

2002 Income Tax Convention (English Translation)

Treaty Partners: Austria; Morocco

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CONVENTION BETWEEN THE REPUBLIC OF AUSTRIA AND THE KINGDOM OF MOROCCO FOR THE AVOIDANCE OF DOUBLE TAXATION AND PREVENTION OF FISCAL EVASION WITH RESPECT TO INCOME

The Republic of Austria and the Kingdom of Morocco, desiring to promote and strengthen the economic relations to enter into a convention concerning avoidance of double taxation and prevention of fiscal evasion with respect to income, have agreed as follows:

Article 1

Personal Scope

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

Article 2

Taxes Covered

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or one 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 all taxes imposed on total income or on elements of income, 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 treaty shall apply are in particular:
 - a. in Austria:
 - (i) income tax (l'impôt sur le revenu);

(ii) corporation tax (l'impôt sur les sociétés);

(which shall be referred to hereinafter as "Austrian Taxes").

b. in Morocco:

(i) corporation tax (l'impôt sur les sociétés);

(ii) general income tax (l'impôt général sur le revenu);

(iii) tax on the proceeds of shares or corporate stock and similar revenue (la taxe sur les produits des actions, parts sociales et revenus assimilés);

(iv) tax on profits from immovable property (la taxe sur les profits immobiliers);

(v) tax on income from fixed-income investments (la taxe sur les produits de placements à revenu fixe);

(vi) tax on the proceeds from the assignment of movable assets and other equity securities and debt-claims (la taxe sur les profits de cession de valeurs mobilières et autres titres de capital et de créance);

(vii) contribution to national solidarity (la participation à la solidarité nationale)

(which shall be referred to hereinafter as "Moroccan Taxes").

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

Article 3

General Definitions

1. For the purposes of this Convention, unless the context requires a different interpretation:

a) the terms "Contracting State" or "the other Contracting State" refer to Austria or Morocco, in accordance with the context herewith.

- b) the term "Austria" refers to the territory of the Republic of Austria;
- c) the term "Morocco" refers to the territory of the Kingdom of Morocco and, if used in its geographical sense, it designates the territory of the Kingdom of Morocco and its areas adjacent to the territorial waters of Morocco, including the territorial sea and, beyond thereof, the exclusive economic area and the areas over which, in conformity with domestic legislation and international law, Morocco has jurisdiction or exercises its sovereign rights for the purpose of exploration and use of the natural resources of the sea bottom, the subsea bottom and the water column situated on top thereof (continental plateau);
- d) the term "tax" refers to Austrian taxes or Moroccan taxes, in accordance with the context herewith.
- e) the term "Person" refers to any individual or company or group of people;
- f) the term "company" refers to any body corporate or any entity which is treated as a body corporate for tax purposes;
- g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" refer, respectively, to an enterprise carried on by a resident of a Contracting State and to an enterprise carried on by a resident of the other Contracting State;
- h) the term "international traffic" refers to any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- i) the term "competent authority" refers to:
 - (i) in the case of Austria, the Federal Minister of Finance or his or her authorized representative;
 - (ii) in the case of Morocco, the Minister of Economics and Finance or his or her duly authorized or delegated representative.
- j) the term "national" refers to:
 - (i) all individuals possessing the nationality of a Contracting State;

- (ii) all bodies corporate, societies of persons and associations constituted in conformity with the laws in effect in a Contracting State;
- 2. As regards the application of this Convention by a Contracting State any term or expression not defined herein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State concerning the taxes to which this Convention applies. The meaning of such term or expression under the tax legislation of that Contracting State shall prevail over any meaning this term or expression may have in accordance with other fields of law of this State.

Article 4

Resident

- 1. For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a substantially similar nature and also applies to that State as well as to all its political subdivisions or its local authorities. But this term does not include any person who is liable to tax in that State in respect only of income from sources situated in that State.
- 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his or her status shall be determined as follows:
 - a) this person shall be deemed to be a resident only of the State in which he or she has a permanent home available to him or her; if he or she has a permanent home available to him or her in both States, he or she shall be deemed to be a resident of the State with which his or her personal and economic relations are closer (center of vital interests);
 - b) if the State in which such person has his or her center of vital interests cannot be determined, or if he or she has not a permanent home available to him or her in either State, he or she shall be deemed to be a resident only of the State in which he or she has an habitual abode;
 - c) if such person has an habitual abode in both States or in neither of them, he or she shall be deemed to be a resident only of the Contracting State of which he or she is a national;
 - d) if such person 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 such person shall be deemed to be only a resident of the State in which its place of effective management is situated.

Article 5
Permanent Establishment

1. For the purposes of this Convention, the term "permanent establishment" refers to a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes in particular:
 - a) a place of management;
 - b) a branch;
 - c) an office;
 - d) a factory;
 - e) a workshop;
 - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources, and
 - g) a point of sale.
3. A construction or assembly site only shall only be deemed a permanent establishment as long as its duration exceeds six months.
4. 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 or of collecting information, for the enterprise;
 - e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
 - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in Subparagraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination remains of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 7 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
6. Notwithstanding the preceding provisions of this Article, an insurance company of a Contracting State is deemed, except in matters of reinsurance, to have a permanent establishment in the other Contracting State in case such company receives premiums on the territory of that other State or insures risks arising therein through a person other than an independent agent to whom paragraph 7 applies.
7. An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, as long as such persons are acting in the ordinary course of their business. In case the activities of such an agent are carried out entirely or almost entirely on behalf of this enterprise, however, such person shall not be considered an independent agent in accordance with this paragraph.
8. The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6

Income From Immovable Property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.
2. The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats, and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, leasing or use in any other form of immovable property.
4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.
5. Where the ownership or shares, stocks or other rights in a company or in another legal person grants the owner the right of enjoyment with respect to immovable property situated in a Contracting State and which is held by that company or another legal person, any income derived by the owner from the direct use, letting or use in any other form of his or her right of enjoyment shall be taxable in that State.

Article 7

Business Profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.
2. Subject to the provisions of paragraph 3, 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 substantially similar activities under the same or substantially similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which this permanent establishment is situated or elsewhere.
4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, no provision contained in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted, however, shall be such that the result shall be in accordance with the principles contained in this Article.
5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of merchandise on behalf of 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 Inland Waterways Transport 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. Profits from the operation of ships in inland navigation shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

3. If the place of effective management of an international or inland shipping enterprise is aboard a ship or boat, then such enterprise shall be deemed to be situated in the Contracting State in which the home harbor of this ship or boat is situated, or, if there is no such home harbor, in the Contracting State of which the operator of the ship or boat is a resident.
4. The provisions of paragraph 1 shall also apply to profits arising out of the participation in a pool, a joint business or an international operating agency.

Article 9

Associated Enterprises

1. 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.
2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall proceed to make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention, and the competent authorities of the Contracting States shall if necessary consult each other.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and in accordance with the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed:
 - a) five per cent of the gross amount of the dividends if the beneficial owner is a company (other than a group of persons) which holds directly at least twenty-five per cent of the capital of the company paying the dividends;
 - b) ten per cent of the gross amount of the dividends, in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits which are used to pay dividends.

3. The term "dividends" as used in this Article means income from shares, redeemed shares or certificates, mining or founder's shares or other beneficiary rights, not being debt-claims, as well as income which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, either an industrial or commercial activity through a permanent establishment situated therein, or independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected therewith. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even in case the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

Interest

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

2. However, such interest may also be taxed in the Contracting State in which it arises and in accordance with the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State, the tax so charged shall not exceed ten per cent of the gross amount of the interest. The competent authorities of the Contracting States shall mutually agree on the manner in which this limit is applied.
3. The provisions of paragraph 2 notwithstanding,
 - a) interest arising in Morocco shall be taxable in Austria only if the interest is paid:
 - i) to the government of Austria;
 - ii) to the Central Bank of Austria.
 - b) interest arising in Austria shall be taxable in Morocco only if the interest is paid:
 - i) to the government of Kingdom of Morocco;
 - ii) to the Bank Al Maghrib (Central Bank).
 - c) interest arising in a Contracting State shall be taxable in the other Contracting State in the following cases:
 - i) the person receiving the interest is a resident of that other State, and;
 - ii) this person is an enterprise of the that other State and is the beneficiary owner of such interest, and
 - iii) the interest is paid on a concessional loan or for a concessional credit or a loan granted, guaranteed or insured by public entities or on the basis of any other debt-claim or credit guaranteed by public entities by that other State and in conformity with the internationally accepted guidelines for export credits benefit from public support.
4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a clause establishing the right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or

debentures. Late-payment penalties are not considered interest as defined in this Article.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on an industrial or commercial activity in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected therewith. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he or she is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some third parties, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of a similar relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable in accordance with 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 in that other State.
2. These royalties, however, shall also be taxable in the Contracting State in which they arise and in accordance with the laws of this State, although, in case the person receiving the royalties is their beneficial owner, the tax so charged shall not exceed ten per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall mutually agree on the manner in which this limit is applied.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films and films and recordings for radio and televised transmission, or transmissions via satellite, cable, optical fibers or similar technologies that are used for public transmissions, magnetic tapes, floppy or laser disks (software) of any patent, trade mark, design or model, plan, secret formula or process as well as for the use of, or the right to use, any industrial, commercial, agricultural or scientific equipment or for information related with experience acquired in the field of industry, commerce, or science (know-how).
4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on an industrial or commercial activity in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected therewith. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. The royalties are deemed to arise in a Contracting State in case the payer is that State itself, a political subdivision thereof, a local authority, or a resident of that State. In case the payer of the royalties, whether a resident of a Contracting State or not, however, has a permanent establishment in a Contracting State for which the contract giving rise to the payment of the royalties has been entered and which as such incurs the charge thereof, such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.
6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some third parties, the amount of the royalties, having regard to the service for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of similar relationships, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable in accordance with the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13

Capital Gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.
3. Gains from the alienation of ships or aircraft operated in international traffic, boats used in inland navigation or movable property pertaining to the operation of such ships, aircraft or boats shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.
4. Gains derived from the alienation of shares of a company whose assets are mainly made up by immovable property situated in a Contracting State shall be taxable in that State.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, and 4 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Independent Personal Services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless such resident has a fixed base regularly available to him or her in the other Contracting State for the purpose of performing his or her activities. If such person has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.
2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists, and accountants.

Article 15

Dependent Personal Services

1. Subject to the provisions of Articles 16, 18, 19, and 21, salaries, wages and other similar remuneration received by a resident of a Contracting State in respect of paid employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is received therefor may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of paid employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:
 - a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days during any twelve-month period beginning or ending during the fiscal year in question, and
 - b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and
 - c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.
3. Notwithstanding the preceding provisions of this Article, any remuneration derived in respect of paid employment exercised aboard a ship or aircraft operated in international traffic, or aboard a boat used in inland navigation, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 16

Directors' Fees

Directors' fees and other similar payments received by a resident of a Contracting State in his or her capacity as a member of the board of directors or of the advisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Artistes and Sportsmen

1. Notwithstanding the provisions of Articles 7, 14, and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.
2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14, and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. Notwithstanding the provisions of paragraphs 1 and 2 [of this Article], any income from activities mentioned in paragraph 1 derived within the scope of cultural or athletic exchange programs approved by the governments of the two Contracting States and which are not exercised for the purpose of realizing profits shall be exempt from taxation in the Contracting State in which these activities are exercised.

Article 18

Pensions

1. Subject to the provisions of paragraph 2 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 State.
2. Notwithstanding the provisions of paragraph 1, pensions and other similar remuneration paid in application of the social-security laws of a Contracting State shall be taxable in that State.

Article 19

Government Service

1.
 - a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or one of its political subdivisions or a local authority thereof to an individual in respect of services rendered to that State or that subdivision or authority shall be taxable only in that State.
 - b) However, such salaries, wages and other similar remuneration shall be taxable only in the other Contracting State if the services are rendered in that 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 these services.
2.
 - a) Any pension paid directly by, or out of funds created by, a Contracting State or one of its political subdivisions or a local authority thereof to an individual in respect of services rendered to that State or that 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 State.

3. The provisions of Articles 15, 16, 17, and 18 shall apply to salaries, wages and other similar remuneration as well as to pensions in respect of services rendered in connection with an industrial or commercial activity carried on by a Contracting State or one of its political subdivisions or a local authority thereof.

Article 20

Students and Interns

Payments which a student or intern who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his studies or training receives for the purpose of his maintenance, studies or training shall not be taxed in that State as long as such payments arise from sources outside that State.

Article 21

Professors and Researchers

1. A person visiting a Contracting State upon invitation by that State, a university or a not-for-profit educational or cultural institution of that State or within the scope of a cultural exchange program, for a period not exceeding 12 months, for the purpose of teaching, conducting conferences or engaging in research for that institution and who is or was, immediately prior to this visit, a resident of the other Contracting State, shall be exempt from taxes in aforesaid first Contracting State insofar as the remuneration for such activity is concerned, as long as this remuneration is received from sources outside of this State.
2. The provisions of paragraph 1 shall not apply to remuneration received for research that was not conducted in the public interest, but mainly in order to gain a particular advantage for the benefit of one or more specific person(s).

Article 22

Other Income

1. Items of income of a resident of a Contracting State, regardless of where they arise, which are not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.
2. The provisions of paragraph 1 shall not apply to income other than income from immovable property as defined in paragraph 2 of Article 6, as long as the recipient of such income, being a resident of a Contracting State, carries on a commercial or industrial activity in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected

therewith. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

Article 23

Methods for the Elimination of Double Taxation

1. Insofar as Austria is concerned, double taxation shall be eliminated as described

below:

- a) Where a person residing in Austria receives income which, in accordance with the provisions of this Convention, can be taxed in Morocco, Austria shall exempt such income from tax, subject to the provisions of letters b) and c).
- b) Where a person residing in Austria receives items of income which, in accordance with the provisions of paragraphs 2 of Articles 10, 11, and 12 and paragraph 4 of Article 13, can be taxed in Morocco, Austria agrees to grant a deduction in an amount equal to the tax paid in Morocco for the tax levied on the income of such resident. This deduction, however, may not exceed the fraction of the tax, calculated before the deduction, which corresponds to such items of income received in Morocco.
- c) Where, on the basis of any provision of this Convention, income received by a resident of Austria is exempt from tax in Morocco, Austria shall nonetheless be entitled to include the exempt income for the purpose of calculating the amount of tax on the remainder of the income of such resident.

2. Insofar as Morocco is concerned, double taxation shall be eliminated as described below:

- a) Where a person residing in Morocco receives income which, in accordance with the provisions of this Convention, can be taxed in Austria, Morocco agrees to grant a deduction in an amount equal to the tax paid in Morocco for the tax levied on the income of such resident, subject to the provisions of Subparagraph b). This deduction, however, may not exceed the fraction of the tax on Moroccan income, calculated before the deduction, which corresponds to such items of income that are taxable in Austria.
- b) Taxes which are waived for reduced for a specific period of time in accordance with the domestic laws of one of the two Contracting States shall be considered effectively paid and must be deducted from any tax which

may have been established with respect to said income in the other Contracting State.

- c) Any income which may have been exempted in Austria must be included in determining the tax rate established in Morocco, in accordance with the provisions of this Convention.

Article 24

Non-Discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected, in particular in terms of residence. This present provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.
2. Stateless persons who are residents of a Contracting State shall not be subjected in either Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.
3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This present provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.
4. Except where the provisions of paragraph 1 of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.
5. 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 State to any taxation or any requirement connected therewith which is other or more

burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

Article 25

Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he or she may, irrespective of the remedies provided by the domestic law of those States, present his or her case to the competent authority of the Contracting State of which he is a resident or, if his or her case comes under paragraph 1 of Article 24, to that of the Contracting State of which he or she is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of this Convention.
2. The competent authority shall endeavor, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this Convention. Any agreement reached shall be implemented notwithstanding any time limits set forth in the domestic law of the Contracting States.
3. The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of this Convention. They may also consult together for the elimination of double taxation in cases not provided for under this Convention.
4. The competent authorities of the Contracting States may communicate with each other directly, including through a joint commission consisting of these authorities or their representatives, for the purpose of reaching an agreement as indicated in the preceding paragraphs.

Article 26

Exchange of Information

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is not contrary to this Convention.

The exchange of information is not restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of the taxes covered by this Convention, the enforcement or prosecution in respect of these taxes, or the determination of appeals in relation to these taxes. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

Article 27

Members of Diplomatic Missions and Consular Posts

No provision of this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

Article 28

Entry Into Force

1. This Convention shall be ratified and the instruments of ratification shall be exchanged in Vienna as soon as possible.
2. This Convention shall enter into force sixty days after the exchange of the instruments of ratification, and its provisions shall have effect:
 - a) insofar as taxes levied at the source are concerned, whenever the event giving rise to them occurs after December 31 of the year during which the instruments of ratification were exchanged;

- b) insofar as other taxes are concerned, to all tax periods commencing after December 31 of the year during which the instruments of ratification were exchanged.

Article 29 Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate this Convention, through diplomatic channels, by submitting a notice of termination to the other Contracting State no later than by June 30 of the year specified in such notice. Such notice may only be given after a period of five years has elapsed from the date of entry into force of this Convention. In such event, this Convention shall cease to have effect:

- a) insofar as taxes levied at the source are concerned, whenever the event giving rise to them occurs after January 1 of the year immediately following the year specified in the notice of termination;
- b) insofar as other taxes on income are concerned, for the tax year commencing on January 1 of the year immediately following the year specified in the notice of termination.

In witness whereof the undersigned, duly authorized to that effect by their respective governments, have signed this Convention.

Done in two original copies in Rabat, on the 27th of February 2002, in the German, Arabic, and French languages; each text shall be equally valid. In the case of discrepancies in the interpretation of the provisions of this Convention, the text in the French language shall prevail.

FOR THE REPUBLIC OF AUSTRIA:

Benita Ferrero-Waldner

FOR THE KINGDOM OF MOROCCO:

Mohamed Benaissa

