

**CONVENTION BETWEEN
LUXEMBOURG AND
ITALY
FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON
INCOME AND FOR THE PREVENTION OF FISCAL EVASION¹**

The President of the Republic of Italy and His Royal Highness the Grand Duke of Luxembourg, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes and on capital, and the prevention of tax fraud and tax evasion, have agreed upon the following provisions:

Article 1 - Personal scope

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

Article 2 - Taxes covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income and on capital the taxes imposed on total income, on total capital, or on elements of income or capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

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

(a) In the case of Italy:

1. the individual income tax (imposta sul reddito delle persone fisiche);
2. the incorporation income tax (imposta sul reddito delle persone giuridiche);
3. the local income tax (imposta locale sui redditi); even if these taxes are collected by withholding at the source (hereinafter referred to as "Italian tax").

(b) in the case of Luxembourg:

1. the individual income tax (l'impôt sur le revenu des personnes physiques);
2. the corporation income tax (l'impôt sur le revenu des collectivités);
3. the special tax on fees of directors of companies (l'impôt spécial sur les tantièmes);

¹ Date of Conclusion: 3 June 1981. Entry into Force: In accordance with Article 30 of the Convention, it entered into force on 4 February 1983, upon the exchange of instruments of ratification. The provisions of the Convention have retroactive effect as from 1 January 1978.

4. the capital tax (l'impôt sur la fortune);

5. the communal trade tax on commercial profits and on capital (l'impôt commercial communal d'après les bénéfices et capital d'exploitation);

6. the communal tax on the total amount of salaries (l'impôt communal sur le total des salaires); even if these taxes are collected by withholding at the source (hereinafter referred to as "Luxembourg tax").

4. The Convention shall apply also to future taxes of identical or similar nature, which are imposed, after the date of signature of this Convention, in addition to, or in place of, the taxes referred to in paragraph 3. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

Article 3 - *General definitions*

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

(a) the term "Luxembourg" means the Grand Duchy of Luxembourg;

(b) the term "Italy" means the Italian Republic;

(c) the terms "a Contracting State" and "the other Contracting State" mean, as the content requires, Luxembourg or Italy;

(d) the term "person" includes individuals, companies and any other body of persons;

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

(f) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean, respectively, an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

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

(h) the term "nationals" means:

1. individuals who have the nationality of a Contracting State;

2. legal entities, partnerships and associations established in accordance with the legislation in force in a Contracting State;

(i) the term "competent authority" means:

1. with respect to Luxembourg, the Minister of Finance or his duly authorized representative;

2. with respect to Italy, the Ministry of Finance. As regards the application of the Convention by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of the State concerning the taxes which are the subject of this Convention.

Article 4 - *Fiscal domicile*

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

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

(a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting 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 Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

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

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

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 5 - *Permanent establishment*

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

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

- (e) a workshop;
- (f) a mine, a quarry or any other place of extraction of natural resources;
- (g) a building site or installation project lasting more than 12 months.

3. A "permanent establishment" is deemed to exist when:

- (a) facilities are used solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) a stock of goods or merchandise belonging to the enterprise is maintained solely for the purpose of storage, display or delivery;
- (c) a stock of goods or merchandise belonging to the enterprise is maintained solely for the purpose of processing by another enterprise;
- (d) a fixed place of business is maintained solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- (e) a fixed place of business is maintained solely for the purpose of advertising, the supply of information, scientific research or any other similar activity of an auxiliary or preparatory character for the enterprise.

4. Where a person - other than an agent of independent status to whom paragraph 5 applies - is acting on behalf of an enterprise of a Contracting State and has, and habitually exercises in the other Contracting State, an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in the last-mentioned State, unless the activities of such person are limited to the purchasing of goods or merchandise for the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business through a broker, general commission agent or any other intermediary of an independent status, provided that such persons are acting in the ordinary course of their activities.

6. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6 - Income from immovable property

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

2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. Such term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, as well as the rights to which the provisions of common law in respect to landed property apply.

Also deemed to be "immovable property" are usufruct of immovable property and the rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources. Ships, boats and aircraft shall not be regarded as immovable property.

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

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

Article 7 - Business profits

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

2. Notwithstanding the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

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

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

Article 8 - *Shipping and air transport*

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.
3. The provisions of paragraph 1 shall also apply to profits which an enterprise of a Contracting State derives from the participation in a pool, a joint business or an international operating agency.

Article 9 - *Associated enterprises*

Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State, and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10 - *Dividends*

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.
2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the law of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 15% of the gross amount of the dividends. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same tax treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident through a permanent establishment situated therein, or performs in that other State independent professional services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case dividends may be taxed in the other Contracting State according to its domestic legislation.

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

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the law of that State but, if the recipient is the beneficial owner of the interest, the tax so charged shall not exceed 10% of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, interest derived from one of the Contracting States shall be exempt from tax in that State, provided that:

(a) the debtor of such interest is the Government of that Contracting State or any of its local authorities; or

(b) the interest is paid to the Government of the other Contracting State, to any of its local authorities or to an institution or organization (including financial institutions) belonging wholly to that Contracting State or to any of its local authorities; or

(c) the interest is paid to other institutions or organizations (including financial institutions) in relation to loans made under agreements concluded between the Governments of the Contracting States.

4. The term "interest" as used in this Article includes income from Government securities from bonds whether or not secured by mortgage or carrying a right to participate in the profits, and from debt-claims of every kind, as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases, the interest shall be taxed in that other Contracting State, according to its domestic legislation.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or such fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or the fixed base 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 Contracting State, due regard being had to the other provisions of this Convention.

Article 12 - *Royalties*

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

2. However, these royalties may be taxed in the Contracting State in which they arise and according to the laws of that State, but if the person receiving the royalties is the beneficial owner thereof, the tax so charged shall not exceed 10% of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, films and tapes for television and radio broadcasting, any patent, trademark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

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

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base, in connection with which the obligation to pay the royalties was incurred, and those royalties are borne by that permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

6. 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, 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 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 may be taxed according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13 - *Capital gains*

1. Gains from the alienation of immovable property, as defined in Article 6, paragraph 2, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the assets of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such fixed base, may be taxed in that other State. However, gains from the alienation of movable property as defined in Article 23, paragraph 3 may be taxed only in the Contracting State in which such goods are taxable according to that Article.

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

Article 14 - *Independent personal services*

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar nature shall be taxable only in that State, unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State, but only so much of it as is attributable to that fixed base.

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

Article 15 - *Dependent personal services*

1. Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of employment shall be taxable only in that State, unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient remains in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned, and

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

(c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16 - Directors' fees

Directors' fees, attendance fees and any other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors, supervisory board or any other similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17 - Artists and athletes

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State from his personal activities performed in the other Contracting State as an entertainer such as a theatre, motion picture, radio or television artiste, or musician, as well as athletes, may be taxed in the Contracting State in which such activities are exercised.

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

Article 18 - Pensions and social security payments

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

2. Notwithstanding the provisions of paragraph 1, pensions and other social security allowances paid by a Contracting State under social security law may be taxed in that State.

Article 19 - Governmental functions

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

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

(i) is a national of that State, and has not the nationality of the State, in which the remuneration arises, or

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

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

(b) However, such pensions shall be taxable only in the other Contracting State, if the individual is a resident, and a national, of that State and has not the nationality of that State in which the pensions arise.

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

Article 20 - Professors

Remuneration which a professor or another member of the teaching profession who is or was, immediately before visiting a Contracting State, a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of teaching or scientific research, for a period not exceeding two years, at a university or other non-profit establishment of education or scientific research, shall be taxable only in that other Contracting State provided that the remuneration arises from sources outside the first State.

Article 21 - Students

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

Article 22 - Other income

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

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property defined in paragraph 2 of Article 6, in the case where the recipient of that income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, this income may be taxed in that other Contracting State, according to its domestic legislation.

Article 23 - *Capital*

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.
2. Capital represented by movable property pertaining to a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base owned by a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services may be taxed in that other State.
3. Capital represented by ships and aircraft operated in international traffic, and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

Article 24 - *Provisions for the elimination of double taxation*

Double taxation shall be eliminated in the following way:

1. In the case of Luxembourg:

(a) Where a resident of Luxembourg derives income or owns elements of property which, in accordance with the provisions of this Convention are taxable in Italy, Luxembourg shall, subject to the provisions mentioned under (b), exempt such income or such elements of property from tax, but may, for the purpose of calculating the amount of the tax on the remaining income or on the remaining property of that resident, apply the same rate which would have been applicable in case such income or property should not be so exempted.

(b) If a resident of Luxembourg derives income, which in accordance with the provisions of Articles 10, 11 and 12 is taxable in Italy, Luxembourg allows a deduction equal to the amount of tax paid in Italy on income of this resident. However, the amount deducted may not exceed that part of the tax, calculated before deduction, attributable to the income derived from Italy.

2. In the case of Italy:

Where a resident of Italy derives income which may be taxed in Luxembourg, Italy may, in calculating its taxes on income as mentioned in Article 2 of this Convention, include that income in such taxable base, unless specific provisions of this Convention provide otherwise. In that case, Italy shall deduct, from the taxes so calculated, the income tax paid in Luxembourg but the amount of such deduction may not exceed that part of the Italian tax which is appropriate to that income in the ratio that such income bears to total income. Nevertheless, no deduction shall be granted if the item of income is subjected in Italy, upon the request of the beneficiary and according to Italian law, to taxation by way of a withholding tax.

Article 25 - *Non-discrimination*

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not resident of one or both of the Contracting States.
2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
3. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.
4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subject in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.
5. The term "tax" in this Article means taxes of any kind and description.

Article 26 - *Mutual agreement procedure*

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 25, to the competent authority of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action giving rise to taxation not in accordance with the Convention.
2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.
3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

Article 27 - Exchange of information

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

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

(a) to carry out administrative measures contrary to the laws or administrative practice of that or of the other Contracting State;

(b) to supply information which cannot be obtained under the laws or in the normal course of the administration of that or of the other Contracting State;

(c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public order.

Article 28 - Diplomatic and consular officials

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

Article 29 - Request for refund

1. Taxes withheld at source in a Contracting State will be refunded at the request of the taxpayer if the right to collect the said taxes is limited by the provisions of this Convention.

2. Claims for refund, that shall be produced within the time limit fixed by the law of the Contracting State which is obliged to carry out the refund, shall be accompanied by an official certificate of the Contracting State of which the taxpayer is a resident certifying the existence of the conditions required for being entitled to the application of the allowances provided for by this Convention.

3. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 26 of this Convention.

Article 30 - *Entry into force*

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

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

(a) in respect of taxes withheld at source, on income paid or payable on or after 1 January 1978;

(b) in respect of other taxes, to fiscal periods ending on or after 1 January 1978.

3. Claims for refund foreseen by this Convention, in respect of any tax payable by residents of either of the Contracting States referring to the period between 1 January 1978 and the entry into force of this Convention, shall be lodged within two years from the date of entry into force of this Convention.

Article 31 - *Termination*

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year subsequent to the fifth calendar year after the entry into force of this Convention. In such event, the Convention shall cease to have effect:

(a) with respect to taxes withheld at source, on income payable after 31 December of the year of termination;

(b) with respect to other taxes, for taxation periods ending after 31 December of the same year.

In witness whereof the plenipotentiaries of the two States have signed this Convention and have affixed thereto their seals.

Done at Luxembourg, 3 June 1981, in two original copies in the Italian and French languages, the two texts being equally authentic.

For the Republic of Italy:
ValfrŠ

For the Grand Duchy of Luxembourg:
Flesch

PROTOCOL

At the moment of signing the Convention for the avoidance of double taxation with respect to taxes on income and for the prevention of fiscal evasion, concluded today between Luxembourg and Italy, the undersigned plenipotentiaries agree upon the following additional provisions, which are an integral part of the Convention:

1. Holding companies ad Articles 1, 3 and 4

This Convention shall not apply to holding companies resident in Luxembourg, which benefit from the special reliefs as laid down in the Law of 31 July 1929 and the Grand-Ducal Decree of 17 December 1938 (taken in pursuance of Article 1(7), paragraphs 1 and 2 of the Law of 27 December 1937) or in any other similar law entering into force after the signature of the Convention. It also does not apply to income which a resident of Italy receives from such companies or to shares or other forms of stock of such companies which that person owns.

2. Taxes considered ad Article 2

It should be noticed that in case a tax on capital is introduced in Italy, this Convention shall also apply to that tax.

3. Profits of enterprises ad Article 7, paragraph 3

The term "expenses which are incurred for the purposes of the permanent establishment" means expenses directly connected with the activities of the permanent establishment.

4. Governmental functions ad Article 19, paragraphs 1 and 2

The provisions of Article 19, paragraphs 1 and 2, apply to remuneration and pensions paid to personnel of the following services or authorities:

(a) in Luxembourg:

- The National Luxembourg Railway Association (la Soci,t, Nationale des Chemins de Fer Luxembourgeois);
- The Post and Telecommunications Administration (l'Administration des Postes et T,l,communications);
- National Tourist Office (l'Office National du Tourisme).

(b) in Italy:

- The Administration of the Italian Railways (l'Amministrazione delle Ferrovie Italiane);
- The Administration of the Post and Telecommunication Services (l'Amministrazione dei Servizi delle Poste e delle Telecomunicazioni);
- The National Italian Office for Tourism (l'Ente Nazionale Italiano per il Turismo);
- The Institute for Foreign Trade (l'Istituto per il Commercio Estero).

5. Prevention of double taxation in Italy ad Article 24, paragraph 2

In the event a tax on capital should be introduced in Italy, the Luxembourg capital tax, levied in accordance with the provisions of the Convention, shall be deducted from the Italian capital tax under the conditions mentioned in paragraph 2 of Article 24.

6. Mutual agreement procedure ad Article 26, paragraph 1

It should be noted that the term "irrespective of the remedies provided by the domestic law" means that the introduction of a mutual agreement procedure is not an alternative to the national legal procedures to which, in all cases, recourse must first be had when the conflict relates to an application of Italian taxes which is not in accordance with the Convention.

7. Exchange of information ad Article 27

The provisions of Article 27 shall not prevent the carrying out of greater obligations which may result from measures taken in applying the Directive of 19 December 1977 of the Council of the European Communities concerning mutual assistance of the competent authorities of the Member States in the field of direct taxes.

8. Reduction of taxes under the Convention ad Article 29

The provisions mentioned in Article 29 do not exclude the interpretation according to which the competent authorities of the Contracting States may, by mutual agreement, establish other procedures for the application of tax reductions than allowed by the Convention.

Done in duplicate, 3 June 1981, in the Italian and French languages, the two texts being equally authentic.

For the Italian Republic:

ValfrŠ

For the Grand Duchy of Luxembourg:

Flesch

seen, the Minister of Foreign Affairs Colombo