No. 20767

FRANCE
and
ARGENTINA

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital (with protocol). Signed at Buenos Aires on 4 April 1979

Authentic texts: French and Spanish.

Registered by France on 25 February 1982.

FRANCE
et
ARGENTINE

Convention en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu et sur la fortune (avec protocole). Signée à Buenos Aires le 4 avril 1979

Textes authentiques : français et espagnol.

Enregistrée par la France le 25 février 1982.

[TRANSLATION — TRADUCTION]

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

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

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

Have agreed as follows:

Article 1. PERSONAL SCOPE

This Convention shall apply to persons who are residents of one State or of the two States.

Article 2. TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed on behalf of one State or of its political subdivisions, irrespective of the manner in which they are levied.

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

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

a) In the case of France:

(i) The income tax;

(ii) The company 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 Argentina:

(i) The profits tax *(el impuesto a las ganancias)*;

(ii) The capital appreciation *(el impuesto a los beneficios de carácter eventual)*;

(iii) The company capital tax *(el impuesto al capital de las empresas)*;

(iv) The tax on net capital *(el impuesto al patrimonio neto)*

(Hereinafter referred to as "Argentine tax").

[1] Came into force on 1 March 1981, i.e., the first day of the second month following the date of the last of the notifications (effected on 14 and 15 January 1981) by which the Parties informed each other of the completion of the procedures required by their legislation, in accordance with article 30 (1).

4. The Convention shall apply also to any identical or substantially similar taxes which are imposed after the date of signature of the Convention in addition to, or in place of, the existing taxes. The competent authorities of the States shall notify each other of any important 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 State" and "the other State" mean, as the case may be, France or Argentina;

b) The term "person" includes an individual, a company and any other body of persons;

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

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

e) The term "nationals" means:

(i) All individuals possessing the nationality of one State;

(ii) All legal persons, partnerships and associations deriving their status as such from the legislation in force in a State;

f) The term "international transport" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in one State, except when the ship or aircraft is operated solely between places in the other State;

g) The term "competent authority" means:

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

(ii) In the case of Argentina, the Minister of the Economy (Secretariat of State for Finances).

2. As regards the application of the Convention by a State, 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. RESIDENT

1. For the purposes of this Convention, the term "resident of a State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

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

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business 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 purchasing office.

3. A construction or assembly site shall not constitute a permanent establishment unless it is in operation for more than six months.

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 belonging to the enterprise;

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

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

d) The use of a fixed place of business solely for the purpose of collecting information for the enterprise;

e) The use of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

f) The use of a fixed place of business solely for any combination of activities mentioned in subparagraphs (*a*) to (*e*) above, provided that the overall activity

of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

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 State, 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 a 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 a State 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 a State 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 derived by a resident of one State from immovable property (including income from agriculture or forestry) situated in the other State may be taxed in that other State.

2. The term "immovable property" shall have the meaning which it has under the 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 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 independent personal services.

Article 7. BUSINESS PROFITS

1. The profits of an enterprise of a State 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 a State 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. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

Article 8. SHIPPING AND AIR TRANSPORT

1. Profits form the operation, in international transport, of ships or aircraft shall be taxable only in the State in which the place of effective management of the enterprise is situated.

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the State of which the operator of the ship is a resident.

3. 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 State 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 State 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 the enterprise, 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 State 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 15 per cent of the gross amount of the dividends.

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

3. The term "dividends" as used in this article means income from shares, *jouissance* shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights 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.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of one State, 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 case the provisions of article 7 or article 14, as the case may be, shall apply.

5. A resident of Argentina who receives dividends paid by a company which is a resident of France may obtain reimbursement of the prepayment related to these dividends paid, should such be the case, by this company. This reimbursement is taxable in France in conformity with the provisions of paragraph 2.

The gross amount of the reimbursed prepayment is considered as a dividend for the purpose of the general application of the provisions of this Convention.

6. Where a company which is a resident of one State derives profit or income from the other State, that other State may not impose any tax on the dividends paid by the company, except in so far as such dividends are paid to a resident of that other State or in so far as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

7. Notwithstanding the provisions of paragraph 6, where a company resident in Argentina carries on business in France through a permanent establishment situated therein, the profits from this permanent establishment may, after the payment of company tax, be subjected, in conformity with French legislation, to a tax the amount of which may not exceed 5 per cent.

8. Where a resident of France has a permanent establishment in Argentina, the total amount of the Argentina tax on the profits of this permanent establishment, whether applied to this permanent establishment as such, to the resident or to both, may not exceed the total tax chargeable under Argentine legislation on the profits of a capital company domiciled in Argentina, increased by an amount equal to 15 per cent of these taxes determined after deduction of the above tax on company profits.

Article 11. INTEREST

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

2. However, such interest may also 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 20 per cent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2,

a) The interest paid by a State or by a public establishment of that State to the other State or to a public establishment of the other State shall be taxable only in that other State;

b) The interest arising in one State and paid to a resident of the other State is taxable only in that other State if it is paid as a result of a loan made, endorsed or insured or of a credit consented, endorsed or insured by a public establishment of that other State:

(i) In the case of Argentina, this provision shall apply to the Central Bank of the Argentine Republic, to the National Development Bank (Banco Nacional de Desarrollo) and to the Bank of the Argentine Nation (Banco de la Nación Argentina).

(ii) In the case of France, this provision shall apply to the Bank of France, the French Bank for External Commerce (B.F.C.E.) and to the French Insurance Company for Overseas Trade (C.O.F.A.C.E.).

The competent authorities of the two States shall determine by common agreement the other public establishments to which the provisions of this paragraph may be extended.

4. The term "interest" as used in this article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities, bonds or debentures.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of one State, 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 it. 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 a State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a State or not, has in a State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount

of interest, 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 beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payment shall remain taxable according to the laws of each State, due regard being had to the other provisions of this Convention.

Article 12. ROYALTIES

1. Royalties arising in one State 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 18 per cent of the gross amount of the royalties with regard to:

a) The use of, or the right to use, any copyright of literary, artistic or scientific work;

b) The payments referred to in paragraph 3 *b*) and *c*) of this article. However, the limitation of the tax rate shall apply on the Argentine side only to the extent that the contracts giving rise to these payments have been approved by the Argentine authorities in conformity with the provisions of the law on the transfer of technology.

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

a) For the use of, or the right to use any international information or any copyright of literary, artistic or scientific work, including cinematograph films and works recorded for radio or television broadcasting or for the use of, or the right to use, industrial, commercial or scientific equipment;

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

c) For studies or research of a scientific or technical nature concerning industrial, commercial or administrative methods or processes.

4. The provisions of paragraphs 1 and 3 shall not apply if the effective recipient of the royalties, being a resident of one State, carries on business in the other State in which the royalties arise, through a permanent establishment situated therein, or performs independent personal services from a fixed base situated therein, and the right or property giving rise to the royalty is effectively connected with it. In such case, the provisions of article 7 or article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in one State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is resident of a State or not, has in one State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, 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 beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such 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. Gains derived by a resident of one State from the alienation of immovable property referred to in article 6 and situated in the other State may be taxed in that other State.

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

3. Gains from the alienation of ships or aircraft operated in international traffic or of movable property pertaining directly to such an activity shall be taxable only in the State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable according to the legislation of each State.

Article 14. INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of one State in respect of professional services or other similar activities of an independent character shall be taxable only in that State. However, such income may be taxed in the other State if:

a) The person concerned has a fixed base regularly available to him in the other State for the purpose of performing his activities; in that case, only the part of the income which is attributable to that fixed base may be taxed in that other State; or

b) The stay of the person concerned in the other State is for a period or periods amounting to or exceeding in the aggregate 183 days in the fiscal year concerned.

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

Article 15. DEPENDENT PERSONAL SERVICES

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

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

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

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

Article 16. REMUNERATION OF MANAGERIAL STAFF

1. Directors' fees and other similar payments derived by a resident of one 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.

2. The remuneration which the persons referred to in paragraph 1 receive for any other reason remains subject to the provisions of article 14 or article 15, as the case may be.

Article 17. ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of articles 14 and 15, income derived by a resident of one State as an entertainer, such as a theatre, motion picture, radio or television artiste, 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, the remuneration or profits and the salaries, wages and other similar payments which an artiste or an athlete, being resident of one State, derives from his personal activities exercised in the other State, and in that capacity, are taxable in the first-mentioned State only when these activities in the other State are financed to a large extent by the public funds of the first-mentioned State, of one of its political subdivisions or local authorities, or of one of its bodies corporate in public law.

4. Notwithstanding the provisions of paragraph 2, where the income from the activities which an artiste or an athlete exercises personally and in that capacity in one State is attributed not to the artiste or athlete himself but to another person, this income is taxable, notwithstanding the provisions of articles 7, 14 and 15, only in the other State when that other person is financed to a large extent by the public funds of that other State, of one of its political subdivisions or local

authorities, or of one of its bodies corporate in public law or when this other person is a non-profit-making body of that other State.

Article 18. PENSIONS

Pensions and other similar remuneration paid to a resident of one State are taxable only in the State from which they are derived.

Article 19. GOVERNMENTAL FUNCTIONS

1. Remuneration paid by one State or a political subdivision or local authority thereof, or by one of its bodies corporate in public law to an individual in respect of services rendered to that State or to that subdivision or authority, or to that body corporate in public law shall be taxable only in that State.

2. The provisions of articles 15, 16 and 18 shall apply to remuneration and pensions paid in respect of services rendered in connection with a business carried on by a State, one of its political subdivisions or local authorities, or by one of its bodies corporate in public law.

Article 20. STUDENTS

1. Payments which a student or business apprentice who is, or was immediately before visiting one State, a resident of the other State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training are not taxable in that State, provided that such payments arise from sources outside that State.

2. Notwithstanding the provisions of articles 14 and 15, the remuneration which a student or business apprentice who is or was immediately before visiting one State a resident of the other State and who is present in the first-mentioned State solely for the purpose of his education or training receives in respect of services rendered in the first-mentioned State are not taxable in the first-mentioned State, provided that these services are related to his education or training and provided that the remuneration of those services is necessary to supplement the resources he has for his maintenance.

Article 21. TEACHERS AND RESEARCHERS

1. The remuneration which a teacher or researcher who is or was immediately before visiting one State a resident of the other State and who is present in the first-mentioned State for the sole purpose of teaching or conducting research in that State receives in respect of those activities is not taxable in that State for a period not exceeding two years.

2. The provisions of paragraph 1 shall not apply to remuneration received in respect of research undertaken not in the public interest but mainly for the purpose of achieving a particular advantage benefiting one or more specific persons.

Article 22. OTHER INCOME

1. Items of income of a resident of one State, wherever arising, not dealt with in the foregoing articles of this Convention, shall be taxable only in that State.

2. The provisions of paragraph 1 shall not apply to income other than income from immovable property as defined in paragraph 2 of article 6, if the recipient of such income, being a resident of one State, carries on business in the other State through a permanent establishment situated therein, or performs in that other State independent personal 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. CAPITAL

1. Capital represented by immovable property referred to in article 6 owned by a resident of one State and situated in the other State may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of one State has in the other State, or by movable property pertaining to a fixed base available to a resident of one State in the other State for the purpose of performing independent personal services, may be taxed in that other State.

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

4. All other elements of capital shall be taxable according to the legislation of each State.

Article 24. METHODS FOR THE ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

1. In the case of Argentina:

Income derived from a French source obtained by a resident of Argentina shall be excluded from the base on which the Argentine tax is applied.

2. In the case of France:

a) Income other than that referred to in subparagraph *b*) below shall be exempt from the French taxes mentioned in subparagraph *a*) of paragraph 3 of article 2, when this income is taxable in Argentina under this Convention;

b) The income referred to in articles 10, 11, 12, 13, 14, 16, 17 and 22 derived from Argentina shall be taxable in France in conformity with the provisions of those articles, in respect of their total amount. The Argentine tax levied on this income shall entitle a resident of France to a tax credit corresponding to the amount of the Argentine tax charged but may not exceed the amount of the French tax in respect of such income. This credit may be applied to the income referred to in subparagraph *a*) of paragraph 3 of article 2, within the tax bases in which the income in question is included;

c) For the application of the provisions of subparagraph *b*) above and with regard to the income referred to in articles 11 and 12, the amount of the tax credit shall be equal to:

(i) 15 per cent of the total amount of income referred to in paragraph 3 *b*) of article 11, or of the interests which are exempted partially or totally by the Argentine Government in pursuance of a specific legal provision.

(ii) With regard to the income referred to in paragraph 3 *b*) and *c*) of article 12, 20 per cent of the total amount of this income.

d) Notwithstanding the provisions of subparagraphs *a*) and *b*), the French tax shall be calculated, on the income taxable in France under this Convention, at a rate corresponding to the total of the taxable income under French legislation.

Article 25. NON-DISCRIMINATION

1. Nationals of one 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. This provision shall, notwithstanding the provisions of article 1, also apply to persons who are not residents of one or both of the two States.

2. Stateless persons who are residents of one 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 the State concerned in the same circumstances are or may be subjected.

3. The taxation on a permanent establishment which an enterprise of one State 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 a State 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.

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

5. Enterprises of one State 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.

6. The provisions of this article shall, notwithstanding the provisions of article 2, apply to taxes of every kind and description.

Article 26. MUTUAL AGREEMENT PROCEDURE

1. When a person considers that the actions of one or both States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of the States, present his case to the competent authority of the State of which he

is a resident or, if his case comes under paragraph 1 of article 25, 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 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. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the States.

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

The competent authorities of the two States may in particular agree to strive to reach an agreement:

a) To ensure that the profits attributable to a permanent establishment situated in one State of an enterprise of the other State are attributed in an identical manner in the two States;

b) To ensure that the income accruing to a resident of one State and to an associated person referred to in article 9, who is a resident of the other State, are attributed in an identical manner.

They may also consult together with a view to eliminating double taxation in cases not provided for in the Convention.

4. The competent authorities of the two States may communicate directly with each other 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 two States.

5. The competent authorities of the two States shall regulate by mutual agreement the modalities for the application of the Convention and in particular the formalities to be accomplished by the residents of one State in order to obtain in the other State the reductions or exemptions provided for in the Convention.

Article 27. EXCHANGE OF INFORMATION

1. The competent authorities of the two 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. The exchange of information is not restricted to article 1. Any information received by one 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) involved in the assessment or collection of, the enforcement or 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.

They 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 a State the obligation:

a) To carry out administrative measures at variance with the laws and 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, professional secret or trade process or information the disclosure of which would be contrary to public policy *(ordre public)*.

Article 28. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

2. Notwithstanding the provisions of article 4, any individual who is a member of a diplomatic mission, a consular post or a permanent delegation of one State who is situated in the other State or in a third State shall be considered, for the purposes of this Convention, as a resident of the accrediting State, provided:

a) That, in conformity with international law, that individual is not subject to tax in the receiving State in respect of income from sources external to that State or on capital situated outside that State, and

b) That such an individual is subject in the accrediting State to the same obligations in the matter of taxes on his income or capital throughout the world as the residents of that State.

3. The 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 the territory of one State and who are not liable to the same obligations in relation to tax on income and capital as the residents thereof.

Article 29. TERRITORIAL SCOPE

1. This Convention shall apply

a) In the case of Argentina: To its territory.

b) In the case of France: To the European and overseas departments of the French Republic, including the territorial waters and the zones situated outside the territorial waters of those departments over which, in conformity with international law, France may exercise rights concerning the seabed, the marine 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 specified and agreed between the States in diplomatic notes or in any other manner in accordance with their constitutional procedures.

3. Unless otherwise agreed by the States, the termination of the Convention by one of them under article 31 shall terminate also, under the conditions provided for in this article, the application of the Convention to any territory to which it has been extended under this article.

Article 30. ENTRY INTO FORCE

1. Each of the States shall notify the other of the completion of the procedures required by its laws for the entry into force of this Convention. The Convention shall enter into force on the first day of the second month following the month in which the last of these notifications takes place.

2. The provisions of the Convention shall apply for the first time:

a) In respect of tax withheld at source, to sums payable from the date of the entry into force of the Convention;

b) In respect of other taxes on income and capital, to the elements of income and capital taxable in respect of the calendar year during which the Convention entered into force or relating to the financial exercise opened during that year.

3. The entry into force of this Convention shall terminate the Agreement dated 10 February 1950 concerning the reciprocal exemption from income tax of shipping and airline enterprises.

Article 31. TERMINATION

1. This Convention shall remain in force indefinitely. Each of the States may, after giving a minimum notice of six months, through the diplomatic channel, denounce it for the end of a calendar year.

2. In this case, its provisions shall apply for the last time:

a) In respect of taxes withheld at source, to sums payable at the latest on 31 December of the calendar year for which the denunciation has been notified;

b) In respect of other taxes on income and capital, to the elements of income and capital taxable in respect of the calendar year for the end of which the denunciation has been notified or relating to the financial exercise closed during that year.

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

DONE at Buenos Aires, on 4 April 1979, in two copies, in the French and Spanish languages, the two texts being equally authentic.

For the Government
of the French Republic:

[M. PAPON]

For the Government
of the Argentine Republic:

[C. W. PASTOR]

PROTOCOL

At the time of signing the Convention between the Government of the French Republic and the Government of the Argentine Republic for the avoidance of double taxation and the prevention of fiscal evasion in respect of taxes on income and capital, the undersigned have agreed that the following provisions are an integral part of the Convention:

1. In respect of paragraph 1 of article 3, the term "international transport" means also the utilization of containers by a shipping or air enterprise for the operation of international transport, from the place of loading of the goods or merchandise in containers as far as the place of unloading of these goods or merchandise.

2. In respect of article 6, income from shares or debentures in a company or body corporate possessing immovable property situated in France which, under French legislation, is subject to the same fiscal treatment as the income from immovable property shall be taxable in France.

3. *a*) In respect of paragraphs 1 and 2 of article 7, when an enterprise of one State sells goods or carries on business in the other State through a permanent establishment situated therein, the profits of this permanent establishment shall not be calculated on the basis of the total amount received by the enterprise but shall be calculated solely on the basis of the remuneration attributable to the real business of the permanent establishment for these sales or for this business.

In the case of contracts for the study, supply, installation or construction of industrial, commercial or scientific equipment or establishments, or public works, when the enterprise has a permanent establishment, the profits of this permanent establishment shall not be determined on the basis of the total amount of the contract but shall be determined solely on the basis of that part of the contract which is effectively executed by this permanent establishment in the State where this permanent establishment is situated. The profits relating to the part of the contract which is executed by the headquarters of the enterprise shall be taxable only in the State of which that enterprise is a resident. When these profits include elements of income dealt with separately in other articles of the Convention, the provisions of those articles shall not be affected by the provisions of this paragraph.

b) Notwithstanding the provisions of article 7, insurance enterprises which are residents of one State and which receive premiums relating to risks that may arise to property situated in the other State or to persons who are residents of that other State at the time of the signature of the insurance contract shall be taxable according to the laws of each State. Double taxation shall be avoided in the State of which the insurance enterprise is a resident by the attribution of the tax levied in the other State.

4. *a*) In respect of article 8, its provisions shall apply also to the municipal tax on lucrative activities *(actividades lucrativas, derecho de patente, actividades con fines de lucro e ingresos brutos)* in force under the jurisdiction of the Municipality of the city of Buenos Aires and in the national territory of Tierra del Fuego, Antarctica and the islands of the South Atlantic.

b) In respect of article 23, the assets of the permanent establishments of French enterprises directly involved in the specific exercise of an international

transport business shall not be subject to the Argentine tax replacing the duty for the free transmission of goods *(impuesto argentino sustitutivo al gravamen a la transmisión gratuita de bienes)* or to the Argentine company capital tax *(impuesto argentino sobre el capital de las empresas)*.

c) Notwithstanding the provisions of article 30, the two preceding subparagraphs *a*) and *b*) shall apply to any non-prescribed fiscal year.

5. In respect of article 25:

a) Nothing in paragraph 1 may be interpreted as preventing France from granting only to persons of French nationality the benefit of exemption of the gains derived from the alienation of immovable property or parts of immovable property constituting the residence in France of French citizens who are not domiciled in France, such as is provided for in article 150 C of the General Tax Code; and

b) Nothing in paragraph 5 may be interpreted as preventing France from applying the provisions of article 212 of the General Tax Code with regard to interest paid by a French company to a foreign parent company.

6. In respect of article 12, it is understood that payments made for the use, or right of use, of international information provided by a public establishment of one State shall be exempt in the other State.

7. In respect of article 12, it is agreed that France shall have the right to invoke the most-favoured-nation clause to the extent that the payments made for studies or research of a scientific or technical nature concerning industrial methods or processes referred to in paragraph 3 of the above article of the Convention are not included in the article on dividends in the conventions to avoid double taxation which are concluded by Argentina with third States following the signature of the Convention, it being understood that this provision shall not apply to the conventions already initialled by Argentina with Austria, Belgium and Finland.

8. The Convention shall not apply to the tax on the transfer of profits *(impuesto sobre las remesas de utilidades)* established by the Argentine law on foreign investments.

9. This Protocol shall remain in force as long as the Convention signed this day between the Government of the Argentine Republic and the Government of the French Republic for the avoidance of double taxation and the prevention of fiscal evasion in respect of tax on income and capital remains in force.

DONE at Buenos Aires, on 4 April 1979.

For the Government of the French Republic:	For the Government of the Argentine Republic:
[*Signed*]	[*Signed*]
M. PAPON	C. W. PASTOR