

N° 4241.

FRANCE ET SUÈDE

Convention tendant à éviter les doubles impositions et à établir des règles d'assistance administrative réciproque en matière d'impôts directs, avec protocole, déclaration complémentaire et protocole final. Signés à Paris, le 24 décembre 1936.

FRANCE AND SWEDEN

Convention for the Avoidance of Double Taxation and for the Establishment of Rules for Reciprocal Administrative Assistance in the Case of Direct Taxes, with Protocol, Complementary Declaration and Final Protocol. Signed at Paris, December 24th, 1936.

¹ TRADUCTION. — TRANSLATION.

No. 4241. — CONVENTION² BETWEEN FRANCE AND SWEDEN FOR THE AVOIDANCE OF DOUBLE TAXATION AND FOR THE ESTABLISHMENT OF RULES FOR RECIPROCAL ADMINISTRATIVE ASSISTANCE IN THE CASE OF DIRECT TAXES. SIGNED AT PARIS, DECEMBER 24TH, 1936.

French official text communicated by the Swedish Minister for Foreign Affairs. The registration of this Convention took place January 1st, 1938.

HIS MAJESTY THE KING OF SWEDEN and THE PRESIDENT OF THE FRENCH REPUBLIC, being desirous of preventing double taxation and of establishing rules for reciprocal administrative assistance in the case of direct taxes, have decided to conclude a Convention and have appointed for that purpose as their Plenipotentiaries :

HIS MAJESTY THE KING OF SWEDEN :

M. Einar HENNINGS, Envoy Extraordinary and Minister Plenipotentiary of His Majesty the King of Sweden accredited to the President of the French Republic ;

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. Yvon DELBOS, Deputy, Minister for Foreign Affairs ;

Who, after having verified their full powers, found in good and due form, have agreed upon the following provisions :

SECTION I.

DOUBLE TAXATION.

Article I.

§ 1. The present Convention relates only to direct taxes.

§ 2. For the purposes of the present Convention, direct taxes shall be deemed to mean taxes which, under the law of either State, are levied directly on income (gross or net) or property, whether for account of the contracting States or for account of provinces, departments or communes, including surtaxes thereon. Accordingly, the present Convention does not relate to indirect taxes on transport or consumption.

¹ Traduit par le Secrétariat de la Société des Nations, à titre d'information.

¹ Translated by the Secretariat of the League of Nations, for information.

² The exchange of ratifications took place at Stockholm, September 14th, 1937.

§ 3. The following taxes shall be deemed to be direct taxes :

1. In the case of Sweden :

- (a) The State tax on income and capital ;
- (b) The general communal tax ;
- (c) The graduated communal tax ;
- (d) The communal tax on the exploitation of forest property ;
- (e) The special tax on capital ;
- (f) Taxes and charges levied on the same basis as any one of the taxes to which sub-paragraphs (a) to (d) above relate.

2. In the case of France :

- (a) The real estate tax (built and unbuilt property) ;
- (b) The industrial and commercial profits tax ;
- (c) The agricultural profits tax ;
- (d) The tax on salaries, allowances and emoluments, wages, pensions and annuities ;
- (e) The professional profits tax ;
- (f) The tax on income from securities and movable capital ;
- (g) The general income tax.

Article 2.

Taxes on income from immovable property, including income from agricultural enterprises, shall be levied only in the State in which the property is situate.

Article 3.

§ 1. Industrial, mining or commercial enterprises other than those to which Article 5 relates shall be liable to taxation in each State in respect of the income derived from the fixed establishments therein situate.

§ 2. In default of regular accounts showing the income in question separately and specifically, the competent authorities of the two contracting States shall lay down rules for the allocation thereof, as may be required, in common accord.

§ 3. For the purposes of the present Convention, " permanent establishment " shall be deemed to mean any permanent establishment in which the enterprise concerned carries on its business in whole or in part.

§ 4. Income from participations in enterprises in company form, other than income from shares, bonus shares or other securities shall rank as income derived from a commercial or industrial enterprise.

§ 5. When an enterprise of one of the two States, in virtue of its participation in the management or capital of an enterprise of the other State, makes or imposes conditions in the commercial or financial relations of the two enterprises different from those which would be applicable in the case of a third enterprise, any profits which should normally have been shown in the accounts of the former enterprise, but have been diverted in this manner to the latter enterprise, may be brought into account with the taxable profits of the former enterprise.

Article 4.

§ 1. Companies having their fiscal domicile in Sweden which have a permanent establishment in France and are liable under the French Law of June 29th, 1872, and the Decree of December 6th, 1872, to the tax on income from movable capital shall make payment of the same in the manner stipulated in the said Law and Decree, provided always that the income taxed shall not be more than the amount of the profits earned in France, including profits or benefits (if any) derived by

the company indirectly from its French establishment, or conveyed or assigned to third parties, whether in the form of increases in the price of purchase or reductions in the price of sale or in any other form.

§ 2. Companies having their fiscal domicile in Sweden shall not be liable in France to the French tax on income from movable capital on the ground of participation in the management or capital or of any relations with a company whose effective headquarters is in France, provided always that profits or benefits (if any) derived by the Swedish company indirectly from its participation in the French company, or conveyed or assigned to third parties, whether in the form of increases in the price of purchase or reductions in the price of sale or in any other form, may be included for purposes of the collection of the said tax in the profits distributed by the French company which are liable to the tax.

Article 5.

Taxes on income from maritime shipping and air transport enterprises shall be levied only in the State in which the effective headquarters (*siège social*) of the enterprise is situate, provided always that the ships or aircraft concerned fly the flag or have the nationality of the said State.

Article 6.

§ 1. Unless otherwise provided in Article 7, taxes on earned income, including income from liberal professions, shall be levied only in the State within whose territory the personal activities from which the income is derived are exercised.

§ 2. The exercise of a liberal profession in either State presupposes the existence in the State in question of a permanent headquarters for the exercise of the said profession.

Article 7.

Taxes on income in the form of salaries, wages or other emoluments received in return for labour or services rendered to the State, provinces, departments, communes or other public corporations regularly constituted under the internal law of either of the contracting States shall be levied only in the State by which such salaries, wages or other emoluments are payable.

Article 8.

§ 1. Taxes on income from loans, deposits, deposit accounts or any other claims shall be levied only in the State in which the creditor is domiciled, provided always that each contracting State shall retain the right to collect taxes deducted at the source by companies and corporations in accordance with its own general law.

§ 2. Where the creditor has permanent establishments in both States within the meaning of Article 3, § 3, and one of such establishments gives a loan or makes a deposit, the tax shall be levied in that one of the two States in which the establishment is situate.

Article 9.

Income from securities shall be taxed in the State within whose territory the beneficiary is domiciled, provided always that each contracting State reserves the right to tax income from securities under its own general law where such securities are issued by companies or other corporations having their fiscal domicile within its territory.

Article 10.

Directors' percentages, attendance fees and other remuneration of members of the boards of share companies shall be taxed in that one of the two States in which the effective headquarters of the company is situate. Remuneration received by the parties concerned in any other effective capacity shall be subject to the provisions of Article 6.

Article 11.

Taxes on any other form of income not hereinbefore specified, including pensions, public and private, and annuities, shall be levied only in the State in which the beneficiary is domiciled.

Article 12.

In the case of taxes on property or increment of property, the following provisions shall be applicable :

1. Where the property consists of :

(a) Immovable property and accessories appertaining thereto ;

(b) Commercial or industrial enterprises, including maritime shipping and air transport undertakings ;

the tax shall be levied in that State which is entitled under the preceding Articles to tax the income from such capital.

2. In the case of all other forms of capital, the tax shall be levied in the State of domicile.

Article 13.

Taxation of individual taxpayers on their aggregate income or capital in their State of domicile shall be leviable only on the income or property taxable under the provisions of the present Convention in the said State, but shall be assessed at the rate at which the taxpayer's aggregate income or property are taxable.

Article 14.

§ 1. For the purposes of the present Convention, the fiscal domicile of individuals shall be deemed to mean the place in which they have their habitual residence, that is to say, their permanent homes.

§ 2. Should a taxpayer have no habitual residence in the sense of the preceding definition of the term in either of the two States, he shall be deemed to be domiciled in that one of the two States in which he principally resides or, if he does not reside in either, in the State of which he is a national.

§ 3. For the purposes of the present Convention, the fiscal domicile of legal entities shall be deemed to be the place of their effective headquarters.

Nevertheless, the above stipulation shall not prejudice the provisions of Swedish law concerning the place of taxation of the undivided estates of deceased persons.

Article 15.

Where a taxpayer shows proof that the action of the revenue authorities of the contracting States has resulted in double taxation in his case in respect of the direct taxes to which the present Convention relates, he shall be entitled to lodge a claim with the State of which he is a national. Should his claim be upheld, the supreme revenue authority of the latter State may come to an agreement with the supreme revenue authority of the other State with a view to equitable avoidance of the double taxation in question.

Such claims must be lodged within two years of the year in which the taxation is imposed. If lodged after the expiry of the said time-limit, it shall be for the supreme revenue authorities of the two States to decide whether such claims shall lie notwithstanding.

SECTION II.

LEGAL PROTECTION AND RECIPROCAL ASSISTANCE.

Article 16.

Nationals of either State (whether natural persons or corporate bodies) shall be entitled to the same protection in the territory of the other State as nationals of the latter at the hands of the revenue authorities and revenue, administrative or other courts of the latter.

Article 17.

With a view to the more effective imposition of the taxes to which the present Convention relates, the contracting States undertake, subject to reciprocity, to exchange such information in the matter of taxation (being information which the authorities of the State concerned have at their disposal or are in a position to obtain under their own law) as may be of use to the authorities of the other State in the assessment of the taxes in question.

The said information shall be exchanged between the two Finance Ministries direct in the ordinary course or on demand.

Article 18.

§ 1. In accordance with the preceding Article, the Swedish Finance Ministry shall forward to the French Finance Ministry in the ordinary course in the first six months of every year :

(a) The particulars contained in the forms delivered to the Swedish authorities in connection with the payment to individuals or legal entities domiciled in France of dividends on shares or founder's shares and interest on bonds or any other securities in public circulation ;

(b) An extract of all inventories received by the competent Swedish authorities in the case of property passing on the decease of persons domiciled in France ;

(c) The particulars contained in permits accorded to individuals or legal entities domiciled in France to enable them to acquire immovable property situate in Sweden for business purposes ;

(d) Any particulars which the competent Swedish authorities may obtain from banks, savings banks or other similar institutions concerning assets in the possession of individuals domiciled in France ;

(e) Any particulars which the central Swedish authorities may obtain from inventories in the case of property passing on death, concerning debts contracted to individuals or legal entities domiciled in France ;

(f) Particulars concerning annuities and pensions, public or private, paid to persons domiciled in France ;

(g) A list of names and addresses (domiciles) of all French nationals domiciled in France who have made signed declarations in Sweden to the Central Committee in Stockholm in charge of the taxation of taxpayers not domiciled in Sweden for purposes of the Swedish tax on income and capital.

§ 2. The French Finance Ministry for its part shall forward to the Swedish Finance Ministry in the ordinary course in the first six months of every year :

(a) Copies of registered records of the opening of safes or compartments of safes, rented in whole or in part by a deceased person (or the wife or husband of the same), where such person was domiciled in Sweden ;

(b) Copies of registered records of the contents of sealed covers or locked boxes deposited for safe-keeping by any such person with bankers, brokers, bill-brokers or other persons habitually receiving deposits of the kind for safe-keeping ;

(c) Copies of lists delivered by companies or corporations, money-changers, brokers, bankers, bill-brokers, notaries or other public officers or business agents, being the depositaries, holders or responsible parties in the case of securities, sums or other assets passing on the death of a person domiciled in Sweden ;

(d) Notice of the opening of all undivided or collective accounts with joint and several responsibility, with any one of the persons to whom the preceding sub-paragraph relates in the name of one or more Swedish nationals ;

(e) Any particulars which the revenue authorities may obtain concerning assets in France in the possession of individuals or legal entities domiciled in Sweden, or concerning payments on coupons of securities made for account of persons domiciled in Sweden, or concerning debts contracted to natural persons or corporate bodies domiciled in Sweden ;

(f) Particulars concerning annuities and pensions, public or private, and private salaries paid to persons domiciled in Sweden ;

(g) A list of names and addresses (domiciles) of all Swedish nationals domiciled in Sweden who are assessed in France for the French real estate tax or general income tax.

Article 19.

§ 1. The French Finance Ministry shall be entitled to apply to the Swedish Finance Ministry for particulars of concrete cases in which individuals or legal entities of French nationality are involved and, in particular, shall be entitled, for the purpose of the grading of the French general income tax in accordance with the provisions of Article 13, to ask for information concerning profits derived from industrial, commercial or agricultural undertakings in Sweden in the possession of such persons, as also concerning royalties or fees paid to the same in connection with the exploitation of mines or quarries or the use of patents, models, trade marks, or other industrial operations.

§ 2. Similarly, the Swedish Finance Ministry shall be entitled to apply to the French Finance Ministry for analogous particulars of concrete cases in which individuals or legal entities of Swedish nationality are involved.

Article 20.

§ 1. The contracting States undertake, on a basis of reciprocity, to lend one another assistance and support in the collection of the amount of the taxes to which the present Convention relates, together with all surtaxes thereon, interest, costs or fines, not being of a penal character under the provisions of their several laws, where the same are due definitively beyond possibility of appeal.

§ 2. The necessary steps in connection with the service of documents, the institution of proceedings and the enforcement of measures of execution shall be taken on the production of copies or official extracts of the executory documents, accompanied by copies or official extracts (if any) of the judicial decisions which have become final. Execution shall be by means of administrative action in the form for which the law of the State applied to provides.

§ 3. Revenue claims for collection shall not receive preference in the State applied to ; nor shall the latter be under obligation to take any measure in execution thereof for which the law of the State applying does not provide.

§ 4. Where a revenue claim is still subject to appeal, the State applying may make request to the State applied to for the adoption of conservatory measures, and the above provisions shall be applicable to such conservatory measures *mutatis mutandis*.

Service of notice of constraint on the party liable in the case of taxes collected by the French Administration de l'Enregistrement shall be deemed to be a conservatory measure. Objection to such constraint may only be made before the competent French court.

Article 21.

§ 1. Administrative and judicial assistance shall be accorded only against taxpayers who are nationals of the State applying and of no other State. However, such assistance may also be accorded against other taxpayers in the case of taxes which were due definitively at a time when such taxpayers were nationals of the State applying and of no other State.

Nothing in the above provision shall affect the special provisions of Article 18.

§ 2. Administrative and judicial assistance may be refused where the State applied to is of opinion that its sovereign rights or security might be compromised, or its general interests injuriously affected, by compliance with the request for such assistance.

§ 3. Requests for administrative or judicial assistance may also be refused :

(a) If they involve an obligation on one or other of the contracting States to communicate information which its own revenue law does not entitle it to require, or to take administrative action which is not consistent with its own rules and practice ;

(b) If they involve the collection, within the territory of the State applied to, from parties unconnected with the case in a taxpaying capacity, of information, statements or opinions which may lawfully be required under the law of the State applied to, but not under the law of the State applying ;

(c) If they are for the purpose of obtaining information as to factual conditions or legal relations, where knowledge of such conditions or relations is obtainable only by the exercise of powers to require information, statements or opinions which the State applying does not possess within its own territory ;

(d) If compliance involves violation of a business, industrial or trade secret.

Article 22.

In all cases of enquiries, information, opinions or other communications received by either State in connection with a request for reciprocal assistance, the provisions of the law of the State concerned in the matter of administrative or professional secrecy shall be applicable.

Article 23.

The contracting States instruct their several supreme revenue authorities to conclude agreements or special arrangements for the avoidance of double taxation in the case of direct taxes on income or capital which are found to conflict with the purposes of the present Convention in circumstances for which Section I does not explicitly provide, as also in the event of any difficulties of execution or interpretation which may arise.

SECTION III.

GENERAL PROVISIONS.

Article 24.

The present Convention shall be applicable, in the case of France, to French territory in Europe only, and not to Algeria or the colonies.

Article 25.

§ 1. The present Convention shall come into force on the first of January of the year following the year in which it is ratified.

§ 2. The provisions of Section I shall have retroactive effect, however, in all cases in which no unappealable administrative or final judicial decision has been taken at the date of entry into force of the present Convention.

Article 26.

The present Convention, done in duplicate in French, shall be ratified, in the case of Sweden by His Majesty the King of Sweden with the assent of the Riksdag, and in the case of France by the President of the French Republic with the assent of Parliament. The ratifications shall be exchanged as soon as possible at Stockholm.

It shall remain in force until it is denounced by one or other of the contracting States. In the event of denunciation six months before the expiry of a calendar year, it shall cease to be in force on the first of January of the year following; if not denounced six months before the expiry of a calendar year, it shall cease to be in force on the first of January of the next year but one.

In faith whereof the Plenipotentiaries of both States have signed the present Convention and have thereto affixed their seals.

Done at Paris, this 24th day of December, 1936.

Einar HENNINGS.

Yvon DELBOS.

PROTOCOL.

On proceeding to sign the present Convention concluded this day between Sweden and France for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance in the case of direct taxes, the undersigned Plenipotentiaries have made the following joint declaration, which shall form an integral part of the Convention itself.

I. All references in the present Convention to Swedish or French law relate to the Swedish or French law current at the date of signature of the Convention.

It is hereby specified that :

(1) The direct taxes referred to in Article 1, § 3, paragraphs (1) and (2) respectively, are deemed to correspond ;

(2) In the event of the position being modified appreciably as a result of changes in the laws of the two States, the supreme revenue authorities of the two States shall consult together.

II. The system of taxation for which Article 2 of the present Convention provides shall apply equally to income derived from house-letting leases, farming leases or any other form of enjoyment of immovable property, as also to income derived from direct administration or direct enjoyment of immovable property, and profits on the alienation of immovable property.

The said system of taxation shall further apply to income derived from the exploitation (in the true meaning of the term) of forests on the property of the exploiting party or on the property of others.

III. For the purposes of Article 3, the income of a permanent establishment situate in one of the two States shall be deemed to include profits derived from the sale of the whole or part of any of the assets of the said establishment, other than immovable property situate within the territory of the other State, whether in current operation or in process of liquidation.

IV. "Permanent establishments" within the meaning of Article 3 of the present Convention shall be deemed to include places of management, branches, factories, workshops, workrooms, agencies, shops, offices, laboratories, sale or purchase offices, warehouses and other permanent premises connected with production, but not to include affiliated companies.

Nevertheless, offices the sole purpose of which is the purchase of goods of any kind for stock of a selling or processing establishment or establishments operated by the taxpayer in the other State shall not be liable to taxation.

Where an enterprise of one of the contracting States does business in the other State through the intermediary of an agent established in the other State, and such agent has, and habitually exercises, powers for the negotiation or conclusion of contracts, or has at his disposal stocks of goods and habitually disposes of the same for the execution of orders received, the said enterprise shall be deemed to have a permanent establishment in the other State.

Nevertheless, the fact of an enterprise of one of the States having business relations in the other State through the intermediary of a genuinely independent commission agent or broker shall not be deemed to imply the possession by the said enterprise of a permanent establishment in the other State.

Yards used for building work the execution of which has exceeded or is held likely to exceed twelve months shall rank as fixed establishments for the purposes of the present Convention.

V. Income derived from ships or aircraft which do not fly the flag or have the nationality of the State in which the effective centre of management of the enterprise operating the said ship or aircraft is situate shall be taxable in accordance with the rules laid down in Article 3.

Although the present Convention applies only to direct taxes on income or property, maritime shipping and air transport enterprises whose effective centre of management is situate in Sweden and whose ship or aircraft, flying the Swedish flag or having Swedish nationality, embark and disembark passengers or goods in French territory, shall not be liable therein to the French *contribution des patentes* or to any other tax which may be substituted therefor, provided they have no agency or branch in French territory, even though they may make use of the services of an intermediary for the purpose of securing freight or selling tickets.

On a basis of reciprocity, the corresponding Swedish tax or any other tax which may be substituted therefor shall not be applicable to French maritime shipping or air transport enterprises whose ship or aircraft, flying the French flag or having French nationality, embark and disembark passengers or goods in Swedish territory under the conditions set forth in the preceding paragraph.

VI. In the event of difficulties or disputes arising in connection with the application of the provisions of Articles 3, 4 and 5 of the Convention, the supreme revenue authorities shall come to an understanding with a view to the equitable allocation of income taxable in either country.

VII. Royalties and other payments in return for the enjoyment of immovable property or for the operation of mines, quarries or other natural resources shall be taxable in that one of the two contracting States in which the said property or other natural resources are situate.

VIII. Liberal professions within the meaning of Article 6 shall include scientific, artistic, literary, educational or pedagogic activities, as also the activities of doctors, lawyers, architects and engineers.

The taxation of receipts from copyright, or from the sale of patents, trade-marks, models, processes or formulæ of manufacture, or from the grant of licences for the operation or use of the same, shall be subject to the conditions laid down in Article II, provided such receipts do not constitute income from an industrial or commercial enterprise, in which case they shall be taxable in accordance with the rules laid down in Article 3.

Article 6 shall not apply to the case of persons employed in one of the two States who reside temporarily in the territory of the other State in pursuit of their vocations, but are remunerated for their services exclusively by an employer liable to taxation in the former State.

IX. Nothing in Article 9 shall affect the position for revenue purposes of securities issued by Swedish companies and corporations which are subject in France to the compounded duty system (*abonnement*).

X. Students residing in one of the contracting States for the sole purpose of study shall not be liable to taxation by such State in respect of remittances received by them from members of their family domiciled in the other State and liable to taxation therein, provided such remittances constitute the principal source from which the cost of their residence and studies is defrayed.

XI. Taxpayers who show proof that they have definitely transferred their domicile from one contracting State to the other shall, in so far as the assessment of the taxes referred to in the present Convention is concerned, cease to be liable within the first of these States to such taxation as is dependent on domicile as from the date of their departure.

XII. In case of doubt as to which of the two States is the State of fiscal domicile of an individual, the question shall be determined by special agreement between the supreme revenue authorities of the two States. Regard shall be had in such case to which of the two States is the State in which the interests of the person concerned are centred; where no decision is forthcoming on the point, the question shall be determined by the nationality of the person concerned.

In the case of persons who are not nationals of either of the two States, the supreme revenue authorities may come to special arrangements for the avoidance of double taxation in each separate case. Nationals of States which have concluded conventions with the two contracting States for the avoidance of double taxation shall receive special consideration in this connection.

XIII. The provisions of Swedish law concerning the taxation of the undivided estates of deceased persons shall not apply where the heirs are directly liable under the present Convention to taxation in France on the income or capital passing.

XIV. Neither State shall differentiate between its own nationals and nationals of the other State in the imposition of the rates of the taxes to which paragraphs 1 and 2 of § 3 of Article 1 relate.

Individuals who are nationals of either State shall have the benefit within the territory of the other State, subject to the same conditions as nationals of the same, to all exemptions, basic abatements, deductions or reductions of taxes or charges allowed in respect of families.

Legal entities, including companies, and associations of persons, institutions, foundations and endowments for specific purposes, liable as such (albeit without legal personality of their own) to taxation, if their headquarters is situated within the territory of either State and their existence is recognised by the law of such State, shall not be liable in the territory of the other State to any higher aggregate taxation than that to which taxpayers of the latter, who are in the same position, are liable.

XV. For the avoidance of any doubts that might arise, it is hereby specified that the provisions of the present Convention shall not affect the right of diplomatic or consular officials to benefit by any more extensive exemptions already accorded to such officials under the general rules of international law, or which may hereafter be accorded under any other rules that may be made.

Where in virtue of such extended exemptions the officials in question are immune from direct taxation in the State to which they are accredited or appointed, the State by which they are accredited or appointed reserves its right of taxation.

XVI. It is understood that, over and above the particulars and information to which Article 18 relates, the Swedish Finance Ministry shall communicate to the French Finance Ministry the particulars in the permits accorded during the five years preceding the entry into force of the present Convention to individuals or legal entities domiciled in France to enable them to acquire immovable property situated in Sweden or carry on a business therein.

XVII. Over and above the measures of assistance for which Articles 18 and 19 provide, the supreme revenue authorities of the two States may concert together for the exchange of information

other than that for which provision is made, as also for the adoption of any measures which may be found useful for purposes of the assessment or collection of the taxes to which the present Convention relates.

XVIII. The expression "taxes finally due" shall be deemed to mean :

(1) In the case of Sweden, such taxes as have been regularly introduced, even though still open to revision by an exceptional procedure ;

(2) In the case of France, taxes to which no further legal objection can be taken, or taxes the amount of which has been determined by a decision of the competent judicial authority which has become final.

XIX. Postponements of the collection of taxes shall be accorded by the revenue authorities of both States until such time as the present Convention comes into force or a decision is taken not to ratify the same, provided always that the revenue authorities of both States reserve the right to take steps for the collection of any taxation due on the basis of the provisions of the present Convention.

Done at Paris, this 24th day of December, 1936.

Einar HENNINGS.

Yvon DELBOS.

COMPLEMENTARY DECLARATION.

On proceeding to initial the Convention for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance in the case of direct taxes, the Swedish Plenipotentiary drew the French Plenipotentiary's attention to the Swedish Government's earnest desire to make the Convention retroactive in respect of the liability of Swedish companies under the Law of June 20th, 1872, and the Decree of December 6th, 1872.

The French Plenipotentiary stated in reply that the French Government did not think it possible to embody a provision to that effect in the Convention itself, inasmuch as any such provision would be transitional in character as relating only to a particular period of time, and as such would appear to be not entirely justified by the strict sense of the principles underlying the Convention.

The French Government at the same time recognises that the point raised by the Swedish Plenipotentiary is in the nature of a special case, by reason, on the one hand, of the small amounts involved and, on the other hand, of the Swedish Government's very positive endeavour to meet the French Government's wishes in the matter of Section II of the Convention. In presence of the above two considerations, the French Government agrees to give the provisions of Article 4 of the Convention retroactive effect to January 1st, 1929, in the case of the Swedish companies concerned.

The present Declaration shall be attached to the Protocol of Signature of the Convention.

Done at Paris, this 24th day of December, 1936.

Einar HENNINGS.

Yvon DELBOS.

FINAL PROTOCOL.

On proceeding to sign the Convention between Sweden and France for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance in the matter of direct taxes, and the Convention¹ between Sweden and France for the avoidance of double taxation and the establishment of rules of assistance in the matter of succession duties, the undersigned

¹ Vol. CLXXXI, page 315, of this Series.

plénipotentiaires soussignés dûment autorisés par leurs gouvernements respectifs, ont fait les déclarations concordantes suivantes qui forment partie intégrante de ces conventions :

Conformément aux dispositions des conventions tendant à éviter les doubles impositions en matière d'impôts directs ainsi que d'impôts sur les successions, les administrations fiscales des deux Etats se sont déclarées d'accord sur les mesures d'application suivantes, qui seront mises en vigueur en même temps que ces conventions.

I. ASSISTANCE ADMINISTRATIVE.

I. Sans qu'il soit, en aucune façon, porté atteinte à la compétence des diverses autorités particulières des deux Etats, la correspondance relative aux diverses formes d'assistance administrative sera échangée uniquement entre les administrations fiscales supérieures, lesquelles saisiront, s'il y a lieu, les autorités particulières. Les renseignements transmis d'office seront rédigés dans la langue officielle de l'Etat transmetteur, les demandes d'assistance rédigées dans la langue officielle de l'Etat requérant seront accompagnées de leur traduction.

II. La demande d'assistance indiquera :

- a) L'autorité requérante ;
- b) Le nom, l'adresse et la nationalité de la personne visée dans la demande ;
- c) L'imposition au titre de laquelle la demande est faite, et la période ou la date au titre de laquelle cette imposition est établie.

III. L'administration fiscale supérieure ayant saisi celle de l'autre Etat d'une demande, sera informée sans retard des suites données à cette demande, qu'elles soient totales ou partielles. De même, elle sera avisée dans le moindre délai des motifs qui s'opposeraient à ce que la demande faite par elle puisse recevoir satisfaction, et mise en possession de tous renseignements qui pourraient présenter de l'importance pour un réexamen de l'affaire.

IV. Ainsi que le prévoit la convention, la procédure d'assistance sera celle fixée par la législation de l'Etat requis. Toutefois, à la demande de l'autorité requérante, toutes formes particulières d'assistance compatible avec cette législation pourront être appliquées.

V. L'autorité à laquelle sera finalement transmise la demande d'assistance emploiera les moyens d'action et voies nécessaires dont elle pourrait user pour donner suite à une demande analogue des autorités de l'Etat requis. Il ne sera cependant pas fait usage d'un moyen d'action auquel ne correspondrait pas un moyen similaire dans la législation de l'Etat requérant. A cet égard, les administrations fiscales des deux Etats constatent que dans leurs législations respectives, des droits similaires existent, d'une façon générale, en ce qui concerne le contrôle des impôts directs visés dans la convention, ainsi qu'en matière de droits sur les successions. En cas de doute, l'administration fiscale supérieure devra, en transmettant la demande, attester que la législation de son propre Etat permettrait de donner satisfaction à une demande analogue.

VI. Les dispositions des paragraphes précédents seront applicables aux demandes de signification d'actes. Ces demandes indiqueront, outre les renseignements visés au § II, l'adresse du destinataire, ainsi que la nature et l'objet de l'acte à signifier. L'autorité compétente de l'Etat requis pourra se borner à procéder à la signification par remise de l'acte au destinataire, si ce dernier est disposé à le recevoir. Toutefois, si l'Etat requérant en exprime le désir, il sera procédé à la signification de l'acte dans la forme prescrite par la législation interne de l'Etat requis pour l'exécution de significations de même nature, à la condition que l'acte soit rédigé dans la langue officielle de l'Etat requis, ou accompagné d'une traduction officielle dans cette langue.

VII. Pour la suite donnée aux demandes d'assistance ou aux demandes de signification d'actes, il ne devra être perçu ni taxe ni frais d'aucune sorte. Sont exceptés de cette disposition, sauf convention contraire, les émoluments versés aux personnes entendues et aux experts, les frais occasionnés par le concours d'un agent d'exécution, ou les frais d'emploi d'une procédure particulière selon le § IV. S'il y a lieu, les administrations fiscales se renseigneront mutuellement sur le montant présumé de ces frais.

Plenipotentiaries, duly authorised by their respective Governments for the purpose, have made the following joint declarations, which shall form an integral part of the said Conventions :

In accordance with the provisions of the Conventions for the avoidance of double taxation in the matter of direct taxes and in the matter of succession duties, the revenue administrations of the two States declare their agreement to the following measures of application to be put into force at the same time as the said Conventions.

I. ADMINISTRATIVE ASSISTANCE.

I. Subject always to the maintenance unimpaired of the competence of the various special authorities of both States, correspondence concerning the different forms of administrative assistance shall be exchanged only between the chief revenue administrations, who shall, when necessary, inform the special authorities. Particulars communicated in the ordinary course shall be in the official language of the State by which they are communicated ; requests for assistance in the official language of the State applying shall be accompanied by a translation.

II. Requests for assistance shall specify :

- (a) The authority applying ;
- (b) The name, address and nationality of the person to whom the request relates ;
- (c) The taxation in respect of which the request is made, and the period or date in respect of which it is imposed.

III. Where the chief revenue administration of one State transmits a request to the supreme revenue authority of the other State, it shall be informed without delay as to the action taken on the request, whether such action is complete or incomplete. It shall further be notified with the least possible delay of any reasons there may be against compliance with the request, and shall be placed in possession of any particulars which may have a bearing on the reconsideration of the matter.

IV. Assistance procedure shall be in the form for which the law of the State applied to provides, as stipulated in the Convention. Nevertheless, any special forms of assistance, not being incompatible with the law of the State applied to, may be adopted at the request of the State applying.

V. The authority in receipt of a request for assistance in the last instance shall take all such steps, and employ all such means of action, as it would be bound to take and employ in order to comply with a similar request from the authorities of the State applied to, provided always that no means of action shall be employed to which there is no corresponding means of action under the law of the State applying. The revenue administrations of the two States take note in this connection of the existence under the law of their respective countries of similar rights in general in the matter of the supervision of the direct taxes to which the Convention relates, as also in the matter of succession duties. In doubtful cases, the chief revenue administration transmitting the request must certify that the law of its own State empowers it to comply with a request of the kind concerned.

VI. The provisions of the preceding paragraphs shall apply to requests for the service of documents. Requests for the service of documents shall specify, in addition to the particulars indicated in § II, the address of the recipient and the nature and purpose of the document for service. The competent authority of the State applied to may limit its action to serving the document by merely handing it to the recipient, if the latter is willing to receive it. Nevertheless, if the State applying so desires, the document shall be served in the form laid down in the internal law of the State applied to for service in such cases, provided the document is in the official language of the State applied to or is accompanied by an official translation in that language.

VII. No fees or costs of whatever sort shall be charged for action taken on requests for assistance or requests for service of documents ; but this provision shall not apply, in the absence of any agreement to the contrary, to emoluments paid to persons for hearings or to experts, or to the costs of the services of agents of execution, or the costs of resort to special procedure under § IV. The revenue administrations shall notify one another, as required, of the probable amount of such costs.

II. ASSISTANCE IN THE MATTER OF COLLECTION.

VIII. Requests for the collection of claims shall come from the supreme revenue authority of one of the contracting States and shall be addressed to the corresponding authority of the other State. Such requests shall specify :

- (a) The authority applying ;
- (b) The name, address and nationality of the debtor ;
- (c) The nature of the tax, the period or date in respect of which it is imposed, the amount due, and the amount of any interest due and the date from which such interest begins to run ;
- (d) In the case of revenue penalties, the nature and amount of such penalties ;
- (e) Any other information of a nature to facilitate or accelerate collection.

Requests must be accompanied by a copy or official extract of a decision or order by the competent authority specifying the revenue charge concerned, or by an official extract from the revenue records concerning the said charge.

IX. No requests for assistance under the provisions of paragraphs VIII and following of the present declaration shall lie, where :

- (a) There is a presumption that the amount due is in fact recoverable in the State applying ;
- (b) The amount due is less than 300 francs or 50 Swedish crowns.

X. Executory acts (decisions, orders, instructions) must be recognised as such by the supreme revenue authority of the State applied to. Such recognition must be notified in due form. The said acts shall be put in execution in the manner provided by the law of the State applied to.

XI. Action to be taken by the State applied to with a view to collection must not conflict with the internal law of the State applied to. Subject to the above qualification, the competent authorities shall endeavour to make such action conform with the interests of the applicant as far as possible, provided always that bankruptcy proceedings may not be instituted in Sweden, nor may any judicial proceedings be instituted, except in connection with the execution procedure, without consideration in each case by the revenue administrations of the desirability of such proceedings and the assent thereto of the supreme revenue authority of the State applied to.

XII. In order to comply with the provisions of Swedish law limiting the amount of the revenue charge due from a taxpayer in the event of his death to the sums received by the several parties entitled thereto, and in order to ensure reciprocal treatment, it is agreed that requests for collection may not be executed beyond the total of the net sums received by the parties entitled thereto severally but not jointly.

XIII. Collection shall always be in the currency of the State applied to. Accordingly, the supreme revenue authority of the State applied to shall convert the amount for collection into its own currency at the last sight (spot) selling rate quoted before the date on which the request for collection is received by the supreme revenue authority.

The amount so converted into Swedish crowns or French francs, as the case may be, shall be the amount for collection. Amounts collected shall be paid over immediately, after deduction of the costs (if any), as follows :

By the French authority concerned to the account of the Riksbank at the Banque de France in Paris, in French currency, with particulars of the Swedish place of payment and a request for the debiting of the cost of transfer to the recipient ;

By the Swedish authority concerned to the account of the Banque de France at the Riksbank in Stockholm, in Swedish currency, with a request for the transfer of the amount to the account specified in the case of the revenue authority concerned, and for the debit of the cost to the recipient.

XIV. The provisions of § III shall be applicable *mutatis mutandis* to the assistance for which paragraphs VIII and following provide.

XV. The State applied to shall be responsible to the State applying for the sums collected by its authorities or officials.

XVI. No costs or fees shall be charged for the application of the measures provided in paragraphs VIII and following other than such as would be imposed in case of collection for account of the State applied to or the authorities thereof. The amount of such costs or fees when collected shall be retained by the State applied to or by the competent authorities thereof. Where the presumed proceeds of the collection are considerably less than the principal or interest of the amount due and the costs and/or fees thereto attaching, the chief revenue administration of the State applied to shall concert with the chief revenue administration of the State applying before taking action on the request for assistance.

NOTE.

The term "supreme revenue authority" shall be deemed to mean the Finance Ministers of either State.

The term "chief revenue administrations" shall be deemed to mean the various Heads of Departments of the Finance Ministries of the two States in charge of the assessment or collection of direct taxes or succession duties, or other competent officials of the two Finance Ministries.

The term "special authorities" shall be deemed to mean any authorities competent to take steps in connection with the assessment or collection of the said taxes or duties, other than the authorities above mentioned.

Done at Paris, the 24th day of December, 1936.

Einar HENNINGS.

Yvon DELBOS.