

**PROTOCOL TO THE CONVENTION BETWEEN THE GOVERNMENT OF  
THE ITALIAN REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC  
OF CHILE FOR THE ELIMINATION OF DOUBLE TAXATION WITH  
RESPECT TO TAXES ON INCOME AND THE PREVENTION OF TAX  
EVASION AND AVOIDANCE**

On signing the Convention between the Government of the Italian Republic and the Government of the Republic of Chile for the elimination of double taxation with respect to taxes on income and the prevention of tax evasion and avoidance, the signatories have agreed that the following provisions shall form an integral part of the Convention.

**1. In general**

a) It is understood that if, after the date in which the Convention enters into force, either Contracting State introduces a tax on capital under its domestic law, the Contracting States will enter into negotiations with a view to concluding a Protocol to amend the Convention by extending its scope to include any tax on capital so introduced.

b) When a reference in this Convention is made to specific domestic legislation, such reference shall include any amendments, modifications or substitutions, as communicated between the competent authorities.

c) Considering that the main aim of the Convention is to avoid international double taxation, the Contracting States agree that, in the event the provisions of the Convention are used in such a manner as to provide benefits not contemplated or not intended, the competent authorities of the Contracting States shall, under the mutual agreement procedure of Article 24, recommend specific amendments to be made to the Convention. The Contracting States further agree that any such recommendation will be considered and discussed in an expeditious manner with a view to amending the Convention, where necessary.

**2. Article 3**

As for the competent authority of Italy in paragraph 1, h), ii) of Article 3 of the Convention, the Revenue Agency and the *Guardia di Finanza* are the authorized representatives of the Ministry of Economy and Finance for the Exchange of Information.

**3. Article 4**

The term "resident of a Contracting State" includes a regulated pension fund which is established in a Contracting State primarily for the benefit of residents of that State, which shall be treated as the beneficial owner of the income it receives, notwithstanding that all or part of its income or gains may be exempt from tax under the domestic law of that State. For the purposes of this Convention the term "regulated pension fund" means, in the case of Italy a pension fund supervised by the *Commissione di vigilanza sui fondi pensione- COVIP* and in the case of Chile a pension fund supervised by *Superintendencia de Pensiones*.



#### 4. Article 5

For the purposes of computing the time limits in paragraph 3 of Article 5, activities carried on by an enterprise associated with another enterprise within the meaning of Article 9 of this Convention shall be aggregated with the period during which activities are carried on by the enterprise if the activities of the associated enterprises are connected.

With reference to paragraph 6 of Article 5, it is understood that where the commercial or financial conditions made or imposed between the agent and the enterprise differ from those which would be made between independent persons, such agent will not be considered an agent of independent status within the meaning of paragraph 6 of Article 5.

#### 5. Article 7

With reference to Article 7, where an enterprise of a Contracting State which has carried on business in the other Contracting State through a permanent establishment situated therein, receives, after it has ceased to carry on business as aforesaid, profits attributable to that permanent establishment, such profits may be taxed in that other State in accordance with the principles laid down in Article 7.

#### 6. Article 7

With reference to paragraph 3 of Article 7, the term "expenses which are incurred for the purposes of the permanent establishment" means the expenses directly connected with the activity of the permanent establishment.

#### 7. Article 8

With reference to Article 8, profits from the operation in international traffic of ships or aircraft shall include:

- a) profits derived from the rental on a bare boat basis of ships or aircraft used in international traffic;
- b) profits derived from the use or rental of containers,

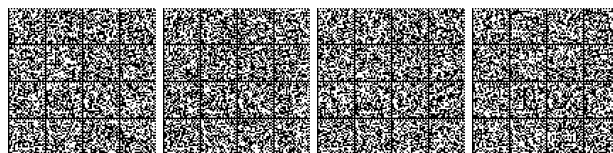
if such profits are incidental to the other profits from the operation of ships or aircraft in international traffic.

#### 8. Article 10

With reference to Article 10, it is agreed that, in relation to the application of the additional tax under the provisions of the laws of Chile, should:

- (i) the first category tax cease to be fully deductible in determining the amount of additional tax to be paid; or
- (ii) the rate of additional tax imposed with respect to a resident of Italy, as determined under the provisions of Article 4 of this Convention, exceed 35 per cent,

the Contracting States shall consult with each other with a view to amending the Convention in order to re-establish the balance of benefits under the Convention.



## 9. Articles 11 and 12

It is understood that if an agreement or convention between Chile and a member state of the Organisation for Economic Cooperation and Development enters into force after the date of entry into force of this Convention and provides that Chile shall exempt interest or royalties (both in general and in respect of specific categories of interest or royalties) arising in Chile, or limit the tax applicable by Chile on such interest or royalties (both in general and in respect of specific categories of interest or royalties) to a rate lower than that provided for in paragraph 2 of Article 11 or paragraph 2 of Article 12 of the Convention, such exemption or lower rate shall apply automatically to interest or royalties (both in general and in respect of specific categories of interest or royalties) arising in Chile and beneficially owned by a resident of Italy, as well as to interest or royalties arising in Italy and beneficially owned by a resident of Chile, in the same manner as if such exemption or such lower rate were specified in those paragraphs. The competent authority of Chile shall without delay inform the competent authority of Italy that the conditions for the application of this paragraph have been met.

## 10. Article 13

Pension funds referred to in Article 13 are those defined for purposes of Article 4 of this Convention.

## 11. Article 19

With reference to paragraph 1 and 2 of Article 19, remuneration paid to an individual in respect of services rendered to the Central Banks of Italy (Banca d'Italia) and Chile (Banco Central) is covered by the provisions concerning government service.

## 12. Article 22

With reference to paragraph 2 of Article 22, in case Italy will adopt a domestic legislation which - in addition to or in substitution of the system of dividend exemption existing at the time of the signature of the Convention - grants direct and indirect foreign tax credit, Italy shall allow a deduction of the income tax effectively paid by a company distributing the dividends which relates to the profits out of which such dividends are paid (first category tax).

## 13. Article 27

- a) The conclusion in paragraph 1 of Article 27, "granting that benefit in these circumstances would be in accordance with the object and purpose of the relevant provisions of this Convention", shall be established according to the procedures provided for by the domestic law and administrative practice of each Contracting State.
- b) In relation to income under Article 10, the 25 per cent in paragraph 2 of Article 27 shall not apply with respect of such payments from Chile, instead the additional tax payable in Chile shall be applicable, provided that the first category tax is fully creditable in computing the amount of additional tax.



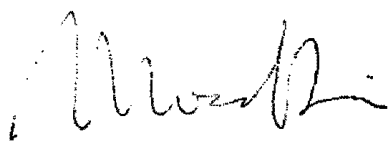
## 14. Article 29

For purposes of Article 29 paragraph 2, without prejudice to information that may be requested from the taxpayer to ascertain the entitlement to the benefits of the Convention, the official certificate issued by the tax authority for being entitled to a refund, exemption, or application of a reduced tax rate on income provided for in the Convention shall include information as to the identity of the taxpayer, the period for which the taxpayer is a resident of the Contracting State and certify that the resident is liable to tax in that Contracting State (except as provided for in this Protocol under number 3).

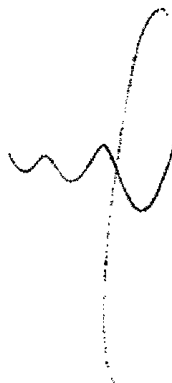
IN WITNESS WHEREOF the signatories, duly authorised to that effect, have signed this Protocol.

DONE in duplicate at ..... on ....., in two originals, each in the Italian, Spanish and English languages, all texts being equally authentic. In case of any divergence on interpretation, the English text shall prevail.

**FOR THE GOVERNMENT OF  
THE ITALIAN REPUBLIC**



**FOR THE GOVERNMENT OF  
THE REPUBLIC OF CHILE**



LAVORI PREPARATORI

*Camera dei deputati* (atto n. 3759):

Presentato dal Ministro degli affari esteri (GENTILONI).

Assegnato alla III commissione (affari esteri e comunitari), in sede referente, il 9 maggio 2016 con pareri delle commissioni I, V e VI.

Esaminato dalla III commissione, in sede referente, il 17 maggio e il 29 giugno 2016.

Esaminato in aula e approvato il 6 luglio 2016.

