

No. 23182

**SWEDEN
and
TUNISIA**

**Convention for the avoidance of double taxation with
respect to taxes on income and on capital. Signed at
Stockholm on 7 May 1981**

Authentic text: French.

Registered by Sweden on 11 December 1984.

**SUÈDE
et
TUNISIE**

**Convention tendant à éviter les doubles impositions en
matière d'impôts sur le revenu et sur la fortune. Signée à
Stockholm le 7 mai 1981**

Texte authentique : français.

Enregistrée par la Suède le 11 décembre 1984.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF SWEDEN AND
THE GOVERNMENT OF TUNISIA FOR THE AVOIDANCE OF
DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME
AND ON CAPITAL

The Government of Sweden and the Government of Tunisia, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital, 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 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, as well as taxes on capital appreciation.

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

a) In Sweden:

- i) The State income tax (*den statliga inkomstskatten*), including the seamen's tax (*sjömansskatten*) and the coupon tax (*kupongskatten*);
- ii) The tax on undistributed income of companies (*ersättningsskatten*);
- iii) The tax on distributed income of companies (*utskiftningsskatten*);
- iv) The tax on artists and sportsmen (*bevillningsavgiften för vissa offentliga föreställningar*);
- v) The communal income tax (*kommunalskatten*); and
- vi) The State tax on capital (*den statliga förmögenhetsskatten*) (hereinafter referred to as "Swedish tax").

b) In Tunisia:

- i) The tax on business income;
- ii) The tax on income from non-commercial occupations;
- iii) The tax on wages and salaries;
- iv) The agricultural tax;
- v) The tax on income from movable capital;
- vi) The tax on income from debt-claims, deposits and current accounts (I.R.C.);
- vii) The tax on industrial and commercial enterprises;

¹ Came into force on 19 April 1983 by the exchange of the instruments of ratification, which took place at Tunis, in accordance with article 26 (1) and (2).

- viii) The hotels tax;
 - ix) The rents tax;
 - x) The tax on capital appreciation of immovable property;
 - xi) The State tax on personal income
- (hereinafter referred to as “Tunisian tax”).

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

Article 3. GENERAL DEFINITIONS

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

a) The terms “a Contracting State” and “the other Contracting State” mean Sweden or Tunisia, as the context requires;

b) The term “Sweden” means the Kingdom of Sweden and includes any area outside the territorial sea of Sweden within which in accordance with the laws of Sweden and international law Sweden may exercise rights of exploration and exploitation on the sea-bed or in its subsoil;

c) The term “Tunisia” means the Tunisian Republic and includes any area outside the territorial sea of Tunisia within which in accordance with the laws of Tunisia and international law Tunisia may exercise rights of exploration and exploitation on the sea-bed or in its subsoil;

d) The term “person” comprises an individual, 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 term “international traffic” means any transport by a ship or aircraft operated by an enterprise whose principal place of business and effective management are situated in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

g) 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;

h) The term “competent authority” means:

- In Sweden, the Minister of the Budget or his authorized representative;
- In Tunisia, the Minister of Finance or his authorized representative;

i) The term “nationals” means:

- i) All individuals possessing the nationality of a Contracting State;
- ii) All legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

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 this Convention.

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the law of that State, is subject to tax therein by reason of his domicile, residence, or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that Contracting State in respect only of income from sources therein or of capital which he possesses 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 Contracting 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 Parties 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:

a) A place of management;

b) A branch;

c) An office;

d) A factory;

e) A workshop;

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

g) A building site, or temporary installation operations or supervisory activities in connection therewith, where such building site, operations or activities exist for more than six months or where such temporary installation operations or supervisory activities resulting from the sale of machinery or equipment exist for less than six months and the installation or supervision costs exceed 10 per cent of the price of such machinery or equipment;

h) A warehouse or store or other installations for the maintenance of a stock of goods belonging to the enterprise, from which goods are drawn to fill orders, whether such warehouse is managed by an employee or by an agent of the enterprise.

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

- a) The use of facilities solely for the purpose of storage or display of goods belonging to the enterprise;
- b) The maintenance of a stock of goods belonging to the enterprise solely for the purpose of storage or display;
- c) The maintenance of a stock of goods 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 for collecting information 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 independent status to whom paragraph 6 below applies) shall be deemed to be a “permanent establishment” in the first-mentioned State:

- a) If it has in that State general powers which it usually exercises to negotiate and conclude contracts for the enterprise or on behalf of the enterprise, or
- b) If it usually maintains in the first-mentioned State a stock of goods from which it regularly draws goods for delivery for the enterprise 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 State if it collects premiums in the territory of that State or insures risks therein through a representative who is not one of the 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 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.

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

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

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7. BUSINESS PROFITS

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

2. 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 business of the permanent establishment including actual executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. No deduction shall be allowed in respect of any sums paid by the permanent establishment to the principal place of business of the enterprise or to any other of its establishments as royalties, fees or other similar payments in connection with operating licences, patents or other rights as commissions (other than the reimbursement of actual expenses incurred in connection with services rendered or with an executive activity), or in the case of a banking enterprise as interest on loans to the permanent establishment.

4. Insofar as it has been customary in a Contracting State to determine the total profits to be attributed to a permanent establishment on the basis of an apportionment of the 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 for the enterprise.

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

7. The participation of a partner in the profits of an enterprise incorporated as a *société de fait* or as a joint venture shall be taxable in the State in which the enterprise has a permanent establishment in accordance with the preceding provisions of this article.

8. 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 Danish, Norwegian and Swedish air transport consortium 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 the consortium held by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

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

Article 9. ASSOCIATED ENTERPRISES

1. 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 been obtained by one of the enterprises, but, by reason of those conditions, have not been so obtained, may be included in the profits of that enterprise and taxed accordingly.

2. Where profits on which an enterprise of a Contracting State has been taxed in that State are also included in the profits of an enterprise of the other Contracting State and taxed accordingly, and where the profits so included comprise profits which would have been made by that enterprise of the other State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then the first-mentioned State shall make a corresponding adjustment of the amount of tax which it has levied on such profits. In the determination of the adjustment to be made, other provisions of this Convention concerning the nature of income shall be taken into consideration.

Article 10. DIVIDENDS

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

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed:

- a) 15 per cent of the gross amount of the dividends if the beneficial owner is a company which holds directly at least 25 per cent of the capital of the company paying the dividends;
- b) 20 per cent of the gross amount of the dividends in all other cases.

The competent authorities of the Contracting States shall determine by common agreement the procedures for the application of this limit. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term “dividends” as used in this article means income from shares, “*jouissance*” shares or “*jouissance*” rights, mining shares, founders’ shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights treated as income from shares by the taxation law of the State of which the company making the distribution is a resident.

4. Where a company resident in Sweden has one or several establishments in Tunisia, Tunisia may impose the tax on income from immovable property, the rate of which shall not exceed 15 per cent, on the difference between the profit made by that or those establishments and the tax on business income.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, either carries on in the other Contracting State of which the company paying the dividends is a resident an industrial or commercial business through a permanent establishment situated therein, or provides a professional service from a fixed base situated therein, and if the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of article 7 or of article 14, as appropriate, shall apply.

Article 11. INTEREST

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 12 per cent of the amount of the interest. The competent authorities of the Contracting States shall determine by common agreement the procedures for the application of this limit.

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

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, either carries on in the other Contracting State in which the interest arises an industrial or commercial business through a permanent establishment situated therein, or provides a professional service from a fixed base situated therein, and if the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of article 7 or of article 14, as appropriate, shall apply.

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

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

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such a relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the interest payments may still be taxed in accordance with the law of each Contracting State and with 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 be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed:

- a) 5 per cent of the gross amount of such royalties when they are received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific works, excluding cinematographic and television films;
- b) 15 per cent of the gross amount of other royalties.

3. The term "royalties" as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematographic films and films or 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, as well as payments for technical or economic studies.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, either carries on in the other Contracting State in which the royalties arise an industrial or commercial business through a permanent establishment situated therein, or provides a professional service from a fixed base situated therein, and if the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of article 7 or of article 14, as appropriate, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a political subdivision, a local authority or a resident of that Contracting 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 or a fixed base in connection with which the liability to pay the royalties was incurred, and the royalties are borne by such permanent establishment or fixed base, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid,

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

Article 13. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, and gains from the alienation of a shareholding in a company whose business property consists mainly of immovable property, 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 providing a professional service, including such gains from the total alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other State. However, gains from the alienation of the movable property referred to in article 20, paragraph 3, may be taxed only in the Contracting State in which the property in question itself may be taxed pursuant to that article.

3. Gains from the alienation of any other property than the property referred to in paragraphs 1 and 2 may be taxed only in the Contracting State of which the alienator is a resident.

Article 14. INDEPENDENT PROFESSIONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of a professional service or other similar independent activity may be taxed only in that State. However, such income may be taxed in the other Contracting State in the following cases:

- a) If the person concerned usually has in the other Contracting State a fixed base available for the exercise of his activities; in that case, only the part of the income which is attributable to the said base may be taxed in the other Contracting State, or
- b) If he is present in the other Contracting State for a period or periods of a total duration in excess of 183 days in the taxable year; in that case, only the part of the income which is attributable to the said activity may be taxed in the other Contracting State.

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 and 18, 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 taxable year concerned;
- 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. Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft operated in international traffic by the consortium Scandinavian Airlines System (SAS) and on its own behalf, such remuneration shall be taxable only in Sweden.

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 or trustees of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of articles 14 and 15, income derived by an entertainer, such as a theatre, cinema, radio or television artiste or a musician, or by an athlete, from his personal activities as such, may be taxed in the Contracting State in which such activities are exercised.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues to a person other than the entertainer or athlete himself, 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. STUDENTS AND BUSINESS APPRENTICES

1. Payments which a student or business apprentice who is or was 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 at some other educational institution or a business apprentice of a Contracting State who, during a temporary stay in the other Contracting State, exercises an employment in that other State for a period not in excess of 183 days in a taxable year in order to obtain practical experience relating to his education or training shall be taxed in that other State solely in respect of the part of his income from such employment in excess of 1,500 Swedish kronor per calendar month or an equivalent amount in Tunisian currency. However, the exemption granted by this paragraph may not exceed a total amount of 9,000 Swedish kronor or an equivalent amount in Tunisian currency. The amounts exempted under this paragraph shall include the personal allowances for the taxable year in question.

3. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State principally for the purpose of his education or his technical or vocational training derives as remuneration for an employment exercised in the first-mentioned Contracting State shall not be taxed in that State, provided that such remuneration does not exceed 10,000 Swedish kronor or an equivalent amount in Tunisian currency for the entire taxable year. Such exemption shall apply only for a period which is reasonably required or usually accepted for the completion of the education or the technical or vocational training. In any case the exemption shall apply only for a period of five consecutive taxable years.

4. The competent authorities of the Contracting States shall determine by common agreement the procedures for application of the provisions of paragraphs 2 and 3. The competent authorities may also agree on any changes in the amounts mentioned in those paragraphs which they consider reasonable in the light of changes in currency values or in the law of a Contracting State, or of other similar circumstances.

Article 19. INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State, other than remuneration from public funds, pensions and annuities of any kind, which are not expressly mentioned in the preceding articles of this Convention shall be taxed only in that State.

Article 20. CAPITAL

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

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

3. Ships and aircraft operated in international traffic and the movable property pertaining to their operation 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 21. PROVISIONS FOR THE ELIMINATION OF DOUBLE TAXATION

1. Without prejudice to the application of paragraphs 4 and 5, where a resident of a Contracting State derives income or possesses capital which, according to the provisions of this Convention, are taxable in the other Contracting State, the first-mentioned State shall deduct:

- a) From the tax which it charges on the income of such resident, an amount equal to the income tax paid in the other Contracting State;
- b) From the tax which it charges on the capital of such resident, an amount equal to the tax on capital paid in the other Contracting State.

However, the amount deducted in either case may not exceed the part of the income tax or of the tax on capital, as computed before the deduction is made, corresponding, as the case may be, to the income or to the capital taxable in the other Contracting State.

2. Where a resident of a Contracting State derives income or possesses capital which, in accordance with the provisions of this Convention, is 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 from the tax on capital an amount equal to the part of the income tax or of the tax on capital corresponding, as the case may be, to the income derived from the other Contracting State or to the capital possessed in that Contracting State.

3. For the purposes of application of paragraphs 1 and 5 of this article, where the Tunisian tax on the profits, dividends, interest or royalties received by a resident of Sweden has been subject to an exemption or reduction for a limited period, Sweden shall deduct from the tax which it charges on the said profits an amount equal to the tax which would have been charged on the said profits in Tunisia if the exemption or reduction had not been granted, and from the tax which it charges on the income referred to in articles 10, 11 and 12 an amount equal to the tax chargeable by Tunisia under the Convention.

4. Dividends paid by a company which is a resident of Tunisia to a company which is a resident of Sweden shall be exempt from Swedish tax to the same extent to which the said dividends would be exempt under Swedish law if both companies were residents of Sweden. This exemption shall be granted only if the profits from which the dividends are derived are subject to the Tunisian income tax in force on the date of signature of this Convention or to any other income tax assimilated to or replacing that tax, or if a substantial part of the profits of the company paying the dividends arises directly or indirectly from an activity other than the management of securities or any other similar property, where such activities are exercised in Tunisia by the company paying the dividends or by a company in whose capital it has at least a 25 per cent holding.

5. Notwithstanding any other provision of this Convention, an individual who is a resident of Tunisia, and who is also domiciled in Sweden according to the Swedish laws concerning the Swedish taxes designated in article 2, may be taxed in Sweden. However, Sweden shall deduct the Tunisian income tax or tax on capital paid by such an individual from the Swedish tax in accordance with paragraph 1 of this article.

6. The provisions of this article shall not apply to remuneration from public funds, pensions or annuities of any kind.

Article 22. NON-DISCRIMINATION

1. Nationals of a Contracting State, whether or not they are residents of one of the Contracting Parties, shall not be subjected in the other Contracting Party to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

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

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

3. Except where the provisions of article 9, paragraph 1, article 11, paragraph 6, 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 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.

5. In this article the term "taxation" means the taxes designated in article 2 of this Convention.

6. Sweden shall grant tax advantages or tax concessions in respect of investments, where such advantages or concessions exist, to its nationals who invest in Tunisia.

7. The provisions of this Convention shall not constitute an obstacle to the application of more favourable fiscal treatment provided by the law of one of the Contracting States in respect of investments, and, in particular, Sweden shall, in accordance with its own laws and with respect to investments made in Tunisia, allow its nationals to set against any profits from activities carried on in Sweden any losses sustained in Tunisia during the start-up period of the enterprise in which the investment is made, a period equal to at least five years.

Article 23. MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or of both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

2. Such competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the issue 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 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 interpretation or application of the Convention. They may also consult together for the avoidance 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 a common agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commis-

sion consisting of representatives of the competent authorities of the Contracting States.

Article 24. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the application of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities responsible for the assessment, including assessment by means of litigation, or the collection of the taxes covered by this Convention.

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 or the administrative practice of that or of the other Contracting State;
- b) 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;
- c) To supply information which would disclose any trade, industrial or business secret or trade process, or information, the disclosure of which would be contrary to public policy (*ordre public*).

Article 25. DIPLOMATIC AND CONSULAR OFFICERS

Nothing in this Convention shall affect the fiscal privileges of diplomatic or consular officers under the general rules of international law or under the provisions of special agreements.

Article 26. ENTRY INTO FORCE

1. This Convention shall be ratified in accordance with the respective constitutions of the Contracting States, and the instruments of ratification shall be exchanged at Tunis as soon as possible.

2. This Convention shall enter into force after the exchange of the instruments of ratification and its provisions shall apply:

- a) To the income referred to in articles 10, 11 and 12 in respect of the amounts payable from the first day following the month in which the instruments of ratification are exchanged;
- b) To other income accruing from 1 January in the year immediately following the year in which the instruments of ratification are exchanged; and
- c) To the tax on capital chargeable from the second taxable year following the year in which the instruments of ratification are exchanged.

3. The Agreement between Sweden and Tunisia of 6 September 1960 for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance with respect to direct taxes¹ shall be revoked. Its provisions shall cease to have effect in respect of the taxes to which this Convention applies in accordance with paragraph 2.

¹ United Nations, *Treaty Series*, vol. 427, p. 301.

Article 27. TERMINATION

This Convention shall remain in force indefinitely, but either of the Contracting States may, on or before 30 June in any year from the fifth year following the year of its ratification, denounce it to the other Contracting State in writing through the diplomatic channel. In the event of such denunciation, the Convention shall apply for the last time:

- a) To the income referred to in articles 10, 11 and 12 in respect of the sums payable on 31 December, at the latest, of the year of the denunciation;
- b) To other income accruing on 31 December, at the latest, of the year of the denunciation;
- c) To the tax on capital chargeable during the taxable year immediately following the year of the denunciation.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Convention.

DONE at Stockholm on 7 May 1981 in duplicate in the French language.

For the Government of Sweden:

HANS DANELIUS

For the Government of Tunisia:

A. B. ARFA
