# No. 11020

## FRANCE
## and
## SWITZERLAND

**Convention for the avoidance of double taxation with respect to taxes on income and property (with annexes and final protocol). Signed at Paris on 31 December 1953**

*Authentic text: French.*

*Registered by France on 5 April 1971.*

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## FRANCE
## et
## SUISSE

**Convention en vue d'éviter les doubles impositions en matière d'impôts sur les revenus et sur la fortune (avec annexes et protocole final). Signée à Paris le 31 décembre 1953**

*Texte authentique: français.*

*Enregistrée par la France le 5 avril 1971.*

[TRANSLATION — TRADUCTION]

# CONVENTION[1] BETWEEN THE FRENCH REPUBLIC AND THE SWISS CONFEDERATION FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND PROPERTY

The President of the French Republic and the Federal Council of the Swiss Confederation,

Desiring to avoid double taxation with respect to taxes on income and property, have decided to conclude a Convention and have for that purpose appointed as their plenipotentiaries:

The President of the French Republic:

Mr. Georges Bidault, Minister for Foreign Affairs;

The Swiss Federal Council:

Mr. Pierre-Antoine de Salis, Envoy Extraordinary and Minister Plenipotentiary of Switzerland in France,

who, having exchanged their full powers, found in good and due form, have agreed as follows:

## *Article 1*

1. The object of this Convention is to protect taxpayers of the two States against double taxation which might result from the simultaneous application of the Swiss and French laws concerning taxes on income (general tax on income and taxes on particular classes of income) and on property (general property tax and taxes on particular classes of property). Among these taxes this Convention also includes taxes levied on profits on capital, profits on real property and increments of value and property.

[1] Came into force on 20 January 1955 by the exchange of the instruments of ratification, which took place at Berne, in accordance with article 14.

This Convention ceased to have effect on 26 July 1967, the date of entry into force of the Convention between France and Switzerland for the avoidance of double taxation with respect to taxes on income and fortune of 9 September 1966,* except to the extent that reference is made thereto for the purpose of the application of the Convention between France and Switzerland for the avoidance of double taxation with respect to death duties of 31 December 1953,** in accordance with article XXXII (3) of the said Convention of 9 September 1966.

* See p. 275 of this volume.

** See p. 259 of this volume.

2. The Convention relates to the taxes collected for the account of either of the two States, cantons, departments, districts, *Kreise*, communes or associations of communes, in particular to the taxes listed in annexes I (Swiss legislation) and annex II (French legislation), and to taxes of the same or of like nature which may in future be added to or substituted for the said taxes. It also relates to the taxes levied in the form of surcharges (additional percentages) (*centimes additionnels*).

3. Subject to the provisions of article 13, this Convention is applicable, as regards the French Republic, only to metropolitan France and the Overseas Departments.

*Article 2*

1. Except as otherwise provided in this Convention, income and property shall not be taxable except in the State in which the recipient of the income or the owner of the property is resident.

2. For the purposes of this Convention an individual shall be deemed to be resident at the place where he has his "permanent home", this term being understood to designate the centre of vital interests, that is to say, the place with which his personal ties are closest.

When it is not possible to determine the place of residence in accordance with the preceding paragraph, an individual shall be deemed to be resident in the State in which he resides principally. If residence is of equal length in both States, he shall be deemed to have his domicile in that one of the two States of which he is a national; if he has the nationality of both States or is a national of neither, the supreme administrative authorities of the two States shall settle the question by agreement between them.

3. For the purposes of this Convention, the domicile of bodies corporate or unincorporated companies or associations shall be determined in accordance with the tax legislation of each of the two States. If in accordance with this rule there is a domicile in each of the two States, the centre of actual management shall be the prevailing consideration.

*Article 3*

1. Immovable property (including property accessory thereto and live-stock and equipment used in the operation of an agricultural or forestry undertaking) and income derived therefrom (including the proceeds of the operation of agricultural or forestry undertakings) shall not be taxable except in the State in which the property is situated.

2. Rights which are governed by the provisions of private law concerning real property and rights of usufruct over immovable property, with the exception of claims of any kind secured by mortgage, shall be deemed to be immovable property.

3. Whether a property or a right is immovable or may be regarded as property accessory to an immovable property shall be determined by the law of the State in which is situated the property or the property to which the right relates.

*Article 4*

1. Commercial, industrial or craft undertakings of every kind (including financial, transport and insurance undertakings) and income derived therefrom, including profits derived from the alienation of the undertaking or of any part thereof, shall not be taxable except in the State in which the undertaking maintains a permanent establishment. This provision shall also apply if the undertaking extends its operations to the territory of the other State without maintaining a permanent establishment there.

2. For the purposes of this Convention, a permanent establishment means a permanent installation of an undertaking at which the undertaking carries on all or part of its business. In particular, the head office of the undertaking, the centre of actual management, branches, factories and workshops, sales offices, mineral deposits and commercially exploited springs, as also permanent agencies, shall be deemed to be permanent establishments.

3. If the undertaking maintains permanent establishments in both States, each of the States may tax only the property employed for the purposes of the permanent establishment situated in its territory and the income earned by that establishment.

4. Interests in undertakings incorporated in the form of ordinary partnerships, *de facto* partnerships, general partnerships, limited partnerships or rights in special partnerships or in civil companies under French law, if subject to the tax regulations governing associations of persons, and the income derived from such interests or rights shall not be taxable except in the State in which the undertakings have a permanent establishment. This provision shall be without prejudice to the application of the provisions of paragraph 1 of the Final Protocol *ad* article 6 and of paragraph 2 of the Final Protocol *ad* article 10 with respect to interests in the form of partnership in limited partnerships.

*Article 5*

Notwithstanding the provisions of article 4 taxes on maritime shipping, inland navigation, river or air transport undertakings and the income derived therefrom shall not be taxable except in the State in which the management of the undertaking is situated.

*Article 6*

1. Companies domiciled in Switzerland and having a permanent establishment in France shall remain liable in France, in respect of profits which they distribute, to the proportional tax on income from movable capital levied pursuant to articles 109–2 and 1674 of the General Tax Code.

Nevertheless, the proportion of the profits distributed effectively liable to the French tax under article 109–2 shall not exceed one-quarter of the income taxable under that article, and the income itself may not exceed the amount of the industrial or commercial profits earned by the permanent establishment in France, as defined for the purposes of the assessment of the tax on companies payable by the establishment under article 7, its Final Protocol and paragraph 2 of the Final Protocol *ad* article 3 of this Convention.

Where a company can show, on conditions to be determined by agreement between the supreme administrative authorities of the two States, that more than three-quarters of all its shares, founders' shares (*jouissance* certificates) or of its partners' shares are owned by persons domiciled in Switzerland, the portion of the distributed profits liable to French tax under the preceding paragraph shall be proportionately reduced.

2. Companies domiciled in Switzerland shall not be liable in France to the proportional tax on income from movable property on the ground of participation in the management or capital of a company (or any other relations with a company) whose domicile is in France, provided always that profits or benefits (if any) derived by the Swiss company indirectly from the French undertaking in the circumstances set forth in paragraph 10 of the Final Protocol *ad* article 4 shall be included in the profits distributed by the French company which are liable to the proportional tax on income from movable capital. This provision shall be without prejudice to the application of article 10, paragraph 3.

3. Companies domiciled in Switzerland, which remain liable to the proportional tax on income from movable capital under paragraph 1 of this article, shall not be required to pay this tax on the interest on obligations issued and loans contracted by their head office or establishments situated outside France.

Nevertheless, such companies shall be liable to the said proportional tax on the whole of the interest on obligations issued and loans contracted by their establishments situated in France in the course of the business transacted by these establishments. This provision shall be without prejudice to the application of article 10, paragraph 3, even where the obligations are placed or the loans contracted with the head office in Switzerland.

*Article 7*

1. Income derived from the practice of a liberal profession by a person resident in one of the two States shall not be taxable in the other State, subject to article 9, unless, and only to the extent to which, the person is personally engaged in the gainful exercise of his profession in that State and makes use of a permanent establishment regularly available to him.

2. Notwithstanding paragraph 1, professional income earned in one of the States by the independent practice of the profession of actor (theatre, broadcasting, cinema), musician, performer and the like shall be taxable in that State, whether or not the person practising the profession makes use of a permanent establishment regularly available to him for the purpose. The supreme administrative authorities of both States shall agree on regulations governing such taxation.

3. Movable property installed in permanent establishments for the practice of a liberal profession shall not be liable to taxation except in the State in which such establishments are situated.

*Article 8*

1. Subject to the provisions of article 9, the earnings of persons who carry on a gainful occupation but are not self-employed (salaries, wages and similar emoluments) shall not be taxable, except in the State in which the personal occupation from which the income is derived is carried on.

2. Nevertheless, a person employed in one of the two States and staying temporarily for professional reasons in the territory of the other State shall be exempt from tax on the income from his work, if the services in question are performed on behalf of an employer in the former State. In such case, the right to tax shall vest in the State of the employer, even where the remuneration is advanced by a client or agent of the employer in the other State.

3. Pensions, widows' or orphans' pensions, life annuities and other grants or monetary benefits payable by reason of the former services of an employed person shall not be taxable except in the State in which the beneficiary resides.

*Article 9*

1. Directors' percentages, attendance fees and other remuneration paid to members of the boards of directors or management of incorporated companies, partnerships limited by shares or co-operative societies or by managers of limited liability companies by virtue of their functions shall not be taxable except in the State in which the paying company has its domicile.

2. Any remuneration which the persons enumerated in paragraph 1 in effect receive by virtue of other functions shall be taxed as provided in article 7 or article 8, according to its nature.

*Article 10*

1. Income derived from movable capital shall be taxable only in the State in which the recipient is resident. Nevertheless, the State in which the payer is resident shall retain the right to tax such income by deduction at source, provided always that the provisions in paragraphs 2 and 3 following do not preclude this.

2. Switzerland undertakes to refund taxes on income from movable capital recovered by deduction at source, where the recipient is resident in France if they exceed 5 per cent of the gross income on which the tax is levied, provided that the recipient remits to the Swiss tax authorities through the French tax authorities a sworn statement specifying the income taxed at source and certifying that the recipient is resident in France and that the income in question is liable to French direct taxes.

3. France waives the collection of tax at source on income from movable capital, the recipient of which is resident in Switzerland, provided that the recipient remits to the payer resident in France a sworn statement specifying the income taxed at source and certifying that the recipient is resident in Switzerland and that the income in question and the securities from which it is derived are liable to Swiss direct taxation.

*Article 11*

1. Where a taxpayer shows proof that the action of the revenue authorities of the two States has resulted in double taxation in his case in respect of the taxes to which the present Convention relates, he may submit an application to the State in whose territory he is resident. If his application is accepted, the supreme administrative authority of that State shall, if it is unwilling to waive its own tax claim, seek an agreement with the supreme administrative authority of the other State with a view to the equitable avoidance of the double taxation in question.

2. The supreme administrative authorities of the two States may also come to an agreement with a view to the avoidance of double taxation in cases not regulated by the present Convention and in cases in which the interpretation or application of the present Convention gives rise to difficulty or doubt.

3. Should it appear that negotiations would be desirable in order to reach an agreement, they shall be conducted by a joint commission composed of representatives of the two States appointed by their supreme administrative authorities.

*Article 12*

1. The supreme administrative authorities of the two States may on request exchange information (if it is obtainable under normal administrative practice in accordance with the tax legislation of the two States) required for the proper application of this Convention. Any information so exchanged shall be treated as a secret and shall not be disclosed to any person other than those responsible for the assessment and collection of the taxes to which this Convention relates. Information which would disclose a commercial, banking, industrial or professional secret or a commercial process may not be exchanged.

2. The provisions of this article shall not in any case be construed as imposing upon either of the Contracting Parties the obligation to take administrative action at variance with its own regulations and administrative practice or with its sovereignty, its security, its general interests or its public policy, or to transmit information which could not be obtained on the basis of its own legislation and of that of the State requesting it.

*Article 13*

1. The effects of this Convention may be extended, with whatever amendments are recognized as necessary by both States, to the Territories of the French Union, excluding the Associated States of Indochina, and to Tunis and Morocco, if those territories of States levy taxes similar in substance to the taxes referred to in article 1 above.

2. The conditions and methods of such extension shall be decided in an exchange of notes between the two States.

3. Unless the two States have expressly agreed otherwise, denunciation of this Convention under article 15 shall terminate its application with respect to any State or territory to which it has been extended in the circumstances provided for in this article.

*Article 14*

This Convention shall come into force on the exchange of instruments of ratification and its provisions shall apply for the first time:

(*a*) To taxes collected which are deductible at source on income from movable capital, and which fall due in the calendar year 1953;

(*b*) To the other French taxes imposed in respect of the calendar year 1953;

(*c*) To the other Swiss taxes levied for the calendar year 1953.

*Article 15*

This Convention shall remain in force until denounced by one of the two States. Either of them may denounce it with effect from the end of a calendar year, subject to six months' notice. In such case, the Convention shall apply for the last time:

(*a*) To taxes which are deductible at source on income from movable capital and which fall due before the expiry of the calendar year, at the end of which the denunciation takes effect;

(*b*) To the other French taxes imposed in respect of the calendar year, at the end of which the denunciation takes effect;

(*c*) To the other Swiss taxes levied for the calendar year, at the end of which the denunciation takes effect.

*Article 16*

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

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

DONE in two copies, at Paris, 31 December 1953.

[GEORGES BIDAULT] [PIERRE-ANTOINE DE SALIS]

[SEAL] [SEAL]

ANNEX I

(SWISS TAX LEGISLATION)

The Convention shall relate in particular to the following Swiss taxes:

A. Taxes of the Confederation:

(*a*) National defence tax;

(*b*) Stamp duty on coupons;

(*c*) Advance tax;

(*d*) Tax deducted from life insurance benefits.

B. Direct taxes of cantons, districts, *Kreise* and communes:

(*a*) On income (total income, earned income, yield from property, commercial profits, etc.);

(*b*) On property (total property, real property and movable property, commercial property, etc.) and on capital.

## ANNEX II

(FRENCH TAX LEGISLATION)

The Convention shall relate in particular to the following French taxes:

(*a*) Tax on individual income: proportional tax and progressive surtax;

(*b*) Tax on profits of companies and other bodies corporate;

(*c*) The real property tax (built and unbuilt property);

(*d*) Apprenticeship levy;

(*e*) Special tax on the revaluation appreciation derived from loans.

## FINAL PROTOCOL

On proceeding to sign the present Convention concluded this day between the Swiss Confederation and the French Republic for the avoidance of double taxation with respect to taxes on income and property, the undersigned plenipotentiaries have made the following joint declaration, which shall form an integral part of the Convention:

*Ad* article 1

1. The list in annexes I and II of the taxes to which this Convention applies is not exhaustive. In order to keep these annexes up to date, the supreme administrative authorities of the two States shall communicate to one another at the beginning of each year any amendments to their tax legislation during the previous year.

2. The supreme administrative authorities of the two States shall consult with one another to remove any doubts which may arise regarding the taxes to which this Convention is applicable.

3. The Convention shall not apply to taxes on lottery prizes, deducted at source.

4. The provisions of this Convention shall not operate to prejudice any beneficial treatment to which taxpayers are entitled under the legislation of either of the two States. It is understood, in particular, that Swiss companies shall continue to have benefit in France of the administrative regulation by which the registration by the same of extracts of their terms of association or amendments thereto, showing only such provisions as are essential for the purpose of their operation, is accepted as sufficient.

5. The nationals of one of the two States (individuals, bodies corporate, companies or unincorporated bodies of physical persons) shall not be liable in the other State to taxes other or higher than those imposed upon the nationals of the latter State.

In particular, the nationals of either State who are liable to taxation in the territory of the other State shall be entitled under the same conditions as the nationals of this latter State, to the exemptions, initial relief, deductions and reduction of taxes allowed in respect of dependants.

For the purposes of this paragraph, the term "taxes" means all taxes or public contributions whatsoever, regardless of their nature, their title or the authority levying them.

*Ad* article 2

1. Subject to article 4, income from the sale of authors' rights, patents, trademarks, samples and models, technical projects, processes, experiments, formulae and the like, or from the grant of licences for their use, including fees for the renting of films, or for the use of industrial, commercial or scientific equipment, shall be taxable under article 2, paragraph 1. This provision shall also apply to property consisting of such rights.

2. When a taxpayer has definitely transferred his residence from one State to the other, he shall cease to be liable to tax in the first State, in so far as this liability is determined by residence, at the end of the calendar month in which such transfer takes place. His liability to taxation in the other State, in so far as it is determined by residence, shall commence at the beginning of the ensuing calendar month.

3. Students, apprentices and trainees who reside in one of the two States for the sole purpose of study or training shall not be liable to taxation of any kind in that State in respect of remittances received by them from members of their families or from scholarship funds or similar institutions domiciled in the other State, in the form of allowances for maintenance, study or training.

4. Each of the two States retains the right to presumptive taxation, in accordance with its legislation, the income of individuals who live in its territory and are resident, within the meaning of this Convention, in the other State.

Nevertheless the application of the preceding paragraph shall be subject, in each tax year, to the following conditions:

(*a*) The basis of taxation for the presumptive tax may not exceed an amount equivalent to five times the rental value of the place or places of abode at the disposal of the taxpayer in the said State, or half the aggregate income of the taxpayer.

(*b*) The presumptive assessment shall be computed on the basis of actual sojourn and may be levied only if such sojourn has lasted at least 90 days, either in a continuous period or in successive periods;

(*c*) The State levying the presumptive tax thereby waives taxation of the taxpayer's income on any other grounds.

This paragraph shall not be applicable in the case referred to in article 8, paragraph 2.

5. Life annuities other than those referred to in article 8, paragraph 3, shall also be taxable only in the State in which the recipient is resident.

6. Movable property subject to a usufruct shall be liable to taxation only in the State in which the enjoyer of the usufruct is resident.

*Ad* articles 2 to 9

1. Subject to the provisions of article 10, income which is taxable under this Convention in one of the two States may not be taxed in the other State, even by deduction at source.

2. Each of the two States reserves the right to assess at the rate for the aggregate income or the aggregate property of taxpayers the direct taxes on the portions of the taxpayer's income or property over which it has exclusive jurisdiction for tax purposes.

*Ad* article 3

1. The provisions of article 3 shall apply both to income received from the direct management and utilization of immovable property and to income derived from the letting, lease or other form of utilization of such property. This provision also applies to the proceeds of the alienation of immovable property, including, if alienated simultaneously, property accessory thereto and live-stock and equipment used in the operation of an agricultural or forestry undertaking.

2. The rules in article 3 shall also apply to the immovable property of undertakings within the category described in article 4, paragraph 1.

3. The value of furniture shall be taxable in the State in which is situated the place of abode where it is used.

4. Notwithstanding the principle in article 3 of the Convention, earnings from the exercise of grazing rights on the territory of one of the two States by a person resident in the other State shall not be taxable by the former State.

*Ad* article 4

1. In principle, the head office of an undertaking shall be deemed to be a permanent establishment only if profit-earning operations are carried on thereat.

2. The definition of a permanent establishment shall not cover the maintenance of business relations solely through a representative who is completely independent and acts as a principal in his own name (broker, commission agent, subsidiary company or the like). The same applies to the maintenance of a representative (agent) who, although permanently carrying on business in the territory of one State for an undertaking in the other State, is merely an intermediary for such business and is not authorized to conclude any business in the name and for the account of the person he represents.

An undertaking shall not be deemed to maintain a permanent establishment in the State in which it employs a representative within the meaning of the preceding paragraph by reason of the fact that the representative holds a sample collection of goods on consignment or for delivery of the undertaking represented.

3. An undertaking in one of the two States shall not be deemed to maintain permanent establishment in the territory of the other State by reason of the fact that it maintains an office in that State for the sole purpose of purchasing goods to supply a selling or processing establishment or establishments belonging to it.

4. The warehousing of goods by an undertaking of one of the two States at the premises of an undertaking of the other State for the purposes of processing and subsequent despatch and their processing and subsequent despatch by the latter undertaking shall not constitute the setting up of a permanent establishment of the undertaking first mentioned.

5. The possession of an interest in an undertaking (association of persons or of capital) in the form of securities of any kind, shares or membership shares shall not be deemed to constitute a permanent establishment, even if the possession of such an interest involves an influence on the management of the undertaking (e.g. relations between parent and subsidiary companies).

6. A construction site established for a limited purpose, viz. for the purposes of specific building operations, shall not be deemed to be a permanent establishment if the operations in question are completed within three years.

It is understood, article 4, paragraph 4 notwithstanding, that the provision in the preceding paragraph shall also apply where a site is not opened directly by an undertaking in the other State, but through an ordinary partnership under Swiss law (if it is opened in Switzerland) or a *de facto* partnership or a special partnership under French law (if it is opened in France) in which the said undertaking has an interest.

7. Where there are permanent establishments within the meaning of article 4, paragraph 3 in both States, a proportion of the overhead expenses of the head office of the undertaking shall be charged against the proceeds of the operations of the various permanent establishments. For this purpose all expenses, including management and general administrative costs, which may reasonably be held to fall to the share of a permanent establishment, shall be allowed as deductions in determining the industrial or commercial profits of the permanent establishment in question.

8. Insurance companies shall be deemed to have a permanent establishment in one of the two States with respect to the taxation of their profits under article 4 if they collect premiums or insure risks in the territory of that State through an agent.

Subject to the terms of paragraph 2 of the Final Protocol *ad* article 3, the property and profits of insurance companies may be apportioned either in the proportion which the premiums received by the permanent establishment bear to the total premiums received by the undertaking, or by applying to the premiums received by the permanent establishment coefficients based on the average results of large undertakings in the same branch of insurance in the State in which the permanent establishment is situated. In both cases the rule set forth in paragraph 7 above shall be taken into consideration.

9. The taxable income shall not exceed the total industrial, commercial or craft profits earned by the permanent establishment, including profits or benefits (if any) derived indirectly from the permanent establishment or granted to shareholders, other persons holding interests or persons having common interests with them, whether by the fixing of abnormal prices or by some other advantage which would not have been granted to a third party.

10. When an undertaking in one of the two States, by virtue of its participation in the management or capital of an undertaking in the other State, grants to or imposes upon that undertaking, in their business or financial relations, conditions other than those which would be granted to a third undertaking, any profits which would normally have appeared in the accounts of one of the undertakings but which have been transferred in this manner to the

accounts of the other undertaking, may be added to the taxable profits of the first undertaking, subject to the appropriate appeal procedure.

11. It is understood that where an undertaking having its head office in the territory of one of the two States has a commercial or industrial establishment in the territory of the other State, the position of such establishment for the purposes of the *contributions et taxes des patentes* shall be the same as though the said establishment belonged to an undertaking of like character having its head office in the territory of the other State. In all cases of double taxation, article 11 of this Convention shall apply.

12. In all other respects, the competent administrative authorities shall make special arrangements in particular cases of particular groups of cases, with regard to the division of jurisdiction for taxation purposes, in accordance with article 4, paragraph 3.

*Ad* article 5

1. It is understood that the rules set forth in article 5 shall also apply in cases where a maritime shipping, inland navigation or river or air transport undertaking in one of the two States operates an agency for the carriage of persons or goods in the territory of the other State.

2. The same rules shall also apply where an air transport enterprise in one of the two States participates in a pool, a joint operating enterprise or an international operating agency.

*Ad* article 6

1. The rule in article 6, paragraph 1, shall apply by analogy to profits distributed to sleeping partners resident in Switzerland by partnerships domiciled in Switzerland and having a permanent establishment in France. In this case, the partners' shares referred to in sub-paragraph 3 of the aforesaid paragraph shall be construed to mean solely shares held in the company by sleeping partners.

2. It is understood that the rule in article 6, paragraph 3, also applies, *mutatis mutandis*, to companies domiciled in France with a permanent establishment in Switzerland.

*Ad* article 7

The expression "liberal profession" means any gainful occupation carried on by persons who are self-employed, which is not exercised within an undertaking within the meaning of article 4, paragraph 1, such as the activities of self-employed persons in the sciences, arts, literature, education or instruction, and the activities of self-employed medical practitioners, lawyers, architects, engineers, accountants and the like.

*Ad* article 8

1. Article 8 notwithstanding, the taxation of the earnings of frontier manual and office workers shall be governed by the terms of the Franco-Swiss Arrangement of 18 October 1935 relating to the taxation of inhabitants of frontier districts and by the Exchanges of Notes relating thereto.

2. In applying article 8, individuals who are employed exclusively or mainly on board aircraft or vessels operated by a maritime shipping, inland navigation, river or air transport undertaking of one of the two States shall be deemed to be employed in that one of the two States in which the management of the undertaking is situated.

*Ad* article 10

1. The expression "income from movable capital" shall apply both to income from securities (government bonds, loan bonds, profit participating debentures and other bonds, whether or not secured by real property, mortgage bonds, shares, *jouissance* shares, *jouissance* certificates, founder's shares or other interests in the form of securities) and to income from loans (whether or not secured by real property), deposits, cash guarantees or other capital assets, as also shares in limited liability companies or co-operative societies.

2. Where one of the two States taxes by deduction at source as income from movable capital distributions by ordinary partnerships, *de facto* partnerships, general partnerships, limited partnerships, special partnerships or civil companies to recipients resident in the other State, such recipients may claim to be relieved of the said tax on conditions similar to those provided for in article 10, paragraphs 2 and 3. Nevertheless, the sworn statement required under those paragraphs shall certify only that the recipient is resident in the State issuing it and has declared in that State the distributions he has received.

3. The application for re-imbursement provided for in article 10, paragraph 2, must be submitted within two years. The time limit shall be deemed to have been observed if the application is received by the competent French authority within two years after the expiry of the calendar year in which the taxable benefit was payable.

Applications for remission under article 10, paragraph 3, must be submitted at the time of the receipt of the taxable income. Where, by way of exception to the provisions of the said paragraph, a payer resident in France pays the income after deduction of the tax collected at source, a recipient

resident in Switzerland may obtain reimbursement of the tax by submitting an application to the French administrative authority designated under paragraph 4 before the end of the calendar year during which the payment was made.

4. The supreme administrative authorities of the two States shall agree on the procedure for tax relief provided for in article 10, paragraphs 2 and 3, and in particular on the form of the sworn statements and applications referred to therein, the type of documentary evidence to be produced and the measures to be taken to avoid improper claims for relief.

5. The following rules shall apply to claims which may properly be lodged under article 10, paragraphs 2 and 3, by diplomatic or consular officials and by international organizations and their organs and officials:

(*a*) A member of a diplomatic or consular mission of one of the two States resident in the other State or in a third State and having the nationality of the State by which he is accredited shall be deemed to be resident in the accrediting State if he is liable in that State to the payment of direct taxes on movable capital or on income liable to taxation at source in the other contracting State;

(*b*) International organizations, their organs and officials, and the members of diplomatic or consular missions of a State other than the Contracting States domiciled or resident in one of the two States and exempt in that State from the payment or direct taxes on movable capital or income derived therefrom shall not be entitled to relief from the taxes deducted at source in the other State.

6. The State levying the tax at source shall make available to persons claiming relief the same legal remedies as are available to its own taxpayers.

7. Where the legislation of the State levying the tax at source already grants relief from this tax to the recipient of the income, such relief shall not be granted in accordance with article 10, paragraphs 2 and 3 of the Convention, but solely in accordance with the legislation of that State.

*Ad* article 11

1. The application referred to in article 11, paragraph 1, may be made even if the taxpayer has not exhausted the legal remedies open to him; conversely, the taxpayer shall not be estopped from all the remedies open to him under the law by reason of the fact that he has made an application as aforesaid.

2. An application under article 11, paragraph 1, shall as a general rule be made by the taxpayer within one year after the expiry of the calendar year in

which he became aware of the existence of double taxation through the receipt of tax statements or the notification of other official decisions.

3. The supreme administrative authority for the purposes of the Convention shall be the Administration fédérale des contributions for Switzerland and the Direction générale des impôts for France.

*Ad* article 13

1. The "Overseas Departments" referred to in article 1, paragraph 3, of this Convention are: Guiana, Guadeloupe, Martinique and Réunion.

2. The "Territories of the French Union" referred to in article 13, paragraph 1, of the Convention comprise:

(1) The French Departments of Algeria

(2) The Associated Territories (Togoland, Cameroons)

(3) The Overseas Territories:

(*a*) French West Africa: Senegal, Mauritania, Sudan, Niger, Dahomey, Ivory Coast, Guinea, Upper Volta;

(*b*) French Equatorial Africa: Middle Congo, Gabon, Ubangi Shari, Chad;

(*c*) Madagascar and dependencies (five provinces);

(*d*) The Comoro Islands Territory;

(*e*) French Somaliland;

(*f*) French establishments in India;

(*g*) French establishments in Oceania, New Caledonia and dependencies and New Hebrides;

(*h*) Saint-Pierre and Miquelon.

*Ad* article 14

The provisions of the Franco-Swiss Agreement for the avoidance of double taxation in the matter of direct taxes concluded on 13 October 1937[1] shall apply for the last time:

[1] League of Nations, *Treaty Series*, vol. CXCIV, p. 191.

(*a*) To the taxes collected by deduction at source on income from movable capital payable during the calendar year 1952;

(*b*) To the other French taxes imposed in respect of the calendar year 1952;

(*c*) To the other Swiss taxes levied for the calendar year 1952.

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