No. 19646

FRANCE
and
REPUBLIC OF KOREA

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Paris on 19 June 1979

Authentic texts: French and Korean.
Registered by France on 12 March 1981.

FRANCE
et
RÉPUBLIQUE DE CORÉE

Convention tendant à éviter les doubles impositions et à prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signée à Paris le 19 juin 1979

Textes authentiques : français et coréen.
Enregistrée par la France le 12 mars 1981.

[TRANSLATION — TRADUCTION]

CONVENTION[1] BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE REPUBLIC OF KOREA 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 the Republic of Korea,

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

Have agreed as follows:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

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

(*a*) In the case of France:

(i) The income tax;

(ii) The corporation tax;

including any withholding tax, prepayment or advance payment with respect to the aforesaid taxes;

(hereinafter referred to as "French tax");

(*b*) In the case of Korea:

(i) The income tax;

(ii) The corporation tax;

(iii) The inhabitant tax;

(hereinafter referred to as "Korean tax").

2. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the States shall notify each other of substantial changes which have been made in their respective taxation laws.

Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention, unless the context otherwise requires:

(*a*) The terms "one of the States" and "the other State" mean Korea or France as the context requires;

[1] Came into force on 1 February 1981, i.e., the first day of the second month following the month of the last of the notifications (effected on 5 and 27 December 1980) by which the Parties notified each other of the completion of the procedures required by their legislation, in accordance with article 29 (1).

(*b*) The term "Korea" means the Republic of Korea;

(*c*) The term "France" means the French Republic;

(*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 body corporate for tax purposes;

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

(*g*) The term "national" means:

(i) Any individual possessing the nationality of one of the States;

(ii) Any legal person, partnership or association deriving its status as such from the law in force in one of the States;

(*h*) The term "competent authority" means:

(i) In the case of France, the Minister for the Budget or his authorized representative;

(ii) In the case of Korea, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by one of the States, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4. FISCAL DOMICILE

1. For the purposes of this Convention, the term "resident of one of the States" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of head or main office, place of management or any other criterion of a similar nature. However, this term does not include any person who is liable to tax in that State in respect only of income from sources in that State.

2. Where by reason of the provisions of paragraph 1 an individual is a resident of both States, then his status shall be determined as follows:

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

(*b*) If the 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 State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

(*d*) If he is a national of both States or of neither of them, the competent authorities of the 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 States, then it shall be deemed to be a resident

of the State in which its place of effective management is situated. If a place of effective management is deemed to be situated in both States, the competent authorities of the States shall settle the question by mutual agreement.

Article 5. PERMANENT ESTABLISHMENT

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

2. The term "permanent establishment" includes especially:

(*a*) A place of management;

(*b*) A branch;

(*c*) An office;

(*d*) A factory;

(*e*) A workshop;

(*f*) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

(*g*) A building site or a construction, installation or assembly project which exists for more than six months;

(*h*) An installation used for prospecting for natural resources which exists for more than six months.

3. An enterprise of one of the States shall be deemed to have a permanent establishment in the other State if it furnishes supervisory, technical or any other kind of services in connection with a building site or a construction, installation or assembly project through an employee or any person, other than an agent of an independent status to whom paragraph 6 applies, where such employee or person is present in that other State for a period or periods exceeding in the aggregate six months within any 12-month period.

4. Notwithstanding the preceding provisions of this article, the term "permanent establishment" shall be deemed not to include:

(*a*) The use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(*b*) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

(*c*) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(*d*) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(*e*) The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person —other than an agent of an independent status to whom paragraph 6 applies—is acting on behalf of an enterprise and has and habitually exercises in one of the

States an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in one of the States merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

7. The fact that a company which is a resident of one of the States controls or is controlled by a company which is a resident of the other State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6. INCOME FROM IMMOVABLE PROPERTY

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

2. The term "immovable property" shall be defined in accordance with the taxation law of the State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

4. The provisions of paragraphs 1 and 3 shall also apply to income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7. BUSINESS PROFITS

1. The profits of an enterprise of one of the States shall be taxable only in that State unless the enterprise carries on business in the other 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. Subject to the provisions of paragraph 3, where an enterprise of one of the States carries on business in the other State through a permanent establishment situated therein, there shall in each 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

business of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

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

Article 8. SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic by an enterprise of one of the States shall be taxable only in that State.

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

Article 9. ASSOCIATED ENTERPRISES

Where:

(*a*) An enterprise of one of the States participates directly or indirectly in the management, control or capital of an enterprise of the other State, or

(*b*) The same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the States and an enterprise of the other State

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10. DIVIDENDS

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

2. However, such dividends may also be taxed in the State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(*a*) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;

(*b*) 15 per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. (*a*) Where a resident of Korea receives dividends from a company being a resident of France and such dividends would give rise to a tax credit if received by a resident of France, he shall be eligible for a payment from the French Treasury

in an amount equal to such tax credit, subject to the deduction provided for in paragraph 2 (*b*) of this article;

(*b*) The provisions of subparagraph (*a*) of this paragraph shall apply only to residents of Korea who are:

(i) Individuals; or

(ii) Companies which hold directly or indirectly less than 10 per cent of the capital of the French company paying such dividends.

(*c*) The provisions of subparagraph (*a*) of this paragraph shall not apply where the person receiving the payment from the French Treasury referred to in subparagraph (*a*) of this paragraph is not subject to Korean tax on such payment;

(*d*) Payments made by the French Treasury of the type described in subparagraph (*a*) of this paragraph shall be deemed to be dividends for the purpose of the application of this Convention.

4. A resident of Korea who receives dividends paid by a company being a resident of France and who is not eligible for the payment referred to in paragraph 3 in respect of such dividends shall be entitled to a refund of any prepayment made in respect of the dividends paid by that company. Such prepayment shall be refunded subject to the deduction of the tax chargeable according to the domestic laws and the provisions of paragraph 2.

The gross amount of the prepayment refunded shall be deemed to be a dividend for the purpose of the application of this Convention.

5. The term "dividends" as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

6. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the dividends, being a resident of one of the States, carries on business in the other State, of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of article 7 or article 14, as the case may be, shall apply.

7. Where a company which is a resident of one of the States has a permanent establishment in the other State, the profits of such permanent establishment may, after payment of the corporation tax, be subjected, in accordance with the laws of that other State, to tax at a rate not exceeding 5 per cent.

Article 11. INTEREST

1. Interest arising in one of the States and paid to a resident of the other State may be taxed in that other State.

2. However, such interest may be taxed in the State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of

the interest, the tax so charged shall not exceed 15 per cent of the amount of the interest.

3. Notwithstanding the provisions of paragraph 2:

(*a*) Interest arising in one of the States and paid to a resident of the other State in respect of a bond, debenture or similar obligation of the Government of the first-mentioned State or of a political subdivision or local authority thereof shall be taxable only in that other State, provided that the beneficial owner of the interest is a resident of the other State.

(*b*) Interest arising in one of the States in respect of loans or credits which have been made, granted or guaranteed,

—In the case of Korea, by the Bank of Korea or by the Export-Import Bank of Korea,

—In the case of France, by the Bank of France or by the French Bank for External Trade *(Banque française pour le commerce extérieur)*,

and paid to a resident of the other State shall be taxable only in that other State, provided that such loans are made or such credits are granted in connection with the sale, supply or survey of industrial or scientific equipment or premises or public works or studies relating thereto.

4. The term "interest" as used in this article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind, as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the interest, being a resident of one of the States, carries on business in the other State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of article 7 or article 14, as the case may be, shall apply.

6. Interest shall be deemed to arise in one of the States when the payer is that State itself, a political subdivision, a local authority, a public agency or a resident of that State. Where, however, the person paying the interest, whether he is a resident of one of the States or not, has in either State a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

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

Article 12. ROYALTIES

1. Royalties arising in one of the States and paid to a resident of the other State may be taxed in that other State.

2. However, such royalties may also be taxed in the State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties, the tax so charged shall not exceed:

(*a*) 15 per cent of the gross amount of the royalties as defined in paragraph 3(*a*); and

(*b*) 10 per cent of the gross amount of the royalties as defined in paragraph 3(*b*).

3. The term "royalties" as used in this article means payments of any kind received as a consideration:

(*a*) For the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and works recorded for radio or television; and

(*b*) For the use of, or the right to use, any patent, trade mark, design or model, plan, secret formula or process or any industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of one of the States, carries on business in the other State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such cases, the provisions of article 7 or article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in one of the States when the payer is that State itself, a political subdivision, a local authority, a public agency or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of one of the States or not, has in either State a permanent establishment or a fixed base with which the right or property giving rise to the royalties is effectively connected and by which the royalties are borne, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both or them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each State, due regard being had to the other provisions of this Convention.

Article 13. CAPITAL GAINS

1. Capital gains from the alienation of immovable property, as defined in article 6, paragraph 2, or from the alienation of shares or similar rights in a real

property co-operative or in a company the assets of which consist principally of such property may be taxed in the State in which such property is situated.

2. Capital gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of one of the States has in the other State or of movable property pertaining to a fixed base available to a resident of one of the States in the other State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State. However, capital gains 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 the State of which the enterprise is a resident.

3. Capital gains from the alienation of shares forming part of a substantial interest in the capital stock of a company which is a resident of one of the States may be taxed in that State in accordance with its taxation laws. For the purposes of this paragraph, there is deemed to exist a substantial interest where the alienator, alone or together with associated or related persons, owns directly or indirectly shares the totality of which confers entitlement to 25 per cent or more of the profits of the company.

4. Capital gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the State of which the alienator is a resident.

5. The provisions of paragraph 4 shall not affect the right of one of the States to levy according to its own laws a tax on the capital gains derived from the alienation of movable property by an individual who is a resident of the other State and has been a resident of the first-mentioned State at any time during the five years immediately preceding the alienation of the property.

Article 14. INDEPENDENT PERSONAL SERVICES

1. Remuneration which an individual who is a resident of one of the States derives in respect of professional services or other independent activities of a similar nature shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, remuneration which an individual who is a resident of one of the States derives in respect of professional services or other independent activities of a similar nature performed in the other State may also be taxed in that other State if:

(*a*) The individual is present in the other State for a period or periods exceeding in the aggregate 183 days in the fiscal year concerned, or

(*b*) Such remuneration is deductible for the purpose of computing the income of a person subject to taxation in that other State, or

(*c*) The individual maintains a fixed base in that other State for a period or periods exceeding in the aggregate 183 days in the fiscal year concerned, but only to the extent that such remuneration is attributable to that fixed base.

Article 15. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of one of the States in respect

of an employment shall be taxable only in that State unless the employment is exercised in the other 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 one of the States in respect of an employment exercised in the other 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;

(*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 provisions of paragraphs 1 and 2, remuneration derived by a resident of one of the States in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in that State.

Article 16. DIRECTOR'S FEES

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

Article 17. ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of articles 14 and 15, income derived by a resident of one of the States as an entertainer, such as a theatre, motion picture, radio or television artist, or a musician, or as an athlete, from his personal activities as such exercised in the other State may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 7, 14 and 15, be taxed in the State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraph 1, remuneration or profits and salaries, wages and other similar income which entertainers and athletes derive from their personal activities as such in one of the States shall be taxable only in the other State if their visit to the first-mentioned State is supported substantially from the public funds of that other State itself or of one of its political subdivisions or local authorities, or of one of the public agencies thereof.

4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities as such of an entertainer or an athlete in one of the States accrues to a person other than the entertainer or athlete himself, then, notwithstanding the provisions of articles 7, 14 and 15, that income shall be taxable only in the other State if the person is supported substantially from the public funds of that other State itself or of one of its political subdivisions or local authorities or of one of the public agencies thereof, or if the person is a non-profit organization of that other State.

Article 18. PENSIONS

Subject to the provisions of article 19, paragraph 2, pensions and other remuneration arising in one of the States and paid in consideration of past employment to a resident of the other State may be taxed in the first-mentioned State.

Article 19. GOVERNMENT SERVICE

1. Remuneration, other than a pension, paid by the State itself or by one of its political subdivisions or local authorities, or by one of the public agencies thereof, to an individual in respect of services rendered to that State or subdivision or authority or agency shall be taxable only in that State.

2. Any pension paid directly by, or indirectly out of funds created by, the State itself or by one of its political subdivisions or local authorities or by one of the public agencies thereof to an individual in respect of services rendered to that State or subdivision or authority or agency shall be taxable only in that State.

3. The provisions of articles 15, 16 and 18 shall apply to remuneration or pensions in respect of services rendered in connection with a business carried on by the State itself or by one of its political subdivisions or local authorities or by one of the public agencies thereof.

Article 20. STUDENTS AND APPRENTICES

1. An individual who is or was immediately before visiting one of the States a resident of the other State and who is present in the first-mentioned State solely as a student at a university, college, school or other similar recognized educational institution in the first-mentioned State, or as an apprentice in a business enterprise therein, for a period not exceeding five years from the date of his initial arrival in the first-mentioned State in connection with that visit, shall be exempt from tax in the first-mentioned State on:

(*a*) All remittances from abroad for the purposes of his maintenance, education or training; and

(*b*) Any remuneration in result of personal services rendered in the first-mentioned State with a view to supplement the resources available to him for such purposes.

2. An individual who is or was immediately before visiting one of the States a resident of the other State and who is present in the first-mentioned State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from either State or one of the political subdivisions or local authorities of that State or one of the public institutions thereof, or from a scientific, educational, religious or charitable organization, or under a technical assistance programme entered into by either State or one of the political subdivisions or local authorities of that State or one of the public institutions thereof, for a period not exceeding five years from the date of his first arrival in the first-mentioned State in connection with that visit, shall be exempt from tax in the first-mentioned State on:

(*a*) The amount of such grant, allowance or award;

(*b*) All remittances from abroad for the purposes of his maintenance, education or training; and

(*c*) Any remuneration in respect of personal services in the first-mentioned State, provided that such services are performed in connection with his studies, research or training or are incidental thereto.

3. An individual who is or was immediately before visiting one of the States a resident of the other State and who is present in the first-mentioned State solely as an employee of, or under contract with, either State or one of the political subdivisions or local authorities of that State or one of the public institutions thereof, or of an enterprise of the other State, solely for the purpose of acquiring technical, professional or business experience, for a period not exceeding two years from the date of his first arrival in the first-mentioned State in connection with that visit, shall be exempt from tax in the first-mentioned State in respect of:

(*a*) All remittances from abroad for the purposes of his maintenance, education or training; and

(*b*) Any remuneration in respect of personal services in the first-mentioned State, provided that such services are performed in connection with his studies or training or are incidental thereto.

Article 21. TEACHERS AND RESEARCHERS

1. A teacher or researcher who is or was immediately before visiting one of the States resident in the other State and who is present in the first-mentioned State for the purpose of teaching or engaging in research shall be exempt from tax in that State for a period not exceeding two years on remuneration received in respect of such activities.

2. This article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22. INCOME NOT EXPRESSLY MENTIONED

1. Items of income of a resident of one of the States, wherever arising, not dealt with in the foregoing articles of this Convention shall be taxable only in that State. However, if such income is derived from sources in the other State, it may also be taxed according to the law of that other State.

2. The provisions of paragraph 1 shall not apply if the recipient of such income, being a resident of one of the States, carries on business in the other State through a permanent establishment situated therein, or performs in that other State professional services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of article 7 or article 14, as the case may be, shall apply.

Article 23. METHODS FOR THE ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoid in the following manner:

1. In the case of Korea, Korea shall allow to a resident of Korea as a credit against Korean tax the amount of tax paid or to be paid to France. Such amount shall be based on the amount of tax paid or to be paid to France but shall not exceed that proportion of Korean tax which the income from French sources bears to the entire income subject to Korean tax.

2. In the case of France:

(*a*) Income other than that mentioned in subparagraph (*b*) below shall be exempt from the French taxes mentioned in article 2, paragraph 1(*a*), where such income is taxable in Korea under this Convention.

(*b*) Income mentioned in articles 10, 11, 12, 13, 14, 16, 17 and 22 and arising in Korea may be taxed in France. Residents of France shall be entitled to a tax credit corresponding to the amount of Korean tax levied on such income in accordance with the provisions of this Convention but not exceeding the amount of French tax levied on such income. This credit shall be allowed against the taxes mentioned in article 2, paragraph 1(*a*), in the bases of which such income is included.

(*c*) For the purposes of subparagraph (*b*) and in respect of items of income dealt with in articles 10, 11 and 12, the amount of Korean tax levied shall be deemed to be equal to 20 per cent of the gross amount of such items of income.

(*d*) Notwithstanding the provisions of subparagraphs (*a*) and (*b*), French tax shall be computed on income chargeable in France under this Convention at the rate appropriate to the total of the income chargeable in accordance with French law.

Article 24. NON-DISCRIMINATION

1. Nationals of one of the States, whether or not residents of either State, shall not be subjected in the other 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 taxation on a permanent establishment which an enterprise of one of the States has in the other 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 one of the States to grant to residents of the other 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.

3. Except where the provisions of article 9, article 11, paragraph 7, or article 12, paragraph 6, apply, interest, royalties and other disbursements paid by an enterprise of one of the States to a resident of the other State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

4. Enterprises of one of the States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other State, shall not be subjected in the first-mentioned 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 the first-mentioned State are or may be subjected.

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

Article 25. MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the States result or will result for him in taxation not in accordance with this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the State of which he is a resident or, if his case comes under article 24, paragraph 1, to that of the State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

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 a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other State, with a view to the avoidance of taxation which is not in accordance with this Convention.

3. The competent authorities of the States shall endeavour to resolve by mutual agreement any difficulties arising as to the application of the Convention.

They may also consult together for the elimination of double taxation in respect of taxes to which the Convention applies in cases not provided for in the Convention.

4. The competent authorities of the 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 States.

5. The competent authorities of the States shall establish by mutual agreement the modalities for the application of this Convention, including the formalities which residents of one of the States shall be required to fulfil in order to obtain in the other State the tax reductions or exemptions provided for in this Convention.

Article 26. EXCHANGE OF INFORMATION

1. The competent authorities of the States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the States concerning taxes covered by the Convention, in so far as the taxation thereunder is not contrary to the Convention, or for the prevention of fraud or for the administration of statutory provisions against avoidance in relation to taxes covered by the Convention. The exchange of information is not restricted by article 1. Any information received by one of the States 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) involved in the assessment or collection of, the prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention. Such persons or authorities shall use the information only for such purposes. Those persons or authorities may disclose the information in public court proceedings or in judicial decisions.

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

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

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

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

Article 27. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and their private servants, members of consular posts and members of permanent missions to international organizations under the general rules of international law or under the provisions of special agreements.

2. Notwithstanding the provisions of article 4, an individual who is a member of a diplomatic mission, consular post or permanent mission of one of the States which is situated in the other State or in a third State shall be deemed for the purposes of this Convention to be a resident of the sending State if:

(*a*) In accordance with international law, he is not liable to tax in the receiving State in respect of income from sources outside that State, and

(*b*) He is liable in the sending State to the same obligations in relation to tax on his total income as are residents of that State.

3. This Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in one of the States and not treated in either State as residents in respect of taxes on income.

Article 28. TERRITORIAL SCOPE

1. This Convention shall apply:

(*a*) With respect to Korea, to all the territory of the Republic of Korea in which the laws relating to Korean tax are in force, to the territorial sea thereof and to the sea-bed and subsoil of the submarine areas adjacent to the coast thereof, but beyond the territorial sea, over which Korea exercises sovereign rights, in accordance with international law, for the purpose of exploration and exploitation of the natural resources of such areas;

(*b*) With respect to France, to the European and Overseas Departments of the French Republic and to any areas outside the territorial waters of those Departments over which, in accordance with international law, France may exercise rights with respect to the sea-bed and subsoil and their natural resources.

2. This Convention may be extended, either in its entirety or with any necessary modifications, to the Overseas Territories of the French Republic which impose taxes substantially similar in character to those to which the Convention 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 agreed between the Contracting States in notes to be exchanged through the diplomatic channel or in any other manner in accordance with their constitutional procedures.

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

Article 29. ENTRY INTO FORCE

1. Each of the Contracting States shall notify to the other the completion of the procedure required by its law for the bringing into force of this Convention. The Convention shall enter into force on the first day of the second month following that in which the latter of such notifications is given.

2. This Convention shall have effect:

(*a*) In respect of taxes withheld at source, for amounts payable on or after 1 January of the year in which it was signed;

(*b*) In respect of other taxes on income,

—In the case of individuals, for income derived during the year in which this Convention was signed and during subsequent years,

—In the case of companies, for income derived in any accounting period ended during the year in which this Convention was signed and during subsequent years.

Article 30. TERMINATION

1. This Convention shall remain in force indefinitely. However, after the fifth year following the year in which it was signed, either State may, by giving at least six months' notice of termination through the diplomatic channel, denounce the Convention for the end of a calendar year.

2. In such event, this Convention shall cease to have effect:

(*a*) In respect of taxes withheld at source, for amounts payable after 31 December of the year for the end of which termination has been notified;

(*b*) In respect of other taxes on income:

—In the case of individuals, for income derived during the year following the year for the end of which termination has been notified and during subsequent years,

—In the case of companies, for income derived in any accounting period ended during the year following the year for the end of which termination has been notified and during subsequent years.

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

DONE at Paris on 19 June 1979, in duplicate in the French and Korean languages, both texts being equally authentic.

For the Government of the French Republic:	For the Government of the Republic of Korea:
[MAURICE PAPON]	[HYON-HWACK-SHIN]

PROTOCOL

At the time of signature of the Convention concluded between the Government of the French Republic and the Government of the Republic of Korea for the avoidance of double

taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed that the following provisions shall form an integral part of the Convention:

Article 1. 1. In respect of article 2, paragraph 1 (*b*), it is understood that the Convention shall apply to the Korean defence tax where such tax is charged with reference to the income tax or the corporation tax.

2. In respect of article 7, paragraphs 1 and 2, where an enterprise of one of the States sells goods or merchandise or carries on business in the other State, including the carrying out of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises and public works, and where it has a permanent establishment situated in that other State, the profits of such permanent establishment shall not be determined on the basis of the total amount received by the enterprise but shall be determined only on the basis of the amount attributable to the actual activity of the permanent establishment in respect of such sales or such business or only on the basis of that part of the contract which is carried out by the permanent establishment. However, this provision shall not prevent the State in which the permanent establishment is situated from determining the taxable profit of such permanent establishment on the basis of the total amount received by the enterprise in cases where the enterprise fails to observe the requirements laid down by the law or the regulations of that State or the requirements of normal accounting practice, which are necessary in order to determine the net profits attributable to such permanent establishment.

3. In respect of article 11, paragraph 3, loans and credits shall be deemed to be guaranteed by one of the banking establishments referred to in that paragraph, where such loans are made or such credits are granted from funds provided by the banking establishment.

4. In respect of article 12, paragraph 3, remuneration paid for specific studies or surveys of a scientific, geological or technical nature, for specific engineering services or for consultancy or supervisory services shall not be deemed to be remuneration for information concerning industrial, commercial or scientific experience.

5. In respect of article 19, the provisions of paragraphs 1 and 2 of this article shall apply, in the case of Korea, to remuneration or pensions paid by the Bank of Korea, the Korea Exchange Bank, the Export-Import Bank of Korea and the Korea Trade Promotion Corporation.

6. In respect of article 24, nothing in paragraph 1 shall be interpreted as preventing France from granting solely to persons of French nationality the benefit of exemption of the gains derived from the alienation of immovable property or portions thereof constituting the residence in France of French persons who are not domiciled in France, as provided for in article 150 C of the General Tax Code *(Code général des impôts)*.

7. In respect of article 24, nothing in paragraph 3 shall be interpreted as preventing France from applying the provisions of article 212 of the General Tax Code in the case of interest paid by a French company to a foreign parent company.

Article 2. This protocol shall remain in force as long as the Convention signed this day between the Government of the French Republic and the Government of the Republic of Korea for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income continues in effect.

DONE at Paris on 19 June 1979, in duplicate in the French and Korean languages, both texts being equally authentic.

For the Government of the French Republic:	For the Government of the Republic of Korea:
[MAURICE PAPON]	[HYON-HWACK-SHIN]