No. 25563

NETHERLANDS
and
MOROCCO

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital (with protocol). Signed at Rabat on 12 August 1977

Authentic texts: Dutch, Arabic and French.
Registered by the Netherlands on 29 December 1987.

PAYS-BAS
et
MAROC

Convention tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Signée à Rabat le 12 août 1977

Textes authentiques : néerlandais, arabe et français.
Enregistrée par les Pays-Bas le 29 décembre 1987.

[TRANSLATION — TRADUCTION]

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

The Government of the Kingdom of the Netherlands and

The Governnent of the Kingdom of Morocco,

Desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital,

Have agreed as follows:

CHAPTER I. SCOPE OF THE CONVENTION

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of each of the States 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, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(*a*) In the case of the Netherlands:

— *De inkomstenbelasting* (income tax);
— *De loonbelasting* (wages tax);
— *De vennootschapsbelasting* (company tax);
— *De dividendbelasting* (dividend tax);
— *De vermogensbelasting* (capital tax)

(hereinafter referred to as "Netherlands tax");

(*b*) In the case of Morocco:

— The agricultural tax;
— The tax on urban real property and connected taxes;
— The tax on business profits and the investment reserve;
— The tax on public and private salaries, emoluments, fees and wages, pensions and annuities;

[1] Came into force on 10 June 1987, the date on which the Parties had informed each other (on 3 April 1979 and 10 June 1987) of the completion of the required constitutional formalities, in accordance with article 30.

— The supplementary contribution on the total income of individuals;
— The tax on dividends from stocks or shares and similar income;
— The tax on dividends from fixed-income investments
(hereinafter referred to as "Moroccan tax").

4. The Convention shall apply also to any identical or similar future taxes in addition to, or in place of, the existing taxes. The competent authorities of the States shall notify each other of any changes made in their respective tax laws.

CHAPTER II. DEFINITIONS

Article 3. GENERAL DEFINITIONS

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

(*a*) The term "State" shall mean the Netherlands or Morocco, as the context requires;

The term "States" shall mean the Netherlands and Morocco;

(*b*) The term "the Netherlands" comprises the part of the Kingdom of the Netherlands that is situated in Europe and the part of the sea-bed and its subsoil under the North Sea, over which the Kingdom of the Netherlands has sovereign rights in accordance with international law (continental shelf);

(*c*) The term "Morocco" means the Kingdom of Morocco, and, when used in a geographical sense, the entire territory of Morocco and the territory adjacent to the territorial waters of Morocco which is considered to be national territory for the purposes of taxation and where Morocco, in accordance with international law, may exercise its rights with respect to the sea-bed and its subsoil and their natural resources (continental shelf);

(*d*) The term "person" includes individuals and companies;

(*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 one of the States" and "enterprise of the other State" mean respectively an enterprise carried on by a resident of a State and an enterprise carried on by a resident of the other State;

(*g*) The term "national" means:

(1) Any individual possessing the nationality of one of the States;

(2) Any individual, body corporate and association deriving its status as such from the law in force in one of the two States;

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

(1) In the case of the Netherlands: the Minister of Finance or his duly authorized representative;

(2) In Morocco: the Finance Minister or his representative.

2. As regards the application of the Convention by each State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws 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 one of the States" means any person who, under the laws of the said State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provision of paragraph 1 an individual is considered to be a resident of both Contracting States, then the case is determined by the following rules:

(*a*) He shall be deemed to be a resident of the State in which he has a permanent home available to him. Where he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

(*b*) If the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;

(*c*) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;

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

3. Where by reason of the provision of paragraph 1 a person other than an individual is deemed to be a resident of both States, then it shall be deemed to be a resident of the 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 where 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 sales outlet;

(*f*) A workshop;

(*g*) A mine, quarry or any other place of extraction of natural resources;

(*h*) A building site or assembly project which exists for more than six months.

3. The term "permanent establishment" 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 which are of a preparatory or auxiliary character.

4. A person acting in one of the States on behalf of an enterprise of the other 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 one of the States shall not be deemed to have a permanent establishment in the other 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 one of the States controls or is controlled by a company which is a resident of the other 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.

CHAPTER III. TAXATION OF INCOME

Article 6. INCOME FROM IMMOVABLE PROPERTY

1. Income derived from immovable property may be taxed in the State in which the property is situated.

2. The term "immovable property" shall be defined in accordance with the law of the 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 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 professional services.

Article 7. BUSINESS PROFITS

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

2. Where an enterprise of one of the States carries on business in the other State through a permanent establishment situated therein, there shall in each 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 ac-

tivities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

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

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

Article 8. SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the 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 State in which the home harbour of the ship is situated, or if there is no such home harbour, in the State of which the operator of the ship is a resident.

Article 9. ASSOCIATED ENTERPRISES

Where:

(*a*) An enterprise of one of the States participates directly or indirectly in the management, control or capital of an enterprise of the other State, or

(*b*) The same persons participate directly or indirectly in the management, control or capital of an enterprise of a State and an enterprise of the other 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 one of the States to a resident of the other State may be taxed in that other State.

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

(*a*) 10 per cent of the gross amount of the dividends where the beneficial owner is a company, all or part of the capital of which is in the form of shares and which directly owns at least 25 per cent of the capital of the company paying the dividends, provided that the relationship between the two companies was not established and is not being maintained primarily for the purpose of enabling them to benefit from this reduced rate;

(*b*) 25 percent of the gross amount of the dividends, in all other cases.

3. The competent authorities of the States shall by mutual agreement settle the mode of application of paragraph 2.

4. The provisions of paragraphs 1 and 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

5. The term "dividends" as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

6. The provisions of paragraphs 1 and 2 shall not apply, if the beneficial owner of the dividends, being a resident of one of the States, has in the other State of which the company paying the dividends is a resident, a permanent establishment with which the holding in respect of which the dividends are paid is effectively connected. In such case the provisions of article 7 shall apply.

7. Where a company which is a resident of one of the States derives profits or income from the other State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, nor subject the company's undistributed profits to a tax on the company's 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 one of the States and paid to a resident of the other State may be taxed in that other State.

2. However, such interest may also be taxed in the State in which it arises and according to the laws of that State, but the tax so charged shall not exceed:

(*a*) 10 percent of the gross amount of the interest;

(*b*) 25 per cent of the gross amount, in all other cases.

3. The competent authorities of the States shall by mutual agreement settle the mode of application of paragraph 2.

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 has its source.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of one of the States, carries on business in the other State in which the interest arises, through a permanent establishment, or performs in that other State professional services from a fixed base, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of article 7 shall apply.

6. Interest shall be deemed to arise in one of the States 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 one of the States or not, has in one of the States 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 beneficial owner 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 beneficial owner 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 State, due regard being had to the other provisions of this Convention.

Article 12. ROYALTIES

1. Royalties arising in one of the States and paid to a resident of the other State may be taxed in that other State.

2. However, such royalties may also be taxed in the State in which they arise and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The competent authorities of the States shall by mutual agreement settle the mode of application of paragraph 2.

4. The term "royalties" as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph and television films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, agricultural, industrial, commercial, or scientific equipment, or for information concerning agricultural, industrial, commercial or scientific experience, or payment for economic or technical studies.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of one of the States, has in the other State in which the royalties arise a permanent establishment with which the right or property in respect of which the royalties are paid is effectively connected. In such case the provisions of article 7 shall apply.

6. Royalties shall be deemed to arise in one of the States when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties whether he is a resident of one of the States or not, has in either State a permanent establishment in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties 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 beneficial owner 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 such case, the excess part of the payments shall remain taxable according to the laws of each State, due regard being had to the other provisions of this Convention.

Article 13. LIMITATION OF ARTICLES 10, 11 AND 12

International organizations, organs and officials thereof and members of a diplomatic or consular mission of a third State, being present in one of the States, are not entitled, in the other State, to the reductions or exemptions from tax provided for

in articles 10, 11 and 12 in respect of the dividends, interest and royalties arising in that other State, if such income is not subject to a tax on income in the first-mentioned State.

Article 14. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, may be taxed in the 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 one of the States has in the other State or of movable property pertaining to a fixed base available to a resident of one of the States in the other State for the purpose of performing professional services, including such gains from the total 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. Notwithstanding the provisions of paragraph 2, gains from the alienation of ships and aircraft operated in international traffic or of movable property, pertaining to the operation of such ships and aircraft, shall be taxable only in the State in which the place of effective management of the enterprise is situated. For the purposes of this paragraph the provisions of paragraph 2 of article 8 shall apply.

4. Gains from the alienation of any property other than those mentioned in the preceding paragraphs shall be taxable only in the State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of each of the States to levy according to its own law a tax on gains from the alienation of shares or *jouissance* rights in a company which is a resident of that State and all or part of the capital of which is in the form of shares derived by an individual who is a resident of the other State but has been a resident of the first-mentioned State in the course of the last five years preceding the alienation of the shares or *jouissance* rights.

Article 15. INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of one of the States in respect of professional services or other independent activities of a similar character shall be taxable only in that State except in the following circumstances, when such income may be taxed in the other State:

(*a*) If he has a fixed base regularly available to him in the other State for the purpose of performing his activities; in that case, only so much of the income as is attributable to that fixed base may be taxed in that other State; or

(*b*) If he carries on his activities in the other State for a period or periods—including the duration of normal work interruptions—exceeding in the aggregate 183 days in the calendar year.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 16. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 17, 19 and 20, salaries, wages and other similar remuneration derived by a resident of one of the States in respect of an employment shall be taxable only in that State unless the employment is exercised in

the other 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 one of the States in respect of an employment exercised in the other 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 State in which the place of effective management of the enterprise is situated.

Article 17. ADMINISTRATORS, DIRECTORS ("BESTUURDERS") AND COMMISSIONERS ("COMMISSARISSEN") OF COMPANIES

1. Directors' fees and similar payments derived by a resident of the Netherlands in his capacity as a member of the board of directors of a joint-stock company or a limited liability company which is a resident of Morocco may be taxed in Morocco.

2. Directors' fees and similar payments derived by a resident of Morocco in his capacity as a commissioner (*commissaris*) or director (*bestuurder*) of a limited liability company which is a resident of the Netherlands may be taxed in the Netherlands.

3. Notwithstanding the provisions of paragraphs 1 and 2, where the aforementioned payments are received by persons carrying out specific permanent responsibilities in a permanent establishment situated in a State other than the one of which the company is a resident and are borne as such by the permanent establishment, they may be taxed in the State in which the permanent establishment is situated.

Article 18. ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of articles 15 and 16, 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 State in which these activities are exercised.

The above rule shall also apply to income derived by persons who promote or organize the activities mentioned above.

2. The provisions of paragraph 1 shall not apply to income from activities carried on in one of the States by non-profit organizations of the other State or by members of the staff of such organizations unless such staff members are acting on their own account.

Article 19. PENSIONS

1. Private pensions and other similar remuneration paid to a resident of one of the States in consideration of past paid employment shall be taxable only in that State.

2. Public pensions and other similar remuneration paid to a resident of one of the States in consideration of past paid employment shall be taxable in both States.

Article 20. GOVERNMENT SERVICE

1. Subject to the provisions of article 19, paragraph 2, remuneration paid by one of the States or by a political subdivision, local authority or statutory body thereof, to an individual who is a resident of the other State in respect of services rendered shall be taxable in the first State. However, this provision shall not apply when such remuneration is paid to the nationals of the other State. In such case the remuneration received shall be taxable only in the State of which the recipient is a resident.

2. The provisions of articles 16 and 17 shall apply to remuneration in respect of services rendered in connection with a business carried on by one of the States or by a political subdivision, local authority or statutory body thereof.

Article 21. STUDENTS

An individual who was a resident of one of the States immediately before arriving in the other State and is temporarily present in that other State solely as a student at a university or other educational institution or as an apprentice shall, from the date of his first arrival in that other State in connection with that stay, be exempt from tax in that other State:

(*a*) On remittances from abroad for purposes of his maintenance, education or training; and

(*b*) For a period not exceeding five years, on any remuneration not exceeding 4,000 guilders, or the equivalent in dirhams, for each calendar year for personal services rendered in that other State with a view to supplementing the resources available to him for such purposes.

Article 22. OTHER INCOME

Items of income of a resident of one of the States to which the foregoing articles of this Convention do not apply shall be taxable only in that State.

CHAPTER IV. TAXATION OF CAPITAL

Article 23

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

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

3. Ships and aircraft operated in international traffic, and movable property pertaining to their operation, shall be taxable only in the State in which the place of effective management of the enterprise is situated, in accordance with the provisions of article 8, paragraph 2.

4. All other elements of capital of a resident of one of the States shall be taxable only in that State.

CHAPTER V. PROVISIONS FOR THE ELIMINATION OF DOUBLE TAXATION

Article 24

A. 1. The Netherlands, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income or capital which, according to the provisions of this Convention, may be taxed in Morocco.

2. Subject to the application of the provisions concerning the compensation of losses in the internal regulations for the avoidance of double taxation, the Netherlands shall allow a deduction from the amount of tax computed in conformity with paragraph 1 equal to such part of that tax which bears the same proportion to the aforesaid tax as the part of the income or capital which is included in the basis referred to in paragraph 1 and may be taxed in Morocco according to articles 6 and 7, article 10, paragraph 6, article 11, paragraph 5, article 12, paragraph 5, article 14, paragraphs 1 and 2, article 15, article 16, paragraph 1, article 17, paragraph 1, articles 18 and 20 and article 23, paragraphs 1 and 2, of this Convention bears to the total income or capital which forms the basis referred to in paragraph 1.

3. For the items of income which may be taxed in Morocco according to article 10, paragraph 2, article 11, paragraph 2, article 12, paragraph 2, and article 16, paragraph 3, and are included in the basis referred to in paragraph 1, the Netherlands shall allow a deduction from the tax thus computed of the lesser of the following amounts:

(*a*) The amount equal to the Morocco tax;

(*b*) The amount of the Netherlands tax which bears the same proportion to the amount of tax computed in conformity with paragraph 1 as the amount of the said items of income bears to the amount of income which forms the basis referred to in paragraph 1.

B. 1. Morocco, when imposing tax on its residents, may include in the basis upon which such taxes are imposed the items of income or capital which, according to the provisions of this Convention, may be taxed in the Netherlands.

2. Subject to the application of the provisions concerning the compensation of losses in the internal regulations for the avoidance of double taxation, Morocco shall allow a deduction from the amount of tax computed in conformity with paragraph 1, equal to such part of that tax which bears the same proportion to the aforesaid tax, as the part of the incone or capital which is included in the basis referred to in paragraph 1 and may be taxed in the Netherlands according to articles 6 and 7, article 10, paragraph 6, article 11, paragraph 5, article 12, paragraph 5, article 14, paragraphs 1 and 2, article 15, article 16, paragraph 1, article 17, paragraph 2, articles 18 and 20 and article 23, paragraphs 1 and 2, of this Convention bears to the total income or capital which forms the basis referred to in paragraph 1.

3. For the items of income which may be taxed in the Netherlands according to article 10, paragraph 2, article 11, paragraph 2, article 12, paragraph 2, and article 16, paragraph 3, and are included in the basis referred to in paragraph 1, Morocco shall allow a deduction from the tax thus calculated of the lesser of the following amounts:

(*a*) The amount equal to the Netherlands tax;

(*b*) The amount equal to the amount of Morocco tax which bears the same proportion to the amount of tax computed in conformity with paragraph 1, as the

amount of the said items of income bears to the amount of income which forms the basis referred to in paragraph 1.

C. Where gains which may be taxed in one of the States in accordance with article 14, paragraph 5, are received by a resident of the other State, the first State shall allow a deduction from its tax on such gains to an amount equal to the tax levied in the other State on the said gains.

CHAPTER VI. SPECIAL PROVISIONS

Article 25. NON-DISCRIMINATION

1. Nationals of one of the States shall not be subjected in the other State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation 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 one of the States has in the other 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 either State to grant to residents of the other State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities or other considerations of a personal nature which it grants to its own residents.

3. Enterprises of one of the States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other 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 to which other similar enterprises of the first-mentioned State are or may be subjected.

4. The term "taxation" means, in this article, taxes of every kind and description.

Article 26. MUTUAL AGREEMENT PROCEDURE

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

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arise at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other State, with a view to the avoidance of taxation which is not in accordance with this Convention.

3. The competent authorities of the 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 States may communicate with each other directly for the purposes of reaching an agreement in the sense of the preceding paragraphs.

Article 27. EXCHANGE OF INFORMATION

1. The competent authorities of the two States shall exchange such information as is necessary for carrying out this Convention and, in particular, for preventing fraud. Any information so exchanged shall be treated as secret and shall be disclosed only to persons or authorities involved in the assessment or collection of the taxes which are the subject of this Convention and the determination of claims and appeals in relation thereto.

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

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

3. The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent authorities may agree on the list of information which shall be furnished on a routine basis.

Article 28. DIPLOMATIC AND CONSULAR OFFICERS

1. 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.

2. For the purposes of this Convention, an individual who is a member of the diplomatic or consular corps of one of the States in the other State or in a third State and who is a national of the sending State shall be considered a resident of the sending State if he is subject in that State to the same obligations with respect to taxation on income and capital as the residents of the said State.

Article 29. TERRITORIAL EXTENSION

1. This Convention may be extended, either in its entirety or with any necessary modifications, to the Netherlands Antilles, if that country imposes taxes substantially similar to those to which this Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed in notes to be exchanged through the diplomatic channel.

2. Unless otherwise agreed, where the Convention is terminated, it shall not cease to apply to the country to which it was extended in accordance with this article.

CHAPTER VII. FINAL PROVISIONS

Article 30. ENTRY INTO FORCE

This Convention shall enter into force on the date on which the two Governments notify each other that the constitutional formalities required in their respective countries have been completed, and its provisions shall be applicable:

1. In respect of taxes due at the source: to income payable or paid on the first day of the month following the month in which the Convention enters into force;

2. In respect of other taxes: to fiscal years and periods beginning on 1 January of the year in which the Convention enters into force.

Article 31. TERMINATION

This Convention shall remain in force indefinitely; however, each State may, up to 30 June in any calendar year at any time five years from the date on which this Convention enters into force, terminate the Convention by giving written notice through diplomatic channels to the other State. In the event of a termination before 1 July in any such year, the Convention will continue to apply for the last time:

1. In respect of taxes due at the source: to income payable or paid not later than 31 December of the year in which such termination occurs;
2. In respect of other taxes: to fiscal years and periods ending not later than 31 December of the year in which such termination occurs.

IN WITNESS WHEREOF, the undersigned, duly authorized for this purpose, have signed this Convention.

DONE at Rabat on 12 August 1977, in duplicate in the Dutch, Arabic and French languages, the three texts being equally authentic. In the event of a dispute regarding the interpretation of the Dutch and Arabic texts, the French text shall prevail.

For the Government of the Kingdom of the Netherlands:

[*Signed*]

JAN STRENGERS
Ambassador of the Kingdom of the Netherlands

For the Government of the Kingdom Morocco:

[*Signed*]

ABDELKADER BENSLIMANE
Minister of Finance

PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation with respect to taxes on income and capital, concluded today between the Government of the Kingdom of the Netherlands and the Government of the Kingdom of Morocco, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

I. Ad *article 4*

An individual living aboard a ship without having a permanent home in either of the States shall be deemed to be a resident of the State in which the ship has its home harbour.

II. Ad *article 7*

Interest, royalties and other payments payable by a company in one of the States to an enterprise in the other State shall be allowed as deductions when calculating the profits of the first enterprise. However, where by reason of a special relationship between the two enterprises or between the two enterprises and some other person, the amount of the interest, royalties and other payments due exceeds the amount which would have been agreed upon in the absence of such a relationship, the preceding sentence shall apply only to the excess amount.

III. Ad *articles 10, 11 and 12*

Applications for the repayment of tax levied contrary to the provisions of articles 10, 11 and 12 have to be lodged with the competent authority of the State which has levied the tax within a period of three years after the expiration of the calendar year in which the tax has been levied.

IV. Ad *article 24*

It is understood that, insofar as the Netherlands income tax or company tax is concerned, the basis referred to in article 24, paragraph 1, is the "*onzuivere inkomen*" (the total net income) or "*winst*" (profit) in terms of the Netherlands legislation on income tax or company tax, respectively.

V. Ad *article 27*

The obligation to exchange information does not include information obtained from banks or from institutions assimilated therewith. The term "institutions assimilated therewith" means, *inter alia*, insurance companies.

IN WITNESS WHEREOF the undersigned have signed this Protocol.

DONE at Rabat on 12 August 1977, in duplicate in the Dutch, Arabic and French languages, the three texts being equally authentic. In the event of a dispute regarding the interpretation of the Dutch and Arabic texts, the French text shall prevail.

For the Governnent of the Kingdom of the Netherlands:

[*Signed*]

JAN STRENGERS

Ambassador of the Kingdom of the Netherlands

For the Government of the Kingdom of Morocco:

[*Signed*]

ABDELKADER BENSLIMANE

Minister of Finance