

No. 23461

**SPAIN
and
MOROCCO**

Convention for the avoidance of double taxation with respect to taxes on income and on capital (with protocol and exchange of letters of 13 December 1983 and 7 February 1984). Signed at Madrid on 10 July 1978

Authentic text of the Convention and the protocol: French.

Authentic text of the exchange of letters: Spanish.

Registered by Spain on 29 July 1985.

**ESPAGNE
et
MAROC**

Convention tendant à éliminer les doubles impositions en matière d'impôts sur le revenu et sur la fortune (avec protocole et échange de lettres des 13 décembre 1983 et 7 février 1984). Signée à Madrid le 10 juillet 1978

Texte authentique de la Convention et du protocole : français.

Texte authentique de l'échange de lettres : espagnol

Enregistrée par l'Espagne le 29 juillet 1985.

EXCHANGE OF LETTERS — ÉCHANGE DE LETTRES

I

[SPANISH TEXT — TEXTE ESPAGNOL]

[TRADUCTION — TRANSLATION]

EMBAJADA DEL REINO DE MARRUECOS
MADRIDAMBASSADE DU ROYAUME DU MAROC
MADRID*El Embajador del Reino de Marruecos
en Madrid al Señor Ministro de Asun-
tos Exteriores, Madrid**L'Ambassadeur du Royaume du Maroc
à Madrid à Monsieur le Ministre des
affaires étrangères, Madrid*Madrid,
el 13 de diciembre 1983Madrid,
le 13 décembre 1983

TEF/LS-CE No. 1055

TEF/LS-CE n° 1055

*ASUNTO: Convenio entre España y el
Reino de Marruecos para evitar la
doble imposición en Materia de Im-
puestos sobre la Renta y sobre el Pa-
trimonio**OBJET : Convention entre l'Espagne et
le Royaume du Maroc tendant à éli-
miner les doubles impositions en ma-
tière d'impôts sur le revenu et sur la
fortune*

Señor Ministro:

Monsieur le Ministre,

Tengo el honor de referirme al Convenio para evitar la Doble Imposición en Materia de Impuestos sobre la Renta y sobre el Patrimonio, firmado el 10 de Julio de 1978 entre nuestros dos países, y de acuerdo con las conversaciones celebradas al respecto, en particular sobre la conveniencia de modificar el Párrafo 3 del Artículo 2 de dicho Convenio, para adecuarlo a la Legislación actualmente en vigor en nuestros dos países, me es grato proponer la siguiente nueva redacción para el citado Párrafo 3 del Artículo 2 del Convenio:

Me référant à la Convention tendant à éliminer les doubles impositions en matière d'impôts sur le revenu et sur la fortune signée le 10 juillet 1978 entre nos deux pays, et conformément aux entretiens tenus à cet égard, notamment sur la nécessité de modifier le paragraphe 3 de l'article 2 de ladite Convention afin de le rendre conforme à la législation actuellement en vigueur dans nos deux pays, j'ai l'honneur de proposer la formulation suivante pour le paragraphe 3 précité de l'article 2 de la Convention :

“3. Los impuestos actuales a los que, concretamente, se aplica el presente Artículo son:

« 3. Les impôts actuels auxquels s'applique le présent article sont les suivants :

*En lo que se refiere a Marruecos:**En ce qui concerne le Maroc :*

- 1) El impuesto sobre los beneficios profesionales y la reserva de inversión.

- 1) L'impôt sur les bénéfices professionnels et la réserve d'investissement.

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| <p>2) El impuesto sobre los sueldos públicos y privados, dietas y emolumentos, salarios, pensiones y rentas vitalicias.</p> <p>3) La contribución urbana y las contribuciones relacionadas con ella.</p> <p>4) El impuesto agrícola.</p> <p>5) La contribución complementaria sobre la renta global de las personas físicas.</p> <p>6) El impuesto sobre los productos de las acciones o partes sociales y rentas asimiladas.</p> <p>7) El impuesto de patentes.</p> <p>8) La tasa sobre las plusvalías inmobiliarias.</p> <p>9) La participación de solidaridad nacional.</p> | <p>2) Le prélèvement sur les traitements publics et privés, les indemnités et les émoluments, les salaires, les pensions et les rentes viagères.</p> <p>3) La taxe urbaine et les taxes y rattachées.</p> <p>4) L'impôt agricole.</p> <p>5) La contribution complémentaire sur le revenu global des personnes physiques.</p> <p>6) La taxe sur les produits des actions ou parts sociales et revenus assimilés.</p> <p>7) L'impôt des patentes.</p> <p>8) La taxe sur les plus-values immobilières.</p> <p>9) La participation de solidarité nationale.</p> |
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En lo que se refiere a España:

- 1) El impuesto sobre la renta de las personas físicas.
- 2) El impuesto sobre las sociedades.
- 3) El impuesto sobre el patrimonio.”

Le ruego, Sr. Ministro, me confirme la aceptación de su Gobierno de lo que procede. La presente Nota y su respuesta constituirán un acuerdo entre nuestros dos Gobiernos, que entrará en vigor en la misma fecha que el Convenio al que modifica.

Aprovecho la ocasión para expresarle el testimonio de mi alta consideración.

[Signed — Signé]

ABDELHAFID KADIRI
Embajador
del Reino de Marruecos

En ce qui concerne l'Espagne :

- 1) L'impôt sur le revenu des personnes physiques.
- 2) L'impôt sur les sociétés.
- 3) L'impôt sur la fortune. »

Je vous serais reconnaissant de bien vouloir me confirmer, Monsieur le Ministre, l'acceptation de ce qui précède par le Gouvernement de votre pays. La présente note et votre réponse constitueront entre nos deux gouvernements un accord qui entrera en vigueur à la même date que la Convention ainsi modifiée.

Je saisis cette occasion, etc.

L'Ambassadeur
du Royaume du Maroc,

[Signé]

ABDELHAFID KADIRI

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF SPAIN AND THE GOVERNMENT OF THE KINGDOM OF MOROCCO FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

The Government of the Kingdom of Spain and the Government of the Kingdom of Morocco,

Desiring to avoid double taxation with respect to taxes on income and on capital, have agreed, to that end, as follows:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of 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 of capital, including taxes on gains from the alienation of movable or immovable property, taxes on the amount of wages paid by enterprises (except social security contributions), as well as taxes on capital appreciation.

3. The existing taxes to which this article shall apply are:

In the case of Morocco:

- (1) The tax on business profits and the investment reserve;
- (2) The tax on public and private salaries, emoluments, fees and wages, pensions and annuities;
- (3) The tax on urban real property and connected taxes;
- (4) The agricultural tax;
- (5) The supplementary contribution on the total income of individuals;
- (6) The tax on dividends from stocks or shares and similar income;
- (7) The tax on patents.

In the case of Spain:

- (1) The general personal income tax;
- (2) The general corporate income tax;

¹ Came into force on 16 May 1985, i.e., the thirtieth day following the exchange of the instruments of ratification, which took place at Rabat on 16 April 1985, in accordance with article 28 (2).

- (3) The following taxes collected in advance: the agricultural land tax, the urban land tax, the tax on earnings from personal services, the tax on income from capital and the tax on commercial and industrial activities and profits;
- (4) The tax on surface area and the tax on commercial profits, governed by the Act of 27 June 1974, for enterprises engaged in prospecting for and extracting hydrocarbons;
- (5) Local taxes on income or capital and on capital appreciation.

4. The Convention shall apply also to any identical or similar future taxes in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any changes made in their tax laws at the time of their promulgation.

Article 3. GENERAL DEFINITIONS

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

(a) The term "Spain" shall mean the Kingdom of Spain and the term "Morocco" shall mean the Kingdom of Morocco.

(b) The terms "Contracting State" and "the other Contracting State" shall mean Morocco or Spain as the context requires.

(c) The term "person" shall cover individuals, companies and any other groups of persons.

(d) The term "company" shall mean any body corporate or any entity which is treated as a body corporate for tax purposes.

(e) The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" shall mean respectively an enterprise operated by a resident of a Contracting State and an enterprise operated by a resident of the other Contracting State.

(f) The term "national" shall mean:

(a) Any individual possessing the nationality of either Contracting State;

(b) Any body corporate, partnership or association set up in accordance with the laws in force in a Contracting State,

(g) The term "international traffic" shall mean any transport by a ship or an aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between points in the other Contracting State.

(h) The term "competent authority" shall mean:

(1) In Morocco: the Minister of Finance or his duly authorized or delegated representative;

(2) In Spain: the Minister of Finance or his duly authorized or delegated representative.

2. For the purposes of the application of this Convention by a Contracting State, any term not defined in the Convention shall, unless the context requires otherwise, have the meaning which it has under the laws in force in that State concerning the taxes covered by this Convention.

Article 4. RESIDENT

1. For the purposes of this Convention, the term “resident of a Contracting State” shall mean any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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

1. He shall be deemed to be a resident of the Contracting State in which he has a permanent home at his disposal. If he has a permanent home at his disposal in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic ties are closer (centre of vital interests);
2. If the Contracting State in which he has his centre of vital interests cannot be determined, or if he does not have a permanent home at his disposal in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he regularly lives;
3. If he regularly lives 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;
4. 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;
5. Where, by reason of the provisions of paragraph 1 a person other than an individual is considered a resident of both Contracting States, that person 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” shall mean a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” shall include:

- (a) A place of management or operation;
- (b) A branch;
- (c) An office;
- (d) A factory;
- (e) A workshop;
- (f) A mine, quarry or other place for the extraction of natural resources;
- (g) A building site or construction or assembly project which exists for more than 12 months;
- (h) A sales outlet.

3. Notwithstanding the preceding provisions of this article, 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 for shipment to the enterprise itself in the other Contracting State or of gathering information for the enterprise;
- (e) The maintenance of a fixed place of business solely for the purpose of advertising, for providing information, for scientific research or for similar or auxiliary activities, provided that no orders are received there.

4. A person, other than an agent of independent status to whom paragraph 5 below applies, acting in a Contracting State on behalf of an enterprise of the other Contracting State, shall be deemed to be a "permanent establishment" in the first-mentioned State if he has, and habitually exercises, in that State the 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.

A person shall be specifically deemed to be exercising such authority if he habitually maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders which he has received on behalf of 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 commercial operations in that other State through a broker, general commission agent or any other agent acting in the ordinary course of his business. However, if such agent maintains a stock of goods and merchandise on deposit or consignment from which sales and deliveries are made, such stock shall be deemed to amount to the existence of a permanent establishment of the enterprise.

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

Article 6. INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property, including income from agricultural or forestry holdings, shall be taxable in the Contracting State in which the 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, the livestock and machinery of agricultural and forestry holdings, rights to which the provisions of private law concerning landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of mineral deposits, and the use of springs and other resources of the soil; ships and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall also apply to income from the immovable property of an enterprise and 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 such business as described, its profits shall be taxable in the other State but only to the extent that they are 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 have made had it been a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing absolutely independently with the enterprise of which it is a permanent establishment.

3. In estimating the profits of a permanent establishment, there shall be allowed as deductions the expenses incurred as a result of the operations of that permanent establishment, including costs and general expenses related to services rendered for the benefit of the permanent establishment, whether in the State in which the permanent establishment is situated or elsewhere.

4. Where profits include elements of income which are dealt with separately in other articles of this Convention, the provisions of those articles shall not be affected by the provisions of this article.

Article 8. SEA 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. The provisions of paragraph 1 shall also apply to the profits of such enterprises deriving from participation in a sea or air transport pool of any kind.

3. If the place of effective management of a shipping enterprise is on board a ship, it shall be deemed to be situated in the Contracting State in which the home port of the ship is located.

Article 9. ASSOCIATED ENTERPRISES

1. Where an enterprise of a Contracting State, as a result of its participation in the management or the capital of an enterprise of the other Contracting State, makes or imposes on the latter, in their commercial or financial relations, conditions different from those which would be imposed on a third enterprise, any profits which would normally have appeared in the accounts of one of the enterprises but have thus been transferred to the other enterprise may be included in the taxable profits of the first-mentioned enterprise.

2. An enterprise shall be deemed to participate in the management or capital of another enterprise if the same person or persons participate directly or indirectly in the management or capital of both enterprises.

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 shall be taxable 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 laws of that State, but the tax so charged shall not exceed:

- (1) 10 per cent of the gross amount of the dividends if the recipient of the dividends is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;
- (2) In all other cases, 15 per cent of the gross amount of the dividends.

3. 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 on which the dividends are paid is actually connected. In such case the provisions of article 7 shall apply.

4. The term “dividends” as used in this article shall mean income from shares, interest-bearing shares or bonds, mining shares, founder’s shares and other profit-bearing shares other than debt claims, as well as income from other corporate holdings equated with income from shares by the tax laws of the State of which the company paying dividends is a resident.

5. When 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 taxes on the dividends paid by the company to persons who are not residents of that other State, nor 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 State.

Article 11. INTEREST

1. Interest 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 interest may be taxed in the Contracting State in which it arises and according to the laws of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

3. The term “interest” as used in this article shall mean income from Government securities, bonds or debentures, whether or not accompanied by a mortgage guarantee or a profit-sharing clause, debt claims of all kinds and all other income equated under the tax laws of the State in which the income arises with income from money lent.

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 on which the interest is paid is actually connected. In such case, the provisions of article 7 shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of the 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 respect of which the

indebtedness on which the interest is paid was incurred and which is bearing the cost of such interest, the interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the recipient or between both of them and a third party, the amount of the interest, having regard to the debt claim on 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 such case, the additional interest shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12. ROYALTIES

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

2. However, such royalties may be taxed in the State in which they arise and according to the laws of that State, due regard being had to the following rules:

(a) Royalties received as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific works, not including cinematographic and television films, which are paid in either Contracting State to a person having his domicile for tax purposes in the other Contracting State, may be taxed in the first-mentioned State, but the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

(b) Royalties arising from the granting of licences for the use of patents, designs or models, plans, secret formulae or processes, coming from sources situated in the territory of a Contracting State and paid to a person domiciled in the territory of the other State may be taxed in the first-mentioned State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

(c) The royalties referred to in subparagraph (b) above shall be deemed to include sums paid for the granting of licences for the use of trade marks and for leasing the right to use cinematographic or television films, similar payments for information concerning industrial, commercial or scientific experiments and payments for technical or economic studies.

The same rule shall apply to leasing rights and similar payments for the use of, or the right to use, agricultural, industrial, harbour, commercial or scientific equipment.

3. The provisions of paragraph 1 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 on which the royalties are paid is actually connected. In such case, the provisions of article 7 shall apply.

4. Where, by reason of a special relationship between the payer and the recipient or between both of them and a third party, the amount of the royalties paid, having regard to the use for which they are paid, exceeds the amount which would have been agreed on 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 such case, the additional royalties shall remain taxable according to

the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, shall be taxable in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the assets of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or from the alienation of movable property pertaining to a fixed base used by a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the total alienation of that permanent establishment (alone or with the whole enterprise) or fixed base, shall be taxable in that other State. However, gains from the alienation of the movable property referred to in article 22, paragraph 3 shall be taxable only in the Contracting State in which such property is taxable under that article.

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

Article 14. INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State from the performance of professional services or other independent activities of a similar nature shall be taxable only in that State. However, such income shall be taxable in the other Contracting State in the following circumstances:

- (a) If the person concerned has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in such case, only that part of the income which is attributable to that fixed base shall be taxed in that other Contracting State; or
- (b) If he is present in the other Contracting State for a period or periods amounting to or exceeding, in the aggregate, 183 days out of the fiscal year.

2. The term "professional services" shall include, in particular, independent scientific, literary, artistic, educational or teaching activities and the independent activities of physicians, lawyers, engineers, dentists and accountants.

Article 15. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 16 and 17, wages, salaries and other similar remuneration received by a resident of a Contracting State in respect of a paid occupation shall be taxable only in that State unless the occupation is carried out in the other Contracting State, in which case the remuneration received shall be taxable in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration received by a resident of a Contracting State in respect of a paid occupation carried out in the other Contracting State shall be taxable only in the first-mentioned State, provided that the following three conditions are fulfilled:

- (a) The recipient is present in the other State for a period or periods not exceeding, in the aggregate, 183 days out of the fiscal year concerned.
- (b) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) The cost of the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration received in respect of a paid occupation carried out on board a ship or aircraft operated in international traffic shall be taxable in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16. DIRECTORS' FEES

Directors' fees and other similar payments received 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 shall be taxable in that other State.

Article 17. ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of articles 15 and 16, income derived by entertainers such as theater, film, radio and television performers and musicians and by athletes from their personal activities in such capacity shall be taxable in the Contracting State in which these activities are carried on.

The above rule shall also apply to income derived by persons who promote or organize the activities mentioned above.

2. The provisions of paragraph 1 shall not apply to income from activities carried on in a Contracting State by non-profit organizations of the other Contracting State or by members of the Staff of such organizations unless such staff members are acting on their own account.

Article 18. PRIVATE PENSIONS

Private pensions and annuities paid to a resident of a Contracting State shall be taxable only in that State.

Article 19. GOVERNMENT SERVICE

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

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

- (i) Is a national of that State; or
- (ii) Did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of

services rendered to that State or subdivision or authority shall be taxable only in that State.

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

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

Article 20. STUDENTS

Payments which a student or apprentice who is, or was immediately prior to visiting a Contracting State, a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of continuing his studies or completing his professional training therein receives or earns to cover his maintenance, educational or training costs shall not be taxable in that State.

Article 21. OTHER INCOME

Elements of the 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, unless such income is connected with the activity of a permanent establishment or fixed base belonging to the recipient in the other Contracting State.

Article 22. CAPITAL

1. Capital consisting of immovable property as defined in article 6, paragraph 2, shall be taxable in the Contracting State where such property is situated.

2. Capital consisting of movable property forming part of the assets of an enterprise's permanent establishment, or of movable property pertaining to a fixed base used for the performance of professional services, shall be taxable 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 their operation, shall be taxable only in the Contracting State where the place of effective management of the enterprise is situated.

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

Article 23. METHOD FOR THE ELIMINATION OF DOUBLE TAXATION

1. Where a resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, is taxable in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraph 2, exempt such income or capital from tax but may, in calculating the amount of tax on the remaining income or capital of such resident, apply the same rate as if the income or capital in question had not been exempted.

2. Where a resident of a Contracting State derives income which, in accordance with the provisions of articles 10, 11 and 12, is taxable in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in that other

Contracting State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, applicable to the income derived from the other Contracting State.

The deduction of the Spanish tax shall apply both to general taxes and to taxes collected in advance.

3. For the purpose of applying paragraph 2 above, the following shall be deemed to have been taxed in Morocco at a rate of 10 per cent: interest deriving from loans issued by agencies specializing in assistance to the economic development of Morocco. Such agencies are listed in the attached Protocol.

The provisions of this paragraph shall apply for a period of 10 years from the date of entry into force of this Convention.

4. Where, in accordance with any provision of this Convention income derived or capital owned by a resident of a Contracting State is exempt from tax in that State, such State may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

Article 24. NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subject in the other Contracting State to any taxation or related obligation other or more burdensome than that to which nationals of that other State in the same circumstances are or may be subjected.

2. In particular, nationals of a Contracting State who are taxable in the territory of the other Contracting State shall benefit, under the same conditions as nationals of that other State, from any exemptions, basic abatements, deductions and reductions in taxes or charges granted on account of family responsibilities.

3. No permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall be taxed less favourably in that other State than enterprises of that other State carrying on the same activities.

This provision shall not be construed as compelling a Contracting State to grant to residents of the other Contracting State the personal tax deductions, abatements and reductions on account of marital status or family responsibilities or other considerations of a personal nature which it grants to its own residents.

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

5. The term "taxation" shall mean, in this article, taxes of every kind and description.

Article 25. MUTUAL AGREEMENT PROCEDURE

1. Where a taxpayer considers that the actions of the taxation authorities of the Contracting States result in taxation not in accordance with the principles of this Convention, he may file a complaint with the competent authorities of the State whose taxation he is contesting. If no action is taken on his complaint within a period of six months, he may apply to the competent authorities of the other

State. If his application is recognized as valid, the latter authorities shall reach an understanding with the competent authorities of the first-mentioned State with a view to avoiding taxation that is contrary to the Convention.

2. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together for the avoidance of double taxation in cases not provided for in the Convention.

3. If it seems advisable to hold discussions, in order to arrive at an agreement, the case shall be referred to a Joint Commission made up of an equal number of representatives from each Contracting State. The Commission shall be presided over alternately by a member of each delegation.

Article 26. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is needed to apply the provisions of this Convention. Any information so exchanged shall be kept secret and shall be disclosed only to the persons or authorities responsible for the assessment or collection of the taxes which are the subject of this Convention and for complaints and appeals relating thereto, and to the judicial authorities in connection with criminal prosecutions in respect of the said taxes.

2. In no circumstances shall the provisions of paragraph 1 be construed as imposing on a Contracting State the obligation:

- (1) To take administrative measures at variance with its own laws or administrative practice or those of the other Contracting State;
- (2) To supply information which is not obtainable under its own laws or normal administrative practice or those of the other Contracting State;
- (3) To transmit information which would disclose any commercial, industrial or professional secret or trade process, or any information the disclosure of which would be contrary to public policy (*ordre public*).

3. The exchange of information shall take place either on a routine basis or on request with reference to specific cases. The competent authorities of the Contracting States shall agree on the list of information to be supplied on a routine basis.

Article 27. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 28. ENTRY INTO FORCE

1. This Convention shall be ratified; the instruments of ratification shall be exchanged as soon as possible.

2. This Convention shall enter into force on the thirtieth day following the exchange of the instruments of ratification and shall apply:

1. To taxes due at source on income payable or paid as of the date of its entry into force.

2. To other taxes imposed on income for tax periods ending as of 1 January of the year of entry into force.

Article 29. TERMINATION

This Convention shall remain in force indefinitely; however, as of the fifth year from the year of its ratification, either Contracting State may, up to 30 June of any calendar year, terminate it by giving written notice through the diplomatic channel to the other Contracting State. In the event of termination before 1 July in any such year, the Convention shall apply for the last time:

1. To taxes due at source on income payable or paid not later than 31 December of the year in which such termination occurs;
2. To other taxes imposed on income for tax periods ending not later than 31 December of the same year.

IN WITNESS WHEREOF the undersigned, duly authorized for this purpose, have signed this Convention.

DONE at Madrid on 10 July 1978, in duplicate in the French language.

For the Government
of the Kingdom of Spain:

[Signed]

MIGUEL DE ALDASORO
Director-General
for International Economic Relations

For the Government
of the Kingdom of Morocco:

[Signed]

ZINE EL ABIDINE ALAOU
Director-General
for Economic Affairs

PROTOCOL

On signing the taxation Convention concluded on today's date between the Government of Spain and the Government of Morocco, the undersigned have agreed on the following declarations which form an integral part of the Convention.

The agencies specializing in assistance to the economic development of Morocco, referred to in article 23 of this Convention, are as follows:

- Caisse nationale de Crédit agricole
- Fonds d'Equipement communal
- Office chérifien des Phosphates
- Offices régionaux de Mise en Valeur agricole
- Bureau de Recherches et de Participations minières
- Office de Développement industriel
- Office national des Chemins de Fer
- Office de Commercialisation et d'Exportation
- Régie d'Aconage du Port de Casablanca
- Caisse Crédit mobilier et hôtelier ("CIH")
- Banque nationale pour le développement économique

- Banque centrale populaire
- Maroc-Chimie
- Complexe Textile de Fes “COTEF”
- Société chérifienne de Pétrole S.C.P.
- Société anonyme maroco-italienne de Raffinage “SAMIR”
- Compagnie marocaine de Navigation “COMANAV”
- Royal Air Maroc “RAM”
- Société d’Exploitation de la Pyrothène de Kettara “SEPYK”
- Société d’Exploitation du Fer du Rif “SEFERIF”
- Lignes maritimes du Détroit “LIMADET”
- Société nationale de Sidérurgie “SONASID”
- Office national des Pêches

EXCHANGE OF LETTERS

I

EMBASSY OF THE KINGDOM OF MOROCCO
MADRID

*The Ambassador of the Kingdom of Morocco in Madrid
to the Minister for Foreign Affairs, Madrid*

Madrid, 13 December 1983

TEF/LS-CE No. 1055

RE: *Convention between Spain and the Kingdom of Morocco for the avoidance of double taxation with respect to taxes on income and on capital*

Sir,

I have the honour to refer to the Convention for the avoidance of double taxation with respect to taxes on income and on capital, signed on 10 July 1978 between our two countries, and in accordance with the discussions held in this regard, in particular concerning the need to amend article 2, paragraph 3, of the said Convention to bring it into line with the laws currently in force in our two countries, I am pleased to propose the following new wording for article 2, paragraph 3, of the Convention:

“*Paragraph 3.* The existing taxes to which this article shall actually apply are:

In the case of Morocco:

- (1) The tax on business profits and the investment reserve.
- (2) The tax on public and private salaries, fees and emoluments, wages, pensions and annuities.

- (3) The tax on urban real property and connected taxes.
- (4) The agricultural tax.
- (5) The supplementary contribution on the total income of individuals.
- (6) The tax on dividends from stocks or shares and similar income.
- (7) The tax on patents.
- (8) The tax on capital appreciation of immovable property.
- (9) Participation in national joint and several liability.

In the case of Spain:

- (1) The tax on personal income.
- (2) The corporation tax.
- (3) The tax on capital.”

I should be grateful, Sir, if you would confirm that your Government agrees to the foregoing. This note and your reply shall constitute an agreement between our two Governments, to enter into force on the same date as the Convention which it amends.

I take this opportunity, etc.

[Signed]

ABDELHAFID KADIRI
Ambassador of the Kingdom of Morocco

II

MINISTER FOR FOREIGN AFFAIRS

Madrid, 7 February 1984

Sir,

I have the honour to acknowledge receipt of your letter dated 13 December 1983, which reads as follows:

[See letter I]

I have the honour to inform you that the Spanish Government agrees to the foregoing text.

I take this opportunity, etc.

[Signed]

FERNANDO MORÁN
Minister for Foreign Affairs

His Excellency the Ambassador of the Kingdom of Morocco
to Madrid