

CONVENTION  
BETWEEN THE STATE OF ISRAEL  
AND THE KINGDOM OF BELGIUM  
FOR THE AVOIDANCE OF DOUBLE TAXATION  
WITH RESPECT TO TAXES ON INCOME AND CAPITAL

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## CONVENTION

### BETWEEN THE STATE OF ISRAEL AND THE KINGDOM OF BELGIUM FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

THE GOVERNMENT OF ISRAEL

and

THE GOVERNMENT OF BELGIUM,

*Desiring* to conclude a Convention for the avoidance of double taxation with respect to taxes on income and capital,

*Have agreed* as follows :

#### 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 and on capital or property imposed on behalf of each Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.
- (2) There shall be regarded as taxes on income and on capital or property all taxes imposed on total income, on total capital or property, or on elements of income or of capital or property, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.
- (3) The existing taxes to which the Convention shall apply are, in particular :
  - (a) in Israel :
    - (i) the income tax (including capital gains tax);
    - (ii) the company tax;
    - (iii) the security levy;
    - (iv) the national property taxes;

(v) the tax on gains from the sale of land under the Land Appreciation Tax Law; (hereinafter referred to as « Israeli tax »);

(b) in Belgium :

- (i) the individual income tax (l'impôt des personnes physiques);
- (ii) the corporate income tax (l'impôt des sociétés);
- (iii) the income tax on legal entities (l'impôt des personnes morales);
- (iv) the income tax on non-residents (l'impôt des non-résidents);
- (v) the prepayments and additional prepayments (les précomptes et compléments de précomptes); and
- (vi) the surcharges (décimes et centimes additionnels) on any of the taxes referred to in (i) to (v) above including the communal supplement to the individual income tax (taxe communale additionnelle à l'impôt des personnes physiques);

(hereinafter referred to as « Belgian 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 regularly to each other any major changes which have been made in their respective taxation laws.

## II. DEFINITIONS

### Article 3

#### GENERAL DEFINITIONS

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

- (a) the term « Belgium », when used in a geographical sense, means the territory of the Kingdom of Belgium;
- (b) the term « Israel » when used in a geographical sense, means the territory of the State of Israel;
- (c) the terms « a Contracting State » and « the other Contracting State » mean Belgium or Israel, as the context requires;
- (d) the term « tax » means Belgian tax or Israeli tax as the context requires;
- (e) the term « person » comprises individuals and companies;
- (f) the term « company » means any body corporate or any entity which is treated as a body corporate for tax purposes in the Contracting State of which it is a resident;
- (g) 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;
- (h) the term « competent authority » means :
  - a) in the case of Belgium the competent authority according to Belgian legislation, and
  - b) in the case of Israel the Minister of Finance or his authorized representative.

(2) As regards the application of this Convention in a Contracting State any term not otherwise defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes to which this 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 law of that State, is liable to taxation therein by reason of his domicile, residence, place of mana-

gement or any other criterion of a similar nature. A company, and in the case of Belgium a company other than a company with share capital, which has elected that its profits be taxed to the individual income tax shall be regarded as liable to taxation in the meaning of the preceding sentence if it would have been so liable except for such election.

- (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 his 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) an office;
  - (d) a factory;
  - (e) a workshop;
  - (f) a mine, quarry or other place of exploitation of natural resources;
  - (g) a plantation;
  - (h) 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 Contracting State if he has, and habitually exercises in that first-mentioned Contracting 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.

However, an insurance enterprise of a Contracting State shall be regarded as having a permanent establishment in the other Contracting State when, through a representative to whom the preceding subparagraph applies, or through an agent of an independent status and having an authority which he habitually exercises, to conclude contracts in the name of the enterprise, it collects premiums in that other Contracting State or insures risks situated in that other Contracting State.

(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 Contracting 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 Contracting State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

### 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 laws 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 immovable 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 Contracting 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 Contracting State but only so much of them as is attributable to that permanent establishment.
- (2) Without prejudice to the application 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 acting wholly independently.

- (3) In the determination of 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 Contracting State in which the permanent establishment is situated or elsewhere.
- (4) In the absence of regular accounting or other means of proof to determine the amount of the profits of an enterprise of a Contracting State which is to be attributed to its permanent establishment situated in the other Contracting State, the tax may be assessed in that other Contracting State in accordance with its own legislation, regard being had to the normal profits of similar enterprises in the same State carrying on the same or similar activities in identical or similar circumstances. However, if this method leads to double taxation of the same profits, the competent authorities of the two Contracting States shall consult together with a view to avoiding the double taxation.
- (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) Notwithstanding the provisions of Article 7, paragraphs 1 to 6, 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 term « international traffic » includes traffic between places in one Contracting State in the course of a voyage which extends over more than one country.

#### 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 Contracting 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 laws of that Contracting State, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.  
This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.
- (3) The term « dividends » as used in this Article means income from shares, « jouissance » shares or « jouissance » rights, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights treated in the same way as income from shares by the taxation laws of the Contracting State of which the company making the distribution is a resident. This term means also income — even when paid in the form of interest — which is taxable under the head of income on capital invested by the members of a company other than a company with share capital, which is a resident of Belgium.
- (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 provisions of Article 7 shall apply; they shall not prevent the imposition of tax which is due at source on such dividends according to the laws of that other Contracting State.
- (5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other Contracting State may not impose any tax on the dividends paid by the company outside that other Contracting State to persons who are not residents of that other Contracting 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 that other Contracting 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 Contracting State.
- (2) However, such interest may be taxed in the Contracting State in which it arises, and according to the laws of that Contracting State, but the tax so charged shall not exceed 15 per cent of the gross amount of the interest.
- (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, subject to the following subparagraph, debt-claims and deposits of every kind as well as premiums on lottery bonds and all other income treated in the same way as income from money lent or deposited by the taxation laws of the Contracting State in which the income arises.

The term does not include :

- 1° interest assimilated to dividends by Article 10, paragraph 3, second sentence;
  - 2° Interest on current accounts or on nominal advances between banking enterprises of the two Contracting States. Such interest will be subject, to the provisions of Article 7.
- (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 or deposit from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply; they shall not prevent the imposition of tax which is due at source on such interest according to the laws of that other Contracting State.

- (5) Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a local authority or a resident of that Contracting 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 directly 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) Where, owing to a special relationship between the payer and the recipient or depositor or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim or deposit for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient or depositor 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 the Contracting State in which the interest arises.

#### 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 laws of that Contracting State, but the tax so charged shall not exceed 10 per cent of the amount of the royalties.
- (3) The term « royalties » as used in paragraphs 1 and 2 means payments of any kind received as a consideration for the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process, of for the use of, or the right to use, films for cinema or television or industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, as well as income from a bare boat charter of a ship or aircraft.
- (4) Royalties arising in a Contracting State and paid to a resident of the other Contracting State as a consideration for the use of, or the right to use, any copyright of literary, dramatic, musical artistic or scientific work (excluding royalties and like payments in respect of films for cinema or television) shall be taxable only in that other Contracting State.
- (5) The provisions of paragraphs 1, 2 and 4 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 provisions of Article 7 shall apply.
- (6) Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, 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 directly borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.
- (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 the Contracting State in which the royalties arise.

#### Article 13

#### CAPITAL GAINS

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

In this paragraph « immovable property » shall include rights — other than shares dealt in on a stock exchange — in a real estate association as such association is defined in Israeli Law mentioned in Article 2 paragraph 3 (a) (v). The said rights shall be deemed to be situated in the Contracting State in which the immovable property held by such an association is situated.

- (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 professional services including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in that other Contracting State. However, gains from the alienation of ships and aircraft operated in international traffic and of movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which such property is taxable according to paragraph 3 of Article 22.
- (3) Gains from the alienation of any other property shall be taxable only in the Contracting State of which the alienator is a resident.

#### Article 14

##### INDEPENDENT PERSONAL SERVICES

- (1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that Contracting State unless :
  - (a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; or
  - (b) he performs such services or other independent activities in the other Contracting State during a period or periods — including the duration of normal work interruptions — exceeding in the aggregate 183 days in the calendar year concerned.

In such cases, the income may be taxed in that other Contracting State but only so much of it as is attributable to activities connected with that fixed base or performed during such period or periods.

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

#### Article 15

##### DEPENDENT PERSONAL SERVICES

- (1) Subject to the provisions of Articles 16, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting 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 Contracting 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 Contracting State, if :
  - (a) it relates to an activity exercised in that other Contracting State during a period or periods — including the duration of normal work interruptions — not exceeding in the aggregate 183 days in the calendar year concerned, and
  - (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of that other Contracting State, and
  - (c) the remuneration is not borne as such by a permanent establishment or a fixed base which the employer has in that other Contracting State.
- (3) Notwithstanding the provisions of paragraphs 1 and 2, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

## Article 16

### DIRECTORS' FEES

- (1) Fees and other remuneration 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 Contracting State.
- (2) The remuneration which a person to whom paragraph 1 applies derives from the company in respect of the discharge of day-to-day functions of a managerial or technical nature may be taxed in accordance with the provisions of Article 15 as if the remuneration were remuneration of an employee in respect of an employment and as if references to the employer were references to the company.

## 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 dependent or independent personal activities as such may be taxed in the Contracting State in which these activities are exercised. This provision also applies to such income derived by the said persons or accrued to them directly or indirectly through corporate bodies controlled by the said persons.

## Article 18

### PENSIONS

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

## Article 19

### GOVERNMENTAL FUNCTIONS

- (1) Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that Contracting State or subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in that Contracting State.  
This provision shall not apply if the recipient of this income is a national of the other Contracting State without being a national of the first-mentioned Contracting State.
- (2) The provisions of Articles 15, 16, 17 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by a Contracting State or a political subdivision or local authority thereof.

## Article 20

### TEACHERS AND STUDENTS

- (1) Notwithstanding the provisions of Article 15, a professor or teacher who makes a temporary visit to a Contracting State for a period not exceeding two years for the purpose of teaching 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 taxable only in that other Contracting State in respect of remuneration for such teaching.
- (2) A student or business apprentice who is present in a Contracting State solely for the purpose of his education or training and who is, or immediately before being so present was, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on payments received from

outside that first-mentioned Contracting State for the purposes of his maintenance, education or training. The same shall apply to remuneration for an employment in the first-mentioned State, if the aggregate of this remuneration and the payments mentioned in the preceding sentence does not exceed 120.000 Belgian francs or 10.000 Israeli pounds in the calendar year, as the case may be.

#### Article 21

### INCOME NOT EXPRESSLY MENTIONED

Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.

### IV. TAXATION OF CAPITAL OR PROPERTY

#### Article 22

- (1) Immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.
- (2) Movable property forming part of the business property of a permanent establishment of an enterprise or movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.
- (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 or property of a resident of a Contracting State shall be taxable only in that State.

### V. PROVISIONS FOR ELIMINATION OF DOUBLE TAXATION

#### Article 23

- (1) In the case of income which may be taxed in Israel in accordance with this Convention, whether directly or by deduction, and which is liable to tax in Belgium according to Belgian law :
  - (a) (i) When a company which is a resident of Belgium owns shares in a company which is a resident of Israel, the dividends paid thereon to the former company which have not been dealt with in accordance with paragraph 4 of Article 10 shall be exempted in Belgium from the tax referred to in paragraph 3 (b) (ii) of Article 2 to the extent that exemption would have been accorded if the two companies had been residents of Belgium.
  - (ii) A company which is a resident of Belgium and which owns directly shares in a company which is a resident of Israel during the whole of the accounting period of the latter company shall likewise be exempted or granted relief from the prepayment on income from movable property (*pré-compte mobilier*) chargeable in accordance with Belgian law on the net amount of the dividends referred to above which are paid to it by the said company which is a resident of Israel, provided that it so requests in writing not later than the time limited for the submission of its annual return, on the understanding that, on redistribution to its own shareholders of dividends not charged to the said prepayment, the income then distributed and chargeable to the said prepayment shall not be reduced by the amount of such dividends notwithstanding Belgian law. This exemption shall not apply when the first-mentioned company has elected that its profits be charged to the individual income tax.

However, the application of this provision will be limited to dividends paid by a company which is a resident of Israel to a company which is a resident of Belgium which controls directly or indirectly not less than 10 per cent of the voting power in the former company, in cases where, in regard to the exemption of the tax referred to in paragraph (3) (b) (ii) of Article 2, a similar

limitation would be imposed by Belgian legislation in respect of dividends paid by companies not residents of Belgium.

- (iii) In cases not covered by sub-paragraphs (a) (i) and (ii), when a resident of Belgium receives income dealt with in accordance with paragraph 2 of Article 10, paragraphs 2 and 6 of Article 11 and paragraphs 2 and 7 of Article 12, Belgium shall reduce the Belgian tax charged thereon by a deduction in respect of the tax leviable in Israel. The deduction shall be allowed against the tax chargeable on the net amount of the dividends from the company which is a resident of Israel as well as of interest and royalties arising in Israel which were taxable there; the deduction shall be the fixed credit for foreign tax for which provision is made in Belgian law, but shall in no case be less than 15 per cent of the gross amount of such income which is included in the taxable base of the recipient of that income.
- (b) (i) When a resident of Belgium receives income other than that mentioned in sub-paragraph (a) above which may be taxed in Israel in accordance with the provisions of this Convention, Belgium shall exempt such income from tax, but may in calculating the amount of the tax on the remaining income of that resident apply the rate of tax which would have been applicable if the income in question had not been exempted.
- (ii) Income chargeable as business profits in accordance with Belgian law in the hands of members of companies and bodies of persons shall be treated as though it were profits arising from a business carried on by the members themselves on their own account.
- (iii) Notwithstanding sub-paragraph (b) (i) above, Belgian tax may be charged on income chargeable in Israel to the extent that this income has not been charged in Israel because of the set-off of losses also deducted, in respect of any accounting period, from income taxable in Belgium.
- (2) In the case of income which has been taxed in Belgium in accordance with this Convention, whether directly or by deduction, and which is liable to tax in Israel according to Israeli law :
- (a) When a company which is a resident of Israel owns shares in a company which is a resident of Belgium, the dividends paid thereon to the former company which have not been dealt with in accordance with paragraph 4 of Article 10 shall be liable in Israel to tax according to its law, but Israel shall allow a credit of 25 per cent of the dividends in consideration of Belgian tax on the dividends and part of the Belgian tax on the profits out of which the dividends were paid.
- (b) Dividends, paid by a company resident of Belgium to a company resident in Israel, which owns at least 10 per cent of the voting power of the company paying the dividends, shall be excluded from the tax base in Israel, but only in so far as such dividends would be excluded from the tax base by Israeli tax laws in case both companies had been resident of Israel.
- (c) In all other cases Israel shall, subject to its law governing credit for foreign tax, allow a credit in the amount of the tax paid in Belgium in accordance with this Convention.
- (3) When a resident of a Contracting State owns capital or property which, in accordance with the provisions of this Convention, may be taxed in the other Contracting State, the first-mentioned State shall exempt such capital or property from tax but may, in calculating tax on the remaining capital or property of that resident, apply the rate of tax which would have been applicable if the exempted capital or property had not been so exempted.

## VI. SPECIAL PROVISIONS

### Article 24

#### 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 Contracting State in the same circumstances are or may be subjected.
- (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 Contracting State than the taxation levied on enterprises of that other Contracting State carrying on the same activities.

This provision shall not be construed :

- (a) as preventing a Contracting State from taxing the total amount of the profits attributable to a permanent establishment available in this Contracting State to a company which is a resident of the other Contracting State, or to an association having its place of management in that other Contracting State, at the rate fixed by its national law, provided that such rate does not exceed in principle the highest rate applicable to the total or a fraction of the profits of companies which are residents of the first-mentioned Contracting State.
- (b) as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
- (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 requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of that first-mentioned Contracting State are or may be subjected.
- (5) In this Article the term « taxation » means 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 double taxation not in accordance with this Convention, he may, without prejudice to the remedies provided by the national laws of these States, address to the competent authority of the Contracting State of which he is a resident an application in writing stating the grounds for claiming a revision of that taxation. To be receivable, the said application must be presented within a period of two years from the date of the notification, or the collection at source, of the second charge to tax.
- (2) The competent authority referred to in paragraph 1 shall endeavour, if the objection appears to it to be justified and if it is not 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 double 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 application of this Convention.
- (4) The competent authorities of the Contracting States shall agree on the subject of the necessary administrative measures to carry out the provisions of this Convention and particularly in the matter of the proofs to be furnished by the residents of either Contracting State in order to benefit in the other Contracting State from the exemptions from or reductions in tax provided in this Convention.

#### 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 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 apart from the taxpayer or his agent, to any persons or authorities other than those concerned with the assessment or collection of the taxes to which this Convention applies or with appeals relating thereto.

- (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 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 information the disclosure of which would be contrary to public policy.

#### Article 27

#### MISCELLANEOUS

- (1) Without prejudice to the application of Article 23, paragraph 1 (a) (ii), the provisions of this Convention shall not limit the rights and benefits which the laws of a Contracting State grant in respect of the taxes which are the subject of Article 2.
- (2) As regards a company which is a resident of a Contracting State, the provisions of this Convention shall not limit its taxation in accordance with the law of that Contracting State in the event of the repurchase of its own shares or in the event of the distribution of its assets.
- (3) Nothing in this Convention shall affect the fiscal privileges of members of a diplomatic or consular mission under the general rules of international law or under the provisions of special agreements.
- (4) For the purposes of this Convention, persons who are members of a diplomatic or consular mission of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State, shall be deemed to be residents of the sending State if they are submitted therein to the same obligations in respect of taxes on income and capital or property as are residents of that State.
- (5) This Convention shall not apply to international organisations, to organs or officials thereof and to persons who are members of a diplomatic or consular mission of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income and capital or property.
- (6) The Ministers of Finance of the Contracting States or their delegates shall communicate directly with each other for the application of this Convention.

#### VII. FINAL PROVISIONS

#### Article 28

#### ENTRY INTO FORCE

- (1) This Convention shall be ratified and the instruments of ratification shall be exchanged at Brussels at soon as possible.
- (2) This Convention shall enter into force on the fifteenth day after the date of the exchange of the instruments of ratification and shall have effect :

In Belgium :

- (a) as respects all tax due at source on income credited or payable on or after the first day of January in the calendar year in which this Convention enters into force;

(b) as respects all tax other than tax due at source, on income of any accounting period ending on or after the 31st day of December in the said calendar year.

In Israel :

as respects all tax for the tax years beginning on or after the first day of April in the calendar year in which this convention enters into force.

#### Article 29

#### TERMINATION

This Convention shall remain in force indefinitely but either of the Contracting States may denounce the Convention, through diplomatic channels, by giving to the other Contracting State, written notice of termination not later than the 30th June of any calendar year from the fifth year following that in which the instruments of ratification were exchanged. In such event the Convention shall have effect for the last time :

In Belgium :

- (a) as respects all tax due at source on income credited or payable at latest on the 31st day of December in the calendar year in which the notice of termination is given;
- (b) as respects all tax other than tax due at source, on income of any accounting period ending at latest on the 30th day of December of the calendar year following that in which the notice of termination is given.

In Israel :

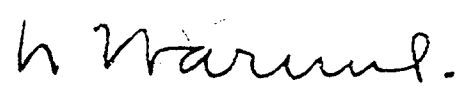
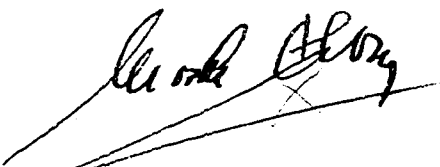
as respects all tax for the tax year ending on the thirty-first day of March in the calendar year next following that in which the notice is given.

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

DONE in duplicate at Brussels, this *13<sup>th</sup> day of July, 1972*, in the English language.

FOR THE GOVERNMENT OF ISRAEL :

FOR THE GOVERNMENT OF BELGIUM :



Treaties Department - Ministry of Foreign Affairs - Israel