

No. 26514

**UNITED STATES OF AMERICA
and
EGYPT**

**Convention for the avoidance of double taxation and the
prevention of fiscal evasion with respect to taxes on
income. Signed at Cairo on 24 August 1980**

Authentic text: English.

Registered by the United States of America on 27 April 1989.

**ÉTATS-UNIS D'AMÉRIQUE
et
ÉGYPTE**

**Convention tendant à éviter la double imposition et à
prévenir l'évasion fiscale en matière d'impôts sur le
revenu. Signée au Caire le 24 août 1980**

Texte authentique : anglais.

Enregistrée par les États-Unis d'Amérique le 27 avril 1989.

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA AND THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the United States of America and the Government of the Arab Republic of Egypt, desiring to conclude a convention for the avoidance of double taxation of income, the prevention of fiscal evasion with respect to taxes on income, and the elimination of obstacles to international trade and investment;

Have agreed as follows:

Article 1. TAXES COVERED

(1) The taxes which are the subject of this Convention are:

(a) In the case of the United States, the Federal income taxes imposed by the Internal Revenue Code but excluding the accumulated earnings tax and the personal holding company tax, and

(b) In the case of Egypt:

- (i) Tax on income derived from immovable property (including the land tax, the building tax, and the *ghaffir* tax);
- (ii) Tax on income from movable capital;
- (iii) Tax on commercial and industrial profits;
- (iv) Tax on wages, salaries, indemnities, and pensions;
- (v) Tax on profits from liberal professions and all other noncommercial professions;
- (vi) General income tax;
- (vii) Defense tax;
- (viii) National security tax;
- (ix) War tax; and
- (x) Supplementary taxes imposed as a percentage of taxes mentioned above.

(2) This Convention shall also apply to taxes substantially similar to those covered by paragraph (1) which are imposed in addition to, or in place of, existing taxes after the date of signature of this Convention.

(3) For the purpose of Article 26 (Nondiscrimination), this Convention shall also apply to taxes of every kind imposed at the national, state, or local level. For the purpose of Article 28 (Exchange of Information), this Convention shall also apply to taxes of every kind imposed at the national level.

(4) The competent authorities of the Contracting States shall notify each other promptly of any amendments of the tax laws referred to in paragraph (1) and

¹ Came into force on 31 December 1981, i.e., 30 days after the date of the exchange of the instruments of ratification, which took place at Washington on 1 December 1981, in accordance with article 31.

of the adoption of any taxes referred to in paragraph (2) by transmitting the texts of any amendments or new statutes.

(5) The competent authorities of the Contracting States shall notify each other promptly of the publication by their respective Contracting States of any material concerning the application of this Convention, whether in the form of regulations, rulings, or judicial decisions, by transmitting the texts of any such materials.

Article 2. GENERAL DEFINITIONS

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

(a) (i) The term “United States” means the United States of America; and

(ii) When used in a geographical sense, the term “United States” means the states thereof and the District of Columbia. Such term also includes:

(A) The territorial sea thereof, and

(B) The seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which the United States exercises sovereign rights, in accordance with international law, for the purpose of exploration for and exploitation of the natural resources of such areas, but only to the extent that the person, property, or activity to which the Convention is being applied is connected with such exploration or exploitation.

(b) (i) The term “Egypt” means the Arab Republic of Egypt; and

(ii) When used in a geographical sense the term “Egypt” includes:

(A) The territorial sea thereof, and

(B) The seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which Egypt exercises sovereign rights, in accordance with international law, for the purpose of exploration for and exploitation of the natural resources of such area, but only to the extent that the person, property, or activity to which this Convention is being applied is connected with such exploration or exploitation.

(c) The term “Contracting State” means the United States or Egypt, as the context requires.

(d) The term “State” means any national State, whether or not one of the Contracting States.

(e) The term “person” includes an individual, a partnership, a corporation, an estate, or a trust.

(f) (i) The term “United States corporation” means a corporation (or any unincorporated entity treated as a corporation for United States tax purposes) which is created or organized under the laws of the United States or any state thereof or the District of Columbia; and

(ii) The term “Egyptian corporation” means a corporation or any unincorporated entity treated as a corporation for Egyptian tax purposes which is created or organized under the laws of Egypt.

(g) The term “competent authority” means:

(i) In the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) In the case of Egypt, the Minister of Finance or his delegate.

(h) The term "tax" means tax imposed by the United States or Egypt whichever is applicable, to which this Convention applies by virtue of Article 1 (Taxes Covered).

(i) The term "international traffic" means any voyage of a ship or aircraft operated by a resident of one of the Contracting States except where such voyage is confined solely to places within a Contracting State.

(2) Any other term used in this Convention and not defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the laws of the Contracting State whose tax is being determined. Notwithstanding the preceding sentence, if the meaning of such a term under the laws of one of the Contracting States is different from the meaning of the term under the laws of the other Contracting State, or if the meaning of such a term is not readily determinable under the laws of one of the Contracting States, the competent authorities of the Contracting States may, in order to prevent double taxation or to further any other purpose of this Convention, establish a common meaning of the term for the purposes of this Convention.

Article 3. FISCAL RESIDENCE

(1) In this Convention:

(a) The term "resident of Egypt" means:

- (i) An Egyptian corporation, and
- (ii) Any other person (except a corporation or an entity treated under Egyptian law as a corporation) resident in Egypt for purposes of Egyptian tax, but in the case of a partnership, estate, or trust only to the extent that the income derived by such partnership, estate, or trust is subject to Egyptian tax as the income of a resident either in the hands of the respective entity or of its partners or beneficiaries.

(b) The term "resident of the United States" means:

- (i) A United States corporation, and
- (ii) Any other person (except a corporation or any entity treated as a corporation for United States tax purposes) resident in the United States for purposes of United States tax, but in the case of a partnership, estate, or trust only to the extent that the income derived by such partnership, estate, or trust is subject to United States tax as the income of a resident either in the hands of the respective entity or of its partners or beneficiaries.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then his residence shall be determined in accordance with the following rules:

(a) He shall be deemed to be a resident of that Contracting State in which he maintains his permanent home. If he has a permanent home in both Contracting States or in neither of the Contracting States, he shall be deemed to be a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests);

(b) If the Contracting State in which he has his center of vital interests cannot be determined, he shall be deemed to be a resident of that Contracting State in which he has an habitual abode;

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

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

Article 4. SOURCE OF INCOME

For purposes of this Convention:

(1) Dividends shall be treated as income from sources within a Contracting State only if paid by a corporation of that Contracting State. Notwithstanding the preceding sentence, a dividend shall be treated as from sources within:

- (a) Egypt if paid by a United States corporation whose activities lie solely or mainly in Egypt and to which paragraph (5) of Article 11 (Dividends) applies.
- (b) The United States if paid by a corporation other than a United States corporation if, for the 3-year period ending with the close of such corporation's taxable year preceding the declaration of the dividend (or for such part of that period as such corporation has been in existence), at least 50 percent of such corporation's gross income from all sources was industrial or commercial profits attributable to a permanent establishment which such corporation had in the United States.

(2) Interest shall be treated as income from sources within a Contracting State only if paid by such Contracting State, a political subdivision or a local authority thereof, or by a resident of that Contracting State. Notwithstanding the preceding sentence, if such interest is paid on an indebtedness incurred in connection with a permanent establishment which bears such interest, then such interest shall be deemed to be from sources within the State (whether or not a Contracting State) in which the permanent establishment is situated.

(3) Royalties described in paragraph (2) of Article 13 (Royalties) for the use of, or the right to use, property or rights described in such paragraph shall be treated as income from sources within a Contracting State only to the extent that such royalties are for the use of, or the right to use, such property or rights within that Contracting State.

(4) Income from real property (including royalties), described in Article 7 (Income from Real Property) shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State.

(5) Income from the rental of tangible personal (movable) property shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State.

(6) Income from the purchase and sale or exchange of intangible or tangible personal property (other than gains defined as royalties by paragraph (2) of Article 13 (Royalties)) shall be treated as income from sources within a Contracting State only if such sale or exchange is within that Contracting State.

(7) Income received by an individual for his performance of labor or personal services whether as an employee or in an independent capacity, shall be treated as income from sources within a Contracting State only to the extent that such services are performed in that Contracting State. Income from personal ser-

vices performed aboard ships or aircraft operated by a resident of one of the Contracting States in international traffic shall be treated as income from sources within that Contracting State if rendered by a member of the regular complement of the ship or aircraft. Notwithstanding the preceding provisions of this paragraph, remuneration described in Article 21 (Governmental Functions) and payments described in Article 20 (Social Security Payments) paid from the public funds of a Contracting State or a political subdivision or local authority thereof shall be treated as income from sources within that Contracting State only.

(8) Notwithstanding paragraphs (1) through (6), industrial or commercial profits which are attributable to a permanent establishment which the recipient, a resident of one of the Contracting States, has in the other Contracting State shall be treated as income from sources within that other Contracting State. Industrial or commercial profits attributable to such permanent establishment include any item of income described in paragraphs (1) through (6) to the extent provided in paragraph (6) of Article 8 (Business Profits).

(9) The source of any item of income to which paragraphs (1) through (8) are not applicable shall be determined by each of the Contracting States in accordance with its own law. Notwithstanding the preceding sentence, if the source of any item of income under the laws of one Contracting State is different from the source of such item of income under the laws of the other Contracting State or if the source of such income is not readily determinable under the laws of one of the Contracting States, the competent authorities of the Contracting States may, in order to prevent double taxation or further any other purpose of this Convention, establish a common source of the item of income for purposes of this Convention.

Article 5. PERMANENT ESTABLISHMENT

(1) For the purpose of this Convention, the term “permanent establishment” means a fixed place of business through which a resident of one of the Contracting States engages in industrial or commercial activity.

(2) The term “permanent establishment” includes but is not limited to:

- (a) A seat 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; and
- (g) The maintenance of a building site or construction or installation project which exists for more than 6 months.

(3) Notwithstanding paragraphs (1) and (2), a permanent establishment shall not include a fixed place of business used only for one or more of the following:

- (a) The use of facilities for the purpose of storage, display, or delivery of goods or merchandise belonging to the resident;
- (b) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of storage, display, or delivery;
- (c) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of processing by another person;

- (d) The maintenance of a fixed place of business for the purpose of purchasing goods or merchandise, or for collecting information, for the resident;
- (e) The maintenance of a fixed place of business for the purpose of advertising, for the supply of information, for scientific research, or for similar activities which have a preparatory or auxiliary character, for the resident; and
- (f) The maintenance of a building site or construction or installation project which does not exist for more than 6 months.

(4) A person acting in one of the Contracting States on behalf of a resident of the other Contracting State, other than an agent of an independent status to whom paragraph (5) applies, shall be deemed to give rise to a permanent establishment in the first-mentioned Contracting State if such person has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts in the name of that resident, unless the exercise of such authority is limited to the purchase of goods or merchandise for that resident.

(5) A resident of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident engages in industrial or commercial activity in that other Contracting State through a broker, general commission agent, or any other agent of an independent status, where such broker or agent is acting in the ordinary course of his business.

(6) A resident of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident sells at the termination of a trade fair or convention in such other Contracting State goods or merchandise which such resident displayed at such trade fair or convention.

(7) In determining whether a resident of one Contracting State has a permanent establishment in the other Contracting State there shall not be taken into account the fact that such resident may be related to either a resident of the other Contracting State or to any other person who engages in business in that other Contracting State.

(8) The principles set forth in paragraphs (1) through (7) shall be applied in determining for purposes of this Convention whether there is a permanent establishment in a State other than one of the Contracting States or whether a person other than a resident of one of the Contracting States has a permanent establishment in one of the Contracting States.

Article 6. GENERAL RULES OF TAXATION

(1) A resident of one of the Contracting States may be taxed by the other Contracting State on any income from sources within that other Contracting State and only on such income, subject to any limitations set forth in this Convention. For this purpose, the rules set forth in Article 4 (Source of Income) shall be applied to determine the source of income.

(2) The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded:

- (a) By the laws of one of the Contracting States in determination of the tax imposed by that Contracting State, or
- (b) By any other agreement between the Contracting States.

(3) Notwithstanding any provisions of this Convention except paragraph (4), a Contracting State may tax its residents (as determined under Article 3 (Fiscal Residence)) and its citizens as if this Convention had not come into effect.

(4) The provisions of paragraph (3) shall not affect:

- (a) The benefits conferred by a Contracting State under paragraph 3 of Article 19 (Private Pensions and Annuities) and under Articles 20 (Social Security Payments), 25 (Relief from Double Taxation), 26 (Nondiscrimination), and 27 (Mutual Agreement Procedure); and
- (b) The benefits conferred by a Contracting State under Articles 21 (Governmental Functions), 22 (Teachers), 23 (Students and Trainees), and 30 (Diplomatic and Consular Officers) upon individuals who are neither citizens of, nor have immigrant status in, that Contracting State.

(5) The competent authorities of the two Contracting States may each prescribe regulations necessary to carry out the provisions of this Convention.

Article 7. INCOME FROM REAL PROPERTY

(1) Income from real property, including royalties and other payments in respect of the exploitation of natural resources and gains derived from the sale, exchange, or other disposition of such property or of the right giving rise to such royalties or other payments, may be taxed by the Contracting State in which such real property or natural resources are situated. For purposes of this Convention, interest on indebtedness secured by real property or secured by a right giving rise to royalties or other payments in respect of the exploitation of natural resources shall be regarded as income from real property.

(2) Paragraph (1) shall apply to income derived from the usufruct, direct use, letting, or use in any other form of real property.

(3) For purposes of paragraph (1) of this Article and paragraph (4) of Article 4 (Source of Income), gains from the alienation of shares of a corporation or of an interest in a partnership, estate, or trust, the property of which consists, directly or indirectly, principally of real property situated in a Contracting State, shall be regarded as income from real property.

(4) Income or gain referred to in this Article derived from sources in a Contracting State by a resident of the other Contracting State may be taxed by both Contracting States.

Article 8. BUSINESS PROFITS

(1) Industrial or commercial profits of a resident of one of the Contracting States shall be exempt from tax by the other Contracting State unless the resident has a permanent establishment in that other Contracting State. If the resident has a permanent establishment in that other Contracting State, tax may be imposed by that other Contracting State on the industrial or commercial profits of the resident but only on so much of them as are attributable to the permanent establishment.

(2) Where a resident of one of the Contracting States has a permanent establishment in the other Contracting State, there shall in each Contracting State be attributed to the permanent establishment the industrial or commercial profits which would reasonably be expected to have been derived by it if it were an independent entity engaged in the same or similar activities under the same or similar

conditions and dealing wholly independently with the resident of which it is a permanent establishment.

(3) In the determination of the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions expenses which are reasonably connected with such profits, including executive and general administrative expenses whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) No profits shall be attributed to a permanent establishment of a resident of one of the Contracting States in the other Contracting State merely by reason of the purchase of goods or merchandise by that permanent establishment, or by the resident of which it is a permanent establishment, for the account of that resident.

(5) The term "industrial or commercial profits" includes, but is not limited to, income derived from manufacturing, mercantile, banking, insurance, agricultural, fishing or mining activities, the operation of ships or aircraft, the furnishing of services, the rental of tangible personal (movable) property, and the rental or licensing of motion picture films or films or tapes used for radio or television broadcasting. Such term does not include the performance of personal services by an individual either as an employee or in an independent capacity.

(6) For purposes of paragraph (1), industrial or commercial profits which are attributable to a permanent establishment include income from dividends, interest, royalties (as defined in paragraph (2) of Article 13 (Royalties)), and capital gains and income derived from property and natural resources, but only if such income is effectively connected with the permanent establishment. To determine whether income is effectively connected with a permanent establishment, the factors taken into account shall include whether the rights or property giving rise to such income are used in or held for use in carrying on an activity giving rise to industrial or commercial profits through such permanent establishment and whether the activities carried on through such permanent establishment were a material factor in the realization of such income. For this purpose, due regard shall be given to whether or not such property or rights or such income were accounted for through such permanent establishment.

(7) Where industrial or commercial profits include items of income which are dealt with separately in other articles of this Convention, the provisions of those articles shall, except as otherwise provided therein, supersede the provisions of this Article.

Article 9. SHIPPING AND AIR TRANSPORT

(1) Notwithstanding Article 8 (Business Profits), profits derived by a resident of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that Contracting State.

(2) For purposes of this Article, income derived from the operation in international traffic of ships or aircraft does not include dividends received by a person by virtue of an ownership interest in a corporation engaged in the operation of ships or aircraft in international traffic, and includes:

(a) Income derived from the rental of ships or aircraft operated in international traffic if such rental income is incidental to other income described in paragraph (1); and

(b) Income derived from the use, maintenance, and lease of:

- (i) Containers,
- (ii) Trailers for the inland transport of containers, and
- (iii) Other related equipment

in connection with the operation by the resident in international traffic of ships or aircraft described in paragraph (1).

(3) The existing exemption of United States air transport enterprises afforded by Decree of the Egyptian Council of Ministers shall cease to have effect upon the entry into force of this Convention.

Article 10. RELATED PERSONS

(1) Where a person subject to the taxing jurisdiction of one of the Contracting States and any other person are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, any income, deductions, credits, or allowances which would, but for those arrangements or conditions, have been taken into account in computing the income (or loss) of, or the tax payable by, one of such persons, may be taken into account in computing the amount of the income subject to tax and the taxes payable by such person.

(2) Where a redetermination has been made by one Contracting State of the income of one of its residents in accordance with paragraph (1), then the other Contracting State shall, if it agrees with such redetermination and if necessary to prevent double taxation, make a corresponding adjustment to the income of a person in such other Contracting State related to such resident. In the event the other Contracting State disagrees with such redetermination, the two Contracting States shall endeavor to reach agreement in accordance with the mutual agreement procedure in paragraph (2) of Article 27 (Mutual Agreement Procedure).

(3) For purposes of this Convention, a person is related to another person if either person owns or controls directly or indirectly the other, or if any third person or persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable.

Article 11. DIVIDENDS

(1) Dividends derived from sources within one of the Contracting States by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by the United States on dividends paid by a United States corporation to a resident of Egypt shall not exceed:

- (a) 15 percent of the gross amount of the dividend; or
- (b) When the recipient is a corporation, 5 percent of the gross amount of the dividend if:
 - (i) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least 10 percent of the outstanding shares of the

voting stock of the paying corporation was owned by the recipient corporation, and

- (ii) Not more than 25 percent of the gross income of the paying corporation for such prior taxable year (if any) consists of interest or dividends (other than interest derived from the conduct of a banking, insurance, or financing business and dividends or interest received from subsidiary corporations, 50 percent or more of the outstanding shares of the voting stock of which is owned by the paying corporation at the time such dividends or interest is received).

(3) Dividends paid by an Egyptian corporation to a resident of the United States shall in Egypt be subject (a) to the tax on income derived from movable capital, the defense tax, national security tax, war tax, the supplementary taxes on the foregoing, and substantially similar taxes enacted after the date of signature of this Convention (which taxes shall be deducted at source), provided that such dividends, if distributed out of the taxable profits of the same taxable year and not out of accumulated reserves or assets, shall be allowed as a deduction from the amount of the company's taxable income or profits subject to tax as industrial or commercial profits, and (b) when paid to a natural person, to the general income tax levied on net total income. However, the general income tax thus imposed shall in no case exceed an average of 20 percent of the net dividends payable to such natural person. The dividends payable to a United States corporation shall not be subject to any taxes other than those described in subparagraph (a).

(4) Paragraphs (2) and (3) shall not apply if such dividends are treated, under paragraph (6) of Article 8 (Business Profits), as industrial or commercial profits attributable to a permanent establishment which the recipient, a resident of one Contracting State, has in the other Contracting State. In such case the provisions of Article 8 shall apply.

(5) Dividends paid by a United States corporation whose activities lie solely or mainly in Egypt shall in Egypt be treated in the manner provided by paragraph (3).

(6) Dividends deemed to be paid, according to the provisions of Egyptian taxation law, out of yearly profits by a permanent establishment maintained in Egypt by a United States corporation whose activities extend to countries other than Egypt shall in Egypt be treated in the manner provided by paragraph (3).

(7) 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 corporation making the distribution is a resident.

Article 12. INTEREST

(1) Interest derived by a resident of one of the Contracting States from sources within the other Contracting State may be taxed by both Contracting States.

(2) Interest derived by a resident of one of the Contracting States from sources within the other Contracting State shall not be taxed by the other Contracting State at a rate in excess of 15 percent of the gross amount of such interest.

(3) Notwithstanding paragraphs (1) and (2), interest beneficially derived by (a) one of the Contracting States, or by an instrumentality of that Contracting State, not subject to tax by that Contracting State on its income, or (b) a resident of such Contracting State with respect to loans made, guaranteed, or insured by that Contracting State or an instrumentality thereof, shall be exempt from tax by the other Contracting State.

(4) Interest paid by a resident of one of the Contracting States to a person other than a resident of the other Contracting State (and in the case of interest paid by a resident of Egypt to a person other than a citizen of the United States) shall be exempt from tax by the other Contracting State unless such interest is treated as income from sources within the other Contracting State under paragraph (2) of Article 4 (Source of Income).

(5) Paragraphs (2), (3), and (4) shall not apply if the interest is treated, under paragraph (6) of Article 8 (Business Profits) as industrial or commercial profits attributable to a permanent establishment which the recipient, a resident of one Contracting State, has in the other Contracting State. In such a case, the provisions of Article 8 shall apply.

(6) Where an amount is paid to a related person and would be treated as interest but for the fact that it exceeds an amount which would have been paid to an unrelated person, the provisions of this Article shall apply only to so much of the amount as would have been paid to an unrelated person. In such a case the excess amount may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

(7) The term "interest" as used in this Convention means income from money lent and other income which under the taxation law of the Contracting State in which the income has its source is assimilated to income from money lent, but does not include interest on indebtedness secured by mortgages on real estate or other amounts considered income from real property under Article 7 (Income from Real Property).

Article 13. ROYALTIES

(1) Royalties derived by a resident of one of the Contracting States from sources within the other Contracting State may be taxed by both Contracting States. However, royalties shall not be taxed by the other Contracting State at a rate in excess of 15 percent of the gross amount of such royalty.

(2) For purposes of this Article the term "royalties" means:

- (a) Payments of any kind made as consideration for the use of, or the right to use, copyrights of literary, artistic, or scientific works, but not including copyrights of motion picture films or films or tapes used for radio or television broadcasting which are industrial and commercial profits within the meaning of paragraph (5) of Article 8 (Business Profits), and patents, designs, models, plans, secret processes or formulae, trademarks, or other like property or rights; and
- (b) Gains derived from the sale, exchange, or other disposition of any such property or rights to the extent that the amounts realized on such sale, exchange, or other disposition for consideration are contingent on the productivity, use or disposition of such property or rights.

(3) Paragraph (1) shall not apply if the recipient of the royalty, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment and the property or rights giving rise to the royalty is effectively connected with such permanent establishment. In such a case, the provisions of Article 8 (Business Profits) shall apply.

(4) The provisions of this Article shall not apply to dividends on founders' shares issued in Egypt as consideration for the rights mentioned in paragraph (2) of this Article and which are taxed in accordance with the provisions of Article 1 of Law No. 14 of 1939. In such a case, the provisions of Article 11 (Dividends) shall apply.

(5) Where an amount is paid to a related person and would be treated as a royalty but for the fact that it exceeds an amount which would have been paid to an unrelated person, the provisions of this Article shall apply only to so much of the amount as would have been paid to an unrelated person. In such a case, the excess amount may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

Article 14. CAPITAL GAINS

(1) A resident of one of the Contracting States shall be exempt from tax by the other Contracting State on gains from the sale, exchange, or other disposition of capital assets unless:

- (a) The gain is derived by a resident of one of the Contracting States from the sale, exchange, or other disposition of property described in Article 7 (Income from Real Property) situated within the other Contracting State,
- (b) The gain arises out of a sale, exchange, or other disposition described in paragraph (2)(b) of Article 13 (Royalties),
- (c) The gain is treated, under paragraph (6) of Article 8 (Business Profits), as industrial or commercial profits attributable to a permanent establishment which the recipient has in such other Contracting State, or
- (d) The recipient of the gain, being an individual who is a resident of one of the Contracting States is present in the other Contracting State for a period or periods aggregating 183 days or more during the taxable year.

(2) In the case of gains described in paragraph (1)(a), the provisions of Article 7 (Income from Real Property) shall apply. In the case of gains described in paragraph (1)(b), the provisions of Article 13 (Royalties) shall apply. In the case of gains described in paragraph (1)(c), the provisions of Article 8 (Business Profits) shall apply.

Article 15. INDEPENDENT PERSONAL SERVICES

(1) Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity may be taxed by that Contracting State. Except as provided in paragraph (2), such income shall be exempt from tax by the other Contracting State.

(2) Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity in the other Contracting State may be taxed by that other Contracting State, if the individual is present in that other Contracting State for a period or periods aggregating 90 days or more in the taxable year.

(3) The term “personal services in an independent capacity” includes, but is not limited to, scientific, literary, artistic, educational or teaching activities, as well as independent activities of physicians, lawyers, engineers, architects, dentists, and accountants.

Article 16. DEPENDENT PERSONAL SERVICES

(1) Except as provided in Articles 21 (Governmental Functions), 22 (Teachers), and 23 (Students and Trainees), wages, salaries, and similar remuneration derived by an individual who is a resident of one of the Contracting States from labor or personal services performed as an employee, including income from services performed by an officer of a corporation or company, may be taxed by that Contracting State. Except as provided by paragraph (2) and in Articles 19 (Private Pensions and Annuities), 21 (Governmental Functions), 22 (Teachers), and 23 (Students and Trainees), such remuneration derived from sources within the other Contracting State may also be taxed by that other Contracting State.

(2) Remuneration described in paragraph (1) derived by an individual who is a resident of one of the Contracting States shall be exempt from tax by the other Contracting State if:

- (a) He is present in that other Contracting State for a period or periods aggregating less than 90 days in the taxable year;
- (b) He is an employee of a resident of, or of a permanent establishment maintained in, the first-mentioned Contracting State;
- (c) The remuneration is not borne as such by a permanent establishment which the employer has in that other Contracting State; and
- (d) The remuneration is subject to tax in the first-mentioned Contracting State.

(3) Notwithstanding paragraphs (1) and (2), remuneration derived by an employee of a resident of one of the Contracting States for labor or personal services performed as a member of the regular complement of a ship or aircraft operated in international traffic by a resident of that Contracting State may be taxed by that Contracting State.

Article 17. PUBLIC ENTERTAINERS

Notwithstanding Articles 15 (Independent Personal Services) and 16 (Dependent Personal Services), the income derived by an individual who is a resident of one Contracting State from his performance of personal services in the other Contracting State as a public entertainer, such as a theater, motion picture, radio or television artist, a musician, or an athlete, may be taxed by the other Contracting State, but only if the gross amount of such income exceeds 400 United States dollars or its equivalent in Egyptian pounds for each day such person is present in the other Contracting State for the purpose of performing such services therein.

Article 18. AMOUNTS RECEIVED FOR FURNISHING PERSONAL SERVICES OF OTHERS

(1) Notwithstanding the provisions of Article 8 (Business Profits), amounts received by a resident of one of the Contracting States in consideration of furnishing in the other Contracting State the personal services of one or more other

persons shall be subject to tax under the taxation laws of each Contracting State to the extent that:

(a) (i) The person for whom the services were furnished designated the person or persons who would render the services, whether or not he had the legal right to do so and whether or not the designation had been made formally;

(ii) The person for whom the services were furnished had the right to designate the person or persons who would render the services; or

(iii) By reason of the facts and circumstances the arrangement for personal services had the effect of designating the person or persons who would render the services; and

(b) The resident of the first-mentioned Contracting State directly or indirectly pays compensation for such services to any person, other than another resident of the first-mentioned Contracting State or of that other Contracting State who is subject to tax on such compensation.

(2) Paragraph (1) shall not apply to any amount received if it is established to the satisfaction of the competent authority of that other Contracting State, with respect to such amount, that neither the creation or organization of the resident of the first-mentioned Contracting State (where such resident is a corporation or other entity), nor the furnishing of the services through such resident has the effect of a substantial reduction of income, war profits, excess profits, or similar taxes.

Article 19. PRIVATE PENSIONS AND ANNUITIES

(1) Except as provided in Article 21 (Governmental Functions), pensions and other similar remuneration paid to an individual in consideration of past employment shall be taxable only in the Contracting State of which he is a resident.

(2) Alimony and annuities paid to an individual who is a resident of one of the Contracting States shall be taxable only in that Contracting State.

(3) Child support payments made by an individual who is a resident of one of the Contracting States to an individual who is a resident of the other Contracting State shall be exempt from tax in that other Contracting State.

(4) The term "pensions and other similar remuneration", as used in this Article, means periodic payments other than social security payments covered in Article 20 (Social Security Payments) made (a) by reason of retirement or death and in consideration for services rendered or (b) by way of compensation for injuries or sickness received in connection with past employment.

(5) The term "annuities", as used in this Article, means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

(6) The term "alimony", as used in this Article, means periodic payments made pursuant to a written separation agreement or a decree of divorce, separate maintenance, or compulsory support which payments are taxable to the recipient under the internal laws of the Contracting State of which he is a resident.

(7) The term "child support payments", as used in this Article, means periodic payments for the support of a minor child made pursuant to written sep-

aration agreement or a decree of divorce, separate maintenance, or compulsory support.

Article 20. SOCIAL SECURITY PAYMENTS

Social security payments and similar amounts paid by one of the Contracting States to an individual who is a resident of the other Contracting State shall be taxable only in the other Contracting State. This Article shall not apply to payments described in Article 21 (Governmental Functions).

Article 21. GOVERNMENTAL FUNCTIONS

(1) Wages, salaries, or similar remuneration, including pensions, annuities, or similar benefits, paid from public funds of one of the Contracting States:

- (a) To a citizen of that Contracting State, or
- (b) To a citizen of a State other than a Contracting State who comes to the other Contracting State expressly for the purpose of being employed by the first-mentioned Contracting State

for labor or personal services performed as an employee of the national Government of that Contracting State, or any agency thereof, in the discharge of functions of a governmental nature shall be exempt from tax by the other Contracting State.

(2) The provisions of Articles 16 (Dependent Personal Services) and 19 (Private Pensions and Annuities) shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or any agency thereof.

Article 22. TEACHERS

(1) Where a resident of one of the Contracting States is invited by the Government of the other Contracting State, a political subdivision, or a local authority thereof, or by a university or other recognized educational institution in that other Contracting State to come to that other Contracting State for a period not expected to exceed 2 years for the purpose of teaching or engaging in research, or both, at a university or other recognized educational institution and such resident comes to that other Contracting State primarily for such purpose, his income from personal services for teaching or research at such university or educational institution shall be exempt from tax by that other Contracting State for a period not exceeding 2 years from the date of his arrival in that other Contracting State.

(2) This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 23. STUDENTS AND TRAINEES

(1) (a) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in the other Contracting State for the primary purpose of:

- (i) Studying at a university or other recognized educational institution in that other Contracting State, or
- (ii) Securing training required to qualify him to practice a profession or professional specialty, or

- (iii) Studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization,

shall be exempt from tax by that other Contracting State with respect to amounts described in subparagraph (b) for a period not exceeding 5 taxable years from the date of his arrival in that other Contracting State, and for such additional period of time as is necessary to complete, as a full-time student, educational requirements as a candidate for a postgraduate or professional degree from a recognized educational institution.

(b) The amounts referred to in subparagraph (a) are:

- (i) Gifts from abroad for the purpose of his maintenance, education, study, research, or training;
- (ii) The grant, allowance, or award; and
- (iii) Income from personal services performed in that other Contracting State in an amount not in excess of 3,000 United States dollars or its equivalent in Egyptian pounds for any taxable year.

(2) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State as an employee of, or under contract with, a resident of the first-mentioned Contracting State, for the primary purpose of:

- (a) Acquiring technical, professional, or business experience from a person other than that resident of the first-mentioned Contracting State or other than a person related to such resident, or
- (b) Studying at a university or other recognized educational institution in that other Contracting State,

shall be exempt from tax by that other Contracting State for a period not exceeding 12 consecutive months with respect to his income from personal services in an aggregate amount not in excess of 7,500 United States dollars or its equivalent in Egyptian pounds.

(3) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State for a period not exceeding 1 year, as a participant in a program sponsored by the Government of that other Contracting State, for the primary purpose of training, research, or study, shall be exempt from tax by that other Contracting State with respect to his income from personal services in respect of such training, research, or study performed in that other Contracting State in an aggregate amount not in excess of 10,000 United States dollars or its equivalent in Egyptian pounds.

(4) The benefits provided under Article 22 (Teachers) and paragraph (1) of this Article shall, when taken together, extend only for such period of time, not to exceed 5 taxable years from the date of arrival of the individual claiming such benefits, as may reasonably or customarily be required to effectuate the purpose of the visit, and for such additional period of time as is necessary to complete, as a full-time student, educational requirements as a candidate for a postgraduate or professional degree from a recognized educational institution. The benefits provided under Article 22 (Teachers) shall not be available to an individual if, during

the immediately preceding period, such individual enjoyed the benefits of paragraph (1) of this Article.

Article 24. INVESTMENT OR HOLDING COMPANIES

A corporation of one of the Contracting States deriving dividends, interest, royalties, or capital gains from sources within the other Contracting State shall not be entitled to the benefits of Articles 11 (Dividends), 12 (Interest), 13 (Royalties), or 14 (Capital Gains) if

(a) By reason of special measures the tax imposed on such corporation by the first-mentioned Contracting State with respect to such dividends, interest, royalties, or capital gains is substantially less than the tax generally imposed by such Contracting State on corporate profits, and

(b) 25 percent or more of the capital of such corporation is held of record or is otherwise determined, after consultation between the competent authorities of the Contracting States, to be owned, directly or indirectly, by one or more persons who are not individual residents of the first-mentioned Contracting State (or, in the case of an Egyptian corporation, who are citizens of the United States).

Article 25. RELIEF FROM DOUBLE TAXATION

Double taxation of income shall be avoided in the following manner:

(1) In accordance with the provisions and subject to the limitations of the law of the United States (as it may be amended from time to time without changing the general principle hereof), the United States shall allow to a citizen or resident of the United States as a credit against the United States tax the appropriate amount of taxes paid or accrued to Egypt and, in the case of a United States corporation owning at least 10 percent of the voting stock of an Egyptian corporation from which it receives dividends in any taxable year, shall allow credit for the appropriate amount of taxes paid or accrued to Egypt by the Egyptian corporation paying such dividends with respect to the profits out of which such dividends are paid. Such appropriate amount shall be based upon the amount of tax paid or accrued to Egypt, but the credit shall not exceed the limitations (for the purpose of limiting the credit to the United States tax on income from sources within Egypt or on income from sources outside of the United States) provided by United States law for the taxable year. For the purpose of applying the United States credit in relation to taxes paid or accrued to Egypt, the rules set forth in Article 4 (Source of Income) shall be applied to determine the source of income. For purposes of applying the United States credit in relation to taxes paid or accrued to Egypt, the taxes referred to in paragraphs (1)(b) and (2) of Article 1 (Taxes Covered) shall be considered to be income taxes.

(2) Egypt shall allow to a citizen or resident of Egypt as a credit against Egyptian tax the appropriate amount of income taxes paid or accrued to the United States and, in the case of an Egyptian corporation owning at least 10 percent of the voting stock of a United States corporation from which it receives dividends in any taxable year, shall allow credit for the appropriate amount of taxes paid or accrued to the United States by the United States corporation paying such dividends with respect to the profits out of which such dividends are paid. Such appropriate amount shall be based upon the amount of tax paid or accrued to the United States but shall not exceed that portion of Egyptian tax which such citizen's or resident's net income from sources within the United States bears to his

entire net income for the same taxable year. For purpose of applying the Egyptian credit in relation to taxes paid or accrued to the United States, the rules set forth in Article 4 (Source of Income) shall be applied to determine the source of income.

Article 26. NONDISCRIMINATION

(1) A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subject in that other Contracting State to more burdensome taxes than a citizen of that other Contracting State who is a resident thereof.

(2) A permanent establishment which a resident of one of the Contracting States has in the other Contracting State shall not be subject in that other Contracting State to more burdensome taxes than a resident of that other Contracting State carrying on the same activities. This paragraph shall not be construed as:

- (a) Obliging a Contracting State to grant to individual residents of the other Contracting State any personal allowances, reliefs, or deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own individual residents;
- (b) Obliging Egypt to grant United States corporations the exemptions granted to Egyptian corporations by Articles 5 and 6 of Law 14 of 1939; or
- (c) Affecting the application in Egypt of the first and second paragraphs of Article 11 and Article 11 *bis* of Law 14 of 1939.

(3) A corporation of one of the Contracting States, 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 with taxation which is other or more burdensome than the taxation and requirements to which a corporation of the first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned or controlled by one or more residents of the first-mentioned Contracting State, is or may be subjected.

Article 27. MUTUAL AGREEMENT PROCEDURE

(1) Where a resident or citizen of one of the Contracting States considers that the action of one or both of the Contracting States results or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident or citizen. Should the resident's or citizen's claim be considered to have merit by the competent authority of the Contracting State to which the claim is made, it shall endeavor to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation not in accordance with the provisions of this Convention.

(2) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the application of this Convention. In particular, the competent authorities of the Contracting States may agree:

- (a) To the same attribution of industrial or commercial profits to a resident of one of the Contracting States and its permanent establishment situated in the other Contracting State;

- (b) To the same allocation of income, deductions, credits, or allowances between a resident of one of the Contracting States and any related person and to the readjustment of taxes imposed by each Contracting State to reflect such allocation;
- (c) To the same determination of the source of particular items of income; or
- (d) To the same characterization of particular items of income.

(3) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of this Article. When it seems advisable for the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

(4) In the event that the competent authorities reach such an agreement, taxes shall be imposed on such income, and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement, notwithstanding any procedural rule (including statutes of limitations) applicable under the law of either Contracting State.

Article 28. EXCHANGE OF INFORMATION

(1) The competent authorities shall exchange such information as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or for the administration of statutory provisions concerning taxes to which this Convention applies provided the information is of a class that can be obtained under the laws and administrative practices of each Contracting State with respect to its own taxes.

(2) Any information so exchanged shall be treated as secret, except that such information may be:

(a) Disclosed to any person concerned with, or

(b) Made part of a public record with respect to,

the assessment, collection, or enforcement of, or litigation with respect to, the taxes to which this Convention applies.

(3) No information shall be exchanged which would be contrary to public policy.

(4) If specifically requested by the competent authority of a Contracting State, the competent authority of the other Contracting State shall provide information under this Article in the form of depositions of witnesses and copies of unedited original documents (including books, papers, statements, records, accounts, or writings), to the same extent such depositions and documents can be obtained under the laws and administrative practices of each Contracting State with respect to its own taxes.

(5) Depositions and evidence which may be furnished in accordance with this article shall not be withheld by reason of any doctrine of law under which international judicial assistance is not accorded in tax matters.

(6) The exchange of information shall be carried out promptly either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States may agree on the list of information which shall be furnished on a routine basis.

Article 29. ASSISTANCE IN COLLECTION

(1) Each of the Contracting States shall endeavor to collect on behalf of the other Contracting State such taxes imposed by that other Contracting State as will ensure that any exemption or reduced rate of tax granted under this Convention by that other Contracting State shall not be enjoyed by persons not entitled to such benefits.

(2) In no case shall this Article be construed so as to impose upon a Contracting State the obligations to carry out measures at variance with the laws or administrative practices of either Contracting State with respect to the collection of its own taxes.

Article 30. DIPLOMATIC AND CONSULAR OFFICERS

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

Article 31. ENTRY INTO FORCE

This Convention shall be subject to ratification in accordance with the constitutional procedures of each Contracting State and instruments of ratification shall be exchanged at Washington as soon as possible. It shall enter into force 30 days after the date of exchange of instruments of ratification and shall then have effect for the first time:

- (a) As respects the rate of withholding tax, to amounts paid on or after the first day of the second month following the date on which this Convention enters into force;
- (b) As respects other taxes, to taxable years beginning on or after January 1 of the year following the date on which this Convention enters into force.

Article 32. TERMINATION

(1) This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention at any time after 5 years from the date on which this Convention enters into force provided that at least 6 months prior notice of termination has been given through diplomatic channels. In such event, the Convention shall cease to have force and effect as respects income of calendar years or taxable years beginning (or, in the case of taxes payable at the source, payments made) on or after January 1 next following the expiration of the 6-month period.

(2) Notwithstanding the provisions of paragraph (1), and upon prior notice to be given through diplomatic channels, the provisions of this Convention exempting social security payments from taxation in the Contracting State which makes the payments may be terminated by either Contracting State at any time after this Convention enters into force.

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

DONE at Cairo, Egypt, in duplicate, this 24th day of August 1980.

[Signed]

ALFRED L. ATHERTON, Jr.
American Ambassador

[Signed]

ABDEL RAZZAK ABDEL MEGUID
Deputy Prime Minister
Arab Republic of Egypt
