No. 16341

FRANCE
and
AUSTRALIA

Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income. Signed at Canberra on 13 April 1976

Authentic texts: French and English.

Registered by France on 31 January 1978.

FRANCE
et
AUSTRALIE

Convention tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu. Signée à Canberra le 13 avril 1976

Textes authentiques : français et anglais.

Enregistrée par la France le 31 janvier 1978.

AGREEMENT[1] BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF AUSTRALIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the French Republic and the Government of Australia,

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income,

Have agreed as follows:

Article 1. TAXES TO WHICH AGREEMENT APPLIES

(1) The existing taxes to which this Agreement applies are:

(*a*) in Australia:

—the Australian income tax, including the additional tax upon the undistributed amount of the distributable income of a private company;

(*b*) in France:

(i) the income tax; and

(ii) the corporation tax, including any withholding tax, prepayment (*précompte*) or advance payment with respect to the aforesaid taxes.

(2) This Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed by one of the Contracting States in addition to, or in place of, the existing taxes to which this Agreement applies.

Article 2. DEFINITIONS

(1) In this Agreement, unless the context otherwise requires:

(*a*) the term "Australia" means the Commonwealth of Australia and includes:

(i) the Territory of Norfolk Island;

(ii) the Territory of Christmas Island;

(iii) the Territory of Cocos (Keeling) Islands;

(iv) the Territory of Ashmore and Cartier Islands;

(v) the Coral Sea Islands Territory; and

(vi) any area outside the territorial limits of the Commonwealth of Australia and any of the said Territories in respect of which there is for the time being in force a law of the Commonwealth of Australia or of a State or part of the Commonwealth of Australia or of a Territory aforesaid which is conformable with international law and which deals with the exploitation of any of the natural resources of the sea-bed and sub-soil of the continental shelf;

[1] Came into force on 21 September 1977, the date of the exchange of notes (effected on 16 August and 21 September 1977 through the diplomatic channel) stating that the last of all such things as was necessary to that effect had been done, in accordance with article 28 (1).

(*b*) the term "France" means the European and Overseas Departments (Guadeloupe, Guiana, Martinique and Reunion) of the French Republic and includes any area outside the territorial limits of France in respect of which there is for the time being in force a law of France which is conformable with international law and which deals with the exploitation of any of the natural resources of the sea-bed and sub-soil of the continental shelf, not including an area referred to in any such law as being adjacent to the Overseas Territories of the French Republic;

(*c*) the terms "Contracting State", "one of the Contracting States" and "other Contracting State" mean Australia or France, as the context requires;

(*d*) the term "person" includes 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 company for tax purposes;

(*f*) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean an industrial or commercial enterprise carried on by a resident of Australia or an industrial or commercial enterprise carried on by a resident of France, as the context requires;

(*g*) the term "Australian tax" means tax imposed by Australia, being tax to which this Agreement applies by virtue of Article 1;

(*h*) the term "French tax" means tax imposed by France, being tax to which this Agreement applies by virtue of Article 1;

(*i*) the term "competent authority" means, in the case of Australia, the Commissioner of Taxation or his authorized representative; in the case of France, the Minister of Economy and Finance or his authorized representative; and, in the case of any Territory to which this Agreement is extended under Article 27, the competent authority for the administration in such Territory of the taxes to which this Agreement applies.

(2) In this Agreement, the terms "Australian tax" and "French tax" do not include any penalty or interest imposed under the law of either Contracting State relating to the taxes referred to in Article 1.

(3) In the application of the provisions of this Agreement by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes to which this Agreement applies by virtue of Article 1.

Article 3. RESIDENCE

(1) (*a*) For the purposes of this Agreement, a person is a resident of Australia if he is a resident of Australia for purposes of Australian tax. However, in relation to income from sources in France, a person who is subject to Australian tax on income which is from sources in Australia shall be treated as a resident of Australia only if the income from sources in France is subject to Australian tax or, where that income is exempt from Australian tax, it is so exempt solely because it is subject to French tax.

(*b*) For the purposes of this Agreement, a person is a resident of France if he is domiciled in France for the purposes of French tax.

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

(*a*) he shall be deemed to be a resident solely of the Contracting State in which he has a permanent home available to him;

(*b*) if he has a permanent home available to him in both Contracting States, or if he does not have a permanent home available to him in either of them, he shall be deemed to be a resident solely of the Contracting State with which his personal and economic relations are the closer.

(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 solely of the Contracting State in which its place of effective management is situated.

Article 4. PERMANENT ESTABLISHMENT

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

(2) The term "permanent establishment" shall include especially:

(*a*) a place of management;

(*b*) a branch;

(*c*) an office;

(*d*) a factory;

(*e*) a workshop;

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

(*g*) an agricultural, pastoral or forestry property;

(*h*) a building site or construction, installation or assembly project which exists for more than six months.

(3) An enterprise shall not be deemed to have a permanent establishment merely by reason of:

(*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 activities which have a preparatory or auxiliary character for the enterprise, such as advertising or scientific research.

(4) An enterprise shall be deemed to have a permanent establishment in a Contracting State and to carry on business through that permanent establishment if:

(*a*) it carries on supervisory activities in that State for more than six months in connection with a building site, or a construction, installation or assembly project which is being undertaken, in that State; or

(*b*) substantial equipment is being used in that State for more than six months by, for or under contract with the enterprise.

(5) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State — other than an agent of an independent status to whom paragraph (6) applies — shall be deemed to be a permanent establishment of that enterprise in the first-mentioned State if:

(*a*) he has, and habitually exercises in that State, an authority to conclude contracts on behalf of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

(*b*) in so acting, he manufactures or processes in that State for the enterprise goods or merchandise belonging to the enterprise.

(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 that person is acting in the ordinary course of his business as such a broker or agent.

(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 make either company a permanent establishment of the other.

Article 5. INCOME FROM REAL PROPERTY

(1) Income from real property, including royalties and other payments in respect of the operation of mines or quarries or of the exploitation of any natural resource, may be taxed by the Contracting State in which the real property, mines, quarries or natural resources are situated.

(2) Income from a lease of land and income from any other direct interest in or over land shall be regarded as income from real property.

Article 6. INDUSTRIAL OR COMMERCIAL 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 of the enterprise, including executive and general administrative expenses, which are deductible according to the law of the State in which the permanent establishment is situated, whether incurred in that State or elsewhere.

(4) If the information available to the competent authority of a Contracting State is inadequate to determine the profits to be attributed to the permanent establishment of an enterprise, the competent authority may apply to that enterprise for that purpose the provisions of the taxation law of that State, provided that that law shall be applied, so far as the information available to the competent authority permits, in accordance with the principles of this Article.

(5) 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.

(6) For the purposes of this Article, except as provided in the Articles referred to in this paragraph, the profits of an enterprise do not include income or profits dealt with in Articles 5 and 7 and 9 to 16.

(7) Notwithstanding the preceding provisions of this Article, profits of an enterprise of a Contracting State from carrying on a business of any form of insurance other than life insurance may be taxed in the other Contracting State in accordance with the law of that other State relating specifically to the taxation of any person who carries on such a business, provided that if the law in force in either Contracting State at the date of signature of this Agreement relating to the taxation of such a person is varied (otherwise than in minor respects so as not to affect its general character), the Contracting States shall consult with each other with a view to agreeing to such amendment of this paragraph as may be necessary.

Article 7. SHIPPING

(1) Profits from the operation of ships derived by a resident of a Contracting State shall be taxable only in that State.

(2) Notwithstanding the provisions of paragraph (1), such profits may be taxed in the other Contracting State where they are profits from operations of ships confined solely to places in that other State.

(3) In this Article, profits derived from the carriage by ships of passengers, cargo or mail shipped in a Contracting State for discharge at another place in that State shall be treated as profits from operations of ships confined solely to places in that State.

(4) The amount which shall be charged to tax in a Contracting State under paragraph (2) shall not exceed 5 per cent of the amount paid or payable (net of rebates) in respect of the carriage.

(5) Paragraph (4) shall not apply to profits from the operation of ships derived by a resident of a Contracting State if:

(*a*) his principal place of business is in the other Contracting State; or

(*b*) those profits are derived from activities other than the carriage of passengers, cargo or mail.

In such cases, the provisions of Article 6 shall apply.

Article 8. ASSOCIATED ENTERPRISES

(1) 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 exist between the two enterprises in their commercial or financial relations which differ from those which may be expected between independent enterprises dealing wholly independently with one another, then any profits which might, but for those conditions, be expected to accrue 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.

(2) If the information available to the competent authority of a Contracting State is inadequate to determine the profits to be attributed to an enterprise, the competent authority may apply to that enterprise for that purpose the provisions of the taxation law of that State, provided that that law shall be applied, so far as the information available to the competent authority permits, in accordance with the principles of this Article.

(3) Where, according to the provisions of paragraph (1), profits are included by a Contracting State in the profits of an enterprise, the other Contracting State shall, on a claim being made by the other enterprise concerned, consistently with its law consider the inclusion so made and the provision of relief to that other enterprise in relation to the taxation of profits which the other State determines to be profits which, but for the particular conditions referred to in paragraph (1), might have been expected to accrue to the first-mentioned enterprise.

Article 9. DIVIDENDS

(1) Dividends paid by a company which is a resident of Australia for purposes of Australian tax, and dividends paid out of profits from sources in Australia by any other company which is a resident of France, being dividends to which a resident of France is beneficially entitled, may be taxed in Australia, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

(2) Dividends paid by a company which is domiciled in France for the purposes of French tax, being dividends to which a resident of Australia is beneficially entitled, may be taxed in France, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

(3) The term "dividends" in this Article means income from shares and other income assimilated to income from shares by the taxation law of the Contracting State of which the company making the distribution is a resident.

(4) The provisions of paragraphs (1) and (2) shall not apply if the resident beneficially entitled to the dividends has in the other Contracting State 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 6 shall apply.

(5) Where a company which is a resident of Australia has a permanent establishment in France, it may be subjected therein to any withholding tax provided by the laws of France but the tax shall not exceed 15 per cent of two thirds of the profits of the permanent establishment after payment of the French corporation tax on those profits.

(6) Where an individual who is a resident of Australia receives from a company which is a resident of France a dividend to which he is beneficially entitled and which, if received by a resident of France, would entitle the resident to a tax credit (*avoir fiscal*):

(*a*) the individual shall be entitled to a payment by the Government of France equal to that tax credit (*avoir fiscal*) subject to the deduction of tax at the rate provided for in paragraph (2) of this Article;

(*b*) the amount of the tax credit (*avoir fiscal*) shall be included in the assessable income of the individual for purposes of Australian tax; and

(*c*) the amount of the tax credit (*avoir fiscal*) shall, for the purposes of Article 23, be treated as income from sources in France.

(7) Where a person (other than an individual) who is a resident of Australia receives from a company which is a resident of France a dividend to which it is beneficially entitled and a prepayment (*précompte*) is levied on that dividend:

(*a*) the person shall be entitled to a payment by the Government of France equal to the amount of that prepayment (*précompte*) subject to the deduction of tax at the rate provided for in paragraph (2) of this Article;

(*b*) the amount payable before deduction of that withholding tax shall be included as a dividend in the assessable income of the person for purposes of Australian tax; and

(*c*) that amount shall, for the purposes of Article 23, be treated as income from sources in France.

Article 10. INTEREST

(1) Interest arising in a Contracting State, being interest to which a resident of the other Contracting State is beneficially entitled, may be taxed in the first-mentioned State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(2) The term "interest" in this Article includes interest from Government securities or from bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and interest from any other form of indebtedness as well as all other income assimilated to interest by the taxation law of the Contracting State in which the income arises.

(3) The provisions of paragraph (1) shall not apply if the person beneficially entitled to the interest has in the Contracting State in which the interest arises a permanent establishment with which the indebtedness from which the interest arises is effectively connected. In such a case, the provisions of Article 6 shall apply.

(4) Interest shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a State of that Contracting State, a political subdivision or a local authority of that Contracting State or a person who is a resident of that

Contracting State for purposes of its tax. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a State other than that of which he is a resident a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and the interest is borne by the permanent establishment, then the interest shall be deemed to arise in the State in which the permanent establishment is situated.

(5) Where, owing to a special relationship between the payer and the person beneficially entitled to the interest or between both of them and some other person, the amount of the interest paid, having regard to the indebtedness for which it is paid, exceeds the amount which might have been expected to have been agreed upon by the payer and the person so entitled 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 amount of the interest paid shall remain taxable according to the law of each Contracting State, but subject to the other provisions of this Agreement.

Article 11. ROYALTIES

(1) Royalties arising in a Contracting State, being royalties to which a resident of the other Contracting State is beneficially entitled, may be taxed in the first-mentioned State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

(2) The term "royalties" in this Article means payments, whether periodical or not, and however described or computed, to the extent to which they are paid as consideration for the use of, or the right to use, any copyright, patent, design or model, plan, secret formula or process, trade-mark, or other like property or right, or industrial, commercial or scientific equipment, or for the supply of scientific, technical, industrial or commercial knowledge, information or assistance and includes any payments to the extent to which they are paid as consideration for the use of, or the right to use, motion picture films, films or video tapes for use in connection with television or tapes for use in connection with radio broadcasting.

(3) The provisions of paragraph (1) shall not apply if the person beneficially entitled to the royalties has in the Contracting State in which the royalties arise a permanent establishment with which the asset giving rise to the royalties is effectively connected. In such a case, the provisions of Article 6 shall apply.

(4) Royalties shall be deemed to arise in a Contracting State when the payer is that Contracting State itself, a State of that Contracting State, a political subdivision or a local authority of that Contracting State or a person who is a resident of that Contracting State for purposes of its tax. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a State other than that of which he is a resident a permanent establishment in connection with which the liability to pay the royalties was incurred, and the royalties are borne by the permanent establishment, then the royalties shall be deemed to arise in the State in which the permanent establishment is situated.

(5) Where, owing to a special relationship between the payer and the person beneficially entitled to the royalties or between both of them and some other person, the amount of the royalties paid, having regard to what they are paid for, exceeds the amount which might have been expected to have been agreed upon by the payer and the person so entitled 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 amount of the royalties paid shall remain taxable according to the law of each Contracting State, but subject to the other provisions of this Agreement.

Article 12. ALIENATION OF REAL PROPERTY

(1) Income from the alienation of real property (including income from the alienation of a lease of land or of any other direct interest in or over land) may be taxed by the Contracting State in which the real property is situated.

(2) Income from the alienation of shares or comparable interests in a real property co-operative or in a company the assets of which consist wholly or principally of property referred to in paragraph (1) may be taxed by the Contracting State in which that property is situated.

Article 13. INDEPENDENT PERSONAL SERVICES

Income derived by an individual who is a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

Article 14. DEPENDENT PERSONAL SERVICES

(1) Subject to the provisions of Articles 15, 17, 18 and 19, remuneration derived by an individual who is 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 from that exercise may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1), remuneration derived by an individual who is 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 that other State for a period or periods not exceeding in the aggregate 183 days in the year of income (where Australia is the other State) or in the fiscal year (where France is the other State);

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

(*c*) the remuneration is not deductible in determining taxable profits of a permanent establishment or a fixed base which the employer has in that other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft operated in international traffic by a resident of one of the Contracting States may be taxed in that State.

Article 15. 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 16. PUBLIC ENTERTAINERS

(1) Notwithstanding the provisions of Articles 13 and 14, income derived by public entertainers (such as theatre, motion picture, radio or television artists and musicians and athletes) from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

(2) Notwithstanding anything contained in this Agreement, where the services of a public entertainer mentioned in paragraph (1) are provided in a Contracting State by an enterprise of the other Contracting State, the profits derived by that enterprise from providing those services may be taxed in the first-mentioned State if the public entertainer performing the services controls, directly or indirectly, that enterprise.

Article 17. PENSIONS AND ANNUITIES

(1) Pensions and annuities paid to a resident of a Contracting State shall be taxable only in that State.

(2) The term "annuity" means any 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.

(3) Notwithstanding anything in this Agreement:

(*a*) the pensions referred to in paragraphs (4), (5) and (6) of Article 81 of the French General Tax Code shall be exempt from Australian tax so long as they are exempt from French tax;

(*b*) the pensions and other payments referred to in paragraphs (*a*) and (*b*) of sub-section 23AD(3) of the Australian Income Tax Assessment Act 1936, as amended, where they are paid by Australia, shall be exempt from French tax so long as they are exempt from Australian tax.

(4) Notwithstanding paragraph (1), while paragraph (*q*) of section 23 of the Australian Income Tax Assessment Act 1936, as amended, and in force at the date of signature of this Agreement continues to have effect in relation to retirement pensions derived by residents of Australia from sources out of Australia, any retirement pension derived by a resident of a Contracting State from sources in the other Contracting State shall, if the person deriving the pension so elects, be taxable only in the last-mentioned State.

Article 18. REMUNERATION PAID BY GOVERNMENTS

(1) Remuneration (other than a pension or annuity) paid by Australia, a State of Australia or a political subdivision or local authority of Australia or of a State to any individual in respect of services rendered in the discharge of governmental functions shall be exempt from French tax unless the services are rendered in France by an individual who is a French national or is permanently resident in France.

(2) Remuneration (other than a pension or annuity) paid by France or a local authority thereof to any individual in respect of services rendered in the discharge of governmental functions shall be exempt from Australian tax unless the services are rendered in Australia by an individual who is an Australian citizen or is ordinarily resident in Australia.

(3) This Article shall not apply to remuneration in respect of services rendered in connection with any trade or business carried on by a Government, a political subdivision or an authority referred to in paragraph (1) or (2).

Article 19. VISITING PROFESSORS AND TEACHERS

(1) Where a professor or teacher who is a resident of a Contracting State visits the other Contracting State for a period not exceeding two years for the purpose of teaching or conducting research at a university, college, school or other educational institution, remuneration which he receives for so teaching or conducting research shall be exempt from tax in that other State.

(2) This Article shall not apply to remuneration which he receives for conducting research if the research is undertaken primarily for the private benefit of a specific person or persons.

Article 20. STUDENTS

Payments which a student who is, or was immediately before visiting one of the Contracting States, a resident of the other Contracting State and who is temporarily present in the first-mentioned Contracting State solely for the purpose of his education receives from sources outside that first-mentioned State for the purpose of his maintenance or education shall not be taxed in that first-mentioned State.

Article 21. INCOME OF DUAL RESIDENTS

Where a person, who by reason of the provisions of paragraph (1) of Article 3 is a resident of both Contracting States but, by reason of the provisions of paragraph (2) or (3) of that Article, is deemed for the purposes of this Agreement to be a resident solely of one of the Contracting States, derives income:

(*a*) from sources in that Contracting State, or

(*b*) from sources outside both Contracting States,

that income shall be taxable only in that Contracting State.

Article 22. SOURCE OF INCOME

(1) Income derived by a resident of a Contracting State which, under Articles 5 to 7 and 9 to 16, may be taxed in the other Contracting State shall be deemed to be income from sources in that other State.

(2) Profits included in the profits of an enterprise of a Contracting State under paragraph (1) of Article 8 shall for purposes of the taxation of that enterprise be deemed to be income of that enterprise derived from sources in that Contracting State.

(3) The provisions of sub-paragraph (*a*) of paragraph (2) of Article 23 shall not apply in relation to income derived by a resident of France from sources in any of the Territories described in sub-paragraph (*a*) of paragraph (1) of Article 2, or from sources in the area described in that sub-paragraph, if Australian tax does not apply in relation to that income.

Article 23. RELIEF FROM DOUBLE TAXATION

(1) Subject to the provisions of the law of Australia from time to time in force which relate to the allowance of a credit against Australian tax of tax paid in a country outside Australia, French tax paid, whether directly or by deduction, in respect of income derived by a person who is a resident of Australia from sources in France (not including, in the case of a dividend, tax paid in respect of the profits out of which the dividend is paid) shall be allowed as a credit against Australian tax payable in respect of that income.

(2) In the case of France, double taxation shall be avoided in the following manner:

(*a*) Income derived by a resident of France other than that mentioned in sub-paragraph (*b*) below shall be exempt from the French taxes mentioned in sub-paragraph (*b*) of paragraph (1) of Article 1 where the income may, under this Agreement, be taxed in Australia.

(*b*) As regards income to which Article 9, 10, 11, 15 or 16 applies, France may tax the income but shall allow to a resident of France receiving the income from Australia a tax credit corresponding to the amount of tax levied by Australia. The tax credit, not exceeding the amount levied by France on such income, shall be allowed against a tax mentioned in sub-paragraph (*b*) of paragraph (1) of Article 1, in the base of which that income is included.

(*c*) Notwithstanding the provisions of sub-paragraph (*a*), French tax may be computed on income chargeable in France by virtue of this Agreement at the rate appropriate to the total income chargeable in accordance with French law.

(*d*) Where a company which is a resident of France redistributes dividends received from a company which is a resident of Australia and has paid a prepayment (*précompte*) in respect of the redistribution under deduction of the Australian tax credit referred to in sub-paragraph (*b*), the shareholders who are residents of France shall be entitled to a tax credit (*avoir fiscal*) in accordance with the French tax law as if the deduction under sub-paragraph (*b*) had not been made.

(3) In the event that a Contracting State should cease to allow a company which is a resident of that State relief from its tax in respect of dividends paid to it by a company which is a resident of the other Contracting State, being relief available under the taxation law of the first-mentioned State as in force at the date of signature of this Agreement, that State will immediately advise the other State of the change and enter into negotiations with it to establish new provisions concerning the relief to be allowed in the first-mentioned State under this Article in respect of that State's tax on the dividends.

Article 24. COMPLAINTS BY TAXPAYERS

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

(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 with the competent authority of the other Contracting State, with a view to the avoidance of taxation not in accordance with this Agreement.

(3) The competent authorities of the Contracting States shall jointly endeavour to resolve any difficulties arising as to the application of this Agreement.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of this Agreement.

Article 25. EXCHANGE OF INFORMATION

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement or of the domestic laws of the Contracting States concerning the taxes to which this Agreement applies in so far as the taxation thereunder is not contrary to this Agreement. Any information received by the competent authority of a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes to which this Agreement applies and shall be used only for such purposes.

(2) In no case shall the provisions of paragraph (1) be construed so as to impose on a Contracting State 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 to supply information the disclosure of which would be contrary to public policy.

Article 26. DIPLOMATIC AND CONSULAR PRIVILEGES

(1) Nothing in this Agreement shall affect diplomatic or consular privileges under the general rules of international law or under the provisions of special international agreements.

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

Article 27. EXTENSION TO TERRITORIES

(1) This Agreement may be extended, either in its entirety or with any necessary modifications, by agreement between the Contracting States, to:

(*a*) any Territory for whose international relations Australia is responsible; or

(*b*) any Overseas Territory of the French Republic, which imposes taxes substantially similar in character to those to which this Agreement applies.

Any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting States in Letters to be exchanged through diplomatic channels for this purpose.

(2) Unless otherwise agreed by both Contracting States, if this Agreement is terminated under Article 29, this Agreement shall cease to be effective in relation to any Territory to which it has been extended under paragraph (1).

Article 28. ENTRY INTO FORCE

(1) This Agreement shall enter into force on the date on which notes are exchanged through the diplomatic channel notifying that the last of all such things has been done in Australia and France as is necessary to bring the Agreement into force in Australia and France so far as its provisions affect Australian tax and French tax respectively and shall thereupon have effect:

(*a*) in Australia:

(i) in respect of withholding tax on income that is derived by a non-resident, in respect of income derived on or after 1 January 1973;

(ii) in respect of other Australian tax, for any year of income beginning on or after 1 July 1972;

(*b*) in France:

(i) for withholding tax and prepayment (*précompte*) relating to any amounts payable on or after 1 January 1973;

(ii) in respect of other French tax for the assessment year 1972 and subsequent years.

(2) Nothing in this Agreement shall affect the operation of the Agreement between the Governments of the Contracting States for the avoidance of double taxation of income derived from international air transport signed in Canberra on 27 March 1969.[1]

Article 29. DURATION OF AGREEMENT

This Agreement shall continue in effect indefinitely, but either Contracting State may, on or before 30 June in any calendar year after the year 1977, give to the other Contracting State notice of termination and, in that event, this Agreement shall cease to be effective:

(*a*) in Australia:

(i) in respect of withholding tax on income that is derived by a non-resident, in respect of income derived on or after the commencement of the financial year beginning on 1 July in the calendar year next following that in which the notice is given;

(ii) in respect of other Australian tax, for the year of income beginning on 1 July in the calendar year next following that in which the notice is given, and subsequent years of income;

[1] United Nations, *Treaty Series*, vol. 753, p. 57.

(*b*) in France:

(i) for withholding tax and prepayment (*précompte*) relating to any amounts payable on or after 1 July in the calendar year next following that in which the notice is given;

(ii) in respect of other French tax for the assessment year next following the calendar year in which the notice is given, and subsequent years.

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

DONE in duplicate at Canberra this day of April 13, 1976, One thousand nine hundred and seventy-six in the French and English languages, both texts being equally authoritative.

[*Signed*]
For the Government
of the French Republic:
RAYMOND BARRE

[*Signed*]
For the Government
of Australia:
PHILLIP R. LYNCH