No. 12290

FRANCE
and
BRAZIL

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Brasília on 10 September 1971

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

FRANCE
et
BRÉSIL

Convention tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signée à Brasilia le 10 septembre 1971

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

[TRANSLATION—TRADUCTION]

CONVENTION[1] BETWEEN THE FRENCH REPUBLIC AND THE FEDERATIVE REPUBLIC OF BRAZIL FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The President of the French Republic and the President of the Federative Republic of Brazil, desiring to avoid as far as possible double taxation and to prevent fiscal evasion with respect to taxes on income, have for that purpose appointed as plenipotentiaries:

The President of the French Republic:

Mr. Valéry Giscard d'Estaing, Minister of Economic Affairs and Finance;

The President of the Federative Republic of Brazil:

Mr. Mario Gibson Barboza, Ambassador of Brazil, Minister of State for Foreign Affairs,

who, having exhibited their full powers, found in good and due form, have agreed on the following provisions:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

1. The existing taxes to which the Convention shall apply are:

(a) In the case of France:

The income tax (*l'impôt sur le revenu*);

The company tax (*l'impôt sur les sociétés*),

including any withholding tax, prelevy (*précompte*) or advance payments with respect to the aforesaid taxes (hereinafter referred to as "French tax").

(b) In the case of Brazil:

Federal tax on income and gains of whatever nature, with the exception of excess remittance taxes and taxes on activities of minor importance.

2. The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

[1] Came into force on 10 May 1972, i.e. the thirtieth day following the exchange of the instruments of ratification, which took place on 10 April 1972 at Paris, in accordance with article 29.

Article 3. GENERAL DEFINITIONS

1. In this Convention:

(a) The term "France" means the European *départements* and overseas *départements* (Guadeloupe, Guiana, Martinique, and Réunion) of the French Republic, including any area adjacent to the territorial sea of France which is, in accordance with international law, an area within which France may exercise rights with respect to the sea-bed and subsoil and their natural resources;

(b) The term "Brazil" means the Federative Republic of Brazil;

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

(d) The term "person" comprises an individual, a company and any other body of persons;

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

(f) The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" means 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;

(g) The term "competent authority" means:

1. in France: the Minister of Economic Affairs and Finance or his duly authorized representative;
2. in Brazil: the Minister of Finance, the Secretary of Federal revenue or their authorized representatives.

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

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, 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. PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" shall include especially:

(a) A place of management;

(b) A branch;

(c) An office;

(d) A factory;

(e) A workshop;

(f) A mine, quarry or other place of extraction of natural resources;

(g) A building site or construction or assembly project which exists for more than six 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 enteprise of the other Contracting State—other than an agent of an independent status to whom paragraph 5 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 a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if, through a representative, it collected premiums in the territory of the last-mentioned 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 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 6. INCOME FROM IMMOVABLE PROPERTY

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

2. *(a)* The term "immovable property" shall be defined in accordance with the taxation law of the Contracting State in which the property in question is situated.

(b) The said 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;

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. BUSINESS PROFITS

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.

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

Article 8. SHIPPING AND AIR TRANSPORT

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. ASSOCIATED ENTERPRISES

Where

(a) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enteprise 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. DIVIDENDS

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, the dividends may be taxed in the State in whose territory the company paying the dividends has its fiscal domicile, 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 dividend.

3. *(a)* Dividends paid by a company having its fiscal domicile in France which would entitle the recipient to a tax credit (*avoir fiscal*) if his real domicile or registered offices were in France shall when paid to a recipient being a resident of Brazil, entitle him to a payment from the French Treasury in a gross amount equal to such tax credit, subject to deduction of the tax referred to in paragraph 2 above.

(b) The provisions of subparagraph *(a)* shall apply to the following recipients being residents of Brazil:

i) Individuals who are subject to Brazilian tax in respect of the aggregate of the dividends distributed by a company being a resident of France and the gross amount of the payment referred to in subparagraph *(a)*;

ii) Companies which are subject to Brazilian tax in respect of the aggregate of the dividends distributed by a company being a resident of France and the gross amount of the payment referred to in subparagraph *(a)*.

4. A person being a resident of Brazil who receives dividends distributed by a company being a resident of France may, unless he is eligible for the payment referred to in paragraph 3, apply for a refund of any prelevy (*précompte*) paid in respect of such dividends by the company making the distribution.

5. *(a)* 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.

(b) There shall also be regarded as dividends paid by a company being a resident of France the gross amount of any payment representing the tax credit as provided for in paragraph 3 and the amount of any refund of the prelevy as provided for in paragraph 4 in respect of dividends paid by such a company.

6. The provisions of paragraph 2 shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

7. 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.

8. *(a)* Where a company which is a resident of Brazil has a permanent establishment in France, it may be subjected in France to a withholding tax in accordance with French law, but such tax shall be calculated at the rate provided for in article 10, paragraph 2, on a base corresponding to two thirds of the amount of the profits of the permanent establishment, as determined after payment of the company tax on those profits.

(b) Where a company which is a resident of France has a permanent establishment in Brazil, it may be subjected in Brazil to a withholding tax in accordance with Brazilian law, but such tax shall not exceed 15 per cent of the gross amount of the profits of the permanent establishment, as determined after payment of the company tax on those profits.

9. The limitations on the rate of tax provided for in paragraph 2 and paragraph 8 *(b)* above shall not apply to income paid or transferred up to the expiration of the third calendar year following the year in which this Convention is signed.

Article 11. INTEREST

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 15 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2:

(a) Interest on loans and credits granted by the Government of a Contracting State shall not be taxed in the State in which it arises;

(b) The rate of tax shall not exceed 10 per cent in the case of interest on loans and credits granted, for a minimum term of seven years, by banking establishments with the participation of a specialized public financing agency in connexion with the sale of capital goods or the design, installation or supply of industrial or scientific complexes and public works.

4. 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 rises.

5. 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.

6. The limitation provided for in paragraphs 2 and 3 shall not apply to interest arising in a Contracting State and paid to a permanent establishment of an enterprise of the other Contracting State situated in a third State.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, 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.

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

Article 12. ROYALTIES

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:

(a) 10 per cent of the gross amount of royalties paid either for the use of, or the right to use, any copyright of literary, artistic or scientific work or for the use of, or the right to use, cinematograph films or television, or radio films or tapes produced by a resident of one of the two Contracting States;

(b) 25 per cent of the gross amount of royalties paid for the use of a trade mark;

(c) 15 per cent in other cases.

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. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, 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 he incurred the obligation to pay the royalties, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

5. 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.

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 Convention.

Article 13. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, or from the alienation of shares or comparable interests in a company of which the assets consist principally of such property may be taxed in the Contracting 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, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise), may be taxed in the other State. However, gains from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation in such ships and 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 or rights other than those mentioned in paragraphs 1 and 2 may be taxed in both Contracting States.

Article 14. INDEPENDENT PERSONAL SERVICES

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 the remuneration in question is borne by a permanent establishment or by a company which is a resident of the other State. In that case, the income may be taxed in the other State.

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, dentists and accountants.

Article 15. DEPENDENT PERSONAL SERVICE

1. Subject to the provisions of articles 16, 18 and 19, 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 16. DIRECTORS' FEES

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

Article 17. ARTISTS AND ATHLETES

Notwithstanding the provisions of articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 18. PENSIONS

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

2. Any alimony or annuity paid to a resident of a Contracting State shall be taxable only in that Contracting State.

3. The term "annuity" as used in this article means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

4. The term "pensions" as used in this article means periodic payments and after retirement is consideration of past employment or as compensation for injury sustained in the course of past employment.

Article 19. GOVERNMENTAL REMUNERATION

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof, or a public establishment of that State, to any individual in respect of services to that State or subdivision or local authority thereof, or to that public establishment, in the discharge of functions of a governmental nature shall be taxable only in that State.

However, this provision shall not apply where the remuneration is paid to persons possessing the nationality of the other State.

2. The provisions of articles 15, 16 and 18 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 political subdivision, a local authority or a public establishment thereof.

Article 20. TEACHERS

An individual who is a resident of a Contracting State at the commencement of his visit to the other Contracting State and who, at the invitation of the Government of the other Contracting State, or of a university or other officially recognized educational or research establishment of that other State, is present in the last-mentioned State primarily for the purpose of teaching and/or engaging in research work shall be exempt from taxation in the last-mentioned State, for a period not exceeding two years from the date of his arrival in that State, in respect of the remuneration derived from his teaching or research activities.

Article 21. STUDENTS

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 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.

The same shall apply to any remuneration derived by such a student or business apprentice from an employment exercised in the Contracting State in

which he is receiving his education or training, provided that such remuneration is strictly necessary for his maintenance.

2. A student attending a university, higher educational establishment or establishment for technical instruction in a Contracting State who engages in a remunerated activity in the other Contracting State solely in order to obtain practical experience related to his studies shall not be subject to tax in the last-mentioned State in respect of the remuneration derived therefrom, provided that the duration of such activity does not exceed two years.

Article 22. GENERAL RULES OF TAXATION

Double taxation shall be avoided in the following manner:

1. In the case of Brazil:

Where a resident of Brazil derives income which is taxable in Brazil according to its domestic law, and such income is taxed in France in accordance with the provisions of this Convention, Brazil shall, in applying its tax, allow a tax credit (*crédito tributário*) equivalent to the tax paid in France.

The tax credit shall not, however, exceed that part of the Brazilian tax which is appropriate to the proportion which such income bears to the total income taxable in Brazil.

2. In the case of France:

(a) Income other than that mentioned in subparagraphs *(b)* and *(c)* below shall be exempt from the French taxes mentioned in article 2, paragraph 1 *(a)*, while the income is, under this Convention, taxable in Brazil.

(b) Dividends which a company being a resident of France receives from a company being a resident of Brazil in which it has a holding of at least 10 per cent shall not be subject in France to the company tax on their gross amount, except as regards a share of costs and expenses limited to 5 per cent of that amount, while the dividends are, under this Conveniton, taxable in Brazil.

(c) As regards income mentioned in articles 10, 11, 12, 13, 14, 16 and 17 which has borne Brazilian tax in accordance with the provisions of those articles, France shall allow to a resident of France receiving such income from Brazil a tax credit (*crédit d'impôt*) corresponding to the amount of tax levied in Brazil, within the limits of the French tax in respect of such income.

(d) As regards income mentioned in article 10, article 11 and article 12, paragraph 2 *(c)*, Brazilian tax shall be deemed to have been levied at the minimum rate of 20 per cent.

(e) Notwithstanding the provisions of subparagraph *(a)*, French tax may be computed on income taxable in France under this Convention at the rate appropriate to the total amount of the income taxable in accordance with French law

Article 23. MODE OF APPLICATION

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Convention.

Article 24. NON-DISCRIMINATION

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.

2. The term "nationals" means:

(a) All individuals possessing the nationality of a Contracting State;

(b) All legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting 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.

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 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 25. MUTUAL AGREEMENT PROCEDURE

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 Convention, 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.

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 Convention.

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

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 26. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention in so far as the taxation thereunder is in accordance with this Convention. 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 Convention.

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 the administrative measures at variance with the laws or the administrative practice of that or of the other 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 *(ordre public)*.

Article 27. DIPLOMATS AND INTERNATIONAL ORGANIZATIONS

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

2. The Convention shall not apply to international organizations, to organs and officials thereof or to persons who, being members of a diplomatic or consular mission of a third State, are present in a Contracting State and are not treated as residents of either Contracting State in respect of taxes on income and fortune.

Article 28. SCOPE AND TERRITORIAL EXTENSION

1. The scope of this Convention may be extended by agreement between the Contracting States in notes to be exchanged through the diplomatic channel or in any other manner in accordance with their respective constitutional procedures.

2. Unless otherwise agreed by both Contracting States, the denunciation of the Convention by one of them under article 30 shall terminate, in the manner provided for in that article, the application of the Convention to any territory to which it has been extended under this article.

Article 29. ENTRY INTO FORCE

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

2. It shall enter into force on the thirtieth day following the exchange of the instruments of ratification and its provisions shall apply for the first time:

(a) To taxes payable by deduction at the source resulting from operations effected on or after the first day of January of the year immediately following the entry into force of the Convention;

(b) To taxes assessed on income received on or after the first day of January of the year immediately following the entry into force of the Convention.

Article 30. DENUNCIATION

This Convention shall remain in force indefinitely.

However, either State may, by giving six months' notice through the diplomatic channel, denounce it at the end of any calendar year after the third year from the date of its entry into force.

In such event, the Convention shall apply for the last time:

(a) As regards taxes payable by deduction at the source, to taxes resulting from operations effected before the expiration of the calendar year in which the notice of denunciation is given;

(b) As regards other taxes on income, to the taxation of income for the calendar year in the notice of denunciation is given or for any financial year ending during that year.

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

DONE at Brasília, on 10 September 1971, in two original copies, each in the French and Portuguese languages, both texts being equally authentic.

For the French Republic:

[*Signed*]

VALÉRY GISCARD D'ESTAING

For the Federative Republic of Brazil:

[*Signed*]

MARIO GIBSON BARBOZA

PROTOCOL

On proceeding to sign the Convention for the avoidance of double taxation concluded this day between the French Republic and the Federative Republic of Brazil, the undersigned plenipotentiaries have agreed upon the following declarations:

1. For the purposes of the application of article 11, paragraph 3 *(b)*:

(a) Loans and credits granted by the Banque française du Commerce extérieur, in its capacity as a public financing agency, shall be deemed to be loans and credits granted by the French Government as referred to in article 11, paragraph 3 *(a)*;

(b) It is understood that the minimum term of seven years shall run from the date of the entry into effect of the financing contract, as approved by the authorities of the State of the recipient.

2. The provisions of article 20 shall apply to experts and technicians assigned by one State to the other State under the Agreement on technical and scientific co-operation concluded between the two countries on 16 January 1967.

[*Signed*]
VALÉRY GISCARD D'ESTAING

[*Signed*]
MARIO GIBSON BARBOZA