No. 12288

FRANCE
and
PORTUGAL

Agreement for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance with respect to taxes on income (with protocol). Signed at Paris on 14 January 1971

Authentic texts: French and Portuguese.
Registered by France on 8 February 1973.

FRANCE
et
PORTUGAL

Convention tendant à éviter les doubles impositions et à établir des règles d'assistance administrative réciproque en matière d'impôts sur le revenu (avec protocole). Signée à Paris le 14 janvier 1971

Textes authentiques : français et portugais.
Enregistrée par la France le 8 février 1973.

[TRANSLATION — TRADUCTION]

AGREEMENT[1] BETWEEN FRANCE AND PORTUGAL FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE ESTABLISHMENT OF RULES OF RECIPROCAL ADMINISTRATIVE ASSISTANCE WITH RESPECT TO TAXES ON INCOME

The President of the French Republic and the President of the Portuguese Republic, desiring to avoid double taxation as far as is possible and to establish rules of reciprocal administrative assistance with respect to taxes on income, have decided to conclude a tax agreement and have for that purpose appointed as their plenipotentiaries:

The President of the French Republic:

Mr. Gilbert de Chambrun, Minister Plenipotentiary, Director for Administrative Agreements and Consular Affairs, Ministry of Foreign Affairs;

The President of the Portuguese Republic:

His Excellency Dr. Marcello Mathias, Ambassador Extraordinary and Plenipotentiary of Portugal,

who, having communicated to each other their full powers, found in good and due form, have agreed on the following provisions:

Chapter I. SCOPE OF THE AGREEMENT

Article 1. This Agreement shall apply to persons who are residents of one or both of the Contracting States.

Article 2. 1. This Agreement shall apply to taxes on income imposed on behalf of each Contracting State or of its local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

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

(*a*) In France:

(1) The tax on the income of individuals *(l'impôt sur le revenu des personnes physiques)*;

(2) The complementary tax *(la taxe complémentaire)*;

(3) The tax on companies *(l'impôt sur les sociétés)*,

including all withholdings, advance collections *(précomptes)* and prepayment in respect of such taxes, hereinafter referred to as "French tax".

(*b*) In Portugal:

(1) The land tax *(contribuição predial)*;

[1] Came into force on 18 November 1972, i.e. one month after the exchange of the instruments of ratification, which took place at Lisbon on 18 October 1972, in accordance with article 32 (2).

(2) The tax on agriculture *(imposto sobre a indústria agrícola)*;

(3) The industrial tax *(contribuição industrial)*;

(4) The tax on income from capital *(imposto de capitais)*;

(5) The professional tax *(imposto profissional)*;

(6) The supplementary tax *(imposto complementar)*;

(7) The tax for overseas defence and development *(imposto para a defesa e valorização do ultramar)*;

(8) The tax on capital appreciation *(imposto de mais-valias)*;

(9) Surcharges on the taxes referred to in subparagraphs (1) to (8) above;

(10) Other taxes imposed on behalf of local authorities the amount of which is determined on the basis of the taxes referred to in subparagraphs (1) to (8), and surcharges on those other taxes,

hereinafter referred to as "Portuguese tax".

4. The Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any changes made in their respective taxation laws.

Chapter II. DEFINITIONS

Article 3. 1. In this Agreement:

(*a*) The terms "a Contracting State" and "the other Contracting State" mean France or Portugal, as the context requires;

(*b*) The term "France" means the European *départements* and overseas *départements* (Guadeloupe, Guiana, Martinique and Réunion) of the French Republic;

The term "Portugal" means European Portugal, comprising the mainland territory and the Azores and Madeira archipelagos;

(*c*) The term "person" means an individual, a company or any other body of persons;

(*d*) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;

(*e*) The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

(*f*) The term "competent authorities" means:

(1) In the case of France, the Minister of Economic Affairs and Finance or his authorized representative;

(2) In the case of Portugal, the Director-General of Taxation or his duly authorized representative.

2. As regards the application of the Agreement 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 Agreement.

Article 4. 1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

(*a*) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);

(*b*) If the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has a habitual abode;

(*c*) If he has a habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;

(*d*) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 5. 1. For the purposes of this Agreement, 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 12 months.

3. 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.

4. 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 6 applies—shall be deemed to be 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.

5. An insurance enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if, through a representative who is not an agent within the meaning of paragraph 6 below, it collects premiums in the territory of that other State or insures risks situated therein.

6. 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.

7. 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 comes 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.

Chapter III. Taxation of income

Article 6. 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 in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and 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 apply to income derived from the direct use, letting, or use in any other form of immovable property. They shall also apply to any income from property which, under the taxation law of the Contracting State in which the said property is situated, is assimilated to income from 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 7. 1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise 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 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. 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.

5. 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.

6. Where profits include items of income which are dealt with separately in other articles of this Agreement, then the provisions of those articles shall not be affected by the provisions of this article.

Article 8. 1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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 of which the operator of the ship is a resident.

Article 9. 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 10. 1. Companies being residents of a Contracting State which maintain a permanent establishment in the other Contracting State may be subjected to the tax levied on distributions of profits under the national law of that other State, it being understood, however, that the rate applicable shall be that resulting from the application of article 11, paragraph 2.

The part of the distributed profits actually liable to the aforementioned tax shall not, however, exceed the amount of the business profits realized by the permanent establishment as determined in accordance with the provisions of this Agreement and after deduction of the tax already borne by these profits.

2. A company being a resident of a Contracting State shall not be subjected in the other State to the withholding tax referred to in paragraph 1 above by reason of its participation in the management or capital of a company being a resident of the other Contracting State or by reason of any other relationship with that company, but profits distributed by the last-mentioned company and liable to such tax shall, where the case arises, be increased for the purpose of assessing that tax by any profits or advantages which the first-mentioned company may have indirectly derived in the manner referred to in article 9 above, the double taxation of such profits and advantages being avoided in accordance with the provisions of article 24.

Article 11. 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 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 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 or *jouissance* rights, mining 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 State of which the company making the distribution is a resident.

Income paid to a sleeping partner in a special partnership *(conta em participação)* as referred to in article 224 of the Portuguese Commercial Code shall also be treated as dividends.

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, the provisions of article 7 shall apply.

5. Where dividends distributed by a company which is a resident of France are liable to the tax collected in advance on movable property *(précompte*

mobilier), recipients of such dividends who are residents of Portugal shall be entitled to a refund of such tax, less the amount of tax deductible at the source appropriate to the amount of the sums refunded which has been levied in accordance with the provisions of this article.

Article 12. 1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 12 per cent of the amount of the interest, that rate being reduced to 10 per cent in the case of interest on bonds or debentures issued in France after 1 January 1965.

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 State in which the income arises.

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, the provisions of article 7 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 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 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 Agreement.

Article 13. 1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 5 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 a 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.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connexion with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties 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 royalties 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 Agreement.

Article 14. 1. Gains from the alienation of immovable property, as defined in article 6, may be taxed in the Contracting State in which such property is situated.

Capital appreciation resulting from the alienation of shares or other rights in companies which entitle the holders to own or occupy premises or parts of premises may be taxed in the Contracting State in whose territory such premises are situated, in accordance with the provisions of the national law of that State.

Capital appreciation resulting from the alienation of shares or other rights in companies whose business property is composed mainly of immovable property may also be taxed in the State in whose territory such immovable property is situated, in accordance with the provisions of the law of that State.

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 resident of 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 ships and aircraft operated in international traffic and of movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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 of which the alienator is a resident.

4. The provisions of this article shall not prevent the levying of Portuguese tax on gains from the incorporation of reserves into the capital of companies having

their head office or their effective management in Portugal or on gains from the issuance of shares where preference is given to the shareholders of such companies.

Article 15. 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 taxable only in that 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 as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 16. 1. Subject to the provisions of articles 17, 18, 20, 21 and 22, 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 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 State if:

(*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, and

(*b*) The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

(*c*) The remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 17. Any remuneration, fixed or variable, paid in consideration of the discharge of their functions to directors or managing partners of a company or partnership shall remain subject to the national law of each State.

Double taxation shall be avoided, where the case arises, in accordance with the provisions of article 24.

Article 18. 1. Notwithstanding the provisions of articles 15 and 16, 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 of which the recipient is a resident.

2. However, such income may also be taxed in the Contracting State in which these activities are exercised, according to the law of that State, double taxation being avoided in such a case, in accordance with the provisions of article 24.

Article 19. Subject to the provisions of article 20, paragraph 1, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 20. 1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a local authority thereof to any individual in respect of services rendered to that State or local authority thereof in the discharge of functions of a governmental nature may be taxed in that State. However, this provision shall not apply where the remuneration is paid to individuals who are nationals of the other State without at the same time being nationals of the first-mentioned State; in that case, the remuneration shall be taxable only in the State of which such individuals are residents.

2. The provisions of articles 16, 17 and 19 shall apply to remuneration or pensions in respect of services rendered in connexion with any trade or business carried on by one of the Contracting States or a local authority thereof.

Article 21. A teacher or professor who is or was formerly a resident of a Contracting State and who visits the other State for the purpose of teaching for a period not exceeding two years at an establishment belonging to the State, to a public corporation or to a non-profit-making corporation shall be exempt in both States from tax on the remuneration received in respect of such teaching from sources in that other State.

Article 22. 1. Payments which a student or business apprentice who is or 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 such payments are made to him from sources outside that other State.

2. Students attending a university, higher educational establishment or establishment for technical instruction in a Contracting State who take employment in the other Contracting State in order to obtain practical training related to their studies shall not be taxed in that other State on the remuneration derived from that employment, provided that the duration of that employment does not exceed one year and the amount of the remuneration does not exceed 10,000 francs or the equivalent thereof in escudos.

Article 23. Items of income of a resident of a Contracting State which are not expressly mentioned in the foregoing articles of this Agreement shall be taxable only in that State, provided that they are liable to tax in that State according to its taxation laws.

Chapter IV. Methods for avoidance of double taxation

Article 24. Double taxation shall be avoided as follows:

1. In the case of France:

(*a*) Income other than that referred to in subparagraphs (*c*), (*d*) and (*e*) below shall be exempt from the French taxes referred to in article 2 of this Agreement, where such income is liable to taxation in Portugal.

(*b*) Notwithstanding the provisions of subparagraph (*a*) above, the French taxes may be charged to income taxable in France under this Agreement at the rate appropriate to the total income taxable under French law.

(*c*) In the case of income of the kinds referred to in article 11 which is derived from Portuguese sources and which has been taxed in Portugal in accordance with the provisions of that article, France shall grant to the recipient of the income, being a resident of France, a tax credit corresponding to the Portuguese tax actually paid.

(*d*) (1) In the case of interest of the kinds referred to in article 12 which is derived from Portuguese sources and which has actually been taxed in Portugal, France shall grant to the recipient of the interest, being a resident of France, a tax credit equal to:

— 10 per cent of the gross amount of interest on bonds or debentures and other negotiable certificates of indebtedness;

— 12 per cent of the gross amount of interest on all other loans.

(2) This tax credit shall also apply to interest of the kinds referred to in the Protocol which enjoys exemption from or a reduction of Portuguese tax under:

— On the one hand, the provisions of article 10 (4), article 21 (paragraph 2) and article 22 (*a*), (*b*), (*c*) and (*d*) of the Code of the Tax on Income from Capital and the corresponding provisions of the Supplementary Tax Code, and

— On the other hand, article 27 of Legislative Decree No. 46-492 of 18 August 1965.

(*e*) In the case of income of the kinds referred to in articles 13, 17 and 18 on which Portuguese tax has been paid in accordance with the provisions of those articles, France shall grant to a resident of France, being the recipient of such income, a tax credit equal to the amount of the Portuguese tax and applicable to taxes levied on a basis in which the said income is included.

(*f*) The tax credits referred to in subparagraphs (*c*), (*d*) and (*e*) above shall be applied separately to the French taxes levied on bases in which the corresponding income referred to in those subparagraphs is included, within the limit of the French taxes relating to the same income.

2. In the case of Portugal:

Where a resident of Portugal derives income which, in accordance with the provisions of this Agreement, may be taxed in France, Portugal shall allow as a deduction from the tax on the income of that person an amount equal to the French tax on the income in question.

The deduction shall not, however, exceed the lesser of the following amounts:

(*a*) That part of the French tax which is appropriate to the part of the income taxed in Portugal;

(*b*) That part of the Portuguese income tax, as computed before the deduction is given, which is appropriate to the income taxed in France.

Chapter V. MISCELLANEOUS PROVISIONS

Article 25. 1. The 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.

In particular, nationals of a Contracting State who are liable to tax in the territory of the other Contracting State shall be entitled, under the same conditions as nationals of the last-mentioned State in the same circumstances, to any tax exemptions, allowances, reliefs and reductions which are granted on account of family responsibilities.

2. The term "nationals" means, in the case of each Contracting State:

(*a*) All individuals possessing the nationality of that State;

(*b*) All legal persons, partnerships and associations deriving their status as such from the law of the said State.

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 State carrying on the same activities under the same conditions.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

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 State are or may be subjected.

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

Article 26. 1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

The application must be submitted within two years from the date on which the taxpayer became aware of double taxation through notification of the second taxation or, if the second taxation is effected by deduction at the source, from the date of collection of the tax.

2. The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at an appropriate solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with the Agreement.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties arising as to the application of the Agreement. They may also consult together for the elimination of double taxation in cases not provided for in the Agreement.

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

Article 27. 1. The Contracting States undertake, subject to reciprocity, to exchange such information as may be useful for ensuring the regular assessment and collection of the taxes which are the subject of this Agreement and the

application, in respect of such taxes, of the statutory provisions relating to the prevention of tax fraud. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of the Agreement.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

(*a*) To carry out administrative measures at variance with the laws or the administrative practice of that or of the Contracting State;

(*b*) To supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

(*c*) To supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information the disclosure of which would be contrary to public policy.

Article 28. Nothing in this Agreement 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 29. 1. This Agreement may be extended, either in its entirety or with any necessary modifications, to any Overseas Territories of the French Republic and any part of the territory of Portugal not referred to in article 3, paragraph 1 (*b*), which impose taxes substantially similar in character to those to which the Agreement 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 the diplomatic channel or in any other manner in accordance with their constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the denunciation of the Agreement by one of them under article 33 below shall terminate, in the manner provided for in that article, the application of the Agreement to any territory or part of territory to which it has been extended under this article.

Article 30. The competent authorities of the Contracting States shall determine the mode of application of this Agreement.

Article 31. If, by reason of changes in the taxation laws of one of the Contracting States or by reason of extension as provided for in article 29, it appears appropriate to adapt certain articles of the Agreement without affecting its general principles, the requisite adjustments may be made by mutual agreement in notes to be exchanged through the diplomatic channel or in any other manner in accordance with their constitutional procedures.

Chapter VI. FINAL PROVISIONS

Article 32. 1. This Agreement shall be ratified and the instruments of ratification shall be exchanged at Lisbon as soon as possible.

2. It shall enter into force one month after the exchange of instruments of ratification and its provisions shall apply for the first time:

(*a*) In respect of taxes payable by deduction at the source, to taxes resulting from operations effected on or after the first day of January of the calendar year following that in which the Agreement enters into force;

(*b*) In respect of other taxes, to taxes levied on income accruing during the calendar year following that in which the Agreement enters into force and during financial years ending in the course of that year.

3. The provisions of article 8 shall apply to taxes levied on income accruing during the year 1963 and subsequent years.

Article 33. This Agreement shall remain in force indefinitely.

However, on or after 1 January 1972, either Government may denounce it by giving at least six months' notice through the diplomatic channel, the denunciation to take effect from the first day of January of any calendar year. In such event, the Agreement shall apply for the last time:

(*a*) In respect of taxes payable by deduction at the source, to taxes resulting from operations effected on or before the thirty-first day of December of the calendar year in which notice of denunciation is given;

(*b*) In respect of other taxes, to taxes levied on income accruing during the calendar year in which notice of denunciation is given and during financial years ending in the course of that year.

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

DONE at Paris, on 14 January 1971, in two original copies, one in French and the other in Portuguese, both texts being equally authentic.

For the President of the French Republic:	For the President of the Portuguese Republic:
[*Signed*]	[*Signed*]
G. DE CHAMBRUN	MARCELLO MATHIAS

PROTOCOL

On signing the tax agreement concluded this day between France and Portugal, the undersigned plenipotentiaries have agreed upon the following declarations concerning the application of article 24, paragraph 1 (*d*) (2).

1. The interest referred to in article 24, paragraph 1 (*d*) (2), is of the following kinds:

(*a*) Interest on bonds issued by the National Development Bank (Banco de Fomento Nacional) (article 10, paragraph 4, of the Code of the Tax on Income from Capital);

(*b*) Interest on the bond issues of the Merchant Marine Renovation Fund under Legislative Decree No. 35-876 of 24 September 1946 and of the Fishing Industry Renovation and Equipment Fund under Legislative Decree No. 39-283 of 20 July 1953 (article 21, paragraph 2, of the Code of the Tax on Income from Capital);

(*c*) Interest on the following loans or bonds referred to in article 22 of the Code of the Tax on Income from Capital:

(1) Bonds to finance investments overseas expressly included in the implementation programmes of development plans;

(2) The Merchant Marine Renovation and Equipment Loan and the Fishing Industry Renovation and Equipment Loan, relating to the Second Development Plan;

(3) Loans or bonds subscribed to abroad which are intended to finance investments within the country provided for in the implementation programmes of development plans;

(4) Bonds to finance investments in economically underprivileged rural areas, the establishment of industries to exploit local resources and the decentralization of other industries sited in urban areas;

(*d*) Interest on bonds issued in Portugal, as referred to in article 27 of Legislative Decree No. 46-492 of 18 August 1965, where the proceeds of such issues are intended to finance investments within that State provided for in the implementation programmes of development plans.

2. Interest of the kinds referred to in article 27 of Legislative Decree No. 46-492 of 18 August 1965 which is not mentioned in paragraph 1 above may benefit from the provisions of article 24, paragraph 1 (*d*) (2), by prior agreement between the competent authorities of the two Contracting States.

For the President of the French Republic:	For the President of the Portuguese Republic:
[*Signed*]	[*Signed*]
G. DE CHAMBRUN	MARCELLO MATHIAS