

No. 13936

**FEDERAL REPUBLIC OF GERMANY
and
MOROCCO**

Convention for the avoidance of double taxation with respect to taxes on income and capital (with final protocol and exchange of letters). Signed at Rabat on 7 June 1972

Authentic texts: German and French.

Registered by the Federal Republic of Germany on 5 May 1975.

**RÉPUBLIQUE FÉDÉRALE D'ALLEMAGNE
et
MAROC**

Convention en vue d'éviter les doubles impositions en matière d'impôts sur le revenu et sur la fortune (avec protocole final et échange de lettres). Signée à Rabat le 7 juin 1972

Textes authentiques : allemand et français.

Enregistré par la République fédérale d'Allemagne le 5 mai 1975.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE FEDERAL REPUBLIC OF GERMANY AND THE KINGDOM OF MOROCCO FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

The Federal Republic of Germany and the Kingdom of Morocco,
Desiring to avoid double taxation with respect to taxes on income and capital,
Have agreed as follows:

Article 1. This Convention shall apply to persons who are residents of one or both of the Contracting States.

Article 2. (1) This convention shall apply to taxes on income and on capital imposed on behalf of each Contracting State or of its *Länder*, political subdivisions or local authorities, irrespective of the manner in which they are levied.

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

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

1. In the case of the Federal Republic of Germany:

- (a) the income tax (*Einkommensteuer*) and the surcharge (*Ergänzungsabgabe*) thereon;
- (b) the corporation tax (*Körperschaftsteuer*) and the surcharge (*Ergänzungsabgabe*) thereon;
- (c) the capital tax (*Vermögensteuer*);
- (d) the trade tax (*Gewerbesteuer*)
(hereinafter referred to as “German tax”);

2. In the case of Morocco:

- (a) the agricultural tax (*l'impôt agricole*);
- (b) the urban tax (*taxe urbaine*) and associated taxes;
- (c) the tax on business profits and the investment reserve (*l'impôt sur les bénéfices professionnels et la réserve d'investissement*);
- (d) the tax on public and private salaries, on remunerations and emoluments, on wages, on pensions and on annuities (*prélèvement sur les traitements publics et privés, les indemnités et émoluments, les salaires, les pensions et les rentes viagères*);
- (e) the trade tax (*l'impôt des patentes*) and associated taxes
(hereinafter referred to as “Moroccan tax”).

¹ Came into force on 8 October 1974 by the exchange of the instruments of ratification, which took place at Bonn, in accordance with article 29(2).

(4) This Convention shall also apply to any taxes which are subsequently imposed. In such a case, the competent authorities of the Contracting States shall notify each other of the changes made in their respective taxation laws.

Article 3. (1) In this Convention, unless the context otherwise requires:

1. The term “Federal Republic of Germany”, when used in a geographical sense, means the territory in which the Basic Law for the Federal Republic of Germany is in force as well as the area adjacent to the territorial waters of the Federal Republic of Germany which is designated as domestic area for tax purposes and in which, in accordance with international law, the Federal Republic of Germany may exercise its rights with respect to the sea-bed and subsoil and their natural resources (continental shelf);

2. The term “Morocco” means the Kingdom of Morocco and, when used in a geographical sense, the territory of Morocco as well as the area adjacent to the territorial waters of Morocco which is designated as domestic area for tax purposes and in which, in accordance with international law, Morocco may exercise its rights with respect to the sea-bed and subsoil and their natural resources (continental shelf);

3. The terms “a Contracting State” and “the other Contracting State” mean the Federal Republic of Germany or Morocco, as the context requires;

4. The term “person” comprises an individual and a company;

5. The term “company” means any body corporate or any entity which is treated as a person for tax purposes;

6. 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;

7. The term “nationals” means:

(a) in the case of the Federal Republic of Germany, all Germans within the meaning of article 116, paragraph 1, of the Basic Law for the Federal Republic of Germany and all legal persons, partnerships and associations deriving their status as such from the law in force in the Federal Republic of Germany;

(b) in the case of Morocco, all individuals possessing Moroccan nationality and all legal persons, partnerships and associations deriving their status as such from the law in force in Morocco;

8. The term “competent authorities” means:

(a) in the case of the Federal Republic of Germany, the Federal Minister of Finance;

(b) in the case of Morocco, the Minister in charge of Finance or his authorized representative.

(2) As regards the application of this 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. (1) For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

(2) Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then 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. (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 sales outlet;
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 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.

(4) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph 5 applies—shall be deemed to be a permanent establishment in the first-

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

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

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

Article 6. (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 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. (1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

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

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including expenditures and general expenses relating to services rendered for the permanent establishment, whether in the State in which the permanent establishment is situated or elsewhere.

(4) 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. (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) The provisions of paragraph 1 shall also apply to profits derived by such enterprises from participation in a shipping or air transport pool of any kind.

(3) 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.

Article 9. 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. (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:

1. 5 per cent of the gross amount of the dividends if the recipient is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;
2. in all other cases, 15 per cent of the gross amount of the dividends.

(3) Notwithstanding the provisions of paragraph 2, during such time as in the Federal Republic of Germany the corporation tax continues to be levied on distributed profits at a rate at least 20 percentage points lower than on undistributed profits, the tax levied on dividends in that State may amount to 25.75 per cent of the gross amount of the dividends, if:

1. the dividends are derived from a joint-stock company which is a resident of the Federal Republic of Germany and are received by a company which is a resident of Morocco, and
2. the company which is a resident of Morocco, either alone or together with other persons by whom it is controlled or with whom it is under common control, holds directly or indirectly at least 25 per cent of the capital of the joint-stock company which is a resident of the Federal Republic of Germany.

(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 provisions of article 7 shall apply.

(5) The term “dividends” as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident. It also includes income from distributions on certificates of an investment trust and, in the case of the Federal Republic of Germany, income which a sleeping partner (*stiller Gesellschafter*) derives from his participation and which is treated in the Federal Republic of Germany as investment income.

(6) 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 a tax on undistributed profits, even if the dividends paid on the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. (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 10 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph 2, interest shall not be taxable in the Contracting State in which it arises if it is paid to:

1. In the case of the Federal Republic of Germany:

- the Deutsche Bundesbank;
- the Kreditanstalt für Wiederaufbau;
- the Deutsche Gesellschaft für wirtschaftliche Zusammenarbeit mbH. (Entwicklungsgesellschaft);

2. In the case of Morocco:

- the Banque du Maroc.

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

(5) The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of article 7 shall apply.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, one of its *Länder*, political subdivisions or local authorities, 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 such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

Article 12. (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, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph and television films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, agricultural, industrial, commercial or scientific equipment, not being immovable property within the meaning of article 6, or for information concerning agricultural, industrial, commercial or scientific experience, and remuneration for economic or technical studies.

(4) 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 provisions of article 7 shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, one of its *Länder*, political subdivisions or local authorities, 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.

(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 royalties paid, 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 this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. (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 movable property of the kind referred to in article 22, paragraph 3, shall be taxable only in the Contracting State in which such movable property is taxable according to the said article.

(3) Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14. (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. 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, but only so much of the income as is attributable to that fixed base; or
2. if he performs his activities in the other Contracting State for a period or periods—including normal 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. (1) Subject to the provisions of articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

1. the recipient is present in the other State for a period or periods—including normal interruptions of work—not exceeding in the aggregate 183 days in the fiscal year concerned; and
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 by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16. Directors’ fees 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 which is a resident of the other Contracting State may be taxed in that other State.

Article 17. (1) Notwithstanding the provisions of articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television

artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

This provision shall also apply to the income derived by promoters or organizers of such activities.

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

Article 18. (1) Subject to the provisions of article 19, remuneration paid by a Contracting State or one of its *Länder*, political subdivisions, local authorities or public corporations to an individual who is a resident of the other Contracting State in respect of services rendered may be taxed in the first-mentioned State. Such remuneration shall be exempted from tax in the other State if the recipient is a national of the first-mentioned State but is not at the same time a national of the other State.

(2) The provisions of articles 15 and 16 shall apply to remuneration in respect of services rendered in connexion with any trade or business carried on by a Contracting State or one of its *Länder*, political subdivisions, local authorities or public corporations.

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 20. A person who was a resident of a Contracting State immediately before arriving in the other Contracting State and is temporarily present in that other State solely as a student at a university or other educational institution or as an apprentice (including in the case of the Federal Republic of Germany a *Volontär* or *Praktikant*) shall, from the date of his first arrival in the other State in connexion with that temporary presence, be exempt from tax in that State:

- (a) on all remittances from abroad for purposes of his maintenance, education or training; and
- (b) for a period of not more than five years, on any remuneration not exceeding DM 6,000 or the equivalent in dirhams during any calendar year for personal services rendered in that other State with a view to supplementing the resources available to him for such purposes.

Article 21. Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles of this Convention shall be taxable only in that State.

Article 22. (1) Capital represented by immovable property, as defined in article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

(2) Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

(3) Ships and aircraft operated in international traffic, and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(4) All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 23. (1) In the case of residents of the Federal Republic of Germany, double taxation shall be avoided as follows:

1. Income arising in Morocco — with the exception of income dealt with in subparagraph 2 — and elements of fortune situated in Morocco which, according to the foregoing articles, may be taxed in that State shall be exempted from German tax. This exemption shall not limit the right of the Federal Republic of Germany to take into account, in determining the rate of German tax, the income and elements of capital so exempted. In the case of dividends, as defined in article 10, paragraph 5, the first sentence shall apply only where the dividends are paid by a company limited by shares, which is a resident of Morocco to a joint-stock company (*Kapitalgesellschaft*), which is a resident of the Federal Republic of Germany and which holds directly at least 25 per cent of the voting stock or voting shares of the first-mentioned company. The aforementioned stock or shares of the Moroccan company shall, under the same conditions, be exempted from the German capital tax.
2. The amount of the tax levied in Morocco in accordance with the provisions of this Convention shall be allowed as a credit against the income tax or corporation tax, including the surcharge thereon, levied by the Federal Republic of Germany on the following items of income:
 - (a) dividends not dealt with in subparagraph 1;
 - (b) interest dealt with in article 11;
 - (c) royalties dealt with in article 12;
 - (d) directors' fees and similar payments dealt with in article 16;
 - (e) remuneration dealt with in article 18, paragraph 1, which according to that provision, is not exempt from German tax.
3. For the purposes of the credit referred to in paragraph 1, subparagraph 2 (a), the following shall apply: so long as dividends are, with a view to promoting the economic development of Morocco, exempted from tax or taxed at a rate lower than the rate specified in article 10, paragraph 2, subparagraph 2, the amount of Moroccan tax to be allowed as a credit shall be 15 per cent of the gross amount of the dividends.
4. For the purposes of the credit referred to in paragraph 1, subparagraph 2 (b), the following shall apply: so long as interest is, with a view to promoting the economic development of Morocco, exempted from tax or taxed at a rate lower than the rate specified in article 11, paragraph 2, the amount of Moroccan tax to be allowed as a credit shall be 10 per cent of the gross amount of the interest; however, where such interest is paid by the institutions specified in the Final Protocol, the amount of Moroccan tax to be allowed as a credit shall be 15 per cent.

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

1. Where a resident of Morocco derives income not dealt with in subparagraph 2 which may be taxed in the Federal Republic of Germany in accordance with the provisions of this Convention, Morocco 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 income of the kinds referred to in articles 10, 11 and 12, Morocco may, in accordance with the provisions of its internal law, include such income in the bases upon which the taxes referred to in article 2 are imposed; however, it shall grant, against the amount of the taxes pertaining to that income and within the limit of the said amount, a reduction corresponding to the amount of the taxes levied by the Federal Republic of Germany on the same income.

Article 24. (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 taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

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

(3) 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.

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

Article 25. (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, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at 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 endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs and for any other purpose provided for in this Convention.

Article 26. (1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities concerned with the assessment or collection of the taxes

which are the subject of the Convention and with appeals relating thereto, and to the judicial authorities for the purpose of criminal prosecution in respect of such taxes.

(2) 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.

Article 27. (1) Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

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

(3) For the purposes of this Convention, persons who are members of a diplomatic or consular mission of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State shall be deemed to be residents of the sending State if they are liable therein to the same obligations in respect of taxes on income and capital as are residents of that State.

(4) This Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic or consular mission 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 and capital.

Article 28. This Convention shall also apply to *Land Berlin*, provided that the Government of the Federal Republic of Germany has not made a contrary declaration to the Government of Morocco within three months from the date of entry into force of this Convention.

Article 29. (1) This Convention shall be ratified; the instruments of ratification shall be exchanged as soon as possible at Bonn.

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

1. to taxes payable by deduction at the source on 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 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 30. This Convention shall remain in force 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 in which it is ratified, 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 on income accruing or paid on or before the thirty-first day of December of the year in which notice of termination is given;
2. to other taxes on income for taxable periods ending on or before the thirty-first day of December of the same year.

DONE at Rabat on 7 June 1972, in duplicate in the German and French languages, both texts being equally authentic.

For the Federal Republic of Germany:
HENDUS

For the Kingdom of Morocco:
FARIS

FINAL PROTOCOL

On signing the Convention for the avoidance of double taxation with respect to taxes on income and capital concluded this day between the Federal Republic of Germany and Morocco, the undersigned Plenipotentiaries have agreed on the following provisions, which shall form an integral part of this Convention.

1. The provisions of articles 6 to 22 of the Convention shall apply to income derived from the Federal Republic of Germany or elements of fortune situated in that State and belonging to a resident of Morocco only if the latter, upon request by the Administration, furnishes proof that such income and elements of capital are not excluded from normal tax treatment in Morocco.

2. Notwithstanding the provisions of paragraph 1, subparagraph 1, of article 23 of the Convention, the provisions of paragraph 1, subparagraph 2, of that article shall apply to profits of a permanent establishment and property forming part of the business property of a permanent establishment, to dividends distributed by and holdings in a company and to gains referred to in article 13, paragraph 2, of the Convention, unless the resident of the Federal Republic of Germany concerned furnishes proof that the income of the permanent establishment or company is derived exclusively or almost exclusively:

- (a) from one of the following activities carried on in Morocco: the production or sale of goods or merchandise, the rendering of services, or banking or insurance business; or
- (b) from dividends received by the company and distributed by a company being a resident of Morocco more than 25 per cent of the capital of which is held by the first-mentioned company and whose income is derived exclusively or almost exclusively from one of the following activities carried on in Morocco: the production or sale of goods or merchandise, the rendering of services, or banking or insurance business.

3. The specialized institutions contributing to the economic development of Morocco, referred to in article 23, paragraph 1, subparagraph 4, 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 centrale populaire;
- SEPYK (Société d'exploitation de pyrotine de Ketara);
- S.E.F.E.R.I.F. (Société d'exploitation du fer du Rif).

EXCHANGE OF LETTERS

I

THE AMBASSADOR OF THE FEDERAL REPUBLIC OF GERMANY

Rabat, 7 June 1972

Sir,

On the occasion of the signing of the Convention negotiated between the Federal Republic of Germany and the Kingdom of Morocco for the avoidance of double taxation with respect to taxes on income and capital, I have the honour, on behalf of the Federal Republic of Germany, to inform you of the following:

If, in the process of the harmonization of taxes within the European Communities, the provisions of German law relating to substantial holdings between companies, namely, holdings of at least 25 per cent of the capital are extended to holdings of less than 25 per cent, the two Parties agree to extend to such holdings the provisions of articles 10 and 23 and the relevant provisions of the Final Protocol.

I should be obliged if you would inform me of your agreement with the foregoing.

Accept, Sir, etc.

HENDUS

His Excellency Mr. Mustapha Faris
Minister of Finance of the Kingdom of Morocco

II

THE MINISTER OF FINANCE OF THE KINGDOM OF MOROCCO

Rabat, 7 June 1972

Sir,

I have the honour to acknowledge receipt of your letter of today's date, reading as follows:

[See letter I]

I have the honour to inform you of my Government's agreement with the foregoing.

Accept, Sir, etc.

FARIS

His Excellency Mr. Heinrich Hendus
Ambassador of the Federal Republic of Germany
Rabat
