

No. 15145

**BELGIUM
and
TUNISIA**

Convention for the avoidance of double taxation and the regulation of certain other matters with respect to taxes on income and fortune. Signed at Tunis on 22 February 1975

*Authentic texts: French, Dutch and Arabic.
Registered by Belgium on 30 November 1976.*

**BELGIQUE
et
TUNISIE**

Convention tendant à éviter les doubles impositions et à régler certaines autres questions en matière d'impôts sur le revenu et sur la fortune. Signée à Tunis le 22 février 1975

*Textes authentiques : français, néerlandais et arabe.
Enregistrée par la Belgique le 30 novembre 1976.*

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF BELGIUM AND THE GOVERNMENT OF THE REPUBLIC OF TUNISIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE REGULATION OF CERTAIN OTHER MATTERS WITH RESPECT TO TAXES ON INCOME AND FORTUNE

The Government of the Kingdom of Belgium and the Government of the Republic of Tunisia,

Desiring to conclude a Convention for the avoidance of double taxation in respect of taxes on income and fortune,

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 and fortune 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 fortune or on elements of income or fortune, including taxes on gains from the alienation of movable or immovable property, taxes on salaries, 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 Tunisia:

- (a) the tax on business income (*l'impôt de la patente*);
- (b) the tax on income from non-commercial occupations (*l'impôt sur les bénéfiques des professions non commerciales*);
- (c) the tax on wages, salaries and pensions (*l'impôt sur les traitements, salaires et pensions*);
- (d) the tax on income from securities (*l'impôt sur le revenu des valeurs mobilières*);
- (e) the tax on income from debt claims, deposits, surety-bonds and current accounts (IRC) (*l'impôt sur le revenu des créances, dépôts, cautionnements et comptes courants (I.R.C.)*);
- (f) the agricultural tax (*l'impôt agricole*);
- (g) the taxes on grape vines, grains and linen, esparto grass and olives (*les impôts sur la vigne, les céréales et le lin, l'alfa et les olives*);

¹ Came into force on 16 October 1976, i.e. the fifteenth day that followed the date of the exchange of instruments of ratification, which took place at Brussels on 1 October 1976, in accordance with article 26 (2).

- (h) the state tax on personal income (*la contribution personnelle d'Etat*);
 - (i) the rental tax (*la taxe locative*);
- (hereinafter referred to as "Tunisian tax");
- (2) 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 (*décimes et centimes additionnels*) on the aforementioned taxes and advance collections, and the additional communal tax (*taxe communale additionnelle*) levied in connexion with the tax on individuals (hereinafter referred to as "Belgian 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 on a regular basis 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 "Tunisia", when used in a geographical sense, means the territory of the Republic of Tunisia and the areas adjacent to the territorial waters of Tunisia over which, in accordance with international law, Tunisia may exercise rights with regard to the sea-bed and subsoil and their natural resources;
 - (b) 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;
 - (2) the terms "a Contracting State" and "the other Contracting State" mean Tunisia or Belgium, 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 regarded as a juridical person for purposes of taxation;
 - (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 Tunisia, the authority which is competent under Tunisian law, and
 - (b) in the case of Belgium, the authority which is competent under Belgian law.
2. As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the

meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person whose income or fortune, 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 his 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;
- (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, temporary assembly project or maintenance activities at such site or project, where the said site, project or activities remain in existence for more than six months or where a temporary assembly project or maintenance activities undertaken in connexion with the sale of machinery or equipment are carried on for more than six months and the cost of the project or activities exceeds 10 per cent of the price of the machinery or equipment.

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 collecting information for the enterprise;
- (5) the maintenance of a fixed place of business solely for the purpose of advertising, for 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 6 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:

- (1) he has, and habitually exercises in that State, an authority to negotiate on behalf of the enterprise and conclude contracts in its name, unless his activities are limited to the purchase of goods or merchandise for or on behalf of the enterprise;
- (2) he habitually maintains in the first-mentioned State a stock of goods on which he regularly draws for the purpose of making deliveries for or on behalf of the enterprise.

5. An insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that State or insures risks situated therein through an employee stationed in that State or a representative stationed there who does not fall into the category of persons referred to in paragraph 6 below.

6. 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, commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

7. 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 vari-

able 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. 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 the expenses incurred in the conduct of its business, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. There shall be allowed no deduction, however, in respect of amounts (other than those constituting reimbursement for expenses incurred) that are paid by the permanent establishment to the head office of the enterprise or to any of its other establishments as royalties, honoraria or other similar payments for patent or other rights or as a commission for specific services rendered or executive functions performed, or, except in the case of a banking enterprise, as interest on amounts lent to the permanent establishment.

Similarly, in the determination of the profits of a permanent establishment, account shall not be taken of amounts (other than those constituting reimbursement for expenses incurred) which the permanent establishment charges the head office of the enterprise or any of its other establishments as royalties, honoraria or other similar payments for patent or other rights, or as a commission for specific services rendered or executive functions performed or, except in the case of a banking enterprise, as interest on amounts lent to the head office of the enterprise or any of its other establishments.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this article.

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 a good and sufficient reason to the contrary.

6. 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.

3. The provisions of paragraph 1 shall be applicable to all the taxes referred to in article 2. As regards the Tunisian tax, they shall also be applicable, by analogy, to the occupational training tax.

Article 9. ASSOCIATED ENTERPRISES

Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10. DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may 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 which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the 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 resident in Belgium and having one or more permanent establishments in Tunisia pays out dividends that are subject in Belgium to prepayment in respect of the movable property tax, Tunisia may subject to the tax on income from securities (*l'impôt sur le revenu des valeurs mobilières*), at a rate not, in any event, exceeding 15 per cent, that part of such dividends corresponding to the ratio between the algebraic sum of the profits of the company's establishments in Tunisia and its over-all profits. In the determination of such over-all profits account shall not be taken of losses incurred by all the permanent establishments of a company which are situated in a single State, whether or not it is a Contracting State.

In the event that there is no over-all profit or there is a loss, the ratio obtained for the preceding period shall be used or, failing that, a ratio to be agreed upon by the competent authorities of the Contracting States.

Article 11. INTERESTS

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. Notwithstanding the provisions of paragraph 2, interest paid by a Contracting State, or a political subdivision or local authority of that State, shall not be taxable in the Contracting State in which it arises when such interest relates to a loan granted for a minimum period of 5 years that is not represented by bonds, debentures or other securities, and when it is paid to a bank or public lending institution which is a resident of the other Contracting State.

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, 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.

It does not include:

- (1) interest on commercial debt-claims—including those represented by bills of exchange—resulting from payment in instalments for goods, merchandise or services by an enterprise of a Contracting State to a resident of the other Contracting State.
- (2) interest on current accounts or advances between banking enterprises of the two Contracting States.

Interest as referred to above shall be subject to the rules laid down in article 7.

5. The provisions of paragraphs 1 to 3 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.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State.

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

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, 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:

- (a) 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 cinematographic and television films;
- (b) 15 per cent of the gross amount of royalties paid for the use of, or the right to use, any patent, design or model, plan, secret formula or process, or 15 per cent of the gross amount paid for information concerning industrial, commercial or scientific experience;
- (c) 20 per cent of amounts paid for the use of, or the right to use, any trade mark or cinematographic or television films, or for the use of, or right to use, agricultural, industrial, port, commercial or scientific equipment;
- (d) 15 per cent of the gross amount paid for the provision of technical assistance relating to the use of the property referred to in (b) and (c) above 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 such property may be taxed in accordance with subparagraph 3 or article 20.

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. INDEPENDENT PERSONAL 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 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;
- (3) if fees he receives from residents of the other Contracting State for services performed in that State exceed 200 000 Belgian francs or the equivalent amount in Tunisian dinars in the calendar year, even though his stay in that State during a period or periods was less than 183 days during 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 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 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 a Contracting State or by a managing member and majority stockholder (*gérant majoritaire*) of a private company (*société à responsabilité limitée*) which is a resident of Tunisia.

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

Notwithstanding the provisions of articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 18. 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 AND 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 Tunisian currency at the official rate of exchange.

IV. TAXATION OF FORTUNE

Article 20

In the event that one of the Contracting States establishes a tax on fortune after the signature of this Convention, double taxation shall be avoided in the following manner:

- (1) Fortune represented by immovable property, as defined in paragraph 2 of article 6, may be taxed in the Contracting State in which such property is situated.
- (2) Fortune 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 fortune owned by a resident of a Contracting State shall be taxable only in that State.

V. METHODS FOR ELIMINATION OF DOUBLE TAXATION

Article 21

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

- Where a resident of Tunisia derives income or owns elements of fortune which, in accordance with the provisions of this Convention, may be taxed in Belgium, Tunisia shall allow as a deduction from the tax on the income or fortune of that person, an amount equal to the income tax or tax on fortune paid in Belgium. The deduction shall not, however, exceed that part of the Tunisian tax, as computed before the deduction is given, which is appropriate to the income or the elements of fortune which may be taxed in Belgium.

With regard to interest as referred to in article 11, paragraph 3, the above-mentioned deduction shall also be allowed up to a maximum of 15 per cent of the gross amount of interest exempted from tax in Belgium.

2. 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, or owns elements of fortune which, in accordance with the provisions of the Convention, may be taxed in Tunisia, Belgium shall exempt such income or elements of fortune from tax but may, in calculating its taxes on the remaining income or fortune of that person, apply the rate of tax which would have been applicable if the exempted income or elements of fortune had not been so exempted.

- (2) Where a resident of Belgium receives income that is taxable in Tunisia in accordance with article 10, paragraph 2, article 11, paragraphs 2 or 7, or article 12, paragraphs 2 or 5, Belgium shall allow a deduction from the tax on individuals with respect to dividends, interest and royalties, on the one hand, and from the company tax in respect of interest and royalties, on the other, in the form of a fixed quota of foreign tax computed under conditions and at the rate laid down by Belgian law; the deduction shall not be less than 15 per cent of the amount of income included in the taxable base of the resident concerned.

Notwithstanding the provisions of its legislation, Belgium shall also allow this deduction in respect of:

- (a) income as aforementioned which may be taxed in Tunisia under the Convention and the general provisions of Tunisian law when such income is temporarily exempted from tax by special legal provisions designed to promote the investments which are necessary for the development of the Tunisian economy. The competent authorities of the Contracting States shall by mutual agreement determine the items of income which are to benefit from this provision;
- (b) interest as referred to in article 11, paragraph 3, which is exempted from tax in Tunisia.
- (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 Tunisia and which is liable in that State to the tax on business income, dividends paid by the last-mentioned company to the first-mentioned company which may be taxed in Tunisia 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 Tunisia and which is liable to the tax on business income 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 shall 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.
- (4) Where, under Belgian law, losses sustained by a Belgian enterprise in a permanent establishment situated in Tunisia 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 establishment, to the extent that such profits have also been exempted from tax in Tunisia by reason of their being offset by the said losses.

VI. SPECIAL PROVISIONS

Article 22. NON-DISCRIMINATION

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

2. The term “nationals” means:

- (1) all individuals possessing the nationality of a Contracting State;
- (2) all legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. Stateless persons who are residents 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.

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 Belgium from taxing in their entirety, at the rate prescribed by its national law, the profits attributable to the permanent establishment maintained in Belgium by a company which is a resident of Tunisia or by a body of persons having its place of effective management in Tunisia.

In any event, the tax payable on such profits under Belgian law may not exceed the total amount of the various taxes, calculated at the normal rate, which a similar company that is a resident of Belgium would have to pay in respect of profits and income distributed to its stockholders or shareholders.

For the purposes of applying this provision, the tax payable on the distributed income of a similar company that is a resident of Belgium shall be calculated at the rate of 15 per cent of the difference between the profits of the permanent establishment, on the one hand, and, on the other hand, the amount obtained by applying to the said profits the normal rate of the company tax in respect of distributed profits levied on companies resident in Belgium.

5. Individuals who are residents of a Contracting State and are liable to taxation in the other State shall enjoy in the last-mentioned State—as regards the assessment of taxes payable in that other State—exemptions, reliefs at the source, allowances or other advantages which are granted on account of family responsibilities to individuals who are nationals of but not resident in that other State.

6. Save where article 9, article 11, paragraph 7, 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.

Similarly, the indebtedness of an enterprise of a Contracting State to a resident of the other State shall be deductible, for the purpose of determining the taxable fortune of that enterprise, in the same way as if such indebtedness had been acquired *vis-à-vis* a resident of the first-mentioned State.

7. 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.

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

Article 23. 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 authorities 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 24. 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 the examination of objections and appeals relating thereto, and to the judicial authorities for the purpose of criminal prosecution.

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 (*ordre public*).

Article 25. MISCELLANEOUS PROVISIONS

1. Without prejudice to the application of article 21, paragraph 2, 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 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.

3. 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.

VII. FINAL PROVISIONS

Article 26. ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Brussels 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 in both States:

- (a) to taxes payable by deduction at the source in respect of income accruing or paid on or after the first day of January of the year following the year in which the instruments of ratification are exchanged;
- (b) to other taxes levied on income for taxable periods ending on or after the thirty-first day of December 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 in both States:

- (a) 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;
- (b) 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 undersigned, duly authorized for this purpose, have signed this Convention.

DONE at Tunis, on 22 February 1975, in duplicate in the French, Dutch and Arabic languages, the French text alone being authentic.

For the Government
of the Kingdom of Belgium:
ROBERT VANDEKERCKHOVE

For the Government
of the Republic of Tunisia:
HABIB CHATTI
