

No. 11032

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**AUSTRIA  
and  
ISRAEL**

**Convention for the avoidance of double taxation with respect to taxes on income and capital (with exchange of letters). Signed at Vienna on 29 January 1970**

*Authentic text: English.*

*Registered by Austria on 17 April 1971.*

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**AUTRICHE  
et  
ISRAËL**

**Convention tendant à éviter la double imposition en matière d'impôts sur le revenu et d'impôts sur la fortune (avec échange de lettres). Signée à Vienne le 29 janvier 1970**

*Texte authentique: anglais.*

*Enregistrée par l'Autriche le 17 avril 1971.*

CONVENTION<sup>1</sup> BETWEEN THE REPUBLIC OF AUSTRIA  
AND THE STATE OF ISRAEL FOR THE AVOIDANCE OF  
DOUBLE TAXATION WITH RESPECT TO TAXES ON  
INCOME AND CAPITAL

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The Republic of Austria and the State of Israel, desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income and capital, have agreed as follows:

CHAPTER I

SCOPE OF THE CONVENTION

*Article 1*

PERSONAL SCOPE

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

*Article 2*

TAXES COVERED

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

2. There shall be regarded as taxes on income and on capital 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, as well as taxes on capital appreciation.

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<sup>1</sup> Came into force on 29 January 1971 by the exchange of the instruments of ratification, which took place at Jerusalem, in accordance with article 29.

3. The existing taxes to which the Convention shall apply, are in particular:

(a) In the case of Israel

- (i) the income tax (including capital gains tax);
- (ii) the company tax;
- (iii) the security charge;
- (iv) the national property taxes;  
and
- (v) the tax on gains from the sale of land under the Land Appreciation Tax Law;  
(hereinafter referred to as “Israeli tax”);

(b) In the case of Austria

- (i) the income tax;
- (ii) the corporation tax;
- (iii) the contribution from income for the promotion of residential building and for the equalisation of family burdens;
- (iv) the contribution from income to the emergency fund;
- (v) the tax on commercial and industrial enterprises, including the tax levied on the sum of wages;
- (vi) the capital tax;
- (vii) the contribution from capital to the emergency fund;
- (viii) the land tax;
- (ix) the tax on agricultural and forestry enterprises;
- (x) the directors’ tax;
- (xi) the tax on the value of vacant plots;
- (xii) the tax on property eluding death duties;
  
- (xiii) the contributions from agricultural and forestry enterprises to the fund for the equalisation of family burdens;
- (xiv) the special tax on income;
- (xv) the special tax on capital;  
(hereinafter referred to as “Austrian tax”).

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

## CHAPTER II

## DEFINITIONS

*Article 3*

## GENERAL DEFINITIONS

1. In this Convention, unless the context otherwise requires:

(a) the term “ Israel ” means the State of Israel;

(b) the term “ Austria ” means the Republic of Austria;

(c) the term “ person ” comprises individuals, companies and all other entities which are treated as taxable units under the taxation laws in force in either Contracting State;

(d) the term “ company ” means 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 ” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(f) the term “ competent authority ” means in the case of Israel, the Minister of Finance or his authorized representative; and in the case of Austria, the Federal Minister of Finance.

2. Where according to this Convention income from sources within one of the Contracting States shall not be taxable or shall be taxable only at a reduced rate in that State and, under the law in force in the other Contracting State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the exemption or reduction in the first-mentioned Contracting State resulting from this Convention shall apply only to such income as is remitted to the other Contracting State. This shall not apply in the case of Article 15, paragraph 2, Article 20 and Article 21.

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

*Article 4*

## FISCAL DOMICILE

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

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

- (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
- (b) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) If he has habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

*Article 5*

## PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

2. The term “permanent establishment” shall include especially:

- (a) a place of management;
- (b) a branch;

- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a mine, quarry or other place of extraction of natural resources;
  
- (g) a building site or construction or assembly project which exists for more than twelve months.

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

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

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of an independent status to whom paragraph 5 applies — shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise unless his activities are limited to the purchase of goods or merchandise for the enterprise.

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

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

### CHAPTER III

## TAXATION OF INCOME

### *Article 6*

#### INCOME FROM IMMOVABLE PROPERTY

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

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

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

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

### *Article 7*

#### BUSINESS PROFITS

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

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

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purpose of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

6. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

8. The provisions of paragraphs 1 to 7 shall also apply to income derived by the sleeping partner of a sleeping partnership (*Stille Gesellschaft*) of the Austrian law.

### Article 8

#### SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.



2. The provisions of paragraph 1 shall likewise apply in respect of participations in pools of any kind by Israeli or Austrian enterprises engaged in air transport.

### *Article 9*

#### ASSOCIATED ENTERPRISES

Where

- (a) an enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or
- (b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

### *Article 10*

#### DIVIDENDS

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

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed 25 per cent of the gross amount of the dividends.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

4. Dividends paid by a company resident in one of the Contracting States to a company resident in the other Contracting State shall be excluded from the tax base in that other State, but only in so far as such dividends would be excluded from the tax base by virtue of the national tax laws in case both companies would have had their residence in that other State, provided, further, that the company receiving the dividends owns at least 25 per cent of the voting power of the company paying the dividends.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

### *Article 11*

#### INTEREST

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 15 per cent of the amount of the interest.

3. The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

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 Con-

tracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the 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 political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

## *Article 12*

### ROYALTIES

Copyright royalties and other payments, arising in a Contracting State and paid to a resident of the other Contracting State as consideration for the use of, or the right to use, any literary, dramatic, musical or artistic work (excluding royalties and like payments, whether recurring or not, in respect of motion picture films or films for use in connection with television) shall be taxable only in the Contracting State of which the recipient is a resident.

2. Subject to the provisions of paragraph 1, royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State; however, the Contracting State in which the royalties arise may tax such royalties according to its own laws, but the rate of tax shall not exceed 10 per cent of such royalties.

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 or video tapes for use in connection with television, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial, or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 7 shall apply.

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

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law 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 paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment alone or (together with the whole enterprise), may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph 3 of Article 23 shall be taxable only in the Contracting State in which such movable property is taxable according to the said Article.

3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2, shall be taxable only in the Contracting State of which the alienator is a resident. However, in the case of the alienation of shares of a company which are not negotiable through the Stock Exchange of the country of which such company is a resident or other rights therein, the country where property of such a company is situated may tax the capital gains relating to such property, but the rate of tax shall not exceed 15 per cent.

#### *Article 14*

##### INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting 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 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in

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

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

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

3. Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

### *Article 16*

#### DIRECTORS' FEES

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

### *Article 17*

#### ARTISTS AND ATHLETES

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

*Article 18*

## PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraph 1 of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State shall be taxable only in that State. The same rule shall apply to annuities derived from sources within a Contracting State and paid to a resident of the other Contracting State.

2. As used in this Article:

- (a) the term “pension” means periodic payments made in consideration of past services;
- (b) the term “annuity” means a stated sum payable periodically at stated times, during life or during a specified or ascertainable period of time, under an obligation to make the payments in return for adequate and full consideration in money or money’s worth.

*Article 19*

## GOVERNMENTAL FUNCTIONS

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to any individual, who is not a national of the other Contracting State, in respect of services rendered to the first-mentioned State or subdivision or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State.

2. The provisions of Articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political subdivision or local authority thereof.

*Article 20*

## STUDENTS

A person who is or was formerly a resident of a Contracting State, who is temporarily present in the other Contracting State solely as a student at a

university, college or school, or as a commercial or technical apprentice, or as a recipient of a grant, allowance or award for the primary purpose of study or research from a religious, charitable, scientific or educational organisation, shall not be taxed in that other State:

- (a) in respect of remittances from abroad for the purpose of his maintenance, education or training or in respect of a scholarship grant;
- (b) in respect of any amount representing remuneration for services rendered in that other State, provided that such services are in connection with his studies or training or are necessary for the purpose of his maintenance. However, this provision shall not apply to such cases where the studies or training have a secondary character as compared the services for which the remuneration is paid, or for a period exceeding five years from the commencement of the studies.

#### *Article 21*

##### PROFESSORS, TEACHERS AND RESEARCHERS

Subject to the provisions of Article 15, a person who is or was formerly a resident of a Contracting State who, at the invitation of a university, college or other institute of higher education or scientific research in the other Contracting State, visits that other State solely for the purpose of teaching or scientific research at such an institution shall not be taxed in that other State on his remuneration for such teaching or research for a period not exceeding two years.

#### *Article 22*

##### INCOME NOT EXPRESSLY MENTIONED

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



CHAPTER IV  
TAXATION OF CAPITAL

*Article 23*

CAPITAL

1. Capital represented by immovable property, as defined in paragraph 2 of Article 6, may be taxed in the Contracting State in which such property is situated.

2. Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic, and movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

CHAPTER V  
ELIMINATION OF DOUBLE TAXATION

*Article 24*

EXEMPTION METHOD

1. Where as resident of a Contracting State derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed 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 tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

2. Where a resident of a Contracting State derives income which in accordance with the provisions of Articles 10, 11, 12 and 13, paragraph 3, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that person 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, which is appropriate to the income derived from that other Contracting State.

The provisions of this paragraph shall also apply when the Israeli income tax appropriate to dividends, interest, royalties or capital gains has been wholly relieved or reduced for a limited period of time as if no such relief has been given or no such reduction had been allowed. However, the deduction of tax shall not exceed the amount of tax which may be imposed in Israel according to the provisions provided for in Article 10, paragraph 2, Article 11, paragraph 2, Article 12, paragraph 2 and Article 13, paragraph 3.

#### CHAPTER VI

### SPECIAL PROVISIONS

#### *Article 25*

#### NON-DISCRIMINATION

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The term “ nationals ” means

(a) all individuals possessing the nationality of a Contracting State;

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

3. The taxation of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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

5. In this Article the term “taxation” means taxes of every kind and description.

#### *Article 26*

##### MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense

of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a Commission consisting of representatives of the competent authorities of the Contracting States.

### Article 27

#### EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of the Convention.

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

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

### Article 28

#### DIPLOMATIC AND CONSULAR OFFICIALS

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

2. Insofar as, due to fiscal privileges granted to diplomatic or consular officials under the general rules of international law or under the provisions of

special international treaties, income or capital are not subject to tax in the receiving State, the right to tax shall be reserved to the sending State irrespective of the provisions of this Convention.

CHAPTER VII  
FINAL PROVISIONS

*Article 29*

ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Jerusalem as soon as possible.

2. This Convention shall enter into force upon the exchange of instruments of ratification and its provisions shall have effect:

(a) In the case of Israel:

in respect of Israeli taxes for the tax years beginning on or after the first day of April 1968 or for any special tax year ending after the said date;

(b) In the case of Austria:

in respect of Austrian taxes for the tax years beginning on or after the first day of January 1968.

*Article 30*

TERMINATION

The Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1973. In such event, the Convention shall cease to have effect —

(a) In the case of Israel:

for any tax year beginning on or after the first day of April in the calendar year next following that in which the notice is given.

(b) In the case of Austria:

for any tax year beginning on or after the first day of January of the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF the Plenipotentiaries of the two States have signed the Convention and have affixed thereto their seals.

DONE at Vienna this 29th day of January 1970, in duplicate in the English language.

For the Republic of Austria:  
DR. JOSEF HAMMERSCHMIDT

For the State of Israel:  
ZEEV SHEK

### EXCHANGE OF LETTERS

I

Vienna, the 29th January, 1970

Dear Sir,

The Convention between the Republic of Austria and the State of Israel for the avoidance of double taxation with respect to taxes on income and capital being signed today, I have the honour, on behalf of the Government of Israel to inform you that annuities, pensions and other payments to be made either periodically or in a lump sum, which are paid by the Republic of Austria, a political subdivision thereof or a corporation of public law of the Republic of Austria or out of funds created by the Republic of Austria, a political subdivision thereof or a corporation of public law of the Republic of Austria to an individual as indemnity for damages caused by warfare or political and religious persecution or for reasons of descent, are not taxable in Israel. The Government of Israel declares that no changes will be made on this subject in future.

I have the honour to propose, that this letter and your letter of confirmation shall constitute an agreement to be part of the aforementioned Convention.

Accept, dear Sir, the assurance of my high consideration.

ZEEV SHEK

Mr. Dr. Josef Hammerschmidt  
Director General in the Federal Ministry of Finance  
Vienna

## II

Vienna, the 29th January, 1970

Dear Sir,

With reference to the Convention, signed today, between the Republic of Austria and the State of Israel for the avoidance of double taxation with respect to taxes on income and capital, you have informed me of the following:

[See letter I]

I have the honour to inform you, that the proposal contained in the last paragraph of your letter meets my approval. Your letter and this letter of confirmation shall therefore constitute an agreement to be part of the aforementioned Convention.

Accept, dear Sir, the assurance of my high consideration.

HAMMERSCHMIDT

His Excellency Mr. Zeev Shek  
Ambassador of the State of Israel  
Vienna