragraph 1 shall not apply to income from activities exercised in a Contracting State by non-profit organizations of the other Contracting State or members of their staff, save where the latter are acting for their own account.

Article 18. PRIVATE PENSIONS

Private pensions, social pensions and benefits and life annuities paid to a resident of a Contracting State shall be taxable only in that State.

Article 19. STUDENTS, APPRENTICES OR TRAINEES

A student, apprentice or trainee who is or was formerly a resident of a Contracting State and who is temporarily present in the other Contracting State solely for the purpose of his education or training shall not be liable to taxation in that other State in respect of:

— Payments which he receives for the purpose of his maintenance, education or training;

— Remuneration which he receives in respect of an employment exercised in that other State,

provided that the total of such payments and remuneration does not exceed in any one fiscal year 120,000 Belgian francs or the equivalent in Moroccan currency at the official rate of exchange.

IV. METHODS FOR AVOIDANCE OF DOUBLE TAXATION

Article 20

1. In the case of Belgium, double taxation shall be avoided in the following manner:

(1) Where a resident of Belgium derives income, not being income of the kinds referred to in subparagraphs (2) and (3) below, which, in accordance with the provisions of the Convention, may be taxed in Morocco, Belgium 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) In the case of dividends which may be taxed in accordance with article 10, paragraph 2, in the case of interest which may be taxed in accordance with article 11, paragraph 2 or 6, and in the case of royalties which may be taxed in accordance with article 12, paragraph 2 or 5, the fixed quota of foreign tax provided for under Belgian law shall be allowed as a deduction, under the conditions and at the rates laid down by the said law, from the tax on individuals in respect of such dividends,

interest and royalties or from the company tax in respect of such interest and royalties.

Notwithstanding the provisions of Belgian law, Belgium shall also allow the aforementioned deduction in respect of income which is not subject to tax in Morocco, where such income consists of:

(*a*) Interest or royalties arising in Morocco, where the payer has benefited from one or more provisions of the dahir of 31 December 1960 concerning incentives for investment or for a guarantee of retransfer;

(*b*) Interest on loans issued by specialized bodies collaborating in the economic development of Morocco.

(3) (*a*) Where a company which is a resident of Belgium owns stock or shares in a company limited by shares which is a resident of Morocco and which is liable in that State to the company tax, dividends paid by the last-mentioned company to the first-mentioned company which may be taxed in Morocco in accordance with article 10, paragraph 2, shall be exempt from the company tax in Belgium, to the extent that exemption would be granted if both companies were residents of Belgium; this provision shall not preclude the levying, in respect of such dividends, of the movable property tax collected in advance (*précompte mobilier*) payable under Belgian law.

(*b*) Where stock or shares in a company limited by shares which is a resident of Morocco and which is liable to the company tax in that State have been held throughout the said company's financial year by a company which is a resident of Belgium, as sole owner, the last-mentioned company may also be exempted from the movable property tax collected in advance which is payable under Belgian law in respect of dividends on the said stock or shares, provided that it makes written application for such exemption within the prescribed time for the submission of its annual tax return; the dividends so exempted may not, when they are passed on to the shareholders of the last-mentioned company, be deducted from the distributed dividends which are subject to the movable property tax collected in advance. This provision shall not apply if the Belgian company has elected to have its profits subjected to the tax on individuals.

If the provisions of Belgian law exempting from the company tax the net amount of dividends which a company being a resident of Belgium receives from another company being a resident of Belgium are amended in such a way as to limit the exemption to dividends pertaining to holdings of a certain size in the capital of the last-mentioned company, then the foregoing provision shall apply only to dividends paid by companies being residents of Morocco which pertain to holdings of the same size in the capital of the said companies.

(4) Where, under Belgian law, losses sustained by a Belgian enterprise in a permanent establishment situated in Morocco have been effectively deducted from the profits of such enterprise for the purpose of its taxation in Belgium, the exemption provided for in subparagraph (1) shall not apply in Belgium to the profits for other taxable periods which are attributable to such establishments, to the extent that such profits have also been exempted from tax in Morocco by reason of their being offset by the said losses.

2. In the case of Morocco, double taxation shall be avoided in the following manner:

(1) Where a resident of Morocco derives income, not being income of the kinds referred to in subparagraph (2) below, which in accordance with the provisions of the Convention, may be taxed in Belgium, Morocco shall exempt such income from tax but may, in calculating its taxes on the remaining income of that per-

son, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

(2) In the case of dividends which may be taxed in accordance with article 10, paragraph 2, in the case of interest which may be taxed in accordance with article 11, paragraph 2 or 6, and in the case of royalties which may be taxed in accordance with article 12, paragraph 2 or 5, Morocco may, in accordance with the provisions of its domestic law, include the gross amount of such dividends, interest and royalties in the bases of the taxes specified in article 2; it shall, however, grant a reduction in the taxes pertaining to such income, up to the total amount of such taxes, corresponding to the amount of the taxes levied by Belgium on the same income.

V. SPECIAL PROVISIONS

Article 21. 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:

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

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

3. Individuals being residents of a Contracting State who are liable to taxation in the other State shall enjoy in the last-mentioned State—as regards the assessment of taxes calculated, in accordance with the law of that other State, at progressive rates or on a basis reduced by reliefs—exemptions, reliefs at the source, allowances or other advantages which are granted on account of family responsibilities to individuals who are nationals of and resident in that other State

4. 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 preventing a Contracting State from taxing in their entirety, at the rate prescribed by its national law, the profits attributable to the permanent establishment maintained in that State by a company which is a resident of the other State or by a body of persons having its place of effective management in that other State, provided that the principal rate applied does not exceed the maximum rate applicable to all or part of the profits of companies which are residents of the first-mentioned State.

5. Save where article 9, article 11, paragraph 6, or article 12, paragraph 5, is applicable, interest, royalties and other moneys paid by an enterprise of a Contracting State to a resident of the other Contracting State shall be deductible, for the purpose of determining the taxable profits of that enterprise, in the same way as if they had been paid to a resident of the first-mentioned State.

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 22. 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 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, indicating his reasons, 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 contested taxation or, in case of double taxation, of the second taxation.

2. The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

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

4. If it appears that discussions would be conducive to an agreement, the case shall be referred to a mixed commission consisting of representatives, in equal numbers, of the Contracting States.

5. The competent authorities of the Contracting States shall consult together concerning the administrative measures required for the implementation of the provisions of the Convention, and in particular concerning 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 23. 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 persons or authorities concerned with the assessment or collection of the taxes which are the subject of the Convention and with objections and appeals relating thereto, and to the judicial authorities for the purpose of criminal prosecution.

2. Information shall be exchanged either as a matter of routine or on request in connexion with particular cases. The competent authorities of the Contracting States shall agree on a list of classes of information to be supplied as a matter of routine.

3. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States 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 24. ASSISTANCE FOR THE COLLECTION OF TAXES

1. The Contracting States undertake to afford each other aid and assistance for the notification and collection of taxes specified in article 2 which are finally due in accordance with the law of the applicant State and with this Convention, namely, the principal, increases, surcharges, interest, costs and fines not of a criminal character.

2. Upon application by the competent authority of a Contracting State, notification and collection of the tax claims referred to in paragraph 1 which are payable in that State shall be undertaken by the competent authority of the other Contracting State, in accordance with the laws and regulations applicable to the notification and collection of like tax claims of the last-mentioned State. The said claims shall not be given precedence in the State applied to, and the latter shall not be required to levy execution by measures which are not authorized by the laws and regulations of the applicant State.

3. The applications referred to in paragraph 2 shall be accompanied by an official copy of the enforceable instruments, together with an official copy of any decisions which have acquired final effect.

4. In the case of tax claims which are still subject to appeal, the competent authority of a Contracting State may, in order to safeguard the rights of that State, request the competent authority of the other Contracting State to take the conservatory measures provided by the law of the last-mentioned State; the provisions of paragraphs 1 to 3 shall apply to such measures *mutatis mutandis*.

5. Article 23, paragraph 1, second subparagraph, shall also apply to any information furnished pursuant to this article to the competent authorities of the State applied to.

Article 25. MISCELLANEOUS PROVISIONS

1. Without prejudice to the application of article 20, paragraph 1, subparagraph (3) (*b*), nothing in this Convention shall limit any rights or concessions granted by the law of a Contracting State in respect of taxes specified in article 2; similarly, nothing in this Convention shall affect any tax concessions provided for in special agreements concluded between the two Contracting States.

2. Nothing in this Convention shall have the effect of limiting the taxation of a company which is a resident of Belgium in the event of redemption of its own stock or shares or division of its assets.

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

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

VI. FINAL PROVISIONS

Article 26. ENTRY INTO FORCE

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

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

(1) To taxes payable by deduction at the source in respect of income accruing or paid on or after the first day of the month following the month in which the instruments of ratification are exchanged;

(2) To other taxes levied on income for taxable periods ending on or after the first day of January of the year in which the instruments of ratification are exchanged.

Article 27. TERMINATION

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before the thirtieth day of June of any calendar year beginning with the fifth year after the year in which the instruments of ratification are exchanged, 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:

(1) To taxes payable by deduction at the source in respect of income accruing or paid on or before the thirty-first day of December of that year;

(2) To other taxes levied on income for taxable periods ending on or before the thirty-first day of December of that year.

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

DONE at Rabat, on 4 May 1972, in duplicate in the French and Dutch languages, both texts being equally authentic.

For Belgium:
[ROLAND D'ANETHAN]

For Morocco:
[MUSTAPHA FARIS]

FINAL PROTOCOL

On signing the Convention for the avoidance of double taxation and the regulation of certain other matters with respect to taxes on income, concluded this day between Belgium and Morocco, the undersigned Plenipotentiaries have agreed upon the following provisions, which form an integral part of the said Convention.

As at the date of signature of the Convention, the specialized bodies collaborating in the economic development of Morocco referred to in article 20, paragraph 1, subparagraph (2) (*b*), are the following:

- Caisse nationale de crédit agricole;
- Fonds d'équipement communal;
- Office chérifien des phosphates;
- Office national de l'électricité
- Offices régionaux de mise en valeur agricole;
- Bureau de recherches et de participations minières;
- Bureau d'études et de participations industrielles;
- Office national marocain du tourisme;
- Office national des chemins de fer;

- Office de commercialisation et d'exportation;
- Régie d'aconage du port de Casablanca;
- Crédit hôtelier et immobilier du Maroc;
- Banque nationale pour le développement économique;
- Banque central populaire;
- Maroc-Chimie;
- C.O.T.E.F.;
- S.C.P.;
- Samir;
- Comanav;
- R.A.M.;
- Sepvk;
- S.E.F.E.R.I.F.;
- Limadet.

This list may be amended or supplemented in accordance with information supplied by the Moroccan authorities to the competent Belgian authorities.