

LEGAL NOTICE NO. 278
TRINIDAD AND TOBAGO

THE INCOME TAX ORDINANCE, CH. 33 No.1

ORDER

MADE BY THE GOVERNOR-GENERAL UNDER SECTION 47(1) OF THE
INCOME TAX ORDINANCE, AS ENACTED BY SECTION 32 OF THE FINANCE
ACT, 1966

THE DOUBLE TAXATION RELIEF (ITALY) ORDER, 1971

WHEREAS it is provided by subsection (1) of section 47 of the Income Tax Ordinance that if the Governor-General by Order publishes in the *Gazette* declares that arrangements specified in the Order have been made with the Government of any country with a view to affording relief from double taxation in relation to income tax and any tax of a similar character imposed by the laws of that country, and that it is expedient that those arrangements shall have effect:

And whereas by a Convention dated the 26th day of March, 1971, made between the Government of Trinidad and Tobago and the Government of Italy, arrangements were made *inter alia* for the avoidance of double taxation:

Now, therefore, the Governor-General in pursuance of the said subsection (1) of section 47 of the Income Tax Ordinance is pleased to order, and it is hereby orders as follows:

1. This Order may be cited as the Double Taxation Relief (Italy) Order, 1971.
2. It is hereby declared:-

- (a) that the arrangements specified in the Schedule have been made with the Government of Italy;
- (b) that it is expedient that those arrangements should have effect.

SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF TRINIDAD AND TOBAGO AND THE GOVERNMENT OF ITALY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of Trinidad and Tobago and the Government of Italy, desiring to conclude a Convention to avoid double taxation and to prevent fiscal evasion with respect to taxes on income, have agreed upon the following measures:

CHAPTER I

SCOPE OF THE CONVENTION

Article 1

Personal Scope

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

Article 2

Taxes Covered

- (1) This Convention shall apply to taxes on income imposed on behalf of each Contracting State irrespective of the manner in which they are levied.
- (2) There shall be regarded as taxes on income all taxes imposed on total income or on elements of income.

- (3) The existing taxes to which the Convention shall apply are, in particular:-
- (a) in the case of Trinidad and Tobago, the corporation tax and the income tax (hereinafter referred to as Trinidad and Tobago tax);
 - (b) in the case of Italy:-
 - (i) the tax on income from Land (imposta sul reddito dei terreni);
 - (ii) the tax on income from buildings (imposta sul reddito dei fabbricati);
 - (iii) the tax on income from moveable wealth (imposta sul redditi di ricchezza mobile);
 - (iv) the tax on agricultural income (imposta sul reddito agrario);
 - (v) the complementary tax (imposta complementare progressiva sul reddito);
 - (vi) the tax on companies (imposta sulle societa) in so far as the tax is charged on income and not on capital;
 - (vii) the tax on profits distributed by companies (imposta sugli utili distribuiti dalle societa),
(hereinafter referred to as Italian tax).
- (4) The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any important changes which have been made in their respective taxation laws.

CHAPTER II

DEFINITIONS

Article 3

General Definitions

- (1) In this Convention, unless the context otherwise requires:-
- (a) the term "Trinidad and Tobago" means the country of Trinidad and Tobago; and when used in a geographical sense means the island of Trinidad and the island of Tobago;
 - (b) the term "Italy" means the Italian Republic;
 - (c) the terms "a Contracting State" and "the other Contracting State" mean Trinidad and Tobago or Italy as the context requires;

- (d) the term "person" comprises an individual, a company and any other body of persons;
- (e) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (f) the 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 "competent authority" means:-
 - (i) in the case of Trinidad and Tobago, the Minister of Finance or his authorised representative;
 - (ii) in the case of Italy, the Ministry of Finance.

(2) As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

Article 4

Fiscal Domicile

- (1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation 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 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:-
 - (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which personal and economic relations are closest (centre of vital interests);

- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
 - (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
 - (d) if he is a national of both Contracting 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 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 5

Permanent Establishment

- (1) For the purposes of this Convention, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
- (2) The term "permanent establishment" shall include especially:-
- (a) a place of management;
 - (b) a branch;
 - (c) a store or other sales outlet;
 - (d) an office;
 - (e) a factory;
 - (f) a workshop;
 - (g) a mine, quarry or other place of extraction of natural resources;
 - (h) a building site or construction or assembly project which exists for more than six 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 belong 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.

CHAPTER III

TAXATION OF INCOME

Article 6

Income from immovable property

(1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

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

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

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

Article 7

Business Profits

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

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

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions all reasonable 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 that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down 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 good and sufficient reason to the contrary.

(7) 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 exemption provided in paragraph (1) of this Article shall apply to a share of the profits from the operation of ships or aircraft in international traffic derived by an enterprise of a Contracting State through participation in a pooled service, in a joint air transport operation or in 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 be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed:

- (a) ten per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least twenty-five per cent of the capital of the company paying the dividends;
- (b) in all other cases, twenty 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 this limitation.

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, as well as income from other corporate rights assimilated to income from shares by the taxation law 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 recipient of the dividends being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a 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 to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

(6) Where a company which is a resident of one of the Contracting States having a permanent establishment in the other Contracting State, derives profits or income from that permanent establishment, any remittances of such profits by the permanent establishment to a resident of the other Contracting State may be taxed in accordance with the law of the first-mentioned Contracting State, but the rate of tax imposed on such remittances shall not exceed eight per cent.

Article 11

Interest

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

(2) However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed ten 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 income from money lent by the taxation law of the State in which the income arises.

The term "interest" does not include any income which is treated as a "dividend" within the meaning of paragraph 3 of Article 10.

(4) The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a 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, an 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(6) Notwithstanding paragraph 2 of this Article interest arising in one of the Contracting States and received by any agency or instrumentality wholly owned by the Government of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

(7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Article 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 Contracting State.

(2) However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that Contracting State, but the tax so charged shall not exceed five per cent of the gross amount of the royalties.

(3) Notwithstanding paragraph 2 of this Article copyright royalties and other like payments in respect of the production or reproduction of any literary, musical, or artistic work arising in one of the Contracting States and paid to a resident of the other Contracting State shall be exempt from tax in the first-mentioned State.

(4) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, musical, artistic, scientific work including cinematograph films, or video tapes for use in connection with television or radio, 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.

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

(6) 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, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the royalties shall remain taxable in that other Contracting State according to its own law.

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

Article 13

Management Charges

(1) The tax imposed by one of the Contracting States on payments made by an enterprise of that Contracting State to an enterprise of the other Contracting State for the provision of management and other personal, professional and technical services, where

such payments are associated with services performed in the first-mentioned Contracting State by or on behalf of an enterprise of the other Contracting State shall not exceed five per cent of the gross amount of such payments.

(2) The provisions of paragraph 1 of this Article shall not apply if the enterprise to which the payments are made has in the Contracting State in which the payments arise a permanent establishment with which such payments are effectively connected. In such a case, the provisions of Article 7 shall apply.

Article 14

Independent Personal, Professional or Technical Services

(1) Where a resident of one of the Contracting States derives income from the other Contracting State in respect of personal, professional or technical services or other independent activities of a similar character he may be subject to tax in that other Contracting State, but only in respect of such income as is attributable to his services in that other Contracting State.

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

(3) The provisions of this Article shall not apply where the resident of a Contracting State is present in the other Contracting State for a period or periods not exceeding in the aggregate thirty days in the year of income.

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 an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the 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 which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft 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 and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Artistes and Athletes

Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 18

Pensions

(1) Subject to the provisions of paragraph 1 of Article 19, pensions, life annuities 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) The term "life annuity" as used in this Article means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

(3) The term "pension" as used in this Article, means periodic payments made after retirement or death in consideration for services rendered, or by way of compensation for injuries received in connection with past employment.

Article 19

Governmental Functions

(1) Remuneration, including pension, paid by, or out of funds created by, a Contracting State or an administrative sub-division or a local authority thereof to any individual in respect of services rendered to that State or sub-division or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.

(2) The provisions of Articles 15, 16 and 18 shall apply to remuneration, pensions or annuities in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or an administrative sub-division or a local authority thereof.

Article 20

Professors, Teachers and Researchers

(1) A professor, teacher or researcher who makes a temporary visit to a Contracting State for a period not exceeding two years for the purpose of teaching or conducting

research at a university, college, school or other educational institution, and who is, or immediately before such visit was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State in respect of remuneration for such teaching or research.

- (2) The provisions of paragraph 1 of this Article shall not apply unless:
- (a) the professors, teachers or researchers visit the Country at the invitation of the Government, university or other educational institutions of the Contracting States, and
 - (b) the teaching or research is undertaken in the public interest, and not primarily for the private benefit of any person.

Article 21

Students and Trainees

- (1) Payments which a student or trainee who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall be exempt from tax in that other Contracting State, provided that such payments are made to him from outside.
- (2) Remuneration which a trainee who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State for the purpose of practical training for a period or periods not exceeding in the aggregate one year shall not be taxed in that other State.
- (3) Remuneration which a student who is or was formerly a resident of a Contracting State derives from a part-time employment which he exercises in the other Contracting State for a period of time which is reasonably required to effectuate the purpose shall not be taxed in that other State.

CHAPTER IV

Article 22

Allowance of deduction or credit

(1) The laws of the Contracting States shall continue to govern the taxation of income arising in either of the Contracting States except where express provision to the contrary is made in this Convention. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

(2) In the case of a resident of Italy:-

Italy in determining its income taxes specified in Article 2 of this Convention in the case of its residents may, regardless of any other provisions of this Convention, include in the basis upon which such taxes are imposed all items of income; Italy shall, however, deduct from the taxes so calculated the Trinidad and Tobago tax on income (not exempt in Trinidad and Tobago under this Convention) in the following manner:-

- (a) if the item of income is, according to the Italian law, subjected to the tax on income from movable wealth, the tax paid in Trinidad and Tobago shall be deducted from the tax on income from movable wealth, but in an amount not exceeding that proportion of the aforesaid Italian tax which such item of income bears to the entire income. Where the tax paid in Trinidad and Tobago on such income is higher than the deduction so calculated the difference shall be deducted from the complementary tax or from the tax on companies, as the case may be, but in an amount not exceeding that proportion of such complementary or company tax which the item of income bears to the entire income;
- (b) if the item of income is only subjected to the complementary tax or to the tax on companies, the deduction shall be granted from the complementary tax or from the tax on companies, as the case may be, but for that part of the tax paid in Trinidad and Tobago which exceeds 30 per cent of such item of income. The deduction cannot however exceed that proportion of the complementary tax or of the tax on companies which such income bears to the entire income.

(3) In the case of a resident of Trinidad and Tobago:-

Subject to the provisions of the law of Trinidad and Tobago regarding the allowance as a credit against Trinidad and Tobago tax of tax payable in a territory outside Trinidad and Tobago (which shall not affect the general principle hereof) -

- (a) Italian tax payable under the laws of Italy and in accordance with the present Convention, whether directly or by deduction, on profits, or income from sources within Italy (excluding, in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any Trinidad and Tobago tax computed by reference to the same profits, or income by reference to which the Italian tax is computed;

- (b) in the case of a dividend paid by a company which is a resident of Italy to a company which is resident in Trinidad and Tobago and which controls directly or indirectly at least ten per cent of the voting power in the company, the credit shall take into account (in addition to any Italian tax creditable under (a)) the Italian tax payable by the company in respect of the profits out of which such dividend is paid.

(4) Where, under the laws of one of the Contracting States any tax to which this Convention applies has been wholly relieved or reduced for a limited period of time, then, for the purpose of calculating the deduction from the tax as referred to in paragraph (2) of this Article or the credit referred to in paragraph (3) of this Article such tax shall be deemed to have been paid.

CHAPTER V

SPECIAL PROVISIONS

Article 23

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.

In particular, nationals of a Contracting State who are taxable in the other Contracting State shall, if they are residents of that other Contracting State, receive any personal allowances, reliefs and reductions for taxation purposes on account of civil status which that other Contracting State grants to its residents.

(2) The term "nationals" means:

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

(3) 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.

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

(5) In this Article the term "taxation" means taxes of every kind and description.

Article 24

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, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident. The claim must be lodged within two years from the date of the assessment or of the withholding of tax at the source whichever is the later.

(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 this 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 this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this 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.

Article 25

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 this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of this Convention.

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

- (a) to carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;
- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Article 26

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.

CHAPTER VI

FINAL PROVISIONS

Article 27

Entry into Force

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged at Port of Spain as soon as possible.

(2) The Convention shall enter into force on the date of the exchange of instruments of ratification and its provisions shall have effect:-

- (a) in Trinidad and Tobago, in respect of income assessable for the year of income commencing on the 1st January, 1970, and subsequent years;
 - (b) in Italy, in respect of income assessable for the taxable period commencing on or after the 1st January, 1970.
- (3) Claims for refund or credits arising in accordance with this Convention in respect of any tax payable by residents of any of the Contracting States referring to the periods commencing on or after the 1st January, 1970 and until the entry into force of this Convention may be lodged within two years from the entry into force of this Convention and after the date of the coming into force of this Convention within two years from the taxable period for which the tax is levied.

Article 28

Termination

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, not earlier than five years after its entry into force by giving notice of termination at least six months before the end of the calendar year. In such event, the Convention shall cease to have effect:

- (a) in Trinidad and Tobago, in respect of income assessable for the year of income commencing the first January next following that in which the notice of termination is given;
- (b) in Italy, in respect of income assessable for the taxable period commencing on or after the first January next following that in which the notice of termination is given.

In witness whereof the undersigned have signed this Convention.

Done in duplicate at Port of Spain this Twenty-sixth day of March, 1971.

F.C. PREVATT

For the Government of Trinidad and Tobago

VITTORIO CORDERO DI MONTEZEMOLO

For the Government of Italy

Dated this 18th day of December, 1971.

D. ALLEYNE
Secretary to the Cabinet