

TAX CONVENTION WITH THE KINGDOM OF MOROCCO

*Convention Signed at Rabat August 1, 1977;
Ratification Advised by the Senate of the United States of America November 18, 1981,
Ratified by the President of the United States of America December 4, 1981;
Ratified by the Kingdom of Morocco;
Ratifications Exchanged at Washington December 30, 1981;
Proclaimed by the President of the United States of America January 27, 1982;
Entered into Force December 30, 1981.*

GENERAL EFFECTIVE DATE UNDER ARTICLE 28: 1 JANUARY 1981

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MESSAGE

FROM

THE PRESIDENT OF THE UNITED STATES

TRANSMITTING

THE CONVENTION BETWEEN THE UNITED STATES OF AMERICA AND
THE KINGDOM OF MOROCCO FOR THE AVOIDANCE OF DOUBLE TAXATION AND
THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME,
SIGNED AT RABAT AUGUST 1, 1977, TOGETHER WITH A
RELATED EXCHANGE OF NOTES

LETTER OF SUBMITTAL

DEPARTMENT OF STATE,
Washington, D.C., April 25, 1978

THE PRESIDENT,
The White House.

SIR: I have the honor to submit to you, with a view to its transmission to the Senate for advice and consent to ratification, the Convention between the United States and the Kingdom of Morocco for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Rabat August 1, 1977, together with a related exchange of notes.

The Convention with Morocco is the first such convention concluded by the United States directly with a developing country in Africa. It is similar in its essential respects to other treaties entered into by the United States in recent years and to the Model Draft Treaty developed by the Fiscal Committee of the Organization for Economic Cooperation and Development with some modifications to accommodate the special needs of Morocco as a developing country.

The Convention provides rules with respect to the taxation of business income, rentals of real property, dividends, interest, royalties, and personal service income, a guarantee of

nondiscrimination and provisions for administrative cooperation, which for the most part are common to other U.S. income tax treaties.

The Convention provides reciprocal maximum rates of tax at source of 15 percent on dividends to portfolio investors, 10 percent on dividends to parent companies, 15 percent on interest (except interest paid to the other Government or one of its instrumentalities, which is exempt from tax at source), and 10 percent on royalties including film rentals. As a developing country, Morocco wanted a broad definition of royalties which would also include fees for technical services and equipment rentals. The Treaty provides that Morocco may impose the 10 percent tax on fees for technical studies performed for and paid for by the Government, but not in other cases. Equipment rentals may only be taxed to the extent that profit is attributable to maintaining substantial equipment for rental in the country for more than six months.

One unusual feature of the Moroccan Convention is that it provides a foreign tax credit for compulsory investment in Moroccan equipment bonds subject to certain conditions. However when the bonds are redeemed, the taxpayer must increase his taxable income accordingly.

The Convention does not contain the usual provision whereby Morocco would be asked to collect the additional U.S. withholding tax if residents of third countries who are not entitled to Treaty benefits use a Moroccan address and therefore get the reduced Treaty rates on dividends, interest and royalties. The Moroccans regarded this as a U.S. problem and could not agree to commit their limited administrative resources to collecting tax on behalf of the United States when the United States cannot agree in other situations to collect tax on behalf of Morocco.

The Convention and exchange of notes will enter into force on the exchange of instruments of ratification and will apply to withholding taxes on the first day of the following month and to other taxes for taxable years beginning on or after January 1, 1978. The Convention will remain in effect indefinitely unless terminated by either State by diplomatic notice given prior to June 30th of any year beginning with the fifth year following the year of ratification. In that event, it will cease to apply with respect to income of years beginning on or after the January 1 next following termination.

The exchange of notes confirms the United States commitment to resume discussions on the granting of a "tax-sparing" credit against United States tax for United States citizens and residents if the United States Senate should reconsider the merit of such a provision.

A technical memorandum explaining in detail the provisions and effect of the Convention is being prepared by the Department of the Treasury and will be submitted to the Senate Foreign Relations Committee for consideration in connection with the Convention.

The Department of the Treasury, with the cooperation of the Department of State, was primarily responsible for the negotiation of this Convention. It has the approval of both Departments.

Respectfully submitted,

CYRUS VANCE.

LETTER OF TRANSMITTAL

THE WHITE HOUSE, *May 2, 1978.*

To the Senate of the United States:

I transmit herewith, for Senate advice and consent to ratification, the Convention between the Government of the United States of America and the Kingdom of Morocco for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income, signed at Rabat on August 1, 1977.

There is no convention on this subject presently in force between the United States and Morocco.

The Convention follows generally the form and context of most conventions of this type recently concluded by the United States. However, it contains some modifications of the standard provisions to accommodate the special need of Morocco as a developing country to minimize any revenue loss. Its primary purpose is to identify clearly each country's interest in avoiding double taxation and preventing the illegal evasion of taxation.

For the information of the Senate, I also transmit the report of the Department of State on to the Convention.

This Convention would promote closer economic cooperation and more active trade between the United States and Morocco by assuring investors about their tax liability, reducing the foreign tax in many cases and providing for cooperation between the two countries to avoid double taxation.

I urge the Senate to act quickly on this Convention and to give its advice and consent to ratification.

JIMMY CARTER.

BY THE PRESIDENT OF THE UNITED STATES OF AMERICA

A PROCLAMATION

CONSIDERING THAT:

The Convention between the Government of the United States of America and the Government of the Kingdom of Morocco for the Avoidance of Double Taxation and the

Prevention of Fiscal Evasion with Respect to Taxes on Income, together with a related exchange of notes, was signed at Rabat on August 1, 1977, the texts of which are hereto annexed;

The Senate of the United States of America by its resolution of November 18, 1981, two-thirds of the Senators present concurring therein, gave its advice and consent to ratification of the Convention and related exchange of notes, subject to the following:

(1) reservation that foreign tax credits shall not be allowed after January 1, 1988, for loans which U.S. taxpayers are required to make to the Government of the Kingdom of Morocco.

(2) understanding that appropriate Congressional committees and the General Accounting Office shall be afforded access to the information exchanged under this treaty where such access is necessary to carry out their oversight responsibilities, subject only to the limitations and procedures of the Internal Revenue Code.

The Convention, together with a related exchange of notes, was ratified, subject to the aforesaid reservation and understanding by the President of the United States of America on December 4, 1981, in pursuance of the advice and consent of the Senate, and was ratified on the part of the Government of the Kingdom of Morocco;

The instruments of ratification of the Convention and related exchange of notes were exchanged at Washington on December 30, 1981, and accordingly the Convention entered into force on December 30, 1981, effective as specified in Article 28 of the Convention;

NOW, THEREFORE, I, Ronald Reagan, President of the United States of America, proclaim and make public the Convention and related exchange of notes to the end that they be observed and fulfilled with good faith on and after December 30, 1981, by the United States of America and by the citizens of the United States of America and all other persons subject to the jurisdiction thereof.

IN TESTIMONY WHEREOF, I have signed this proclamation and caused the Seal of the United States of America to be affixed.

DONE at the city of Washington this twenty-seventh day of January in the year of our Lord one thousand nine hundred eighty-two and of the Independence of the United States of America the two hundred sixth.

By the President:

RONALD REAGAN

WALTER J. STOESSEL, JR.
Acting Secretary of State

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED STATES OF AMERICA
AND THE GOVERNMENT OF THE KINGDOM OF MOROCCO FOR THE AVOIDANCE

OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH
RESPECT TO TAXES ON INCOME

The Government of the United States of America and the Government of the Kingdom of Morocco, desiring to conclude a convention for the avoidance of double taxation of income and the prevention of fiscal evasion have agreed upon the following articles.

ARTICLE 1
Taxes Covered

(1) The taxes which are the subject of this Convention are:

(a) In the case of the United States, the Federal income taxes imposed by the Internal Revenue Code, hereinafter referred to as the "United States Tax," and

(b) In the case of Morocco the agricultural tax; the taxes on urban property; the tax on public and private salaries, emoluments, fees, wages, pensions, and annuities; the complementary tax; the business profits tax; and the compulsory loan for investment by the Moroccan government as provided in Article 37 of Royal Decree No.1.010-65 of the 8th of Ramadan 1385 (31 December 1965) containing the Finance Law for the year 1966, hereinafter referred to as the "Moroccan tax."

(2) This Convention shall also apply to taxes substantially similar to those covered by paragraph (1) which are imposed in addition to, or in place of, existing taxes after the date of signature of this Convention.

(3) For the purpose of Article 22 (Nondiscrimination) the taxes covered by this Convention also include taxes of every kind imposed at the National, State, or local level. For the purpose of Article 26 (Exchange of Information) the taxes covered by this Convention also include taxes of every kind imposed at the National level.

ARTICLE 2
General Definitions

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

(a) (i) The term "United States" means the United States of America: and
(ii) When used in a geographical sense, the term "United States" means the states thereof and the District of Columbia. Such term also includes:

(A) The territorial sea thereof, and

(B) The seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which the United States exercises sovereign rights, in accordance with international law, for the purpose of exploration and exploitation of the natural resources of such areas (continental shelf), but only to the extent that the person, property, or

activity to which this Convention is being applied is connected with such exploration or exploitation.

- (b) (i) The term "Morocco" means the Kingdom of Morocco; and
- (ii) When used in a geographical sense the term "Morocco" includes:
 - (A) The territorial sea thereof, and
 - (B) The seabed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which Morocco exercises sovereign rights, in accordance with international law, for the purpose of exploration and exploitation of the natural resources of such areas (continental shelf), but only to the extent that the person, property, or activity which this Convention is being applied is connected with such exploration or exploitation.

(c) The term "one of the Contracting States" or "the other Contracting State" means the United States or Morocco, as the context requires.

(d) The term "person" includes an individual, a partnership, a corporation, an estate, a trust, or any body of persons.

(e) (i) The term "United States corporation" or "corporation of the United States" means a corporation which is created or organized under the laws of the United States or any state thereof or the District of Columbia or any unincorporated entity treated as a United States corporation for United States tax purposes; and

(ii) The term "Moroccan corporation" or "corporation of Morocco" means any body corporate or any entity which is treated as a body corporate under Moroccan tax law and which is resident within Morocco for Moroccan tax purposes.

(f) The term "competent authority" means:

(i) In the case of the United States, the Secretary of the Treasury or his delegate, and

(ii) In the case of Morocco, the Minister in Charge of Finance or his delegate.

(g) The term "State" means any National State, whether or not one of the Contracting States.

(2) Any other term used in this Convention and not defined in this Convention shall, unless the context otherwise requires, have the meaning which it has under the laws of the Contracting State whose tax is being determined.

ARTICLE 3 Fiscal Residence

(1) In this Convention:

(a) The term "resident of Morocco" means:

(i) A Moroccan corporation, and

(ii) Any person (except a corporation or any entity treated under Moroccan law as a corporation) resident in Morocco for purposes of its tax.

(b) The term "resident of the United States" means:

(i) A United States corporation, and

(ii) Any person (except a corporation or any entity treated under United States law as a corporation) resident in the United States for purposes of its tax, but in the case of a person acting as a partner or fiduciary only to the extent that the income derived by such person in that capacity is taxed as the income of a resident.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States:

(a) He shall be deemed to be a resident of that Contracting State in which he maintains his permanent home. If he has a permanent home in both Contracting States or in neither of the Contracting States, he shall be deemed to be a resident of that Contracting State with which his personal and economic relations are closest (center of vital interests);

(b) If the Contracting State in which he has his center of vital interests cannot be determined, he shall be deemed to be a resident of that Contracting State in which he has a habitual abode;

(c) If he has a habitual abode in both Contracting States or in neither of the Contracting States, he shall be deemed to be a resident of the Contracting State of which he is a citizen; and

(d) If he is a citizen of both Contracting States or of neither Contracting State the competent authorities of the Contracting States shall settle the question by mutual agreement.

For purposes of this paragraph, a permanent home is the place where an individual dwells with his family.

(3) An individual who is deemed to be a resident of one of the Contracting States and not a resident of the other Contracting State by reason of the provisions of paragraph (2) shall be deemed to be a resident only of the first-mentioned Contracting State for all purposes of this Convention, including Article 20 (General Rules of Taxation).

ARTICLE 4 Permanent Establishment

(1) For the purpose of this Convention, the term "permanent establishment" means a fixed place of business through which a resident of one of the Contracting States engages in industrial or commercial activity.

(2) The term "fixed place of business" includes but is not limited to:

(a) A seat of management;

- (b) A branch;
- (c) An office;
- (d) A factory;
- (e) A workshop;
- (f) A warehouse;
- (g) A store or other sales outlet;
- (h) A mine, quarry, or other place of extraction of natural resources; and
- (i) A building site or construction or installation project which exists for more than six months.

(3) Notwithstanding paragraphs (1) and (2), a permanent establishment shall not include a fixed place of business used only for one or more of the following:

- (a) The use of facilities for the purpose of storage, display, or delivery of goods or merchandise belonging to the resident;
- (b) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of storage, display, or delivery;
- (c) The maintenance of a stock of goods or merchandise belonging to the resident for the purpose of processing by another person;
- (d) The maintenance of a fixed place of business for the purpose of purchasing goods or merchandise, or for collecting information, for the resident; or
- (e) The maintenance of a fixed place of business 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 resident.

(4) Notwithstanding paragraphs (2) and (3), a resident of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if it maintains substantial equipment for rental within the other Contracting State for a period of more than six months.

(5) A person acting in one of the Contracting States on behalf of a resident of the other Contracting State, other than an agent of an independent status to whom paragraph (6) applies, shall be deemed to be a permanent establishment in the first-mentioned Contracting State if such person has, and habitually exercises in the first-mentioned Contracting State, an authority to conclude contracts in the name of that resident, unless the exercise of such authority is limited to the purchases of goods or merchandise for that resident.

(6) A resident of one of the Contracting States shall not be deemed to have a permanent establishment in the other Contracting State merely because such resident engages in industrial or commercial activity in that other Contracting State through a broker, general commission agent, or any other agent of an independent status, where such broker or agent is acting in the ordinary course of his business.

(7) The fact that a resident of one of the Contracting States is a related person with respect to a resident of the other Contracting State or with respect to a person who engages in industrial or commercial activity in that other Contracting State (whether through a permanent establishment

or otherwise) shall not be taken into account in determining whether the resident of the first-mentioned Contracting State has a permanent establishment in that other Contracting State.

ARTICLE 5 Source of Income

For purposes of this Convention:

(1) Dividends shall be treated as income from sources within a Contracting State only if paid by a corporation of that Contracting State.

(2) Interest shall be treated as income from sources within a Contracting State only if paid by such Contracting State, a political subdivision or a local authority thereof, or by a resident of that Contracting State. Notwithstanding the preceding sentence-

(a) If the person paying the interest (whether or not such person is a resident of one of the Contracting States) has a permanent establishment in one of the Contracting States in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by such permanent establishment, or

(b) If the person paying the interest is a resident of one of the Contracting States and has a permanent establishment in a State other than a Contracting State in connection with which the indebtedness on which the interest is paid was incurred and such interest is paid to a resident of the other Contracting State, and such interest is borne by such permanent establishment, such interest shall be deemed to be from sources within the State in which the permanent establishment is situated.

(3) Royalties described in paragraph (3) of Article 12 (Royalties) shall be treated as income from sources within a Contracting State to the extent that such royalties (a) are for the use of, or the right to use, property or rights described in such paragraph and the performance of accessory services within that Contracting State or (b) are paid for technical and economic studies described in paragraph 3(c) thereof.

(4) Income from real property and royalties from the operation of mines, quarries, or other natural resources (including gains derived from the sale of such property or the right giving rise to such royalties) shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State.

(5) Income from the rental of tangible personal (movable) property shall be treated as income from sources within a Contracting State only if such property is situated in that Contracting State.

(6) Income received by an individual for his performance of labor or personal services, whether as an employee or in an independent capacity, shall be treated as income from sources within a Contracting State only to the extent that such services are performed in that Contracting State. Income from personal services performed aboard ships or aircraft operated by a resident of one of the Contracting States in international traffic shall be treated as income from sources

within that Contracting State if rendered by a member of the regular complement of the ship or aircraft. For purposes of this paragraph, income from labor or personal services includes pensions (as defined in paragraph (3) of Article 19 (Private Pensions and Annuities)) paid in respect of such services. Notwithstanding the preceding provisions of this paragraph, remuneration described in Article 17 (Governmental Functions) shall be treated as income from sources within a Contracting State only if paid by or from the public funds of that Contracting State or a political subdivision or local authority thereof.

(7) Income from the purchase and sale of intangible or tangible personal (including movable) property (other than gains defined as royalties by paragraph (3)(b) of Article 12 (Royalties)) shall be treated as income from sources within a Contracting State only if such property is sold in that Contracting State.

(8) Notwithstanding paragraphs (1) through (7), industrial or commercial profits which are attributable to a permanent establishment which the recipient, a resident of one of the Contracting States, has in the other Contracting State, including income derived from real property and natural resources and dividends, interest, royalties (as defined in paragraph (3) of Article 12 (Royalties)), and capital gains, but only if the property or rights giving rise to such income, dividends, interest, royalties, or capital gains are effectively connected with such permanent establishment, shall be treated as income from sources within that other Contracting State.

(9) The source of any item of income to which paragraphs (1) through (8) are not applicable shall be determined by each of the Contracting States in accordance with its own law. Notwithstanding the preceding sentence, if the source of any item of income under the laws of one Contracting State is different from the source of such item of income under the laws of the other Contracting State or if the source of such income is not readily determinable under the laws of one of the Contracting States, the competent authorities of the Contracting States, may in order to prevent double taxation or further any other purpose of this Convention, establish a common source of the item of income for purposes of this Convention.

ARTICLE 6 Income from Real Property

(1) Income from real property, including royalties in respect of the operation of mines, quarries, or other natural resources and gains derived from the sale, exchange, or other disposition of such property or of the right giving rise to such royalties, is taxable in the Contracting State in which such real property, mines, quarries, or other natural resources are situated. For purposes of this Convention, interest on indebtedness secured by real property or secured by a right giving rise to royalties in respect of the operation of mines, quarries, or other natural resources shall not be regarded as income from real property.

(2) Paragraph (1) shall apply to income derived from the usufruct, direct use, letting, or use in any other form of real property.

ARTICLE 7
Business Profits

(1) Industrial or commercial profits of a resident of one of the Contracting States shall be exempt from tax by the other Contracting State unless such resident is engaged in industrial or commercial activity in that other Contracting State through a permanent establishment situated therein. If such resident is so engaged, tax may be imposed by that other Contracting State on the industrial or commercial profits of such resident but only on so much of such profits as are attributable to the permanent establishment.

(2) Where a resident of one of the Contracting States is engaged in industrial or commercial activity in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to the permanent establishment the industrial or commercial profits which would be attributable to such permanent establishment if such permanent establishment were an independent entity engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the resident of which it is a permanent establishment.

(3) In the determination of profits of a permanent establishment, deductions shall be allowed for expenses incurred for the purposes of the permanent establishment, including costs and general expenses related to services rendered for the benefit of the permanent establishment whether rendered in the state where the permanent establishment is located or elsewhere.

(4) (a) The term "industrial or commercial profits of a resident" means income derived from an industrial, commercial, agricultural or mining activity, from fishing, from the operation of ships or aircraft, from the rental of personal property, and from insurance. It also means income derived from real property and natural resources, dividends, interest, royalties (as described in Article 12), and capital gains, but only if the property or the rights giving rise to such income, dividends, interest, royalties or capital gains are effectively connected with a permanent establishment which the recipient, being a resident of one of the Contracting States, has in the other Contracting State. It does not include income received by an individual in the form of remuneration for services rendered as an employee or in the exercise of an independent profession.

(b) To determine whether property or rights are effectively connected with a permanent establishment, the factors taken into account shall include whether the rights or property are used in or held for use in carrying on industrial or commercial activity through such permanent establishment and whether the activities carried on through such permanent establishment were a material factor in the realization of the income derived from such property or rights. For this purpose, due regard shall be given to whether or not such property or rights or such income were accounted for through such permanent establishment.

(5) Where industrial or commercial profits include items of income which are dealt with separately in other articles of this Convention, the provisions of those articles shall, except as otherwise provided therein, supersede the provisions of this article.

ARTICLE 8 Shipping and Air Transport

(1) Notwithstanding Article 7 (Business Profits) and Article 13 (Capital Gains), income which a resident of one of the Contracting States derives from the operation in international traffic of ships registered in that Contracting State, and gains which a resident of one of the Contracting States derives from the sale, exchange, or other disposition of such ships operated in international traffic by such resident and registered in that Contracting State, shall be exempt from tax by the other Contracting State.

(2) Notwithstanding Article 7 (Business Profits) and Article 13 (Capital Gains), income which a resident of one of the Contracting States derives from the operation in international traffic of aircraft registered in either Contracting State or in a State with which the other Contracting State has an income tax convention exempting such income, and gains which a resident of one of the Contracting States derives from the sale, exchange, or other disposition of such aircraft operated in international traffic by such resident and registered in either Contracting State or in a State with which the other Contracting State has an income tax convention exempting such income and gains, shall be exempt from tax by the other Contracting State.

ARTICLE 9 Related Persons

(1) Where a resident of one of the Contracting States and a resident of the other Contracting State are related and where such related persons make arrangements or impose conditions between themselves which are different from those which would be made between independent persons, any income, deductions, credits, or allowances which would, but for those arrangements or conditions, have been taken into account in computing the income (or loss) of, or the tax payable by, one of such persons, may be taken into account in computing the amount of the income subject to tax and the taxes payable by such person.

(2) A person is related to another person if either person owns or controls directly or indirectly the other, or if any third person or persons own or control directly or indirectly both. For this purpose, the term "control" includes any kind of control, whether or not legally enforceable, and however exercised or exercisable.

ARTICLE 10 Dividends

(1) Dividends derived from sources within one of the Contracting States by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by one of the Contracting States on dividends derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed-

- (a) Fifteen percent of the gross amount actually distributed; or
- (b) When the recipient is a corporation, ten percent of the gross amount actually distributed if-
 - (i) During the part of the paying corporation's taxable year which precedes the date of payment of the dividend and during the whole of its prior taxable year (if any), at least ten percent of the voting shares of the paying corporation was owned by the recipient corporation, and
 - (ii) Not more than twenty-five percent of the gross income of the paying corporation for such prior taxable year (if any) consists of interest or dividends (other than interest derived from the conduct of a banking, insurance, or financing business or dividends or interest received from subsidiary corporations, fifty percent or more of the outstanding shares of the voting stock of which is owned by the paying corporation at the time such dividends or interest is received).

(3) Paragraph (2) shall not apply if the recipient of the dividends, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment. In such a case, see paragraph (4)(a) of Article 7 (Business Profits).

(4) Dividends paid by a corporation of one of the Contracting States to a person other than a resident of the other Contracting State (and in the case of dividends paid by a Moroccan corporation, to a person other than a citizen of the United States) shall be exempt from tax by that other Contracting State. This paragraph shall not apply if the recipient of the dividends has a permanent establishment in that other Contracting State and the shares with respect to which the dividends are paid are effectively connected with such permanent establishment.

ARTICLE 11

Interest

(1) Interest derived from sources within one of the Contracting States by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by one of the Contracting States on interest derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed fifteen percent.

(3) Paragraphs (1) and (2) shall not apply if the recipient of the interest, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and

the indebtedness giving rise to the interest is effectively connected with such permanent establishment. In such a case, the provisions of Article 7 (Business Profits) shall apply.

(4) 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 has its source.

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

(6) Interest received by one of the Contracting States, or by an instrumentality of that State not subject to income tax by such State, shall be exempt in the State in which such interest has its source.

ARTICLE 12

Royalties

(1) Royalties derived from sources within one of the Contracting States by a resident of the other Contracting State may be taxed by both Contracting States.

(2) The rate of tax imposed by a Contracting State on royalties derived from sources within that Contracting State by a resident of the other Contracting State shall not exceed ten percent.

(3) The term "royalties" as used in this Article means-

(a) payment of any kind made as consideration for the use of, or for the right to use, copyrights of literary, artistic, scientific works, copyrights of motion picture films or films or tapes used for radio or television broadcasting, patents, designs or models, plans, secret processes or formulae, trademarks, or other like property rights, or knowledge, experience, or skill (know-how), including the performance of accessory technical assistance for the use of such property or rights to the extent that such assistance is performed in the Contracting State where the payment for the property or right has its source,

(b) gains derived from the sale, exchange or other disposition of other such property or rights to the extent that the amounts realized on such sale, exchange or other disposition for consideration are contingent on the productivity, use, or disposition of such property, or rights, and

(c) remuneration for technical and economic studies paid for out of public funds of the Moroccan Government in the discharge of functions of a governmental nature by the Moroccan Government or political subdivision or a local authority thereof.

(4) Paragraph (2) shall not apply if the recipient of the royalty, being a resident of one of the Contracting States, has in the other Contracting State a permanent establishment and the property or rights giving rise to the royalty is effectively connected with such permanent establishment. In such a case, see paragraph (4)(a) of Article 7 (Business Profits).

(5) Where any royalty paid by a person to any related person exceeds an amount which would have been paid to an unrelated person, the provisions of this article shall apply only to so much of the royalty as would have been paid to an unrelated person. In such a case, the excess payment may be taxed by each Contracting State according to its own law, including the provisions of this Convention where applicable.

ARTICLE 13 Capital Gains

(1) A resident of one of the Contracting States shall be taxable only in that State on gains from the sale or exchange of capital assets.

(2) Paragraph (1) of this Article shall not apply if-

(a) The gain is received by a resident of one of the Contracting States and arises out of the sale or exchange of property described in Article 6 (Income from Real Property) located within the other Contracting State or of the sale or exchange of shares or comparable interests in a real property cooperative or of a corporation whose assets consist principally of such property.

(b) The recipient of the gain, being a resident of one of the Contracting States, has a permanent establishment in the other Contracting State and the property giving rise to the gain is effectively connected with such permanent establishment, or

(c) The recipient of the gain, being an individual resident of one of the Contracting States-

(i) Maintains a fixed base in the other Contracting State and the property giving rise to such gain is effectively connected to such fixed base, or

(ii) Is present in the other Contracting State for a period or periods exceeding in the aggregate one hundred eighty-three days during the taxable year.

(3) In the case of gains described in paragraph (2)(b), the provisions of Article 7 shall apply.

ARTICLE 14 Independent Personal Services

(1) Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity, may be taxed by that Contracting State. Except as provided in paragraph (2), such income shall be exempt from tax by the other Contracting State.

(2) Income derived by an individual who is a resident of one of the Contracting States from the performance of personal services in an independent capacity in the other Contracting State may be taxed by that other Contracting State, if:

(a) The individual is present in that other Contracting State for a period or periods aggregating one hundred eighty-three days or more in the taxable year, or

(b) The individual maintains a fixed base in that other Contracting State for a period or periods aggregating or ninety days or more in the taxable year, but only so much of it as is attributable to such fixed base, or

- (c) The gross amount of such income exceeds \$5,000 or the equivalent amount in Moroccan dirhams.

(3) The term "personal services in an independent capacity" means all the activities - other than commercial, industrial, or agricultural activities - carried on his own account independently by a person who receives the proceeds or bears the losses arising from these activities.

ARTICLE 15

Dependent Personal Services

(1) Notwithstanding the provisions of Article 18 (Students and Trainees) and Article 17 (Government Functions), wages, salaries, and similar remuneration derived by an individual who is a resident of one of the Contracting States from labor or personal services performed as an employee may be taxed by that Contracting State. Except as provided by paragraph (2) such remuneration derived from sources within the other Contracting State may also be taxed by that other Contracting State.

(2) Remuneration described in paragraph (1), other than compensation for services rendered by a member of the board of directors of a corporation, derived by an individual who is a resident of one of the Contracting States shall be exempt from tax by the other Contracting State if-

(a) He is present in that other Contracting State for a period or periods aggregating less than one hundred eighty-three days in the taxable year;

(b) He is an employee of a resident of the first-mentioned Contracting State or of a permanent establishment maintained in that Contracting State by a resident of a State other than that Contracting State, and

(c) The remuneration is not borne by a permanent establishment which the employer has in that other Contracting State.

(3) Notwithstanding paragraph (2), remuneration derived by an individual from the performance of labor or personal services as an employee aboard ships or aircraft operated by a resident of one of the Contracting States in international traffic shall be exempt from tax by the

other Contracting State if such individual is a member of the regular complement of the ship or aircraft.

ARTICLE 16
Artists and Athletes

(1) Notwithstanding the provisions of Articles 14 (Independent Personal Services) and 15 (Dependent Personal Services), the income of professional entertainers, including theater, film, radio, and television performers, musicians, and athletes performing personal services as entertainers, may be taxed in the Contracting State where such services are performed.

(2) When the income from the performance of personal services by an entertainer or athlete is attributed to a person other than the artist or athlete himself, notwithstanding the provisions of Articles 7 (Business Profits), 14 (Independent Personal Services), and 15 (Dependent Personal Services), such income may be taxed in the Contracting State where the activities of the artist or athlete are performed.

(3) The provisions of paragraph (1) do not apply to income from services performed in a Contracting State by a non-profit organization of the other Contracting State or by members of the personnel of such an organization unless the latter are acting for their own account.

ARTICLE 17
Governmental Functions

Wages, salaries, and similar remuneration, including pensions or similar benefits, paid by or from public funds of one of the Contracting States, to a citizen of that Contracting State for labor or personal services performed for that Contracting State, or for any of its political subdivisions or local authorities, in the discharge of governmental functions shall be exempt from tax by the other Contracting State.

ARTICLE 18
Students and Trainees

- (1) (a) An individual who is a resident of one of the Contracting States at the time he becomes temporarily present in the other Contracting State and who is temporarily present in that other Contracting State for the primary purpose of-
- (i) Studying at a university or other recognized educational institution in that other Contracting State, or
 - (ii) Securing training required to qualify him to practice a profession or professional specialty, or

(iii) Studying or doing research as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary, or educational organization,

shall be exempt from tax by that other Contracting State with respect to amounts described in subparagraph (b) for a period not exceeding five taxable years from the date of his arrival in that other Contracting State.

(b) The amounts referred to in subparagraph (a) are -

(i) Gifts from abroad for the purpose of his maintenance, education, study, research, or training;

(ii) The grant, allowance, or award; and

(iii) Income from personal services performed in that other Contracting State in an amount not in excess of 2,000 United States dollars or its equivalent in Moroccan dirhams for any taxable year.

ARTICLE 19

Private Pensions and Annuities

(1) Except as provided in Article 17 (Governmental Functions), pensions and other similar remuneration paid to an individual who is a resident of one of the Contracting States in consideration of past employment shall be taxable only in that Contracting State.

(2) Alimony and annuities paid to an individual who is a resident of one of the Contracting States shall be taxable only in that Contracting State.

(3) The term "pensions and other similar remuneration," as used in this article, means periodic payments made after retirement or death in consideration for services rendered, or by way of compensation for injuries received, in connection with past employment.

(4) The term "annuities," as used in this article, means a stated sum paid periodically at stated times during life, or during a specified number of years, under an obligation to make the payments in return for adequate and full consideration (other than services rendered).

(5) The term "alimony," as used in this article, means periodic payments made pursuant to a decree of divorce, separate maintenance agreement, or support or separation agreement which is taxable to the recipient under the internal laws of the Contracting State of which he is a resident.

ARTICLE 20

General Rules of Taxation

(1) A resident of one of the Contracting States may be taxed by the other Contracting State on any income from sources within that other Contracting State and only on such income, subject to any limitations set forth in this Convention. For this purpose, the rules set forth in Article 5 (Source of Income) shall be applied to determine the source of income.

(2) The provisions of this Convention shall not be construed to restrict in any manner any exclusion, exemption, deduction, credit, or other allowance now or hereafter accorded-

(a) By the laws of one of the Contracting States in the determination of the tax imposed by that Contracting State, or

(b) By any other agreement between the Contracting States.

(3) Notwithstanding any provisions of this Convention except paragraph (4), a Contracting State may tax a citizen or resident of that Contracting State as if this Convention had not come into effect.

(4) The provisions of paragraph (3) shall not affect:

(a) The benefits conferred by a Contracting State under Articles 21 (Relief from Double Taxation), 22 (Nondiscrimination), and 25 (Mutual Agreement Procedure); and

(b) The benefits conferred by a Contracting State under Articles 18 (Students and Trainees), and 17 (Governmental Functions), upon individuals who are neither citizens of, nor have immigrant status in, that Contracting State.

(5) The United States may impose its personal holding company tax and accumulated earnings tax as if this Convention had not come into effect. However:

(a) A Moroccan corporation shall be exempt from the United States personal holding company tax in any taxable year if all of its stock is owned by one or more individual residents of Morocco in their individual capacities for that entire year.

(b) A Moroccan corporation shall be exempt from the United States accumulated earnings tax in any taxable year unless such corporation is engaged in trade or business in the United States through a permanent establishment at any time during such year.

(6) The competent authorities of the two Contracting States may prescribe regulations necessary to carry out the provisions of this Convention.

(7) Where, pursuant to any provision of this Convention, a Contracting State reduces the rate of tax on, or exempts income of a resident of the other Contracting State and under the law in force in that other Contracting State the resident is subject to tax by that other Contracting State only on that part of such income which is remitted to or received in that other Contracting State, then the reduction or exemption shall apply only to so much of such income as is remitted to or received in that other Contracting State.

ARTICLE 21

Relief from Double Taxation

Double taxation of income shall be avoided in the following manner:

(1) The United States shall allow to a citizen or resident of the United States as a credit against the United States tax specified in paragraph (1)(a) of Article 1 the appropriate amount of

income taxes paid to Morocco. Such appropriate amount shall be based upon the amount of tax paid to Morocco, but shall not exceed that portion of the United States tax which such citizen's or resident's net income from sources within Morocco bears to his entire net income for the same taxable year.

(2) For purposes of computing the appropriate amount of taxes paid to Morocco, a citizen or resident of the United States who receives income or dividends from Morocco may elect to include in the computation of Moroccan tax for purposes of paragraph (1) the amount required to be invested in Moroccan equipment bonds under Article 37 of the Royal Decree No.1.010-65 of the 8th of Ramadan 1385 (December 31, 1965) containing the Finance Law for the year 1966, in accordance with regulations issued by the Secretary of the Treasury or his delegate; provided that the United States citizen or resident agrees that any repayment by the Moroccan Government of such bonds shall be treated for purposes of this Article as a refund of Moroccan tax for the year of such repayment.

(3) Morocco shall allow to a citizen or resident of Morocco as a credit against the Moroccan tax specified in paragraph (1)(b) of Article 1 the appropriate amount of income taxes paid to the United States. Such appropriate amount shall be based upon the amount of tax paid to the United States but shall not exceed that portion of the Moroccan tax which such citizen's or resident's net income from sources within the United States bears to his entire net income for the same taxable year.

ARTICLE 22 Nondiscrimination

(1) A citizen of one of the Contracting States who is a resident of the other Contracting State shall not be subjected in that other Contracting State to more burdensome taxes than a citizen of that other Contracting State who is a resident thereof.

(2) A permanent establishment which is a resident of one of the Contracting States has in the other Contracting State shall not be subject in that other Contracting State to more burdensome taxes than a resident of that other Contracting State carrying on the same activities. This paragraph shall not be construed as obliging a Contracting State to grant to individual residents of the other Contracting State any personal allowances, reliefs, or deductions for taxation purposes on account of civil status or family responsibilities which it grants to its own individual residents.

(3) A corporation of one of the Contracting States, 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 a corporation of the first-mentioned Contracting State carrying on the same activities, the capital of which is wholly owned or controlled by one or more residents of the first-mentioned Contracting State, is or may be subjected.

ARTICLE 23
Diplomatic and Consular Officers

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

ARTICLE 24
Investment or Holding Companies

A corporation of one of the Contracting States deriving dividends, interest, royalties, or capital gains from sources within the other Contracting State shall not be entitled to the benefits of Article 10 (Dividends), 11 (Interest), 12 (Royalties), or 13 (Capital Gains) if-

(a) By reason of special measures the tax imposed on such corporation by the first-mentioned Contracting State with respect to such dividends, interest, royalties, or capital gains is substantially less than the tax generally imposed by such Contracting State on corporate profits, and

(b) Twenty-five percent or more of the capital of such corporation is held of record or is otherwise determined, after consultation between the competent authorities of the Contracting States, to be owned directly or indirectly, by one or more persons who are not individual residents of the first-mentioned Contracting State (or, in the case of a Moroccan corporation, who are citizens of the United States).

ARTICLE 25
Mutual Agreement Procedure

(1) Where a resident of one of the Contracting States considers that the action of one or both of the Contracting States results or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of the Contracting States, present his case to the competent authority of the Contracting State of which he is a resident. Should the resident's claim be considered to have merit by the competent authority of the Contracting State to which the claim is made, it shall endeavor to come to an agreement with the competent authority of the other Contracting State with a view to the avoidance of taxation contrary to the provisions of this Convention.

(2) The competent authorities of the Contracting States shall endeavor to resolve by mutual agreement any difficulties or doubts arising as to the application of this Convention. In particular, the competent authorities of the Contracting States may agree-

(a) To the same attribution of industrial or commercial profits to a resident of one of the Contracting States and its permanent establishment situated in the other Contracting State;

- (b) To the same allocation of income, deductions, credits, or allowances between a resident of one of the Contracting States and any related person;
- (c) To the same determination of the source of particular items of income; or
- (d) To the same meaning of any term used in this Convention.

(3) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of this article. When it seems advisable for the purpose of reaching agreement, the competent authorities may meet together for an oral exchange of opinions.

(4) In the event that the competent authorities reach such an agreement, taxes shall be imposed on such income and refund or credit of taxes shall be allowed, by the Contracting States in accordance with such agreement.

ARTICLE 26

Exchange of Information

(1) The competent authorities of the Contracting States shall exchange such information as is pertinent to carrying out the provisions of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those (including a court or administrative body) concerned with assessment, collection, enforcement, or prosecution in respect of the taxes which are the subject of this 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 Contracting State or 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 Contracting State or of the other Contracting State; or
- (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.

(3) The exchange of information shall be either on a routine basis or on request with reference to particular cases. The competent authorities of the Contracting States may agree on the list of information which shall be furnished on a routine basis.

(4) The competent authorities of the Contracting States shall notify each other of any amendments of the tax laws referred to in paragraph (1) of Article 1 (Taxes Covered) and of the adoption of any taxes referred to in paragraph (2) of Article 1 (Taxes Covered) by transmitting the texts of any amendments or new statutes at least once a year.

(5) The competent authorities of the Contracting States shall notify each other of the publication by their respective Contracting States of any material concerning the application of this Convention, whether in the form of regulations, rulings, or judicial decisions by transmitting the texts of any such materials at least once a year.

ARTICLE 27 Extension to Territories

(1) Either one of the Contracting States may, at any time while this Convention continues in force, by a written notification given to the other Contracting State through diplomatic channels, declare its desire that the operation of this Convention, either in whole or in part or with such modifications as may be found necessary for special application in a particular case, shall extend to all or any of the areas (to which this Convention is not otherwise applicable) for whose international relations it is responsible and which impose taxes substantially similar in character to those which are the subject of this Convention. When the other Contracting State has, by a written communication through diplomatic channels, signed to the first-mentioned Contracting State that such notification is accepted in respect of such area or areas, and the notification and communication have been ratified and instruments of ratification exchanged, this Convention, in whole or in part, or with such modifications as may be found necessary for special application in a particular case, as specified in the notification, shall apply to the area or areas named in the notification and shall enter into force and effect on and after the date or dates specified therein. None of the provisions of this Convention shall apply to any such area in the absence of such acceptance and exchange of instruments of ratification in respect of that area.

(2) At any time after the date of entry into force of an extension under paragraph (1), either of the Contracting States may, by six months' prior notice of termination given to the other Contracting State through diplomatic channels, terminate the application of this Convention to any area to which it has been extended under paragraph (1), and in such event this Convention shall cease to apply and have force and effect, beginning on or after the first day of January next following the expiration of the six month period, to the area or areas named therein, but without affecting its continued application to the United States, Morocco, or to any other area to which it has been extended under paragraph (1).

(3) In the application of this Convention in relation to any area to which it is extended by notification by the United States or Morocco, reference to the "United States" or "Morocco" as the case may be, construed as referring to that area.

(4) The termination in respect of the United States or Morocco of this Convention under Article 29 (Termination) shall, unless otherwise expressly agreed by both Contracting States, terminate the application of this Convention to any area to which the Convention has been extended under this article by the United States or Morocco.

ARTICLE 28

Entry into Force

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged as soon as possible thereafter at Washington, D.C.

(2) The present Convention shall enter into force upon the exchange of instruments of ratification and will apply as follows:

(a) To taxes due at the source on income payable or paid on and after the first day of the month following the exchange of instruments of ratification, and

(b) In the case of other taxes imposed on income for taxable years beginning on and after the first of January of the year of ratification.

ARTICLE 29

Termination

The present Convention will remain in force indefinitely; however, each Contracting State may, prior to the 30th of June in any calendar year at any time after five years from the date on which this Convention enters into force, terminate the Convention in writing submitted through diplomatic channels to the other Contracting State. In the event of a termination before July 1 of any such year, the Convention will continue to apply for the last time:

(1) To taxes due at the source on income payable or paid not later than December 31 of the year in which such termination occurs, and

(2) In the case of other taxes imposed on income for taxable periods ending not later than December 31 of the same year.

DONE in triplicate, in the English, French and Arabic languages, the three texts having equal authenticity, this First day of August, 1977.

FOR THE GOVERNMENT OF THE
UNITED STATES OF AMERICA

FOR THE GOVERNMENT OF THE
KINGDOM OF MOROCCO

(s) Robert Anderson,
Ambassador of the United States of America.

(s) Abdelkader Benslimane,
Minister of Finance.

NOTES OF EXCHANGE

Rabat, August 1, 1977.

The Honorable Robert Anderson,
American Ambassador,
Rabat.

Dear Mr. Ambassador: During the discussions which were held in both Rabat and Washington for the purpose of concluding a convention to avoid double taxation between the United States and Morocco, the Moroccan delegation emphasized to the American delegation that the Moroccan Government, for the purpose of promoting private investment, will exempt certain profits and interest payments from taxation. The Moroccan delegation expressed its hope that the U.S. Government would accordingly grant citizens and residents of the United States a "tax-sparing" credit against the U.S. tax. The U.S. delegation indicated that the Senate has been reluctant to approve such a provision in other tax conventions. However, the U.S. delegation has promised to review its position should the Senate reconsider its decision on this matter.

I would be grateful to you if you would confirm your government's commitment to resume discussions on this point should the Senate approve a provision of this kind in the interest of another country.

Please accept, Mr. Ambassador, assurances of my highest esteem.

ABDELKADER BENSLIMANE

Rabat, *August 1, 1977*

His Excellency, Mr. Abdelkader Benslimane
Minister of Finance,
Rabat.

Excellency: In your letter of today's date you kindly informed me of the following:

"During the discussions which were held in both Rabat and Washington for the purpose of concluding a convention to avoid double taxation between the United States and Morocco, the Moroccan delegation emphasized to the American delegation that the Moroccan Government, for the purpose of promoting private investment, will exempt certain profits and interest payments from taxation. The Moroccan delegation expressed its hope that the U.S. Government would accordingly grant citizens and residents of the United States a 'tax-sparing' credit against the U.S. tax. The U.S. delegation indicated that the Senate has been reluctant to approve such a provision in other tax conventions. However, the U.S. delegation has promised to review its position should the Senate reconsider its decision on this matter."

"I would be grateful to you if you would confirm your government's commitment to resume discussions on this point should the Senate approve a provision of this kind in the interest of another country."

I have the honor to confirm the above-mentioned commitment.

Please accept, Excellency, the assurances of my highest consideration.

ROBERT ANDERSON.

NOTES OF EXCHANGE (AGREEMENT)

*Agreement Between the United States of America and Morocco
Interpreting Certain Articles of the Convention of August 1, 1977
Effected by Exchange of Letters Signed at Washington and Rabat October 25, 1979
with Note signed at Rabat April 17, 1981*

*The Assistant Secretary for Tax Policy, Department of the Treasury,
to the Moroccan Director of Tax Division, Ministry of Finance*

DEPARTMENT OF THE TREASURY
WASHINGTON, D.C. 20220

ASSISTANT SECRETARY

October 25, 1979

Mr. Alaoui Medaghri
Director of Tax Division
Ministry of Finance
Rabat, Morocco

Dear Mr. Medaghri:

In connection with the recently negotiated income tax convention between the Government of the United States and the Government of the Kingdom of Morocco, which was signed in Rabat on August 1, 1977, certain questions have arisen with respect to which it is deemed appropriate that there be an exchange of notes regarding the agreement reached by the delegations from our two countries.

Under Article 21(2) of the Convention, for purposes of computing the appropriate amount of taxes paid to Morocco, a citizen or resident of the United States is permitted to elect to include in the Moroccan tax for which he claims a tax credit the amount he is required to invest in Moroccan equipment bonds under Article 37 of the Royal Decree No. 1.010-65 of the 8th of Ramadan 1385 (December 31, 1965), in accordance with regulations to be issued by the United States Secretary of the Treasury. Under Article 21(2), any amount which has been so claimed and which is repaid by the Government of Morocco must be treated by the United States taxpayer as a refund of Moroccan tax for the year of repayment. Under United States domestic law, when a taxpayer treats an amount as a refund of a foreign tax for which a foreign tax credit was previously claimed, he is not charged interest except to the extent interest is paid to him by the foreign government. It is our understanding that under Article 37 of Royal Decree No. 1.010-65

of the 8th of Ramadan, a taxpayer will receive payments of interest from the Moroccan Government on Moroccan equipment bonds. It is agreed by our delegations that, with respect to a United States taxpayer who elects to include an amount invested in Moroccan equipment bonds in his Moroccan tax for which foreign tax credit is claimed, any interest paid on the bonds by the Moroccan Government will belong to the United States. It is agreed, however, that Moroccan taxes may be deducted from such interest. Regulations to be issued by the Treasury department pursuant to Article 21(2) will so provide.

Paragraph 1 of Article 25 of the Convention covers claims made by taxpayers of a Contracting State to one of the two tax administrations. The solutions arrived at in the course of the mutual agreement procedure provided for by paragraph 1 of Article 25 will be implemented notwithstanding the time limits in effect in the two Contracting States.

I have the honor to propose to you that the present note and your reply thereto constitute the legal interpretation of Articles 21(2) and 25(1) of the Convention.

Please accept, Mr. Director, the assurances of my highest consideration.

(s) Donald C. Lubick
Assistant Secretary for Tax Policy

[TRANSLATION]

*The Moroccan Director of Tax Division, Ministry of Finance, to the
Assistant Secretary for Tax Policy, Department of the Treasury*

ROYAUME DU MAROC

RABAT, LE ____

MINISTERE DES FINANCES

OCTOBER 25, 1979

DIVISION DES IMPOTS

17/344/D.I.

Mr. Donald C. Lubick
Assistant Secretary for Tax Policy
Department of the Treasury
Washington, D.C. 20220

Dear Mr. Lubick:

I have the honor to refer to your letter of today's date which reads as follows:

“In connection with the recently negotiated income tax convention between the Government of the United States and the Government of the Kingdom of Morocco, which was signed in Rabat on August 1, 1977, certain questions have arisen with respect to which it is deemed appropriate that there be an exchange of notes regarding the agreement reached by the delegations from our two countries.

Under Article 21(2) of the Convention, for purposes of computing the appropriate amount of taxes paid to Morocco, a citizen or resident of the United States is permitted to elect to include in the Moroccan tax for which he claims a tax credit the amount he is required to invest in Moroccan equipment bonds under Article 37 of the Royal Decree No. 1.010-65 of the 8th of Ramadan 1385 (December 31, 1965), in accordance with regulations to be issued by the United States Secretary of the Treasury. Under Article 21(2), any amount which has been so claimed and which is repaid by the Government of Morocco must be treated by the United States taxpayer as a refund of Moroccan tax for the year of repayment. Under United States domestic law, when a taxpayer treats an amount as a refund of a foreign tax for which a foreign tax credit was previously claimed, he is not charged interest except to the extent interest is paid to him by the foreign government. It is our understanding that under Article 37 of Royal Decree No. 1.010-65 of the 8th of Ramadan, a taxpayer will receive payments of interest from the Moroccan Government on Moroccan equipment bonds. It is agreed by our delegations that, with respect to a United States taxpayer who elects to include an amount invested in Moroccan equipment bonds in his Moroccan tax for which foreign tax credit is claimed, any interest paid on the bonds by the Moroccan Government will belong to the United States. It is agreed, however, that Moroccan taxes may be deducted from such interest. Regulations to be issued by the Treasury department pursuant to Article 21(2) will so provide.

Paragraph 1 of Article 25 of the Convention covers claims made by taxpayers of a Contracting State to one of the two tax administrations. The solutions arrived at in the course of the mutual agreement procedure provided for by paragraph 1 of Article 25 will be implemented notwithstanding the time limits in effect in the two Contracting States.

I have the honor to propose to you that the present note and your reply thereto constitute the legal interpretation of Articles 21(2) and 25(1) of the Convention”

I wish to inform you that I agree with the contents of your letter.

Please accept, Mr. Director, the assurances of my highest consideration.

(s) Alaoui Medaghri:
Director of Tax Division, Ministry of Finance
Rabat, Morocco

INTERPRETIVE NOTE

INTERPRETIVE NOTE TO ARTICLE 10, PARAGRAPH 2 (b)

With reference to the Agreement between the United States of America and the Kingdom of Morocco signed at Rabat on August 1, 1977, it is understood that the Moroccan tax on profits of Moroccan branches and establishments available for remittance to their American home offices will be subject to the limitation as is provided in Article 10, paragraph 2 (b) of this Agreement with respect to taxation of dividends distributed by subsidiaries to their parents.

Done at Rabat, April 17, 1981.

For the Secretary of the Treasury of the
United States of America

(s) Mr. John Brayton Redecker
*Economic Counselor of the
Embassy of the United States*

For the Minister of Finance
of the Kingdom of Morocco

(s) Mr. Medaghri Alaoui Mohamed
Director of Taxes