

CONVENTION

between the Italian Republic and the Socialist Federal Republic of Yugoslavia for the avoidance of double taxation with respect to taxes on income and on capital

THE ITALIAN REPUBLIC

and

THE SOCIALIST FEDERAL REPUBLIC OF YUGOSLAVIA

DESIRING to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital.

HAVE AGREED AS FOLLOWS:

ARTICLE 1.

(Personal scope).

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

ARTICLE 2.

(Taxes covered).

1. This Convention shall apply to taxes on income and on capital imposed in a Contracting State or in its political or administrative subdivisions or local authorities, irrespective of the manner in which they are levied. The Convention shall also apply to the contributions levied in Yugoslavia, except to contributions for social security.

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation. In the sense of this Convention, as taxes shall be regarded also the contributions referred to in paragraph 1. of this Article.

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

a) in Yugoslavia:

1) porez i doprinosi iz dohotka organizacija udruženog rada (the tax and contributions on income of organizations of associated labour);

2) porez i doprinosi iz ličnog dohotka iz radnog odnosa (the tax and contributions on personal income derived from dependent personal services);

3) porez i doprinosi iz ličnog dohotka od poljoprivredne delatnosti (the tax and contributions on personal income derived from agricultural activity);

4) porez i doprinosi iz ličnog dohotka od samostalnog obavljanja privrednih i neprivrednih delatnosti (the tax and contributions on personal income derived from independent economic and non-economic activities);

5) porez i doprinosi iz ličnog dohotka od autorskih prava, patenata i tehničkih unapredjenja (the tax and contributions on personal income derived from copyrights, patents and technical improvements);

6) porez na prihod od imovine i imovinskih prava (the tax on revenue from capital and capital rights);

7) porez na imovinu (the tax on capital);

8) porez iz ukupnog prihoda građana (the tax on total revenue of citizens);

9) porez na dobit stranih lica ostvarenu ulaganjem u domaću organizaciju udruženog rada za svrhe zajedničkog poslovanja (the tax on profits of foreign persons derived from investments in a domestic organization of associated labour for the purposes of a joint venture);

10) porez na dobit stranih lica ostvarenu izvođenjem investicionih radova (the tax on profits of foreign persons derived from investment works);

11) porez na prihod stranih lica ostvaren od prevoza putnika i robe (the tax on revenues of foreign persons derived from passenger and cargo transport) (hereinafter referred to as «Yugoslav tax»);

b) in Italy:

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

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

3) l'imposta locale sui redditi (the local income tax), even if they are collected by withholding taxes at the source (hereinafter referred to as «Italian tax»).

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

ARTICLE 3.

(General definitions).

1. For the purposes of this Convention:

a) the term « Yugoslavia » means the territory of the Socialist Federal Republic of Yugoslavia including also any area outside the territorial sea of Yugoslavia which has been or may hereafter be designated under the laws of Yugoslavia and in accordance with the Agreement between Yugoslavia and Italy for the delimitation of the continental shelf between the two Countries, signed at Rome on 8th January 1968, as amended from time to time, as an area within which the rights of Yugoslavia to the sea-bed and subsoil and their natural resources may be exercised;

b) the term « Italy » means the Republic of Italy and includes any area beyond the territorial waters of Italy which, in accordance with the laws of Italy concerning the exploration and the exploitation of natural resources and with the Agreement between Yugoslavia and Italy for the delimitation of the continental shelf between the two Countries, signed at Rome on 8th January 1968, as amended from time to time, may be designated as an area within which the rights of Italy with respect to the sea-bed and subsoil and their natural resources may be exercised;

c) the terms « a Contracting State » and « the other Contracting State » mean Yugoslavia or Italy, as the context requires;

d) the term « national » means a citizen and any other individual deriving his status as such from the laws in force in each of the Contracting States;

e) the term « person » means:

i) in respect of Yugoslavia, an individual and any legal person;

ii) in respect of Italy, an individual, a company and any other body of persons;

f) the term « company » means:

i) in respect of Yugoslavia, an organisation of associated labour and any other legal person subject to tax;

ii) in respect of Italy, any body corporate or any entity which is treated as a body corporate for tax purposes;

g) the term « enterprise of a Contracting State » and « enterprise of the other Contracting State » mean, in respect of Yugoslavia, an organisation of associated labour and other self-managed organisation and community, working people who individually perform activities independently and an enterprise established outside the territory of Yugoslavia carried on by a resident of Yugoslavia, and in respect of Italy, an enterprise carried on by a resident of Italy;

h) the term « international traffic » means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a contracting State, except when the transport by a ship or aircraft is operated solely between places in the other Contracting State;

i) the term « competent authority » means:

i) in respect of Yugoslavia, the Federal Secretariat for Finance or its authorised representative;

ii) in respect of Italy, the Ministry of Finance.

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

ARTICLE 4.

(Fiscal domicile).

1. For the purposes of this Convention, the term « resident of 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.

2. Where by reason of the provisions of paragraph 1 of this Article 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 State in which he has a permanent home available to him. If he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

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

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

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

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

ARTICLE 5.

(Permanent establishment).

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

2. The term « permanent establishment » shall include especially:

- a) a place of management;
- b) a branch;
- c) an office;
- d) a factory;
- e) a workshop;
- f) a mine, quarry or other place of extraction of natural resources;
- g) a building site or construction or assembly project which exists for more than twelve months.

3. The term « permanent establishment » shall not be deemed to include:

- a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;

e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

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

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

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

ARTICLE 6.

(Income from immovable property).

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

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. Ships and aircraft shall not be regarded as immovable property.

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

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

ARTICLE 7
(Business profits).

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

2. Subject to the provisions of paragraph 3 of this Article, 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. The profits to be attributed to a permanent establishment shall be determined on the basis of business books kept by the permanent establishment. If such books do not constitute an adequate basis for the purposes of determining the profits of the permanent establishment, then such profits may be determined on the basis of an apportionment of the total profits of the enterprise to its various parts. The method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles embodied 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 is a good and sufficient reason to the contrary.

7. The provisions of this Article shall apply to the profits de-

rived ba a resident of Italy in Yugoslavia in respect of his participation in a joint venture with a Yugoslav enterprise.

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

ARTICLE 8.

(Shipping and air transport).

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

3. The provisions of paragraph 1 of this Article shall also apply to profits 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 condi-

Supplemento ordinario alla legge n. 110 del 28.2.1973 (L. n. 110/73)

tions, 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 laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the taxation laws of the State of which the company making the distribution is a resident.

4. The provisions of paragraph 1 and 2 of this Article shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the dividends are taxable in that other Contracting State according to its own law.

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 consists 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, interest referred to in paragraph 1 of this Article may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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

4. The provisions of paragraphs 1 and 2 of this Article shall not apply if the recipient 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 case, the interest is taxable in that other Contracting State according to its own law.

5. 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.

6. Notwithstanding the provisions of paragraph 5 of this Article the interest shall be deemed to arise in the Contracting State in which the payer of the interest has a permanent establishment or a fixed base with which the indebtedness on which the interest is paid is effectively connected and which bears the interest, whether or not the payer of the interest is a resident of the Contracting State.

7. Where, by reason of a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim

for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the lastmentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 12.

(Royalties).

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

2. The royalties referred to in paragraph 1 of this Article may also be taxed in the Contracting State in which they arise and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. The term « royalties » as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films, films and tapes for television or broadcasting), any patent, trade mark, 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 of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the royalties are taxable in that other Contracting State according to its own law.

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

6. Notwithstanding the provisions of paragraph 5 of this Ar-

Article, the royalties shall be deemed to arise in the Contracting State in which the payer of the royalties has its permanent establishment or a fixed base with which the liability to pay the royalties was incurred and which bears the royalties whether or not the payer of the royalties is a resident of the Contracting State.

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

ARTICLE 13.

(Capital gains).

1. Gains derived by a resident of a Contracting State from the alienation of immovable property situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

3. Notwithstanding the provisions of paragraph 2 of this Article, gains from the alienation of ships or aircraft operated in international traffic or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property other than referred to in paragraphs 1, 2 and 3 of this Article, 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 activities of an independent character shall be taxable only in that State unless:

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

b) he is present in the other Contracting State for the purpose of performing his activities for a period or periods, exceeding in the aggregate 183 days in the taxable year concerned, in which case so much of the income may be taxed in that other State as is attributable to the activities performed in that other State.

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

ARTICLE 15.

(Dependent personal services).

1. Subject to the provisions of Articles 16, 17, 18, 19 and 20 of this Convention, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

b) the remuneration is paid by, or on behalf of, a person 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 person has in the other State.

3. a) Wages, salaries and other similar remunerations, other

than pensions, paid by a Contracting State or a political or administrative subdivision or a local authority thereof to an individual shall be taxable only in that State.

b) Wages, salaries and other similar remunerations, other than pensions paid by a Contracting State or a political or administrative subdivision or a local authority thereof to an individual shall be taxable only in the other Contracting State if a recipient, who performs a work in that other State, is a resident of that State and who:

(i) is a national of that State, without being a national of the first Contracting State, or

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

4. Wages, salaries and other similar remunerations, other than pensions, derived by an individual for work performed in connection with a business carried on by a Contracting State or a political or administrative subdivision or a local authority thereof, shall be taxable in accordance with provisions of paragraph 1 and 2 of this Article.

5. 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.

*(Fees derived from work on joint business boards
and director's fees).*

1. Director's fees and other similar payments derived by a resident of Yugoslavia in his capacity as a member of the board of directors of a company which is a resident of Italy may be taxed in Italy.

2. Fees and other similar payments derived by a resident of Italy in his capacity as a member of a joint business board of a company which is a resident of Yugoslavia may be taxed in Yugoslavia.

ARTICLE 17.

(Artistes and athletes).

1. Notwithstanding the provisions of Articles 14 and 15 of this

Convention, income derived by theatre, motion picture, radio or television artistes, musicians, athletes and other entertainers from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

2. Where income in respect of activities exercised by an entertainer referred to in paragraph 1 of this Article accrues not to that entertainer himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, income derived in respect of the activities referred to in paragraph 1 of this Article within the framework of a cultural or sports exchange programme granted by both Contracting States shall be exempted from taxation in the Contracting State in which these activities are exercised.

ARTICLE 18.

(Pensions).

1. Pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in the Contracting State the resident of which is the recipient of the pension.

2. a) Any pension paid by a Contracting State or a political or administrative subdivision or a local authority thereof out of the budget or special funds to any individual shall be taxable only in that State;

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

3. Any pension derived by an individual for work performed in connection with any business carried on by one of the Contracting States or a political or administrative subdivision or a local authority thereof shall be taxable only in the Contracting State of which the individual is a resident.

ARTICLE 19.

(Students).

1. Payments which a student, or apprentice or business trainee, 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 are made to him from sources outside that other State.

2. Income derived by a student, or apprentice or business trainee in respect of activities exercised in a Contracting State in which he is present solely for the purpose of his education or training, shall not be taxable in that State, during a reasonable period of time for such an education or training unless it exceeds the amount necessary for his maintenance, education or training.

ARTICLE 20.

(Professors).

1. An individual who visits a Contracting State for the purpose of teaching or carrying out research at a university, college or other recognised educational institution in that Contracting State and who is or was immediately before that visit a resident of the other Contracting State, shall be exempt from taxation in the first-mentioned Contracting State on remuneration for such teaching or research for a period not exceeding two years from the date of this first visit for that purpose.

2. The provision of paragraph 1 of 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 21.

(Other income).

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

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

ARTICLE 22.

(Capital).

1. Capital represented by immovable property 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 forming part of the business property of 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 available to a resident of a Contracting State in the other Contracting State of the purpose of performing independent personal services may be taxed in that other State.

3. Ships and aircraft operated in international traffic, and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

ARTICLE 23.

(Methods for elimination of double taxation).

Double taxation shall be avoided as follows:

1. In the case of Yugoslavia:

a) where a resident of Yugoslavia derives income or owns capital which, in accordance with the provisions of this Convention may be taxed in Italy, Yugoslavia shall, subject to the provisions of subparagraph b) and paragraph 3 of this Article, exempt such income or capital from tax;

b) where a resident of Yugoslavia derives income which, in accordance with the provisions of Articles 10, 11 and 12 of this Convention may be taxed in Italy, Yugoslavia shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in Italy. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from Italy.

2. In the case of Italy:

a) if a resident of Italy owns items of income which are taxable in Yugoslavia, Italy, in determining its income tax specified in Article 2 of this Convention, may include in the basis upon which

such taxes are imposed the said items of income, unless specific provisions of this Convention otherwise provide.

In such a case, Italy shall deduct from the taxes so calculated the tax on income paid in Yugoslavia but at an amount not exceeding that proportion of the aforesaid Italian tax which such items of income bear to the entire income;

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

3. Where in accordance with any provision of the Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may in calculating the amount of tax on the remaining income or capital of such resident apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

4. Where a resident of Italy derives profits in Yugoslavia in respect of his participation in a joint venture with a Yugoslav enterprise, Italy shall allow to that resident a tax credit from the Italian tax on such profits in accordance with paragraph 2 of this Article up to the amount of the tax assessed, even if it is not paid, in accordance with the Yugoslav laws. However, the amount of the tax credit shall not exceed 25 per cent.

ARTICLE 24.

(Non discrimination).

1. The nationals of a Contracting State, whether or not they are residents of one of the Contracting States, 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 paragraph shall also apply:

a) to legal persons deriving their status as such from the laws in force in Yugoslavia;

b) to legal persons, partnerships and associations deriving their status as such from the laws in force in Italy.

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 Contract-

Supplement to the Convention on the Elimination of Double Taxation between the United States of America and the United Kingdom of Great Britain and Northern Ireland

ing 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 7 of Article 12 of this Convention apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned States to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned State are or may be subjected.

5. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

ARTICLE 25.

(Mutual agreement procedure).

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, irrespective of the remedies provided by the domestic laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. The case must be presented within two years from the first notification of the action resulting in taxation not in accordance with the provisions of 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 not in accordance with the Convention.

3. The competent authorities of the Contracting State shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of 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 paragraphs 1, 2 and 3 of this Article. 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 26.

(Exchange of information).

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is in accordance with this Convention, as well as for the prevention of fiscal evasion. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities (including judicial determinations) other than those concerned with the assessment or collection of the taxes which are the subject of the Convention.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on the competent authorities of one of the Contracting States the obligation:

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

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

c) to supply information which would disclose any business or official secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

ARTICLE 27.

(Diplomatic and consular officers).

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

ARTICLE 28.

(Entry into force).

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

2. The Convention shall enter into force on the thirtieth day after the date of exchange of the instruments of ratification and its provisions shall have effect:

a) in Yugoslavia:

in respect of the taxes on income and the taxes on capital for any fiscal year beginning on or after the first day of January in the calendar year following that in which the instruments of ratification are exchanged;

b) in Italy:

in respect of the taxes on income for any taxable period beginning on or after the first day of January in the calendar year following that in which the instruments of ratification are exchanged.

ARTICLE 29.

(Termination).

This Convention shall remain in force indefinitely but either of the Contracting States may, on or before the thirtieth day of June in any calendar year from the fifth year following that in which the instruments of ratification have been exchanged, give to the other Contracting State, through diplomatic channels, written notice of termination and, in such event, this Convention shall cease to have effect:

a) in Yugoslavia:

in respect of the taxes on income and the taxes on capital for any fiscal year beginning on or after the first day of January in the calendar year following that in which the notice of termination is given;

b) in Italy:

in respect of the taxes on income for any taxable period beginning on or after the first day of January in the calendar year following that in which the notice of termination is given.

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

Done at Belgrade this twenty-fourth day of February 1982, in

two originals in the English language, both copies being equally authentic.

For the Italian Republic

PIETRO CALAMIA

*For the Socialist Federal
Republic of Yugoslavia*

PETAR KOSTIĆ

PROTOCOL

At the moment of signature of the Convention between the Italian Republic and the Socialist Federal Republic of Yugoslavia for the avoidance of double taxation with respect to taxes on income and on capital the undersigned, being duly authorised thereto, have agreed upon the following provisions constituting an integral part of the Convention.

1. *Ad Article 2.*

Where a tax on capital is subsequently introduced in Italy the Convention shall also apply to such tax.

2. *Ad Article 7, paragraph 3.*

The expression « expenses which are incurred for the purposes of the permanent establishment » means the expenses directly connected with the activity of the permanent establishment.

3. *Ad Article 7, paragraph 4.*

If necessary, the competent authorities of the Contracting States shall endeavour to agree on the method for apportioning the profits of the enterprise.

4. *Ad Article 8.*

As far as Yugoslavia, in accordance with its Republican and Provincial laws on taxation, has not taxed Italian passenger and cargo transporters for the period from January 1, 1974 till entry into effect of this Convention, Italy shall not tax the Yugoslav passenger and cargo transporters for the same period of time.

5. *Ad Article 15.*

a) Wages, salaries and other similar remunerations, other than pensions, derived by individuals in respect of their work in the Joint Economic Representation of Yugoslavia and the Tourist Federation of Yugoslavia shall be taxable only in Yugoslavia.

b) Wages, salaries and other similar remunerations, other than pensions, derived by individuals in respect of their work in the Italian Foreign Trade Institution (I.C.E.) and the Italian Tourism Body (E.N.I.T.) shall be taxable only in Italy.

6. *Ad Article 23.*

a) The Yugoslav tax on capital levied in accordance with the Convention shall be set off against any tax on capital subsequently introduced in Italy in the manner provided for in this Article.

b) If in the future Yugoslavia will change the method of exemption for the elimination of double taxation on business profits, the two Contracting States will enter into negotiations in order to modify the provision of paragraph 4 of this Article.

7. *Ad Article 25, paragraph 1.*

The expression «irrespective of the remedies provided by the domestic laws» shall not be understood to mean that the time limits prescribed by domestic laws shall not be observed; a claim under Article 25 shall not be entertained where the taxpayer has not taken the appropriate action under the domestic laws to prevent such time limits from expiring.

8. A person who is a resident of one of the Contracting States and claims the application of the allowances in connection with taxes withheld at the source provided for by this Convention in the other Contracting State, is liable to provide every documentation that is necessary to these purposes in accordance with the domestic laws of that other Contracting State.

IN WITNESS WHEREOF the undersigned, being duly authorised thereto have signed this Protocol.

Done at Belgrade this twenty-fourth day of February 1982, in two originals in the English language, both copies being equally authentic.

For the Italian Republic

PIETRO CALAMIA

*For the Socialist Federal
Republic of Yugoslavia*

PETAR KOSTIĆ

Visto, il Ministro degli affari esteri
ANDREOTTI