

No. 8283

**JAPAN
and
FRANCE**

Convention for the avoidance of double taxation with respect to taxes on income (with Additional Protocol). Signed at Paris, on 27 November 1964

Official texts: Japanese and French.

Registered by Japan on 28 July 1966.

**JAPON
et
FRANCE**

Convention tendant à éviter les doubles impositions en matière d'impôts sur le revenu (avec Protocole additionnel). Signée à Paris, le 27 novembre 1964

Textes officiels japonais et français.

Enregistrée par le Japon le 28 juillet 1966.

[TRANSLATION — TRADUCTION]

No. 8283. CONVENTION¹ BETWEEN THE GOVERNMENT OF JAPAN AND THE GOVERNMENT OF THE FRENCH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME. SIGNED AT PARIS, ON 27 NOVEMBER 1964

The Government of Japan and the Government of the French Republic,
Desiring to conclude a Convention for the purpose of avoiding double taxation with respect to taxes on income,

Have agreed on the following provisions :

Article I

This Convention shall apply, subject to the provisions of articles XX, XXIV and XXV, to persons who are residents of a Contracting State.

Article II

1. The taxes to which this Convention shall apply are :

- (a) In the case of France : the tax on the income of individuals (*l'impôt sur le revenu des personnes physiques*), the complementary tax (*la taxe complémentaire*) and the tax on the profits of companies and other bodies corporate (*l'impôt sur les bénéfices des sociétés et autres personnes morales*) (hereinafter referred to as " French tax ");
- (b) In the case of Japan : the income tax, the corporation tax, the prefectural tax on the income of residents and the communal tax on the income of residents (hereinafter referred to as " Japanese tax ").

2. In the case of shipping enterprises and airlines, the Convention shall also apply to the taxes referred to in article VIII, paragraph 2.

3. The Convention shall further apply to all other taxes, similar to the taxes referred to in the preceding paragraphs, which may be imposed on behalf of the State or of its local authorities, in Japan or in France, after the date of signature of the Convention. At the end of each year, the national taxation authorities of the Contracting States shall notify to each other any changes which have been made in their respective taxation laws.

¹ Came into force on 22 August 1965, one month after the date of the exchange of notices confirming the approval of the Convention according to the constitutional provisions in force in each of the two States, in conformity with article XXX, paragraph 1. The exchange of the said notices took place on 22 July 1965.

Article III

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

- (a) The term “ Japan ”, when used in a geographical sense, means all the territory in which the laws relating to Japanese tax are enforced; the term “ France ” means metropolitan France and the overseas *départements* (Guadeloupe, Guiana, Martinique and Réunion);
- (b) The terms “ a Contracting State ” and “ the other Contracting State ” mean Japan or France, as the context requires;
- (c) The term “ Japanese company ” means any company or other legal entity (including any organization without juridical personality deemed to be a legal entity for the purposes of Japanese tax) which has its headquarters in Japan and which is not managed and controlled in France, and the term “ French company ” means any body corporate or other entity deemed to be a body corporate for the purposes of French tax which is managed and controlled in France and which does not have its headquarters in Japan;
- (d) The term “ resident of Japan ” means any individual who is resident in Japan for the purposes of Japanese tax and not resident in France for the purposes of French tax, and any Japanese company; and the term “ resident of France ” means any individual who is resident in France for the purposes of French tax and not resident in Japan for the purposes of Japanese tax, and any French company; and the terms “ resident of a Contracting State ” and “ resident of the other Contracting State ” mean a resident of Japan or a resident of France, as the context requires;
- (e) The term “ Japanese enterprise ” means an industrial or commercial enterprise carried on by a resident of Japan; and the term “ French enterprise ” means an industrial or commercial enterprise carried on by a resident of France; and the terms “ enterprise of a Contracting State ” and “ enterprise of the other Contracting State ” mean a Japanese enterprise or a French enterprise, as the context requires;
- (f) The term “ industrial and commercial profits ” does not include the income from immovable property referred to in article V, the income from agricultural or forestry enterprises referred to in article VI, or income in the form of dividends, interest (including the annuities referred to in article XII, paragraph 3), rents or royalties, capital gains or remuneration for personal services;
- (g) The term “ national taxation authorities ” means, in the case of Japan, the Minister of Finance or his duly authorized representatives; in the case of France, the Minister of Finance and Economic Affairs or his duly authorized representatives.

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

Article IV

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

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

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

3. An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if :

- (a) It carries on business for more than twelve months in circumstances such that it may be deemed, by reason in particular of the managerial authority which it possesses, to be performing for its own account a construction or assembly contract in that other Contracting State;
- (b) It carries on a business which consists of providing the services of public entertainers referred to in article XVIII in that other Contracting State.

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

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

5. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph 7 applies— shall be deemed to be a permanent establishment in the first-mentioned Contracting State if :

- (a) He has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise, or
- (b) He maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders under a contract which has been entered into in advance by that enterprise but which does not specify the quantity to be delivered or the date and place of delivery.

6. An insurance enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a representative (other than an agent of an independent status to whom paragraph 7 applies).

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

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

Article V

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

2. The term “immovable property” shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall include especially rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall also apply to profits from the alienation of immovable property.

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

Article VI

Income from agricultural or forestry enterprises situated in a Contracting State may be taxed in that Contracting State.

Article VII

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

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

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

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

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

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

Article VIII

1. Notwithstanding the provisions of article VII, profits which an enterprise of a Contracting State derives from the operation of ships or aircraft shall be taxable only in that Contracting State.

2. In respect of the operation of ships or aircraft, a Japanese enterprise shall be exempt in France from the business tax (*patente*) and from the taxes supplementary to the business tax, and a French enterprise shall be likewise exempt in Japan from enterprise tax.

3. The Agreement between the Contracting States, constituted by the notes exchanged at Paris on 21 December 1962, for the reciprocal exemption from taxation of profits derived from international sea or air transport shall, on the entry into force of this Convention, cease to apply as from the date on which the provisions of the Convention have effect.

Article IX

Where

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

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

Article X

1. A Japanese company shall not be liable in France to deduction at the source of the tax on the income from movable capital referred to in article 109-2 of the French General Tax Code unless it maintains a permanent establishment in France. The income taxed under article 109-2 may in no case exceed the amount of the profits attributable to the permanent establishment in France as determined in accordance with the provisions of articles VII and IX.

2. A Japanese company shall not be liable in France to deduction at the source in accordance with paragraph 1 by reason of its participation in the management or in the capital of a French company or because of any other relationship with such a company.

Article XI

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

2. However, such dividends may be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that Contracting State, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

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

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

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, article VII concerning the attribution of profits to permanent establishments shall apply.

Article XII

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

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that Contracting State, but the tax so charged shall not exceed 10 per cent of the amount of the interest.

3. The term “interest” as used in this article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and from debt-claims of every kind, all other income assimilated to income from money lent by the taxation law of the State in which the income arises, and annuities paid under a contract entered into with an insurance company or any other similar contract.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, article VII concerning the attribution of profits to permanent establishments shall apply.

5. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that Contracting State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connexion with which the indebtedness (other than indebtedness in connexion with the purchase of ships or aircraft) on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

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

Article XIII

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable in that other Contracting State.

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that Contracting State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this article means payments of any kind received as consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, as well as income from the bare-hull chartering of a ship or aircraft.

4. The provisions of paragraphs 1 and 2 shall also apply to profits derived in a Contracting State from the alienation of any copyright of literary, artistic or scientific work, including cinematograph films, or any patent, trade mark, design or model, plan, secret formula or process, or from the assignment of the right to use any such property, or of information concerning industrial, commercial or scientific experience, where such profits are paid to a resident of the other Contracting State.

5. The provisions of paragraphs 1, 2 and 4 shall not apply if the recipient of the royalties or profits, being a resident of a Contracting State, has in the other Contracting State in which the royalties or profits arise a permanent establishment with which the right or property giving rise to the royalties or profits is actually connected. In such a case, article VII concerning the attributing of profits to permanent establishments shall apply.

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

Article XIV

1. Profits from the alienation of any property other than that referred to in article V, paragraph 3, and article XIII, paragraph 4, shall be taxable only in the Contracting State of which the alienor is a resident.

2. Notwithstanding the provisions of paragraph 1 :

- (a) Profits from the alienation of a permanent establishment or a fixed base situated in a Contracting State or from the alienation of capital assets (excluding ships or aircraft) pertaining to such permanent establishment or fixed base may be taxed in that Contracting State;
- (b) Profits derived by a resident of a Contracting State from the alienation of movable property in the other Contracting State during his stay in that other Contracting State may be taxed in that other Contracting State;
- (c) Profits derived by a resident of a Contracting State from the alienation of shares of a company which is a resident of the other Contracting State (other than those pertaining to a permanent establishment or a fixed base situated in that other Contracting State) may be taxed in that other Contracting State, if:
 - (i) The shares held or owned by the alienor (including such shares held or owned by any other related persons as may be aggregated with those held or owned by the alienor) amount to at least 25 per cent of the total capital of such company during any period in the course of the year of assessment, and
 - (ii) The total of the shares alienated by the alienor and such related persons during that year of assessment amounts to at least 5 per cent of the total capital of the company,provided that the tax thus levied on behalf of the State shall not exceed 25 per cent of the amount of such profits.

Article XV

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxed only in that Contracting State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

2. The term « professional services » includes, especially, independent scientific, literary, artistic, educational or teaching activities and the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article XVI

1. Subject to the provisions of article XVII and articles XIX to XXII, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that Contracting State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

3. Notwithstanding the preceding provisions of this article, remuneration in respect of an employment exercised on board a ship or aircraft in international traffic may be taxed in the Contracting State of which the employer is a resident.

Article XVII

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

Article XVIII

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

Article XIX

Subject to the provisions of article XX, paragraphs 1 and 3, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that Contracting State.

Article XX

1. Remuneration, including pensions, paid by a Contracting State or a local authority thereof, either directly or out of funds to which they have contributed, to any individual who is a national of that Contracting State in respect of services rendered to that State or local authority in the discharge of functions of a governmental nature may be taxed only in that Contracting State.

2. The provisions of paragraph 1 shall not apply to remuneration or pensions paid in consideration of services rendered in connexion with any business or trade carried on for profit.

3. Payments made under a statutory social insurance scheme in a Contracting State may be taxed in that Contracting State.

Article XXI

1. Payments which a student or business apprentice who was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that other State, provided that the cost of such payments is not borne by a permanent establishment situated in that other Contracting State or by an organization of that other State.

2. An individual of a Contracting State who is temporarily present in the other Contracting State for a period not exceeding two years as a recipient of a grant or allowance for the primary purpose of study or research from a governmental, religious, charitable, scientific, literary or educational organization shall be exempt from tax in that other Contracting State in respect of the amount of such grant or allowance.

3. An individual of a Contracting State who is an employee of, or is under contract with, an enterprise of that Contracting State or any such organization of that Contracting State as is referred to in paragraph 2, and who is temporarily present in the other Contracting State for a period not exceeding one year solely to acquire technical, professional or business experience from a person other than such enterprise or organization, shall be exempt from tax in that other Contracting State on remittances from the first-mentioned Contracting State for the purpose of his maintenance.

Article XXII

A professor or teacher of a Contracting State who visits the other Contracting State temporarily for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution in that other Contracting State may be taxed only in the first-mentioned Contracting State in respect of the remuneration he receives for his teaching.

Article XXIII

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

Article XXIV

1. (a) Where a taxpayer resident in France derives income from Japan and that income, in accordance with the provisions of this Convention, may be taxed in Japan, France shall, subject to the provisions of sub-paragraph (b), exempt such income from tax. French taxes on income taxable in France under this Convention may, however, be calculated at the rate appropriate to the total income taxable under French taxation law.

(b) Where a taxpayer resident in France derives income from Japan and that income, under the provisions of articles XI, XII and XIII and of article XIV, paragraph 2 (c), may be taxed in Japan, France may include such income in the tax basis but shall deduct from the tax on the income of that taxpayer an amount equal to the tax paid in Japan. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is made, which is appropriate to the income derived from Japan.

(c) In sub-paragraphs (a) and (b), the term "taxpayer resident in France" means any individual deemed to be a resident of France for the purposes of French tax and any body corporate or other entity deemed to be a body corporate for tax purposes which is managed and controlled in France.

2. (a) Notwithstanding any other provision of this Convention, Japan, in determining the tax applicable to a taxpayer who is a resident of Japan, may include in the tax basis all classes of income taxable under Japanese law. The foregoing provision shall not be construed as precluding the application of the provisions of article XX, paragraph 1, and articles XXI and XXII.

(b) Where a taxpayer resident in Japan derives income from France and that income, under the provisions of this Convention, may be taxed in France, a deduction equal to the French tax which is payable shall be allowed from the Japanese tax due on the income of that resident taxpayer, subject to the provisions of Japanese law. Such deduction shall not, however, exceed that part of the Japanese tax, as computed before the deduction is made, which is appropriate to the income derived from France.

(c) In sub-paragraphs (a) and (b), the term "taxpayer resident in Japan" means any individual deemed to be a resident of Japan for the purposes of Japanese tax and any legal entity (including any organization without juridical personality deemed to be a body corporate for the purposes of Japanese tax) which has its headquarters in Japan.

Article XXV

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

2. In this article, the term "national" means :

- (a) In the case of France, all individuals possessing French nationality and all legal persons, partnerships and associations deriving their status as such from the law in force in France;
- (b) In the case of Japan, all individuals possessing Japanese nationality and all companies or other categories of legal entities created or organized under Japanese law and all organizations without juridical personality deemed, for the purposes of Japanese tax, to be bodies corporate created or organized under Japanese law.

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

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

5. In this article the term "taxation" means taxes of every kind and description.

6. The provisions of this article shall not be construed :

- (a) As obliging a Contracting State to grant to residents of the other Contracting State any personal tax allowances, reliefs or reductions on grounds of circumstances of family responsibilities which it grants to its own residents; or
- (b) As affecting the provisions of the Japanese law under which distributed profits are, in the case of Japanese companies, taxed at a lower rate than undistributed profits.

Article XXVI

The provisions of this Convention shall not be construed so as to restrict in any manner any exemption, relief, deduction, credit or other allowance now or hereafter accorded by the laws of a Contracting State in determining the tax of that Contracting State.

Article XXVII

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

2. The national taxation authorities shall, if the objection appears to them to be justified and if they are not themselves able to arrive at an appropriate solution, consult the national taxation authorities of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Convention.

3. The national taxation authorities of the Contracting States may communicate with each other directly for the purpose of giving full effect to the provisions of the Convention and for resolving any difficulty as to the application of the Convention.

Article XXVIII

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

Article XXIX

1. This Convention may be extended, either in its entirety or with any necessary modifications, to any Overseas Territories of the French Republic which impose taxes substantially similar in character to those to which this Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged through diplomatic channels or in any other manner in accordance with the constitutional procedures of the Contracting States.

2. Unless otherwise agreed by the Contracting States, the denunciation of this Convention by a Contracting State under article XXXI shall terminate the application of this Convention to any territory to which it has been extended under this article.

Article XXX

1. This Convention shall be approved in accordance with the constitutional provisions in force in each of the two States. It shall enter into force one month after the date of the exchange of notices indicating that such provisions have been complied with on both sides.

2. This Convention shall apply :

(a) In France :

- (i) In respect of taxes levied by deduction at the source on the dividends, interest and royalties referred to in articles XI, XII and XIII, to proceeds paid on or after the date of its entry into force;
- (ii) In respect of other taxes, to income for the calendar year in which the exchange of notices takes place or for the fiscal years ended during that year and to income for subsequent calendar or fiscal years;

(b) In Japan :

To income for any taxable year beginning on or after the first day of January in the calendar year in which this Convention enters into force.

Article XXXI

This Convention shall remain in force until denounced by a Contracting State. Either Contracting State may denounce the Convention, after a period of five years from the date of its entry into force, by giving notice of termination six months before the end of any calendar year. In such event, the Convention shall cease to have effect :

(a) In France :

- (i) In respect of taxes levied by deduction at the source on the dividends, interest and royalties referred to in articles XI, XII and XIII, to proceeds paid on or after the first day of January in the calendar year next following that in which the notice is given;
- (ii) In respect of other taxes, to income for the aforesaid calendar year or for the fiscal years ended during that calendar year and to income for subsequent calendar or fiscal years;

(b) In Japan :

To income for any taxable year beginning on or after the aforesaid first day of January.

IN WITNESS WHEREOF the undersigned, being duly authorized by their respective Governments, have signed this Convention.

DONE at Paris, on 27 November 1964, in duplicate, in the Japanese and French languages, both texts being equally authentic.

For the Government
of Japan :
Touru HAGUIWARA

For the Government
of the French Republic :
F. LEDUC

ADDITIONAL PROTOCOL

On signing the Convention between the Government of Japan and the Government of the French Republic for the avoidance of double taxation with respect to taxes on income, the undersigned have agreed on the following provisions, which shall form an integral part of the Convention.

I

1. The provisions of article XI, paragraph 2, article XII, paragraph 2, and article XIII, paragraphs 2 and 4, of the Convention shall be applied in each of the Contracting States by the non-collection of that part of the tax which exceeds

the maximum rate of 15 per cent or 10 per cent specified by those articles, where the recipient of the income referred to in those articles is a resident of the other State within the meaning of article III of the Convention.

2. Members of the diplomatic mission and members of the consular offices of a Contracting State residing in the other Contracting State or in a third State and having the nationality of the sending State shall be deemed to be residents of the last-mentioned State if they are subject in that State to the payment of taxes on the income referred to in paragraph 1 above.

3. Notwithstanding the provisions of paragraph 1 above, international organizations, organs and officials thereof, and members of the diplomatic mission and members of the consular offices of a State other than the Contracting States who are residents of a Contracting State and are exempt in that Contracting State from taxes on the income referred to in paragraph 1 above, shall not be entitled in the other Contracting State to the application of the reduced rates provided for in article XI, paragraph 2, article XII, paragraph 2, and article XIII, paragraphs 2 and 4, of the Convention.

II

1. In order to obtain a reduction to the rate of 15 per cent or 10 per cent of the Japanese tax deducted at the source on the income referred to in articles XI, XII and XIII of the Convention, a recipient of such income who is entitled to obtain such reduction shall forward an application in writing, through the payer of such income, before it is paid, to the competent Japanese national tax office. The application shall be drawn up in accordance with such rules as may be established by the national taxation authority of Japan.

2. If it is ascertained that a person properly entitled to receive income has wrongfully received the benefit of the reduced rates referred to in paragraph 1 above, the French Tax Administration shall forward to the national taxation authority of Japan a factual report containing such data as are necessary for the purpose of adjusting the amount collected.

III

1. In order to obtain a reduction to the rate of 15 per cent or 10 per cent of the French tax deducted at the source on the income referred to in articles XI and XII of the Convention, a claimant having the status of a resident of Japan shall, before receipt of the taxable income or, at the latest, at the time of receipt, forward an application in writing to the payer of such income or to the establishment appointed by the payer to service his securities.

2. The application shall indicate exactly which securities and income are involved and shall relate only to income of the same kind (dividends or interest) distributed by a single payer who is a resident of France.

The application shall be drawn up in duplicate on a special form obtainable from the national taxation authority of Japan.

3. The applicant or his representative, if any (in particular, a banking establishment), shall declare on the said form that the recipient of the income is a resident of Japan within the meaning of article III of the Convention and shall forward both copies of the application to the Japanese national tax office competent for the place in which the residence or headquarters of the recipient is situated.

4. The said office shall ascertain and shall certify on the application that the recipient of the income has the status of a resident of Japan for the purposes of Japanese tax. It shall retain one copy of the form and return the other to the applicant.

5. The payer of the income who is a resident of France or the establishment appointed to service his securities shall be required, once the application for relief has been forwarded to him, to effect payment of the whole of the income, excepting only the amount of the French tax deducted at the source at the rate of 15 per cent on dividends or 10 per cent on interest, subject, where appropriate, to exchange control regulations.

6. Where tax has been deducted at the reduced rate provided for by the Convention, the payer of the income who is a resident of France shall forward the application for relief, within the time-limit and in accordance with the procedures prescribed by the French Tax Administration, to the tax office competent for him as regards the collection of tax deducted at the source on income from movable capital.

DONE at Paris, on 27 November 1964, in duplicate, in the Japanese and French languages, both texts being equally authentic.

For the Government
of Japan :

Touru HAGUIWARA

For the Government
of the French Republic :

F. LEDUC