

CONVENTION BETWEEN THE ITALIAN REPUBLIC AND THE PEOPLE'S REPUBLIC OF BULGARIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL AND FOR THE PREVENTION OF TAX EVASION

Prom. SG. 66/13 Aug 1991

The Italian Republic and the People's Republic of Bulgaria, desiring to develop and facilitate mutual economic relations, have agreed to conclude a Convention for the avoidance of double taxation with respect to taxes on income and on capital and for the prevention of tax evasion:

Personal Scope and Residents

Art. 1

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

2. Pursuant to this Convention, the term "resident of a Contracting State" means:

a) with respect to the Italian Republic, any person who, under the laws of Italy, is liable to tax in Italy by reason of his domicile, residence, place of management, or any other criterion of a similar nature;

b) with respect to the People's Republic of Bulgaria, any individual who is a Bulgarian national as well as any corporate body which has its place of business in Bulgaria and which is registered therein.

3. Where, by reason of the provisions of paragraph 2 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 his personal and economic relations are closer (center of vital interests);

b) if the State in which he has his center of vital interests cannot be determined, the competent authorities of the Contracting States shall resolve the matter by mutual agreement.

4. Where by reason of the provisions of paragraph 2 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.

Taxes Covered

Art. 2

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

2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or 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) for the Italian Republic:

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

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

(3) l'imposta locale sui redditi (local income tax).

even if assessed through withholdings at the source (hereinafter referred to as "Italian tax");

b) for the People's Republic of Bulgaria:

- (1) the tax on total income;
 - (2) the tax on unmarried men, widowers, divorced individuals, and couples without children;
 - (3) the tax on profits;
 - (4) the tax on buildings;
- (hereinafter referred to as "Bulgarian tax").

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

General Definitions

Art. 3

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

a) the term "Italy" means the Italian Republic and includes areas outside the territorial waters of Italy, which, according to customary international law and Italian laws with respect to the exploration and working of natural resources, may be regarded as areas in which the sovereign rights of Italy may be exercised regarding such areas, and the bed and subsoil of the sea, as well as their natural resources.

b) the term "Bulgaria" means the People's Republic of Bulgaria and, when used in a geographic sense, means the territory over which Bulgaria exercises its sovereign rights as well as the continental shelf and exclusive economic zone over which Bulgaria exercises its sovereign rights according to international law;

c) the terms "a Contracting State" and "the other Contracting State" mean, as required by context, the Italian Republic or the People's Republic of Bulgaria;

d) the term "person" includes an individual, a body corporate, including 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 "international traffic" means any transport by a ship, aircraft, or road vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State;

h) the term "competent authority" means:

i) in Italy: the Ministry of Finance;

ii) in the People's Republic of Bulgaria: the Ministry of Finance.

2. 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 that State concerning the taxes to which the Convention applies.

Permanent Establishment

Art. 4

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 or installation project which lasts more than twelve months.

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

- a) the use of facilities solely for the purpose of storage, display, or delivery of goods or merchandise belonging to the enterprise;
- b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display, or delivery;
- c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;
- e) the maintenance of a fixed place of business for the enterprise solely for the purpose of advertising, providing information, performing scientific research or analogous activities of a preparatory or auxiliary character.

4. The holding of a resident of Italy in a mixed company established in Belgium according to Decree No. 535 of the Council of State of the People's Republic of Bulgaria of March 25, 1980, shall be regarded as a "permanent establishment" for the purposes of this Convention.

5. Where a person -- other than an agent of an independent status to whom paragraph 6 applies - is acting in a Contracting State on behalf of an enterprise of the other Contracting State, it shall be considered a "permanent establishment" in the first-mentioned State if it has and habitually exercises in such State an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to purchasing goods or merchandise for the company.

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

7. The fact that a company which is a resident of a Contracting State:

- a) has a holding in a company which is a resident of the other Contracting State (or if the latter company has a holding in the first-mentioned company),
- b) or 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.

Income From Immovable Property

Art. 5

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.

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 derived from immovable property of an enterprise and to the income from immovable property used for the performance of independent personal services.

Business Profits

Art. 6

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, 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. 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.

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

International Transportation

Art. 7

1. Profits from the operation of ships, aircraft, and road vehicles 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 harbor of the ship is situated, or, if there is no such home harbor, 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 from participation in a pool, a joint business, or an international operating agency.

Dividends

Art. 8

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 if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 percent 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 dividends are paid.

3. For the purposes of this Art., the term "dividends" means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt claims, participating in profits and income from other company shares subjected to the same taxation treatment as income from shares by the tax laws of the State in 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 a commercial or industrial 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 shall be taxable in that other Contracting State in accordance with its domestic laws.

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 the holding in respect of which the dividends are paid is effectively connected with a permanent organization or 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.

Interest

Art. 9

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may only be taxed in that other State if that resident is the beneficial owner of such interest.

2. The term "interest" as used in this Art. means income from public debt securities and bonds, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and from debt-claims of any kind, as well as any proceeds which can be treated as income on amounts given as loans based on tax laws in the State in which income arises.

3. The provisions of paragraphs 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on a commercial or industrial 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 may be taxed in that other Contracting State in accordance with its domestic laws.

Royalties

Art. 10

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

2. However, such royalties shall also be taxable in the Contracting State in which they arise, and according to the laws of that State, but, if the recipient of the royalties is the beneficial owner thereof, the tax applied in this manner may not exceed 5 percent 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 Art. 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 and films and recordings for radio or television broadcasts, any patent, trade mark, design or model, plan, secret formula or process, computer program, 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 commercial or industrial 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 shall be taxable in that other Contracting State in accordance with its domestic laws.

5. Royalties shall be deemed to arise in a Contracting State when the payer is the State itself, a political or administrative subdivision, a local authority or a resident of that State. However, when the payer of royalties, whether such person is a resident or not of a Contracting State, has in a Contracting State a permanent establishment or fixed base for whose needs the contract giving rise to the payment of royalties was concluded, and such royalties are borne by such permanent establishment or fixed base, the royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

Capital Gains

Art. 11

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Art. 5 and 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. Gains from the alienation of ships, aircraft, or road vehicles operated in international traffic, or movable property pertaining to the operation of such ships, aircraft, or road vehicles, 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 that referred to in paragraphs 1, 2, and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

Independent Personal Services

Art. 12

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 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.

Salaries, Wages, and Other Similar Remuneration

Art. 13

1. Subject to the provisions of Art.s 14, 16, 17, 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 or a fixed base which the employer has in the other State.

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

Members of Boards of Directors and Audit Committees

Art. 14

1. Compensation, directors' fees, and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or audit committee of a company which is a resident of the other Contracting State may be taxed in that other State.

Artistes and Athletes

Art. 15

1. Notwithstanding the provisions of Art.s 12 and 13, income derived by a resident of a Contracting State as an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Art.s 6, 12, and 13, 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 above, income derived by an entertainer who is a resident of a Contracting State, from his personal activities as such exercised in the other Contracting State, shall be taxable only in the first-mentioned State if the activities exercised in the other State are financed largely out of public funds of the other Contracting State, or if such activities are exercised in the other State in connection with an official cultural exchange program between the two States.

Pensions

Art. 16

1. Subject to the provisions of paragraph 2 of Art. 17, 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.

Government Service

Art. 17

1.

a) Remuneration other than a pension, paid by a Contracting State, by one of its political or administrative subdivisions or a local authority 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 where such services are rendered if the recipient of remuneration is a resident of that State who:

i) is a national of that State, or

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

2.

a) Pensions paid by, or out of funds created 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 pensions shall be taxable only in the other Contracting State if the recipient is a resident and national of that State.

3. The provisions of Art.s 13, 14, and 16 shall apply to remuneration and pensions paid in respect of services rendered in connection with an industrial or commercial business carried on by a Contracting State, or a political or administrative subdivision or local authority thereof.

Professors

Art. 18

Remuneration derived by a professor or other member of the teaching profession who is, or immediately prior to visiting a Contracting State, was a resident of the other Contracting State, and who is sent or invited to the first-mentioned State for the sole purpose of teaching or conducting scientific research in that State for a period of up two years at a university or other non-profit institute of teaching or scientific research shall be taxable only in the first-mentioned State.

Students

Art. 19

Payments which a student or business apprentice who is or was a resident of the other Contracting State, and who is invited to the other Contracting 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 other State, provided that such payments arise from sources outside that State, or are derived as remuneration for activities performed in that other State within the limits of adequate income to complete his studies or training.

Other Income

Art. 20

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

Capital

Art. 21

1. Capital represented by immovable property referred to in Art. 5, 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 for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships, aircraft and road vehicles operated in international traffic, and by movable property pertaining to the operation of such ships, aircraft or vehicles, 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.

Methods for Elimination of Double Taxation

Art. 22

1. It is hereby agreed that double taxation shall be eliminated according to the provisions of the following paragraphs of this Art..

2. With respect to Bulgaria:

a) if a resident of Bulgaria has income or capital which, according to the provisions of this Convention, is taxable in Italy, Bulgaria shall exempt such income or capital from taxes;

b) if a resident of Bulgaria receives dividends or royalties which, according to the provisions of Art.s 8 and 10, are taxable in Italy, Bulgaria shall allow a deduction against the amount of tax that it imposes on the income of that resident, equal to the tax paid in Italy on such dividends or royalties. However, such deduction may not exceed the amount of tax, calculated prior to the deduction, corresponding to the aforementioned dividends or royalties arising in Italy.

c) Where, according to any provision of the Convention, the income or capital received by a resident of Bulgaria is exempt from taxation in Bulgaria, Bulgaria may, in any event, take into account the exempt income or capital for the purposes of calculating the amount of tax due on the remaining income or capital of that resident.

3. With respect to Italy:

If a resident of Italy receives items of income taxable in Bulgaria, Italy, when calculating its income taxes as specified in Art. 2 of this Convention, may include these items of income in the tax base subject to those taxes unless otherwise established by specific provisions of this Convention.

In such case, Italy must deduct from the taxes calculated in this manner the income tax paid in Bulgaria, but the amount of the deduction may not exceed the amount of Italian tax attributable to the aforementioned items of income to the extent such items of income contribute to the composition of total income.

However, no deduction shall be allowed where the item of income is subjected in Italy to taxation through the withholding of taxes at the request of the recipient of that income on the basis of Italian laws.

4. If a company which is a resident of Italy derives income resulting from its holding in a

"mixed company" established according to Decree No. 535/80 by the Council of State of the People's Republic of Bulgaria, for the purposes of the application of paragraph 3 above, it shall be deemed that the tax paid in Bulgaria on such income is equal to 36 percent.

Non-Discrimination

Art. 23

1. 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 Art. 1, also apply to persons who are not residents of one or both of the Contracting States.

2. For the purposes of the provisions of this Art., the term "nationals" means:

a) individuals who are nationals of a Contracting State;
b) corporate bodies, companies of persons, and associations established according to the laws in effect 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 favorably 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 which it grants to its own residents in consideration of their situation or family responsibilities.

4. 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.

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

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

Mutual Agreement Procedure

Art. 24

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 Art. 23, to that of the Contracting State of which he is a national. 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 endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory 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 endeavor 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 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.

Exchange of Information

Art. 25

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, and for preventing tax evasion. The exchange of information is not restricted by Art. 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.

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 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 trade, industrial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

Diplomatic Agents and Consular Officers

Art. 26

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

Reimbursement Claims

Art. 27

1. Taxes imposed in one of the two Contracting States through withholdings at the source shall be reimbursed at the request of the interested party or the State of which such party is a resident if the right to collect such taxes is limited by the provisions of this Convention.

2. Reimbursement claims, which are to be submitted within the time limitations established by the laws of the Contracting State required to make such reimbursement, must be accompanied by an official statement of the Contracting State of which the taxpayer is a resident, certifying that the required conditions exist which entitle the taxpayer to apply the exemptions or reductions referred to in this Convention.

3. The competent authorities of the Contracting States shall establish by mutual agreement, and pursuant to the provisions of Art. 24, the mode of application of this Art..

Entry Into Force

Art. 28

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

This Convention shall enter into force on the date the instruments of ratification are exchanged, and its provisions shall apply:

- a) to taxes imposed at the source on income attributed or payable on or after January 1 of the year following the year in which the Convention enters into force;
- b) to other taxes on income and capital for tax periods which begin on or after January 1 of the year following the year in which the Convention enters into force.

Termination

Art. 29

This Convention shall remain in force until terminated by a Contracting State. 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 starting the fifth year following the date the Convention enters into force. In such event, the Convention shall cease to have effect:

- a) for taxes imposed at the source on income payable on or after January 1 of the year following the year of termination;
- b) for other taxes on income and capital for tax periods which begin on or after January 1 of the year following the year of termination.

Done in duplicate at Sofia, this 21st day of September 21 1988, in the Italian, Bulgarian, and French languages, with the latter taking precedence in the event of disputes.

FINAL PROTOCOL

At the time of signing the Convention concluded on the date hereof between the Italian Republic and the People's Republic of Bulgaria for the avoidance of double taxation with respect to taxes on income and on capital and for the prevention of tax evasion, the undersigned plenipotentiaries agreed to the following provisions which shall form an integral part of that Convention.

It is understood that:

- a) with respect to Art. 2, if in the future a tax on capital is introduced in Italy, the Convention shall apply to that tax, and double taxation shall be avoided according to the provisions of Art. 22;
- b) with respect to paragraph 3 a) of Art. 4, the sale, at the end of a show, of any merchandise exhibited at such show shall not constitute a permanent establishment;
- c) with respect to paragraph 2 of Art. 5, the term "immovable property" 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 right to work, mineral deposits, sources and other natural resources. Ships, aircraft and road vehicles shall not be regarded as immovable property;
- d) with respect to paragraph 3 of Art. 6, "expenses which are incurred for the purposes of the

permanent establishment" shall mean expenses directly connected to the activities of such permanent establishment;

e) with respect to Art.s 9 and 10, if the amount of interest or royalties paid exceeds the normal value of such income based on the laws of one of the Contracting States, the excess portion of such payments shall be taxable in that State pursuant to its laws, due regard being had to the other provisions of this Convention;

f) the provisions of paragraph 3 of Art. 13 shall also apply to remuneration paid to personnel of an air transport enterprise operating in international traffic of one of the Contracting States which carries on its activities in the other Contracting State;

g) the provisions of paragraphs 1 and 2 of Art. 17 shall also apply to remuneration and pensions paid by the following Italian services and agencies to their staff:

- the State Railroad Administration (F.S.);
- the Post Office and Telecommunications Administration (PP.TT);
- the National Tourism Board (ENIT);
- the Foreign Commerce Institute (ICE);
- the Bank of Italy;

as well as the corresponding Bulgarian services and agencies;

h) with respect to paragraph 1 of Art. 24, the expression "irrespective of the remedies provided by domestic law" shall mean that the initiation of the mutual agreement procedure shall not be construed as an alternative to domestic litigation proceedings which, in any event, should be initiated in advance, where the dispute involves the application of taxes which are not in accordance with the Convention;

i) the provisions of paragraph 3 of Art. 27 shall not exclude the interpretation that the competent authorities of Contracting States may by mutual agreement establish other procedures for the application of tax reductions or reliefs provided by the Convention;

j) notwithstanding the provisions of paragraph 2 of Art. 28, the provisions of paragraph 1 of Art. 7 shall apply to income earned starting January 1, 1981.

Done in duplicate at Sofia, this 21st day of September 1988, in the Italian, Bulgarian, and French languages, with the latter taking precedence in the event of disputes.