

No. 11559

**FRANCE
and
MOROCCO**

Agreement for the elimination of double taxation and the establishment of rules of mutual administrative assistance with respect to taxes (with protocol and exchanges of letters). Signed at Paris on 29 May 1970

Authentic text: French.

Registered by France on 2 February 1972.

**FRANCE
et
MAROC**

Convention tendant à éliminer les doubles impositions et à établir des règles d'assistance mutuelle administrative en matière fiscale (avec protocole et échanges de lettres). Signée à Paris le 29 mai 1970

Texte authentique: français.

Enregistrée par la France le 2 février 1972.

[TRANSLATION — TRADUCTION]

AGREEMENT¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE KINGDOM OF MOROCCO FOR THE ELIMINATION OF DOUBLE TAXATION AND THE ESTABLISHMENT OF RULES OF MUTUAL ADMINISTRATIVE ASSISTANCE WITH RESPECT TO TAXES

The Government of the French Republic and the Government of the Kingdom of Morocco, desiring to avoid double taxation and to establish rules of reciprocal assistance with respect to taxes between France and Morocco, have for that purpose agreed upon the following provisions:

TITLE I

GENERAL PROVISIONS

Article 1

For the purposes of this Agreement:

1. The term “ person ” means:

- (a) Any individual;
- (b) Any body corporate;
- (c) Any unincorporated group of individuals.

2. The term “ France ” means the European *départements* and the overseas *départements* (Guadeloupe, Guiana, Martinique and Réunion) of the French Republic.

The term “ Morocco ” means the territory of the Kingdom of Morocco.

Article 2

1. For the purposes of this Agreement, an individual shall be deemed to be domiciled in the place in which he has his “ permanent home ”.

If an individual has a permanent home in each of the two States, he shall be deemed to be domiciled in that one of the Contracting States in

¹ Came into force on 1 December 1971, the first day of the month following the exchange of notes (effected on 8 June and 8 November 1971) indicating that both Parties had complied with the constitutional provisions in force in each of the two States, in accordance with article 33.

which he has his centre of professional or business activities and, failing that, in the Contracting State in which he principally resides.

2. For the purposes of this Agreement, a body corporate shall be deemed to have its domicile in the place in which its registered offices (*siège social statutaire*) are situated; an unincorporated group of individuals shall be deemed to have its domicile in the place in which its centre of actual management is situated.

Article 3

The term “ permanent establishment ” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(a) The following shall in particular be deemed to be permanent establishments:

- (aa) A place of management or operation;
- (bb) A branch;
- (cc) An office;
- (dd) A factory;
- (ee) A workshop;
- (ff) A mine, quarry or other place of extraction of natural resources;

- (gg) A building site or construction project;
- (hh) An assembly project of more than six months' duration;
- (ii) A sales outlet.

(b) The term “ permanent establishment ” shall not be deemed to include:

- (aa) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (bb) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (cc) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (dd) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise for dispatch to the enterprise itself in the other Contracting State;
- (ee) 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, so far as the enterprise is concerned, are of a preparatory or auxiliary character, provided that no orders are accepted there.

(c) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of independent status within the meaning of subparagraph (e) below — shall be deemed to constitute a permanent establishment in the first-mentioned State if 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 and such goods or merchandise are not resold in the first-mentioned State.

Such authority shall, in particular, be deemed to be exercised by an agent who habitually has available to him in the first-mentioned Contracting State a stock of goods or merchandise, belonging to the enterprise, from which he regularly fills orders received by him on behalf of the enterprise.

(d) 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 State or insures risks situated therein through a representative who is not an agent within the meaning of subparagraph (e) below.

(e) 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 independent status, where such persons are acting in the ordinary course of their business and are taxed in respect of such business in the other Contracting State. However, where the agent whose services are used has available to him a stock of goods or merchandise on trust or on consignment from which the sales and deliveries are made, such stock shall be deemed to imply the existence of a permanent establishment of the enterprise.

(f) The fact that a company which is domiciled in a Contracting State controls or is controlled by a company which is domiciled in 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 4

For the purposes of this Agreement, rights which are governed by the taxation laws relating to real property, and rights of usufruct in immovable property, with the exception of claims of any kind secured by pledge of immovables, shall be deemed to be immovable property.

The immovable nature of a property or a right shall be defined by the laws of the State in which the property in question or the property to which the right in question relates is situated.

Article 5

1. Nationals and companies and other associations (*groupements*) of one Contracting State shall not be subjected in the other State to any taxation other or higher than the taxation to which nationals and companies and other associations of the latter State in the same circumstances are subjected.

2. In particular, nationals of one of the Contracting States who are liable to taxation in the territory of the other Contracting State shall be entitled, under the same conditions as nationals of that other State, to such exemptions, reliefs, rebates and reductions of any taxes or charges whatsoever as may be granted in respect of family dependants.

Article 6

In the application of the provisions of this Agreement, the term “competent authorities” means:

In the case of France, the Minister of Economic Affairs and Finance or his duly delegated or authorized representative;

In the case of Morocco, the Minister in charge of Finance or his duly delegated or authorized representative.

Article 7

In the application of this Agreement by one of the Contracting States any term not defined in this Agreement shall unless the context otherwise requires have the meaning which it has under the laws in force in that State with respect to the taxes referred to in this Agreement.

TITLE II

DOUBLE TAXATION

Chapter 1

INCOME TAXES

Article 8

1. This chapter shall apply to taxes on income levied in whatsoever manner on behalf of either Contracting State or of its local authorities.

The expression “taxes on income” shall be deemed to mean taxes levied on total income or on elements of income (including capital appreciation).

2. The object of the provisions of this chapter is to avoid double taxation such as might result, for persons (as defined in article 1) having

their fiscal domicile, determined in accordance with article 2, in one of the Contracting States, from the simultaneous or successive collection in that State and the other Contracting State of the taxes referred to in paragraph 1 above.

3. The existing taxes to which this chapter shall apply are:

In the case of France:

- (a) The tax on the income of individuals (*l'impôt sur le revenu des personnes physiques*);
- (b) The complementary tax (*taxe complémentaire*);
- (c) The company tax (*l'impôt sur les sociétés*), as well as any deductions at the source, prelevies (*précomptes*) and advances on these taxes.

In the case of Morocco:

- (a) The agricultural tax (*l'impôt agricole*);
- (b) The urban tax (*taxe urbaine*) and associated taxes;
- (c) The tax on business profits and the investment reserve (*l'impôt sur les bénéfices professionnels et la réserve d'investissements*);
- (d) The tax on public and private salaries, on remunerations and emoluments, on wages, on pensions and on annuities (*prélèvement sur les traitements publics et privés, les indemnités et émoluments, les salaires, les pensions et les rentes viagères*).

4. The Agreement shall also apply to any identical or similar taxes which may subsequently be added to or substituted for the existing taxes.

The competent authorities of either Contracting State shall notify the competent authorities of the other Contracting State of any changes made in their taxation laws as soon as such changes are promulgated.

5. If, owing to changes in the taxation laws of either of the Contracting States, it appears expedient to adapt certain articles of the Agreement without affecting its general principles, the necessary adjustments may be made, by agreement, through an exchange of diplomatic notes.

Article 9

Income from immovable property, including profits from agricultural and forestry enterprises, shall be taxable only in the State in which the property is situated.

Article 10

1. Income from industrial, mining, commercial or financial enterprises shall be taxable only in the State in which a permanent establishment is situated.

2. Where an enterprise maintains permanent establishments in both Contracting States, each State may tax only the income derived from the operations of the permanent establishments situated in its territory.

3. Such taxable income may not exceed the amount of the industrial, mining, commercial or financial profits realized by the permanent establishment, including, where appropriate, any profits or advantages derived indirectly from that establishment or allotted or granted to third parties either by increasing or decreasing purchase or selling prices or by any other means. Part of the overhead expenses of the head office of the enterprise shall be charged against the earnings of the various permanent establishments in proportion to their turnover.

4. Where taxpayers with business in both Contracting States are unable to show separately and exactly the profits accruing to the permanent establishments situated in each State, the amount of profit taxable by each State may be determined by apportioning the total earnings between the two States in proportion to the turnover realized in their respective territories.

5. If one of the establishments situated in either Contracting State realizes no turnover, or if the business carried on is not comparable, the competent authorities of the two States shall consult together to establish the manner in which paragraphs 3 and 4 above are to be applied.

6. The shares of a partner in the profits of an enterprise constituted as a “*de facto* company” (*société de fait*) or a joint adventure (*association en participation*) shall be taxable only in the State in which the said enterprise has a permanent establishment.

Article 11

1. Where an enterprise of one of the Contracting States, by virtue of its participation in the management or the capital of an enterprise of the other Contracting State, makes or imposes upon that enterprise, in their commercial or financial relations, conditions differing from those which it would make with any other enterprise, all profits which would normally have appeared in the accounts of one of the enterprises but which have in this manner been transferred to the other enterprise may be incorporated in the taxable profits of the first enterprise.

2. An enterprise shall in particular be deemed to participate in the management or the capital of another enterprise when the same person or persons participate directly or indirectly in the management or the capital of both enterprises.

Article 12

1. Income derived from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the enterprise has its fiscal domicile.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State in whose territory the operator of the ship has his fiscal domicile.

Article 13

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

2. The term “dividends” as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders’ shares or other rights, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State in whose territory the company is domiciled.

3. Each State shall in addition retain the right, if its taxation law so provides, to tax the income referred to in paragraph 1 above. However, dividends paid by a company which is domiciled in France to a person domiciled in Morocco shall be exempt from tax deducted at the source in France if they are taxable in Morocco in the name of the recipient.

4. Where dividends distributed by a company which is domiciled in France give rise to the payment of the prelevy on movable property, recipients of such income who are domiciled in Morocco may obtain a refund thereof, subject to deduction of any tax which may be payable at the source in respect of the total amounts refunded if the said income is not taxable in their name in Morocco.

5. If the recipient, being domiciled in one of the two States, has a permanent establishment in the other State and the income referred to in paragraph 1 is connected with the business of that permanent establishment, the tax shall be payable in the latter State.

Article 14

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

2. The Contracting State in which such interest arises shall in addition have the right, if its internal legislation so provides, to tax the said interest. However, interest originating in France shall be taxable in that State at a rate which shall not exceed 10 per cent of the gross amount paid, with the exception of interest on bonds or debentures issued before 1 January 1965, which shall be taxable at a rate not exceeding 12 per cent of the amount paid.

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 debt-claims of every kind as well as all other income assimilated to income from money lent, by the taxation law of the payer's State.

4. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, an administrative subdivision, a local authority or a person domiciled in that State. Where, however, the person paying the interest, whether he is domiciled in a Contracting State or not, has in a Contracting State a permanent establishment for whose requirements the indebtedness 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.

5. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the interest, being domiciled in one of the Contracting States, 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 actually connected. In that case, article 10 relating to the attribution 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 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 national laws of the Contracting States, due regard being had to the other provisions of this Agreement.

Article 15

Directors' percentages, attendance fees and other emoluments received by members of the boards of directors or supervisory boards of joint-stock companies, limited share partnerships (*sociétés en commandite par actions*) or co-operative societies in their capacities as such shall be taxable in the

Contracting State in which the company has its fiscal domicile, subject to the application of articles 18 and 20 below in respect of remuneration received by them in any other effective capacity.

Article 16

1. Royalties paid for the use of immovable property or for the working of mines, quarries or other natural resources shall be taxable only in the Contracting State in which such property, mines, quarries or other natural resources are situated.

2. Royalties other than those referred to in paragraph 1 arising in a Contracting State and paid to a person domiciled in the other Contracting State may be taxed in that other State. However, such royalties may be taxed in the Contracting State in which they arise, if the law of that State so provides, in the following manner and subject to the following limitations:

(a) Royalties for the use of, or the right to use, any copyright of literary, artistic or scientific work, excluding cinematograph and television films, which are paid in one of the Contracting States to a person having his fiscal domicile in the other Contracting State may be taxed in the first-mentioned State, but the tax so charged shall not exceed 5 per cent of the gross amount of the royalties;

(b) Royalties from the grant of licences for the use of patents, designs and models, plans, secret formulae or processes arising from sources situated in the territory of one of the Contracting States and paid to a person domiciled in the territory of the other State may be taxed in the first-mentioned State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties;

(c) The royalties referred to in subparagraph (b) above shall be deemed to include payments made for the grant of licences for the use of trade marks, rentals for the use of cinematograph and television films, similar remuneration for the provision of information concerning industrial, commercial or scientific experience and remuneration for technical or economic studies.

The same shall apply to similar rentals and remuneration for the use of or the right to use agricultural, industrial, harbour, commercial or scientific equipment.

3. Where a royalty exceeds the intrinsic and normal value of the rights for which it is paid, the provisions of paragraphs 1 and 2 shall apply only to that part of the royalty which corresponds to the said intrinsic and normal value.

4. The provisions of paragraphs 1 and 2 shall not apply where the recipient of the royalties or other payments maintains in the Contracting State in which the income arises a permanent establishment or fixed place of business used for the practice of a profession or of any other independent activity and where the said royalties or other payments are attributable to that permanent establishment or fixed place of business. In such cases, the State in question shall be entitled to tax the income in accordance with its legislation.

Article 17

Pensions and annuities shall be taxable only in the Contracting State in which the recipient has his fiscal domicile.

Article 18

1. Failing specific agreements providing for special treatment in the matter, wages, salaries and other similar remuneration received by a person domiciled in one of the two Contracting States in respect of gainful employment shall be taxable only in that State, unless the employment is exercised in the other Contracting State. If the employment is exercised in the other Contracting State, the remuneration derived from it shall be taxable in the latter State.

2. Notwithstanding the provisions of paragraph 1 above, remuneration received by a person domiciled in a Contracting State in respect of gainful employment in the other Contracting State shall be taxable only in the first-mentioned State if the following three conditions are met:

- (a) The recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned;
- (b) The remuneration is paid by or on behalf of an employer who is not domiciled in the other State;
- (c) The remuneration is not deducted from the profits of a permanent establishment or fixed base maintained by the employer in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration for work done on board a ship or aircraft in international traffic shall be taxable only in the Contracting State in which the enterprise is domiciled.

Article 19

Notwithstanding the provisions of article 18, paragraph 1, above, exemption shall be accorded in the State of sojourn, by virtue both of

international usage and of the present provision, to the salaries, wages and other similar remuneration which either Contracting State grants:

(1) To personnel of diplomatic status of the Embassy which it maintains in the territory of the other State, and to personnel of non-diplomatic rank employed directly by that Embassy or by its specialized services constituting an integral part thereof, provided that such personnel are nationals of the first State;

(2) To career consuls performing their duties in the territory of the other State and to consular employees serving under the orders of such consuls and being nationals of the first State.

Article 20

1. Income derived by a person domiciled in a Contracting State from a profession or from other independent activities of a similar character shall be taxable only in that State, unless the person in question has a fixed base for his activities regularly available to him in the other Contracting State. If he has such a fixed base, such part of the income as is attributable to that base shall be taxable in the other State.

2. For the purposes of this article, professions shall be deemed to include scientific, artistic, literary, educational or teaching activities and the activities of medical practitioners, lawyers, architects or engineers.

Article 21

Profits and fees derived from theatrical, musical, music-hall, circus and similar performances shall be taxable only in the Contracting State in which such performances take place.

However, this provision shall not apply to non-profit-making bodies.

Article 22

Payments which a student or trainee from one of the Contracting States who is present in the other Contracting State solely for the purpose of his education or training receives for his maintenance, education or training shall not be taxed in that other State, provided that such payments are made to him from sources outside that other State.

Article 23

Income not mentioned in the foregoing articles shall be taxable only in the Contracting State in which the recipient has his fiscal domicile, unless such income is connected with the activity of a permanent establishment maintained by the recipient in the other Contracting State.

Article 24

1. Gains from the alienation of immovable property, as defined in article 4, may be taxed in the State in which such property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a person domiciled in a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in article 12 shall be taxable only in the Contracting State in which such movable property is taxable according to the said article.

3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2 shall be taxable only in the Contracting State in which the alienator is domiciled.

Article 25

1. A Contracting State may not include in the bases upon which the taxes on income referred to in article 8 are imposed any income which is taxable only in the other Contracting State under the terms of this Agreement, but each State shall retain the right to calculate the tax at the rate corresponding to the total income taxable under its legislation.

2. In the case of income of the kinds referred to in articles 13, 14 and 16 above, the Contracting State in whose territory the recipient has his fiscal domicile may, in accordance with the provisions of its internal legislation, include such income as to its gross amount in the bases upon which the taxes referred to in article 8 are imposed; however, the said State shall grant, against the amount of the taxes pertaining to that income and within the limits of the said amount, a reduction corresponding to the amount of the taxes levied by the other State on the same income.

3. In the application of paragraph 2 above, the following shall be deemed to have been taxed as indicated in Morocco:

(a) At the rate of 25 per cent, dividends distributed by companies having their fiscal domicile in Morocco and dividends paid out of profits realized by permanent establishments in Morocco of companies having their fiscal domicile in France.

However, the rate shall be deemed to be 33.33 per cent in the case of dividends distributed by companies domiciled in Morocco which have

benefited from one or more of the provisions of the *dahir* of 31 December 1960 concerning measures to encourage investments or from the guarantee of retransfer;

- (b) At the rate of 10 per cent, interest arising from loan issues by the specialized bodies for the economic development of Morocco;
- (c) At the rate of 10 per cent, royalties of the kind referred to in article 16, paragraph 2 (b), paid by persons domiciled in Morocco.

Chapter II

REGISTRATION TAXES AND STAMP TAXES

Article 26

1. Where an instrument or judgement drawn up in one of the Contracting States is presented for registration in the other Contracting State, the taxes applicable in the latter State shall be determined in accordance with the provisions of its internal legislation, provided that the taxes due in that State shall where appropriate be reduced by the amount of the registration taxes already levied in the first-mentioned State.

2. However, instruments or judgements transferring *inter vivos* the ownership or possession of immovable property, of rights in immovable property, of businesses or of goodwill, or registering the sale of a right to lease or to benefit by an option to lease all or part of an immovable, may be charged with a registration tax only in the Contracting State in whose territory the immovables, businesses or goodwill are situated or carried on.

3. Moroccan securities forming part of the estate of a person of French nationality domiciled in Morocco shall be exempt in France from death-duties.

Article 27

Instruments or bills (*effets*) drawn up in one Contracting State shall not be subject to stamp tax in the other Contracting State if they have actually been charged with such tax at the rate applicable in the first-mentioned State or if they are legally exempt from such tax in the first-mentioned State.

TITLE III

ADMINISTRATIVE ASSISTANCE

Article 28

1. The taxation authorities of each of the Contracting States shall communicate to the taxation authorities of the other Contracting State any fiscal information available to them and useful to the latter authorities to ensure the proper assessment and collection of the taxes to which this Agreement relates and the enforcement with respect to such taxes of the statutory provisions concerning the prevention of tax fraud.

2. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes to which this Agreement relates. No information shall be exchanged which would reveal a commercial, industrial or professional secret. Assistance may be withheld where the requested State considers that it would be likely to endanger its sovereignty or security or to prejudice public policy (*ordre public*).

3. Information shall be exchanged as a matter of routine or on request in connection with particular cases. The competent authorities of the two Contracting States shall agree on the list of classes of information to be furnished as a matter of routine.

Article 29

1. The Contracting States agree to lend each other assistance and support with a view to the collection of the taxes to which this Agreement relates and of any tax increases, surcharges, overdue payment penalties, interest and costs pertaining to the said taxes, with the exception of those of a penal nature, where such sums are finally due under the laws or regulations of the requesting State and in accordance with this Agreement and all means of domestic collection have been exhausted.

2. Requests for assistance shall be accompanied by such documents as are required under the laws and regulations of the requesting State as evidence that the sums to be collected are finally due.

3. On receipt of the said documents, writs shall be served and measures of recovery and collection taken in the requested State in accordance with the laws and regulations governing the recovery and collection of its own taxes.

Article 30

In the case of tax debts still subject to appeal, the taxation authorities of the creditor State may, in order to safeguard the latter's rights, request the

competent taxation authorities of the other Contracting State to take any interim measures which its laws or regulations permit.

TITLE IV

MISCELLANEOUS PROVISIONS

Article 31

1. If a taxpayer asserts that the actions of the taxation authorities of the Contracting States result in taxation not in accordance with the principles of this Agreement, he may submit an objection to the competent authorities of the State whose taxation he disputes. If the objection is not disposed of within a period of six months, he may refer the matter to the competent authorities of the other State. If his application is upheld, the latter authorities shall reach agreement with the competent authorities of the first-mentioned State with a view to the avoidance of taxation not in accordance with the Agreement.

2. The competent authorities of the Contracting States may also reach agreement with a view to the prevention of double taxation in cases not provided for in this Agreement, and in cases where the application of this Agreement gives rise to difficulties.

3. If it appears that agreement would be facilitated by negotiations, the matter shall be referred to a mixed commission composed of an equal number of representatives of each Contracting State. The commission shall be presided over alternately by a member of each delegation.

Article 32

The competent authorities of the two Contracting States shall consult together to determine, by agreement and so far as may be necessary, the procedure for the application of this Agreement.

Article 33

This Agreement shall be approved in accordance with the constitutional provisions in force in each of the two States. It shall enter into force on the first day of the month following the exchange of notes indicating that both Parties have complied with these provisions, it being understood that it shall apply for the first time:

In respect of taxes on income, to the taxation of income relating to the year in which the exchange of notes takes place or to fiscal years ended in the course of that year. However, in the case of income of the kinds referred to in

articles 13, 14 and 16, the Agreement shall apply to amounts paid on or after the date of its entry into force;

In respect of registration taxes and stamp taxes, to instruments acquiring a legal date (*date certaine*), judgements rendered and estates of persons deceased after the entry into force of the Agreement.

Article 34

This Agreement shall remain in force indefinitely.

However, on or after the first day of January of the fifth year following the year of its entry into force either of the Contracting States may give notice to the other of its intention to terminate this Agreement, such notice to be given before the thirtieth day of June of any year. In that event the Agreement shall cease to apply as from the first day of January of the year following the year in which the notice was given, it being understood that its effects shall be limited:

In respect of taxes on income, to income acquired or paid during the year in which notice of termination was given;

In respect of registration taxes and stamp taxes, to instruments acquiring a legal date, judgements rendered and estates of persons deceased not later than the thirty-first day of December of that year.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have signed this Agreement.

DONE in duplicate, at Paris, on 29 May 1970.

For the Government
of the French Republic:

[Signed]

HERVÉ ALPHAND

For the Government
of the Kingdom of Morocco:

[Signed]

ABDESSADEK EL GLAOUI

PROTOCOL

On signing the Tax Agreement concluded this day between the Government of the French Republic and the Government of the Kingdom of Morocco, the undersigned have agreed upon the following declarations, which shall form an integral part of the Agreement:

I. APPLICATION OF ARTICLE 10, PARAGRAPH 3

The competent authorities of the two States may, due regard being had to the provisions of article 31 of the Agreement, make such adjustments as

are necessary in order to determine the profit of a permanent establishment whenever a normal profit figure cannot be obtained by apportioning the overhead expenses of the head office in proportion to turnover.

II. APPLICATION OF ARTICLE 12, PARAGRAPH 1

In the application of article 12, paragraph 1, it is understood that income derived by shipping enterprises from the business, accessory to international transport, selling of tickets for other transport companies shall also be taxable only in the Contracting State in which the enterprise has its fiscal domicile.

III. APPLICATION OF ARTICLE 19

In the application of article 19, paragraph 2, it is understood that the specialized services of the French Embassy in Morocco shall be the legal service, the repatriation service, the administrative service, the services of the financial counsellor, the commercial counsellor and the cultural counsellor (excluding the staff of the teaching establishments of the University and Cultural Mission), the State property service, the Treasury service and the service of the French Military Attaché.

IV. APPLICATION OF ARTICLE 25

1. It is understood that persons domiciled in Morocco who have a residence or residences available to them in France shall not be subjected in France to the tax on the income of individuals on a presumptive basis according to the rental value of such residence or residences.

2. The provisions of article 25, paragraph 3 (a), second subparagraph, shall be applied in the manner specified below:

(a) The following shall benefit from these provisions:

- Firstly, dividends distributed by companies domiciled in Morocco which are established after the entry into force of the Agreement, where at least 75 per cent of their investments have benefited from one or more of the provisions of the *dahir* of 31 December 1960 or from the guarantee of retransfer;
- Secondly, dividends distributed by companies domiciled in Morocco other than those referred to in the above subparagraph, within the limit of a total amount equal to 15 per cent of the amount of the actual investments which have benefited, after the entry into force of the Agreement, from one or more of the provisions of the *dahir* of 31 December 1960 or from the guarantee of retransfer.

(b) These provisions shall apply, for each of the companies concerned, to distributions effected during a period of 10 years from the first day of January following the actual date of the investments.

(c) A list of the Moroccan companies and a statement of the amount of the investments which may benefit from these provisions shall be sent each year by the Moroccan authorities to the competent French authorities.

3. As at the date of signature of the Agreement, the specialized bodies for the economic development of Morocco referred to in paragraph 3 (b) are the following:

Caisse nationale de crédit agricole;
Fonds d'équipement communal;
Office chérifien des phosphates;
Office national de l'électricité;
Offices régionaux de mise en valeur agricole;
Bureau de recherches et de participations minières;
Bureau d'études et de participations industrielles;
Office national marocain du tourisme;
Office national des chemins de fer;
Office de commercialisation et d'exportation;
Régie d'aconage du port de Casablanca;
Caisse de prêts immobiliers du Maroc;
Banque nationale pour le développement économique;
Banque centrale populaire;
Maroc-Chimie;
Complexe textile de Fez (C.O.T.E.F.);
Société chérifienne des pétroles (S.C.P.);
Société anonyme marocaine italienne de raffinage (S.A.M.I.R.);
Compagnie marocaine de navigation (C.O.M.A.N.A.V.);
Royal Air Maroc (R.A.M.);
Société d'exploitation des pyrotines de Kettara (S.E.P.Y.K.);
Société d'exploitation des mines de fer du Rif (S.E.F.E.R.I.F.);
Lignes maritimes du détroit (L.I.M.A.D.E.T.).

This list may be modified or supplemented upon submission of the relevant information by the Moroccan authorities to the competent French authorities.

V. APPLICATION OF ARTICLE 28

Information exchanged between the tax administrations of the two States may not be used for the purpose of adjusting any taxes due for the years prior to the entry into force of the Agreement.

For the Government
of the French Republic:

[Signed]

HERVÉ ALPHAND

For the Government
of the Kingdom of Morocco:

[Signed]

ABDESSADEK EL GLAOUTI

EXCHANGES OF LETTERS

I a

Paris, 29 May 1970

Sir,

As you are aware, articles 29 and 30 of the Tax Agreement between France and Morocco signed at Paris on 29 May 1970 provide for measures of reciprocal assistance with a view to the collection of the taxes to which the Agreement relates.

In order that the application of the above provision may not give rise, in certain cases, to difficulties of procedure and in order to preserve the atmosphere of confidence which exists between the Governments of our two countries, I have the honour to propose that, where, in application of the provisions of the above-mentioned articles 29 and 30, proceedings are instituted against a taxpayer in one of our two States for the recovery of taxes owed in the other State, the taxpayer shall be entitled to request the competent authorities of the first-mentioned State to stay such proceedings if he is able to establish title to property situated in the State in which the tax in question was assessed or to establish a claim on a public or quasi-public authority of the said State.

If the request, which must be supported by the necessary documents, appears to be justified, the application of the provisions of article 29 shall be stayed. The competent authorities of the requesting State shall be informed of that decision and the request shall be submitted within three months to the mixed commission referred to in article 31 for examination. That commission shall decide whether, and to what extent, the measures of enforced recovery shall proceed:

In more general terms, disputes relating to collection shall be deemed to be difficulties of application within the meaning of article 31 of the Agreement.

I should be greatly obliged if you would inform me whether this proposal is acceptable to your Government.

Accept, Sir, etc.

[Signed]

HERVÉ ALPHAND

His Excellency Mr. Abdessadek El Glaoui
Ambassador Extraordinary and Plenipotentiary
of the Kingdom of Morocco
Paris

II a

Paris, 29 May 1970

Sir,

By letter of today's date, you informed me as follows:

[See letter I a]

I have the honour to inform you that the terms of the above letter are acceptable to the Government of the Kingdom of Morocco.

Accept, Sir, etc.

[Signed]

ABDESSADEK EL GLAOU

His Excellency Mr. Hervé Alphand
Ambassador of France, Secretary-General
of the Ministry of Foreign Affairs
Paris

I b

Paris, 29 May 1970

Sir,

In the course of the conversations held both at Rabat and in Paris with a view to the conclusion of an Agreement for the avoidance of double taxation between France and Morocco, the French delegation drew the attention of the Moroccan delegation to the situation of French technical assistance personnel serving in Morocco.

It was agreed that the Moroccan authorities, taking into consideration the economic and cultural advantage to Morocco of the presence of these persons, would consider that the contribution paid to them by the French Government as a supplement to their remuneration is not, because of the special conditions in which it is granted, taxable in Morocco.

I should be greatly obliged if you would signify your assent to this procedure, it being understood that this letter and your reply shall be deemed to constitute an agreement on the matter between our two Governments.

Accept, Sir, etc.

[Signed]
HERVÉ ALPHAND

His Excellency Mr. Abdessadek El Glaoui
Ambassador Extraordinary and Plenipotentiary
of the Kingdom of Morocco
Paris

II b

Paris, 29 May 1970

Sir,

By letter of today's date, you informed me as follows:

[See letter I b]

I have the honour to inform you that the terms of the above letter are acceptable to the Government of the Kingdom of Morocco.

Accept, Sir, etc.

[Signed]
ABDESSADEK EL GLAOUÏ

His Excellency Mr. Hervé Alphand
Ambassador of France, Secretary-General
of the Ministry of Foreign Affairs
Paris