

No. 14658

**FRANCE
and
TUNISIA**

Convention for the elimination of double taxation and the establishment of rules of mutual administrative assistance with respect to taxes (with protocol). Signed at Tunis on 28 May 1973

Authentic text: French.

Registered by France on 19 March 1976.

**FRANCE
et
TUNISIE**

Convention tendant à éliminer les doubles impositions et à établir des règles d'assistance mutuelle administrative en matière fiscale (avec protocole). Signée à Tunis le 28 mai 1973

Texte authentique : français.

Enregistrée par la France le 19 mars 1976.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF TUNISIA 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 Republic of Tunisia, desiring to eliminate double taxation and to ensure mutual administrative assistance between France and Tunisia, have agreed as follows:

TITLE I. GENERAL PROVISIONS**Chapter I. SCOPE OF THE CONVENTION***Article 1. PERSONAL SCOPE*

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

2. The term "person" means:

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

Article 2. TERRITORIAL SCOPE

For the purposes of this Convention:

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

The term "Tunisia" means the territory of the Republic of Tunisia and any area adjacent to the territorial waters of Tunisia over which, in accordance with international law, Tunisia may exercise rights with respect to the sea-bed and subsoil and their natural resources.

Article 3. 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:

¹ Came into force on 1 April 1975, the first day of the month following the date of the exchange of the notifications indicating that the Convention had been approved by the Parties pursuant to their respective constitutional provisions, in accordance with article 43.

- (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 State in which its place of effective management is situated.

Article 4. PERMANENT ESTABLISHMENT

For the purposes of this Convention:

1. 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 sales outlet;
 - (h) a building site or construction project, or temporary assembly operations, or supervisory activities carried on there, when such site or project exists or such operations or activities are carried on for more than six months or when such temporary assembly operations or supervisory activities, being consequent on the sale of machinery or equipment, are carried on for more than three months and the costs of assembly or supervision exceed 10 per cent of the price of such machinery or equipment.
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 for dispatch to the enterprise itself in the other Contracting State;

(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, so far as the enterprise is concerned, are of a preparatory or auxiliary character, provided that no orders are accepted there.

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) 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 negotiate and conclude contracts for or on behalf of 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 it collects premiums in the territory of that State or insures risks situated in that territory through a representative who is not an agent within the meaning of paragraph 6 below.

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, 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 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 operations 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 5. IMMOVABLE PROPERTY

The term “immovable property” shall be defined in accordance with the taxation law of the Contracting State in which the property 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 and aircraft shall not be regarded as immovable property.

Article 6. 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. Stateless persons who are residents of either State shall not be subjected in a 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 State in the same circumstances are or may be subjected.

4. 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.

5. 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.

6. In this article, the term "taxation" means the taxes of every kind and description referred to in articles 9, 30, 38 and 39 of this Convention.

Nothing in this Convention shall preclude the application of any more favourable tax provisions established under the laws of either Contracting State as an incentive to investment.

Article 7. COMPETENT AUTHORITIES

As regards the application of the provisions contained in this Convention, the term "competent authorities" means:

- In the case of France, the Minister of Economic Affairs and Finance,
 - In the case of Tunisia, the Minister of Finance,
- or their duly delegated or authorized representatives.

Article 8. RULE CONCERNING INTERPRETATION

In the application of this Convention by one of the Contracting States, any term not defined in this Convention 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 Convention.

TITLE II. DOUBLE TAXATION

Chapter I. TAXES ON INCOME

Article 9. TAXES COVERED

1. This chapter 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, taxes on the total amounts of wages or salaries and taxes on capital appreciation.

3. 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*), as well as any deductions at the source and any prelevies (*précomptes*) on these taxes.

(b) In the case of Tunisia:

- the business tax (*l'impôt de la patente*);
- the tax on profits from non-commercial occupations (*l'impôt sur les bénéfices des professions non commerciales*);
- the tax on salaries and wages, on pensions and on annuities (*l'impôt sur les traitements et salaires, pensions et rentes viagères*);
- the agricultural tax (*l'impôt agricole*);
- the tax on income from securities (*l'impôt sur le revenu des valeurs mobilières*);
- the tax on income from loans, deposits, guarantees and current accounts (*l'impôt sur le revenu des créances, dépôts, cautionnements et comptes courants*);
- the State tax on personal income (*contribution personnelle d'Etat*).

4. 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. At the end of each year, the competent authorities of the Contracting States shall notify each other of any changes which have been made in their respective taxation laws.

Article 10. INCOME FROM IMMOVABLE PROPERTY

1. Income from immovable property, including profits from agriculture and forestry, may be taxed in the State in which such property is situated.

2. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

3. The provisions of paragraphs 1 and 2 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 11. 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 actual executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2

shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles laid down in this article.

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

7. Notwithstanding the provisions of paragraph 1 of this article, profits derived by an enterprise of a Contracting State from the leasing of movable and immovable property including rentals for the commercial use of cinematograph films, royalties, fees for technical services, interest, dividends, capital gains, directors' fees for the management of the affairs of an enterprise and any remuneration or fees originating in the other State may be taxed in the last-mentioned State, even if there is no permanent establishment in that State, where another provision of the Convention assigns the right to tax such income to that State, and under the conditions specified in that other provision.

Article 12. ASSOCIATED ENTERPRISES

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 13. 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.

3. The provisions of paragraph 1 shall also apply to profits from participation in a pool, a joint business or an international operating agency.

Article 14. DIVIDENDS

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

2. Subject to the provisions of article 15, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State.

3. The term "dividends" as used in this article means income from 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.

4. Where dividends distributed by a company which is a resident of France give rise to the payment of the prelevy on movable property, recipients of such income who are residents of Tunisia 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 Tunisia.

5. If the recipient, being a resident of 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 last-mentioned State.

Article 15. APPORTIONMENT OF TAX BASES

1. Where a company which is a resident of one of the Contracting States is liable in that State to a tax on distributions of dividends and maintains one or more permanent establishments in the territory of the other Contracting State in respect of which it is also liable in the last-mentioned State to a like tax, the income which is subject to such tax shall be apportioned between the two States, in order to avoid double taxation.

2. The apportionment provided for in the preceding paragraph shall be established for each fiscal year on the basis of the ratio:

$$\frac{A}{B} \text{ for the State in which the company does not have its fiscal domicile;}$$

$$\frac{B-A}{B} \text{ for the State in which the company has its fiscal domicile,}$$

the letter A representing the total book profits accruing to the company from all its permanent establishments in the State in which it does not have its fiscal domicile, after setting off against each other the profits and losses of those establishments. Book profits shall be understood to mean the profits deemed to have been earned in the said establishments in the light of the provisions of articles 11 and 12 of this Convention;

the letter B representing the company's over-all book profits, as shown by its general balance-sheet.

In determining the over-all book profits, no account shall be taken of over-all losses established in respect of all the company's permanent establishments in either State after setting off against each other the profits and losses of those establishments.

Where there is either no over-all book profit or an over-all book loss in respect of a given fiscal year, the apportionment shall be effected on the bases previously established.

3. In the absence of previously established bases, the apportionment shall be effected in accordance with a ratio determined by agreement between the competent authorities of the Contracting States concerned.

4. Where the distributed profits include earnings from holdings of the company in the capital of other companies and such holdings fulfil the conditions under which affiliated companies are accorded special tax treatment under the domestic law either of the State in which the company has its fiscal domicile or of the other State (according as such holdings are credited in the balance-sheet under the head of permanent establishments situated in the first or in the second State), each State shall apply to such part of the said distributed profits as consists of earnings from holdings governed by its domestic law the provisions of that law, while that part of the said distributed profits which does not consist of earnings from such holdings shall be taxed by each State in accordance with the manner of apportionment provided for in paragraph 2 above.

Article 16. ADJUSTMENTS

1. Where, as a result of checks carried out by the competent tax administrations, the total profits earned during a fiscal year are adjusted in such a way as to modify the ratio defined in article 15, paragraph 2, such adjustments shall be taken into account in the apportionment between the two Contracting States of the tax bases pertaining to the fiscal year in which the adjustments took place.

2. Where such adjustments relate to the amount of earnings to be apportioned but do not affect the ratio of profits earned taken into account in the apportionment of the earnings to which the adjustments relate, a supplementary tax apportioned in the same ratio as the initial tax shall be imposed in accordance with the rules applicable in each State.

Article 17. OBLIGATIONS OF COMPANIES

1. The apportionment of tax bases referred to in article 15 shall be made by the company and communicated by it to each of the competent administrations within the time-limit prescribed by the laws of each State for declaring such distributions of taxable earnings as the company is carrying out.

In support of such apportionment, the company shall furnish to each of the above-mentioned administrations, in addition to the documents which it is required to produce or deposit under domestic law, copies of the documents produced to or deposited with the administration of the other State.

2. Any difficulties or disputes which may arise in connexion with the apportionment of tax bases shall be settled by agreement between the competent tax administrations.

Failing agreement, the difference shall be settled by the mixed commission referred to in article 41.

Article 18. INTEREST

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 also have the right, if its domestic laws so provide, to tax the said interest, at a rate which shall not exceed 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 a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, article 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 Convention.

7. Notwithstanding the preceding provisions, interest on loans and credits granted by a Contracting State to a resident of the other State shall not be taxed in the State in which it arises.

Article 19. ROYALTIES

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 resident 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 laws of that State so provide, 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 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 who is a resident of the other State may be taxed in the first-mentioned State, but the tax so charged shall not exceed 15 per cent of the gross amount of the royalties;
- (c) Payments for the supply of information concerning industrial, commercial or scientific experience, and payments for technical and economic studies, may be taxed in the first-mentioned State, but the tax so charged shall not exceed 15 per cent of the gross amount of the payments;
- (d) Payments for the grant of licences for the use of trade marks, rentals for the use of cinematograph and television films and similar payments for the use of, or the right to use, agricultural, industrial, harbour, commercial or scientific equip-

ment may be taxed in the first-mentioned State, but the tax so charged shall not exceed 20 per cent of the amount of the payments;

- (e) Amounts originating in a Contracting State and paid for the use of cinematograph films or radio and television broadcasts to a public establishment of the other Contracting State shall be exempt in the first-mentioned State.

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 if the recipient of the royalties or other payments maintains in the Contracting State in which the income arises a permanent establishment or a fixed place of business used for the performance of professional services or other independent activities and such royalties or other payments are attributable to such permanent establishment or fixed place of business. In such a case, the State in question shall have the right to tax such income in accordance with its law.

Article 20. CAPITAL GAINS

1. Gains from the alienation of immovable property, as defined in article 5, and gains from the alienation of shares or similar rights in a company whose business property consists mainly of immovable 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 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 derived by a resident of one of the States from the alienation of ships or aircraft operated in international traffic and movable property pertaining to the operation of such ships or aircraft shall be taxable only in that State.

Article 21. 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. However, such income may be taxed in the other Contracting State in the following cases:

- (a) If the person concerned has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; in such a case, only that part of the income which is attributable to that fixed base may be taxed in the other Contracting State; or
- (b) If he is present in the other Contracting State for a period or periods totalling 183 days or more during the fiscal year, in respect of the income derived during that period in that other State.

2. The term "professional services" includes, especially, independent scientific, literary, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects and accountants.

Article 22. DEPENDENT PERSONAL SERVICES

1. 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 23. 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, subject to the application of articles 21 and 22 above in respect of remuneration received by them in any other effective capacity.

Article 24. ARTISTS AND ATHLETES

1. Notwithstanding the provisions of articles 21 and 22, 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.

2. Where proceeds from the personal activities exercised by artists and athletes in their capacity as such accrue to another person, those proceeds may, notwithstanding the provisions of articles 11, 21 and 22, be taxed in the Contracting State in which the artist or athlete exercises his activity.

3. The provisions of paragraphs 1 and 2 shall not apply to income from activities exercised in a Contracting State by non-profit-making bodies of the other Contracting State or by members of their personnel, unless the latter are acting on their own account.

Article 25. PENSIONS

Pensions, annuities 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 26. GOVERNMENTAL FUNCTIONS

1. Subject to the application of provisions arising out of specific agreements, remuneration paid by or out of funds created by, a Contracting State or a local authority thereof, or a public establishment of that State, may be taxed as provided for in article 22.

2. Remuneration referred to in paragraph 1 which is not taxed in the State of which the recipient is a resident shall remain taxable in the other State.

Article 27. STUDENTS AND BUSINESS APPRENTICES

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.

The same shall apply to remuneration derived by such a student or business apprentice in respect of an employment exercised in the Contracting State in which he is pursuing his education or training, provided that such remuneration is strictly necessary for his maintenance.

2. A student from a university or other institution of higher or technical education of a Contracting State who exercises a paid activity in the other Contracting State solely in order to gain practical experience connected with his studies shall not be liable to tax in the last-mentioned State on the remuneration paid in respect thereof, provided that the duration of such activity does not exceed one year or the length of the training period necessary for his studies, if the latter is more than one year.

Article 28. INCOME NOT EXPRESSLY MENTIONED

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

Article 29. METHODS FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

1. In the case of France:

(a) Income which is taxable only in Tunisia shall be exempt from the French taxes referred to in article 9, but France shall retain the right to calculate tax at the rate appropriate to the total income taxable under its laws.

(b) In the case of income of the kinds referred to in articles 18, 19, 23 and 24 above, France may, in accordance with the provisions of its laws, include such income as to its gross amount in the base upon which the taxes referred to in article 9 are imposed; however, it shall grant, against the amount of the taxes pertaining to that income, a reduction corresponding to the amount of the taxes levied in Tunisia on the same income.

(c) Dividends taxed in Tunisia under articles 14 and 15 above shall entitle the recipient to a credit calculated as provided for in the Protocol annexed to the Convention.

(d) Royalties taxed in Tunisia under article 19, paragraph 2 (b) above shall entitle the recipient to a credit equal to 20 per cent of the gross amount of the royalties.

2. In the case of Tunisia:

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

The deduction shall not, however, exceed that part of the income tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in France.

Chapter II. SUCCESSION DUTIES

Article 30. TAXES COVERED

1. This chapter shall apply to succession duties imposed on behalf of each Contracting State.

There shall be regarded as succession duties all taxes levied at death in the form of estate duties, inheritance taxes, death-duties of taxes on gifts *mortis causa*.

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

- In the case of France: the succession duty;
- In the case of Tunisia: the succession duty.

Article 31. IMMOVABLE PROPERTY

Immovable property (including property accessory to immovable property) shall be liable to succession duty only in the Contracting State in which it is situated; equipment or livestock used in agriculture or forestry shall be dutiable only in the Contracting State in which the agricultural or forestry enterprise is situated.

Article 32. MOVABLE PROPERTY FORMING PART OF THE BUSINESS PROPERTY OF A PERMANENT ESTABLISHMENT

Tangible or intangible movable property left by a deceased person who at the time of his death was domiciled in one of the two Contracting States and invested in a commercial, industrial or handicraft enterprise of any kind shall be liable to succession duty in accordance with the following rule:

- (a) If the enterprise has a permanent establishment in only one of the two Contracting States, the property shall be liable to duty only in that State; this provision shall apply even where the enterprise extends its operations to the territory of the other State without maintaining a permanent establishment there;
- (b) If the enterprise has a permanent establishment in each of the two Contracting States, the property shall be liable to duty in each State to the extent that it is used for a permanent establishment situated in the territory of that State.

However, the provisions of this article shall not apply to investments made by the deceased in capital-based companies or partnerships (joint-stock companies (*sociétés anonymes*), partnerships limited by shares (*sociétés en commandite par actions*), private limited companies (*sociétés à responsabilité limitée*), co-operative societies, non-commercial operating companies (*sociétés civiles*) treated as limited companies (*sociétés de capitaux*) for tax purposes) or as a sleeping partner in limited partnerships (*sociétés en commandite simple*).

Article 33. MOVABLE PROPERTY USED FOR THE PERFORMANCE OF PROFESSIONAL SERVICES

Tangible or intangible movable property connected with fixed places of business and used for the performance of professional services in one of the Contracting States shall be liable to succession duty only in the State in which such places of business are situated.

Article 34. OTHER MOVABLE PROPERTY

1. Tangible movable property, including furniture, linen and household goods and art objects and collections, other than the movables referred to in articles 32 and 33, shall be liable to succession duty only in the Contracting State in which it is actually situated at the date of death.

However, boats and aircraft shall be dutiable only in the State in which they were registered.

2. Shares, founders' shares and similar certificates, and negotiable bonds and similar certificates, issued by limited companies shall be dutiable in the State in which the head office of the issuing company is situated.

Debt-claims of every kind shall be dutiable in the State of which the debtor is a resident.

Article 35. PROPERTY NOT MENTIONED

Property of a deceased person's estate to which articles 31 to 34 do not apply shall be liable to succession duties only in the Contracting State in which the deceased was domiciled at the time of his death.

Article 36. DEDUCTION OF LIABILITIES

1. Debts pertaining to enterprises of the kinds referred to in articles 32 and 33 shall be charged against the property of those enterprises. If the enterprise has a permanent establishment or a fixed place of business, as the case may be, in both Contracting States, the debts shall be charged against the property of the establishment or place of business to which they pertain.

2. Debts secured on immovable property or rights in immovable property, or on ships or aircraft as referred to in article 34, or on property used for the performance of professional services as provided in article 33, or on property of an enterprise of the kind referred to in article 32, shall be charged against such property. If a debt is secured at the same time on property situated in both States, it shall be charged against the property situated in each of them in proportion to the taxable value thereof.

This provision shall apply to debts referred to in paragraph 1 only to the extent to which they are not covered in the manner provided for in that paragraph.

3. Debts to which the provisions of paragraphs 1 and 2 do not apply shall be charged against property covered by the provisions of article 35.

4. If, after the procedure provided for in the three preceding paragraphs, there remains an outstanding balance in one of the Contracting States, such balance shall be deducted from the value of any other property liable to succession duty in that State. If there is no other property liable to duty in that State or if after such deduction a balance still remains, such balance shall be charged against the property liable to duty in the other Contracting State.

Article 37. PROGRESSIVE RATE

Notwithstanding the provisions of articles 31 to 36, each Contracting State shall be entitled to calculate the duty on inherited property which it has the exclusive right to tax at the average rate which would be applicable to the sum of the property liable to duty under its domestic law.

Chapter III. OTHER REGISTRATION TAXES AND STAMP TAXES

Article 38. REGISTRATION TAXES

1. Taxes pertaining to an instrument or judgement liable to registration shall, subject to the provisions of paragraphs 2 and 3 below, be payable in the State in which the instrument is drawn up or the judgement is rendered.

Where an instrument drawn up or a judgement rendered in one of the Contracting States is presented for registration in the other Contracting State, the taxes applicable in the last-mentioned State shall be determined in accordance with the provisions of its domestic law, provided that the taxes due in that State shall be reduced by the amount of any registration taxes already levied in the first-mentioned State.

2. Subject to the provisions of subparagraphs (a) and (b) below, company articles of association or amendments thereto shall be liable to the *ad valorem* capital contribution tax (*droit proportionnel d'apport*) only in the State in which the company has its registered offices (*siège statutaire*). In cases of mergers or similar operations, the tax shall be levied in the State in which the new or absorbing company has its registered offices.

(a) The capital contribution tax payable on contributions consisting of the ownership or usufruct of immovables and businesses and on the right to lease or to benefit by an option to lease all or part of an immovable shall be levied only in the Contracting State in whose territory the immovable or business in question is situated.

(b) Where a company which has its head office in one of the Contracting States and has one or more permanent establishments in the territory of the other Contracting State increases its capital by incorporating reserves or is taxed on its reserves, the capital increase or the reserves shall be taxed as laid down in articles 15 to 17.

3. Instruments or judgements transferring the ownership or usufruct of an immovable or a business or the use of an immovable, and instruments or judgements 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 transfer tax and with the real-estate advertising tax only in the Contracting State in whose territory the immovable or business in question is situated.

Article 39. STAMP TAXES

Instruments or bills (*effets*) drawn up in one of the Contracting States 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. MISCELLANEOUS PROVISIONS

Article 40. 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 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 41. MUTUAL AGREEMENT PROCEDURE

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States 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 or doubts 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.

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

Article 42. DIPLOMATIC AND CONSULAR OFFICIALS

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. In so far as, owing to fiscal privileges granted to diplomatic and consular officials under the general rules of international law or under the provisions of special international treaties, income is not subject to tax in the receiving State, the right to tax shall be reserved to the sending State.

3. For the purposes of this Convention, persons who are members of a diplomatic or consular mission of a Contracting State in the other Contracting State or in a third State and who are nationals of the sending State shall be deemed to be residents of the sending State if they are subject therein to the same obligations in respect of taxes on income as are residents of that State.

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

Article 43. ENTRY INTO FORCE

This Convention 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 notifications 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 for the year in which the exchange of notifications takes place or for fiscal years ended in the course of that year. However, in the case of income of the kinds referred to in articles 14 to 19, the Convention 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 Convention.

Article 44. TERMINATION

This Convention 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 Government may give notice to the other of its intention to terminate this Convention, such notice to be given before the thirtieth day of June of any year. In that event, the Convention shall cease to apply as from the first day of January of the year following the date on which notice is given, it being understood that its effect shall be limited:

- in respect of taxes on income, to income acquired or paid during the year in which notice of termination is given;
- in respect of registration taxes and stamp taxes, to instruments acquiring a legal date, judgments rendered and estates of persons deceased on or before the thirty-first day of December of that year.

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

DONE in duplicate at Tunis, on 28 May 1973.

For the Government
of the French Republic:

[Signed]

VALÉRY GISCARD D'ESTAING
Minister of Economic Affairs
and Finance

For the Government
of the Republic of Tunisia:

[Signed]

MOHAMED FITOURI
Minister of Finance

PROTOCOL

On signing the Tax Convention concluded this day between the Government of the French Republic and the Government of the Republic of Tunisia, the undersigned have agreed on the following declarations, which shall form an integral part of the Convention.

I. APPLICATION OF ARTICLE 11

In the determination of the profits of a permanent establishment:

1. No deductions, other than the reimbursement of expenses actually incurred, shall be allowed for expenses of the head office of the enterprise or of any of its other establishments in the form of royalties, fees or other similar payments for operating licences, patents or similar rights, commissions for services rendered or for managerial activities or, except in the case of a banking establishment, interest on money lent to the head office of the enterprise or to any of its other establishments.

2. Part of the actual common executive and general expenses of the head office of the enterprise shall be charged against the profits of the various permanent establishments of the enterprise in proportion to their turnover or, failing that, by any other appropriate method.

II. APPLICATION OF ARTICLE 29

1. In the determination of the credit referred to in article 29, paragraph 1, there shall be applied the formula $\frac{100 - (25 + t)}{2}$, where the letter "t" represents the rate of the tax levied by deduction at the source in Tunisia on the dividends.

2. In the case of dividends paid by Tunisian companies and actually benefiting from the reduced rate on income from securities under article 4, paragraph 4, of Law No. 72-38 of 27 April 1972 according special treatment to industries which produce goods for export, the credit referred to in paragraph 1 above shall be determined according to the formula $\frac{100 - (20 + t)}{2}$.

DONE at Tunis, on 28 May 1973.

For the Government
of the French Republic:

[Signed]

VALÉRY GISCARD D'ESTAING
Minister of Economic Affairs
and Finance

For the Government
of the Republic of Tunisia:

[Signed]

MOHAMED FITOURI
Minister of Finance