No. 23181

SWEDEN
and
ITALY

Convention for the avoidance of double taxation with respect to taxes on income and capital and the prevention of fiscal evasion (with protocol). Signed at Rome on 6 March 1980

Authentic texts: Swedish, Italian and French.
Registered by Sweden on 11 December 1984.

SUÈDE
et
ITALIE

Convention en vue d'éviter les doubles impositions en matière d'impôts sur le revenu et sur la fortune et de prévenir les évasions fiscales (avec protocole). Signée à Rome le 6 mars 1980

Textes authentiques : suédois, italien et français.
Enregistrée par la Suède le 11 décembre 1984.

[TRANSLATION — TRADUCTION]

CONVENTION[1] BETWEEN SWEDEN AND ITALY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL AND THE PREVENTION OF FISCAL EVASION

The Government of the Kingdom of Sweden and the Government of the Italian Republic, desiring to conclude a convention for the avoidance of double taxation with respect to taxes on income and on capital and the prevention of fiscal evasion, have agreed as follows:

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 on capital imposed on behalf of each Contracting State or of its political or administrative 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 the Convention shall apply are:

(*a*) In the case of Italy:

(1) The personal income tax (*l'imposta sul reddito delle persone fisiche*);

(2) The corporate income tax (*l'imposta sul reddito delle persone giuridiche*);

(3) The local income tax (*l'imposta locale sui redditi*)

even if they are collected by withholding taxes at the source (hereinafter referred to as "Italian tax");

(*b*) In the case of Sweden:

(1) The State income tax (*den statliga inkomstskatten*), including the seamen's tax (*sjömansskatten*) and the coupon tax (*kupongskatten*);

(2) The tax on undistributed profits (*ersättningsskatten*);

(3) The tax on distributed profits (*utskiftningsskatten*);

(4) The tax on public entertainers (*bevillningsavgiften för vissa offentliga föreställningar*);

(5) The communal income tax (*den kommunala inkomstskatten*);

(6) The State capital tax (*den statliga förmögenhetsskatten*)

(hereinafter referred to as "Swedish tax").

[1] Came into force on 5 July 1983 by the exchange of the instruments of ratification, which took place at Stockholm, in accordance with article 30 (1) and (2).

4. The Convention shall apply also to any identical or substantially similar taxes which enter into force after the date of signature of this Convention in addition to, or in place of, the existing taxes. At the end of each year, the competent authorities of the Contracting States shall notify each other of major changes which have been made in their respective taxation laws.

5. The Convention shall not apply to taxes (even if collected by withholding at source) payable on lottery winnings, on premiums, except premiums on securities, and on winnings derived from games of chance, games of skill, or competitions, pools or betting.

Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

(*a*) The terms "a Contracting State" and "the other Contracting State" mean Sweden or Italy, as the context requires;

(*b*) The term "Italy" means the Italian Republic and includes any area beyond Italy's territorial sea and in particular the sea-bed and the subsoil thereof adjacent to the territory of the Italian peninsula and the Italian islands and situated beyond the territorial sea up to the limit laid down by Italian law to permit the exploration and exploitation of the natural resources of such areas;

(*c*) The term "Sweden" means the Kingdom of Sweden, including the areas outside Sweden's territorial waters in which Sweden, under Swedish law and in accordance with the general rules of international law, is entitled to exercise its rights with respect to the exploration and exploitation of the national resources of the sea-bed and of the subsoil thereof;

(*d*) The term "person" includes an individual, a company and any other body of persons;

(*e*) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(*f*) 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;

(*g*) The term "international traffic" means any transport by a ship or aircraft operator by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(*h*) 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;

(*i*) The term "competent authority" means:

(1) In Italy: the Ministry of Finance;

(2) In Sweden: the Minister for the Budget or his duly authorized representative.

2. As regards the application of the Convention by a Contracting State, any term not otherwise defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. However, the term does not include any person who is liable to tax in that Contracting State in respect only of income from sources in that State or capital situated therein.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:

(*a*) 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 States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

(*b*) 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 an habitual abode;

(*c*) If he has an 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;

(*d*) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting State shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. This provision shall apply to partnerships and to companies treated as partnerships and constituted and organized in accordance with the law of a Contracting State.

Article 5. PERMANENT ESTABLISHMENT

1. For the purpose of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(*a*) A place of management;
(*b*) A branch;
(*c*) An office;
(*d*) A factory;
(*e*) A workshop;
(*f*) A mine, a quarry or any other place of extraction of natural resources;
(*g*) A building site, a construction, assembly or installation project which exists for a period of more than 12 months.

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

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

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

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

(*e*) 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 of 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, provided that 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. INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property, including income from agriculture or forestry, may be taxed in the Contracting State in which such property is situated.

2. The term "immovable property" shall have the meaning which it has under 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 and 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 shall also be considered as "immovable property". Ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall also 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 independent personal 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. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and 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 purpose of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. 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 contained in this article.

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

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

7. Where profits include items of income which are dealt with separately in other articles of this Convention, then the provisions of those articles shall not be affected by the provisions of this article.

Article 8. SHIPPING AND AIR TRANSPORT

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. With respect to profits derived by the Norwegian, Danish and Swedish consortium known as the Scandinavian Airlines System (SAS) the provisions of paragraph 1 shall apply, but only to such part of the profits as corresponds to the shareholding in that consortium held by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

4. The provisions of paragraphs 1 and 3 shall also apply to profits from participation in a pool, a joint business or an international operating agency.

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 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 also be taxed in the other Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed:

(*a*) 10 per cent of the gross amount of the dividends if the recipient of the dividends is a company (other than a partnership) which holds directly at least 51 per cent of the capital of the company paying the dividends;

(*b*) 15 per cent of the gross amount of the dividends in all other cases.

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

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation 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 beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the dividends may be taxed in that other Contracting State according to its own laws.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. INTEREST

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State shall be exempt from tax in that State if:

(*a*) The payer of the interest is the Government of that Contracting State or a local authority thereof; or

(*b*) The interest is paid to the Government of the other Contracting State or local authority thereof or any agency or instrumentality (including a financial institution) wholly owned by that other Contracting State or local authority thereof; or

(*c*) The interest is paid to any other agency or instrumentality (including a financial institution) in relation to loans made in application of an agreement concluded between the Governments of the Contracting States.

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 beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establisihment or fixed base. In such case, the interest may be taxed in that other Contracting State according to its own laws.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative 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 connection 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 State in which the permanent establishment is situated.

7. Where, by reason of 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 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 such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

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 also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

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

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 films, and recordings for radio or television broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases the royalties may be taxed in the other Contracting State according to its laws.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative 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 connection with which the contract giving rise to payment of the royalties was concluded and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishiment is situated.

6. Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

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 independent personal services, including such gains from the complete alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Gains from the alienation of the movable property referred to in article 23, paragraph 3, shall be taxable only in the Contracting State in which the property in question may be taxed under that article. These provisions shall also apply to gains derived by the air transport consortium Scandinavian Airlines System (SAS), but only to such part of the profits as corresponds to the shareholding in the consortium held by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of a Contracting State to levy according to its own laws a tax on gains derived from the alienation of shares in a company whose business property consists mainly of immovable property situated in that Contracting State, provided that the alienator is an individual who is a resident of the other Contracting State who:

(*a*) Is a national of the first-mentioned Contracting State;

(*b*) Has been a resident of that Contracting State during any part of a five-year period immediately preceding the alienation; and

(*c*) At the time of the alienation had, either alone or with a member of his family, a dominant influence on the company.

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 a similar character shall be taxable only in that State unless such resident has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a base the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

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. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 16, 18, 19, 20 and 21, 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:

(*a*) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and

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

(*c*) 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 derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16. DIRECTORS' FEES

Directors' fees and other 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. ENTERTAINERS AND ATHLETES

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

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Article 18. PENSIONS AND OTHER SIMILAR PAYMENTS

1. Subject to the provisions of article 19, paragraph 2, pensions and other similar remuneration paid to a resident of a Contracting State shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, pensions and other similar payments made under the social security legislation of a Contracting State as well as sums paid under a pension insurance policy issued in a Contracting State, may be taxed in that State. These provisions shall apply only to nationals of the Contracting State from which the payments are made.

Article 19. GOVERNMENT SERVICE

1. (*a*) Remuneration, other than a pension, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(*b*) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the recipient is a resident of that State who:

(1) Is a national of that State; or

(2) Did not become a resident of that State solely for the purpose of rendering the services.

2. (*a*) Any pension paid by, or out of funds created by, a Contracting State or a political or administrative subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(*b*) However, such pension shall be taxable only in the other Contracting State if the recipient is a resident of, and a national of that other State.

3. The provisions of articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof.

Article 20. PROFESSORS AND TEACHERS

Remuneration received by professors and other teachers who are residents of a Contracting State while temporarily staying in the other Contracting State in order to teach or conduct scientific research there for a period of less than one year, at a university or other teaching or scientific research establishment for non-commercial purposes, shall be taxable only in the first-mentioned State.

Article 21. STUDENTS

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

2. A student at a university or other institution of learning or business apprentice of a Contracting State who, while temporarily staying in the other Contracting State, is employed in that other State for a period of not more than 100 days during the same tax year for the purpose of obtaining practical experience in connection with his studies or training may be taxed in the last-mentioned Contracting State only in respect of that portion of his income from his employment which exceeds 1,500 Swedish kronor per calendar month or the equivalent in Italian currency. The amount exempted from taxation in accordance with this paragraph shall not, however, exceed in the aggregate 4,500 Swedish kronor or the equivalent in Italian currency. Amounts which, under this paragraph, are exempted from taxation shall include the personal deduction for the tax year in question.

3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of the provisions of paragraph 2. The competent authorities may also reach agreement on such modification of the amounts specified therein as may be found to be reasonable in relation to changes in monetary value, changes in the legislation of a Contracting State or other similar circumstances.

Article 22. OTHER INCOME

1. Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing articles of this Convention shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply if the recipient of the income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the items of income may be taxed in that other Contracting State according to its own laws.

Article 23. CAPITAL

1. Capital represented by immovable property as defined in article 6, paragraph 2, may be taxed in the Contracting State in which the 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 purpose of performing independent personal 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 24. ELIMINATION OF DOUBLE TAXATION

1. It is agreed that double taxation shall be avoided in accordance with the following paragraphs of this article.

2. Where a resident of Sweden receives income or owns capital which, under the provisions of this Convention, may be taxed in Italy, Sweden shall, except as otherwise provided in paragraph 3:

(*a*) Allow as a deduction from the Swedish income tax of the person in question an amount corresponding to the income tax paid in Italy;

(*b*) Allow as a deduction from the Swedish capital tax of the person in question an amount corresponding to the capital tax paid in Italy.

The amount of the deduction shall, however, in no case exceed that part of the Swedish income tax or capital tax, calculated in the absence of such deduction, which corresponds to the income or capital that may be taxed in Italy.

3. Dividends paid by a company which is a resident of Italy to a company which is a resident of Sweden shall be exempt from Swedish tax in so far as such dividends would be exempt, under Swedish law, if both companies were residents of Sweden. Such exemption shall apply only if the profits in respect of which the dividends are paid are subject to the Italian income tax in force at the time of signature of this Convention or to any other income tax assimilated thereto or substituted therefor, or if a substantial portion of the profits of the company paying the dividends derives, directly or indirectly, from an activity other than the administration of securities or any other similar property, where such activities are carried on in Italy by the company paying the dividends or by a company of which it holds at least 25 per cent of the capital.

4. If a resident of Italy owns items of income which are taxable in Sweden, Italy, in determining its income taxes specified in article 2 of this Convention, may include the said items of income in the basis upon which such taxes are levied, unless specific provisions of this Convention stipulate otherwise.

In such case, Italy shall deduct from the taxes so calculated the income tax paid in Sweden, but in an amount not exceeding that proportion of the aforesaid Italian tax which such items of income bear to the total income.

However, no deduction will be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of the said income in accordance with Italian law.

5. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, shall be taxable only in the other Contracting State, the first-mentioned State may include such income or capital in the tax base, but shall deduct from the income tax or capital tax that part of the income tax or capital tax which is attributable to the income derived from the other Contracting State or the capital owned in that Contracting State, as the case may be.

6. Where a resident of a Contracting State receives gains of the kind referred to in article 13, paragraph 5, or receives payments of the kind referred to in article 18, paragraph 2, which may be taxed in the other Contracting State, that other State shall deduct from the income tax of that resident an amount equal to the tax paid on such gains or such payments in the first-mentioned Contracting State. The amount of the deduction, however, shall not in any case exceed that part of the tax in the other Contracting State, calculated in the absence of such deduction, which corresponds to the gains or payments that may be taxed in that other State.

7. Where, under the laws of a Contracting State, taxes covered by this Convention are exempted or reduced for a limited period of time, such taxes shall be deemed to have been paid in full for the purposes of applying the preceding paragraphs of this article.

Article 25. NON-DISCRIMINATION

1. Nationals of a Contracting State, whether or not they 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 different from 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.

In particular, nationals of a Contracting State who are subject to taxation in the other Contracting State shall enjoy the exemption, reliefs, deductions and reductions in taxes or charges allowed on account of civil status or family responsibilities.

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 which it grants to its own residents.

3. Except where the provisions of article 9, or article 11, paragraph 7, or article 12, paragraph 6, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. 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 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 the first-mentioned State are or may be subjected.

5. For the purposes of this article, the term "taxation" means taxes of every kind and description.

Article 26. 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 the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under article 25, paragraph 1, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the Convention.

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 a satisfactory 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 which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time-limits in the domestic law of the Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the 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. Where it appears advisable, in order to reach agreement, to have an oral exchange of opinions, such exchange may take place through a commission composed of representatives of the competent authorities of the Contracting State.

Article 27. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by the Convention, in so far as the taxation thereunder is not contrary to the Convention and information for the prevention of fiscal evasion. The exchange of information is not restricted by article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of this Convention. Such persons or authorities shall use the information only for such purposes. These persons or authorities may disclose the information in public court proceedings or in judicial decisions.

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

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

(*b*) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(*c*) 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 28. DIPLOMATIC AND CONSULAR OFFICIALS

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.

Article 29. MODE OF APPLICATION OF THE LIMITATION ON TAXES WITHHELD AT SOURCE

1. Taxes withheld at source in a Contracting State will be refunded at the request of the person concerned or of the State of which he is a resident, if the right to collect such taxes is limited by the provisions of this Convention.

Swedish coupon tax, however, shall be levied, at the time of payment of the dividends, at the reduced rates provided for in article 10 of this Convention. Where on account of special circumstances, Swedish coupon tax has been levied at the rate provided for in Swedish tax law, the excess amount of tax shall be refunded at the request of the person concerned. The procedure and conditions for benefiting from the limitations on tax rates provided for in article 10 of this Convention shall be determined by the Swedish authorities.

2. Claims for refunds, which shall be produced within the time-limit established by the law of the Contracting State obliged to make such refund, shall be accompanied by an official certificate of the Contracting State of which the taxpayer is a resident, stating that the conditions required for entitlement for the exemptions or reductions provided for in this Convention have been fulfilled.

3. The competent authorities of the Contracting States shall, by mutual agreement, settle the mode of application of this article in accordance with the provisions of article 26 of this Convention. They may also, by mutual agreement, establish other procedures for application of the tax limitations provided for in this Convention.

Article 30. ENTRY INTO FORCE

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

2. This Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

(*a*) In Sweden:

(1) In respect of income derived on or after 1 January of the calendar year immediately following the year in which the instruments of ratification are exchanged, and

(2) In respect of capital tax assessed as from the second calendar year after the year in which the instruments of ratification are exchanged;

(*b*) In Italy: in respect of income derived during the taxable periods commencing on or after 1 January of the calendar year immediately following the year in which the instruments of ratification are exchanged.

3. The Agreement of 20 December 1956 between Sweden and Italy for the avoidance of double taxation and the settlement of certain other questions with respect to taxes on income and fortune,[1] as amended by the Additional Agreement of 7 December 1965, is hereby abrogated. Its provisions shall cease to have effect in respect of the taxes to which this Convention applies under paragraph 2.

Article 31. TERMINATION

This Convention shall remain in force indefinitely, but either Contracting State may give written notice of termination to the other Contracting State, through the diplomatic channel, up to and including 30 June of any calendar year beginning after a five-year period has elapsed from the date of ratification. In such case the Convention shall cease to have effect.

(*a*) In Sweden:

(1) In respect of income derived on or after 1 January of the calendar year immediately following the year in which denunciation takes place; and

(2) In respect of capital taxes assessed as from the second calendar year after the year in which denunciation takes place;

(*b*) In Italy: in respect of income derived during the taxable periods commencing on or after 1 January of the calendar year immediately following the year in which denunciation takes place.

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

DONE at Rome on 6 March 1980, in duplicate in the Swedish, Italian and French languages. In case of doubt the French text shall prevail.

For the Government of the Kingdom of Sweden:
A. LEWENHAUPT

For the Government of the Italian Republic:
MAURIZIO BUCCI

PROTOCOL TO THE CONVENTION BETWEEN SWEDEN AND ITALY FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL AND THE PREVENTION OF FISCAL EVASION

On signing the Convention concluded this day between Sweden and Italy for the avoidance of double taxation with respect to taxes on income and on capital and the prevention of fiscal evasion, the undersigned plenipotentiaries have agreed upon the following additional provisions, which shall form an integral part of the Convention.

It is understood:

(*a*) That, in connection with article 2, where a tax on capital is subsequently introduced in Italy the Convention shall also apply to such tax;

(*b*) That, notwithstanding the provisions of article 4, paragraph 2, when, according to the provisions of paragraph 1 of that article, an individual is deemed to be

[1] United Nations, *Treaty Series*, vol. 369, p. 357.

a resident of Italy and also a resident of Sweden under the so-called "three-year rule" provided for in Swedish tax law, the competent authorities of the Contracting States shall settle the question of his residence by mutual agreement.

The provisions of the first section of this paragraph shall apply only to Swedish nationals and their application shall be limited to the first three years reckoned from the date of emigration from Sweden.

These provisions are based on the rules contained in section 53 of the Swedish Municipal Tax Law which have been incorporated into Swedish tax legislation to prevent fiscal evasion;

(*c*) That, with reference to article 7, paragraph 3, the term "expenses which are incurred for the purposes of the permanent establishment" means the expenses connected with the activity of the permanent establishment;

(*d*) That the provisions of article 13, paragraph 5, have been included in the Convention in order to prevent fiscal evasion. The application of those provisions presupposes that all the conditions set forth in subparagraphs (*a*) to (*c*) of that paragraph have been met;

(*e*) That, for the purposes of applying article 15, paragraph 3, the place of actual management of the air transport consortium Scandinavian Airlines System (SAS) shall be deemed to be situated in Sweden;

(*f*) That, in the event that a tax on capital is subsequently introduced in Italy the Swedish tax on capital, levied in accordance with the provisions of the Convention, shall be deducted from that Italian tax on capital under the conditions set forth in article 24, paragraph 4;

(*g*) That the provisions of article 25, paragraph 2, first section, shall not imply tax exemption in a Contracting State in respect of dividends paid or other payments made to a company which is a resident of the other Contracting State. The same provisions shall, moreover, not prevent a Contracting State from taxing, in accordance with the domestic law of that State, income derived by a permanent establishment forming part of a company of the other Contracting State. In the latter case, however, the tax may not exceed the tax applicable to companies which are residents of the first-mentioned Contracting State, in respect of their undistributed profits;

(*h*) That, with reference to article 26, paragraph 1, the term "irrespective of the remedies provided by the domestic law" means that the mutual agreement procedure cannot constitute an alternative to the contentious proceedings provided for in the domestic law, which proceedings shall, in any case, be instituted first, when the claim is related to an assessment of Italian taxes not in accordance with this Convention.

DONE at Rome on 6 March 1980, in duplicate in the Swedish, Italian and French languages. In case of doubt the French text shall prevail.

For the Government of the Kingdom of Sweden:
A. LEWENHAUPT

For the Government of the Italian Republic:
MAURIZIO BUCCI