

No. 21789

**FRANCE
and
MAURITIUS**

Convention for the avoidance of double taxation with respect to taxes on income and on capital (with protocol). Signed at Port Louis on 11 December 1980

Authentic texts: French and English.

Registered by France on 30 March 1983.

**FRANCE
et
MAURICE**

Convention tendant à éviter les doubles impositions en matière d'impôts sur le revenu et sur la fortune (avec protocole). Signée à Port-Louis le 11 décembre 1980

Textes authentiques : français et anglais.

Enregistrée par la France le 30 mars 1983.

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF MAURITIUS FOR
THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT
TO TAXES ON INCOME AND ON CAPITAL

The Government of the French Republic and the Government of Mauritius,
Desiring to conclude a Convention for the avoidance of double taxation 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 or both of the
States.

Article 2. TAXES COVERED

1. This Convention shall apply to taxes on income and on capital imposed
on behalf of a State or of its local authorities, 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,
taxes on the total amounts of wages or salaries paid by enterprises, 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 corporation tax: including any withholding tax, prepayment (*pré-
compte*) or advance payment with respect to the aforesaid taxes
(hereinafter referred to as "French tax");

b) In the case of Mauritius: the income tax

(hereinafter referred to as "Mauritius tax").

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 substantial changes which have been made in their respective
taxation laws.

¹ Came into force on 17 September 1982, i.e., one month after the date of receipt of the last of the notifications (effected on 26 August 1981 and 17 August 1982) by which the Parties informed each other of the completion of the required constitutional procedures, in accordance with article 30 (1).

Article 3. GENERAL DEFINITIONS

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

a) The terms “a State” and “the other State” mean France or Mauritius, as the case may be; the term “both States” means France and Mauritius;

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; this term also means a “company” within the meaning of the laws of Mauritius;

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

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

f) The term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a 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 Budget or his authorized representative;

(ii) In the case of Mauritius, the Minister of Finance or his authorized representative, the Commissioner of Income Tax.

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. But 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 or capital situated therein.

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 both 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.

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, and
- g) A farm or plantation.

3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than six months.

4. An enterprise shall be deemed to have a permanent establishment in a State if it carries on supervisory activities, for a period of more than six months, in connection with a building site or construction or installation project situated in that State.

5. 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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
- f) The maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs *a*) to *e*), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

6. Notwithstanding the provisions of paragraphs 1 and 2, where a person—other than an agent of an independent status to whom paragraph 7 applies—is acting on behalf of an enterprise and has, and habitually exercises, in a 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 person are limited to those mentioned in paragraph 5 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.

7. *a*) 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.

b) Notwithstanding the provisions of sub-paragraph *a*), an enterprise of a State shall be deemed to have a permanent establishment in the other State if an agent, although being of an independent status, carries on his activity in that other State exclusively or almost exclusively for the enterprise and is controlled by the enterprise.

8. 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 a 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 the 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 the 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. a) For determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

b) However, amounts paid by the permanent establishment to the enterprise, by way of royalties or similar payments as a consideration for the use of patents or similar rights or by way of interest from money lent by the enterprise to the permanent establishment, are allowed as deductions expenses only if they correspond to actual expenses of the enterprise.

c) In the case of banking institutions, the provisions of subparagraph b) above shall not apply to interest paid by the permanent establishment to the enterprise.

4. Insofar as it has been customary in a State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

6. For the purposes of 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.

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

Article 8. SHIPPING AND AIR TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the 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 a 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 a 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 one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10. DIVIDENDS

1. Dividends paid by a company which is a resident of a 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:

- a) Five 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 10 per cent of the capital of the company paying the dividends;
- b) Fifteen 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. Notwithstanding the provisions of paragraph 2, dividends paid by a company which is a resident of Mauritius to a resident of France may be taxed in Mauritius and according to the laws of Mauritius, as long as dividends paid by companies which are residents of Mauritius are allowed as deductible expenses for determining their taxable profits. However, the tax charged shall not exceed the rate of the Mauritius tax on profits of companies.

4. a) Dividends paid by a company which is a resident of France, which, if received by a resident of France, would entitle such resident to a tax credit (*avoir fiscal*), when they are paid to recipients which are residents of Mauritius, entitle such recipients to a payment by the French Treasury of an amount equal to such tax credit (*avoir fiscal*) subject to the deduction of the tax provided for in sub-paragraph b) of paragraph 2.

b) The provision of sub-paragraph a) shall apply only to the following recipients which are residents of Mauritius:

- (i) Individuals who are subject to Mauritius tax in respect of the total amount of the dividends paid by the company which is a resident of France and of the payment which corresponds to these dividends and which is mentioned in sub-paragraph a);
- (ii) Companies which are subject to Mauritius tax in respect of the total amount of the dividends paid by the company which is a resident of France and of the payment which corresponds to these dividends and which is mentioned in sub-paragraph a) and which own directly or indirectly less than ten per cent of the share capital of the French company paying the dividends.

5. Unless he receives the payment provided for in paragraph 4, a resident of Mauritius who receives dividends paid by a company which is a resident of France may obtain the refund of the prepayment (*précompte*) relating to such dividends, in the event it had been paid by such company. Such refund shall be taxable in France according to the provisions of paragraph 2.

The gross amount of the prepayment (*précompte*) refunded shall be deemed to be dividends for the purposes of the provisions of this Convention.

6. 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, 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.

7. The provisions of paragraphs 1 to 5 shall not apply if the beneficial owner of the dividends, being a resident of a 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.

8. Where a company which is a resident of a State derives profits or income from the other State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar 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.

Article 11. INTEREST

1. Interest arising in a 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.

3. Notwithstanding the provisions of paragraph 2, any such interest as is mentioned in paragraph 1 shall be taxable only in the State of which the recipient is a resident, if such recipient is the beneficial owner of the interest and if such interest is paid to that State, to a public body of that State or to a banking institution of that State.

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 and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the beneficial owner of the interest, being a resident of a 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 such permanent establishment or fixed base. In such case 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 local authority, a public body 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 the 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 payments 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 a 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 fifteen per cent of the gross amount of the royalties.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematographic films and works recorded for broadcasting or television, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience.

4. Notwithstanding the provisions of paragraph 2, payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematographic films and works recorded for broadcasting or television shall be taxable only in the State of which the recipient is a resident, if such recipient is the beneficial owner of the payments.

5. The provisions of paragraphs 1, 2 and 4 shall not apply if the beneficial owner of the royalties, being a resident of a State, carries on business in the other State in which the royalties arise, 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 royalties 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.

6. Royalties shall be deemed to arise in a State when the payer is that State itself, a local authority, a public body or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a State or not, has in a State a permanent establishment or a fixed base with which the right or property in respect of which the royalties are paid is effectively connected, and such royalties are borne by such permanent establishment or fixed base, then such royalties 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 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 a 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 a State has in the other State or of movable property pertaining to a fixed base available to a resident of a 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 movable property pertaining to the operation of such ships or aircraft 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 only in the State of which the alienator is a resident.

Article 14. INDEPENDENT PERSONAL SERVICES

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

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 a State 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 a State 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, 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 from an 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. DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a 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. ARTISTES AND ATHLETES

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a State 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, remunerations or profits, and wages, salaries and other similar income derived by an entertainer or an athlete, who is a resident of a State, from his personal activities as such exercised in the other State, shall be taxable only in the first-mentioned State if these activities in the other State are supported substantially by public funds of the first-mentioned State, one of its local authorities or of a public body thereof.

4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such in a State accrues not to the entertainer or athlete himself but to another person, that income, notwithstanding the provisions of Articles 7, 14 and 15 shall be taxable only in the other State, if that other person is supported substantially by public funds of that other State, one of its local authorities or of a public body thereof, or if that other person is a non-profit organisation of that other State.

Article 18. PENSIONS

1. Subject to the provisions of paragraph 2 of Article 19, pensions and other similar remuneration paid to a resident of a State in consideration of past employment shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, pensions and other payments made under the social security legislation of a State shall be taxable only in that State.

3. The provisions of paragraph 1 shall not apply if the recipient of the income is not subject to tax in respect of such income in the State of which he is a resident and according to the laws of that State. In such a case, such income may be taxed in the State where they arise.

Article 19. GOVERNMENT SERVICE

1. *a)* Remuneration, other than a pension, paid by a State or a local authority thereof, or by a public body thereof, to an individual in respect of services rendered to that State or authority or public body shall be taxable only in that State.

b) Notwithstanding the provisions of sub-paragraph *a)*, such remuneration may also be taxed in the other State if the services are rendered in that State and the individual is a resident of that State who

- (i) Is a national of that State, or
- (ii) Is not a resident of that State solely for the purpose of rendering the services.

2. *a)* Any pension paid by, or out of funds created by, a State or a local authority thereof, or by a public body thereof, to an individual in respect of services rendered to that State or authority or public body shall be taxable only in that State.

b) Notwithstanding the provisions of sub-paragraph *a)* such pension may also be taxed in the other State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a State or a local authority or a public body thereof.

Article 20. STUDENTS

1. Payments which a student or business apprentice who is or was immediately before visiting a 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 shall not be taxed in that State, provided that such payments are from sources outside that State.

2. Notwithstanding the provisions of Articles 14 and 15, remuneration which a student or business apprentice who is, or was immediately before visiting a 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, derives in respect of services rendered in the first-mentioned State shall not be taxed in the first-mentioned State, provided that such services are in connection with his education or training or that the remuneration of such services is necessary to supplement the resources available to him for the purpose of his maintenance.

Article 21. TEACHERS AND RESEARCH WORKERS

1. Remuneration which a teacher or a research worker who is or was immediately before visiting a State a resident of the other State, and who is present in the first-mentioned State solely for the purpose of teaching or engaging in research, derives in respect of such activities shall not be taxed in that State for a period not exceeding two years, if such remuneration is liable to tax in the other State.

2. The provisions of paragraph 1 shall not apply to remuneration derived in respect of research undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Article 22. OTHER INCOME

1. Items of income of a resident of a 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 a 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 a 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 a State has in other State or by movable property pertaining to a fixed base available to a resident of a 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 and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft 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 of a resident of a State shall be taxable in that State.

Article 24. METHOD FOR ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

1. In the case of Mauritius:

a) Income other than that referred to in sub-paragraph *b)* below shall be exempt from the Mauritius tax referred to in sub-paragraph *b)* of paragraph 3 of Article 2 if the income is taxable in France under the Convention.

b) Income referred to in Articles 10, 11, 12, 14, 16, 17 and in sub-paragraph *b)* of paragraph 1 and in sub-paragraph *b)* of paragraph 2 of Article 19 received from France may be taxed in Mauritius in accordance with the provisions of these articles, on their gross amount. The French tax levied on such income entitles residents of Mauritius to a tax credit corresponding to the amount of French tax levied but which shall not exceed the amount of Mauritius tax attributable to such income. Such credit shall be allowed against the tax referred to in sub-paragraph *b)* of paragraph 3 of Article 2, in the bases of which such income is included.

c) Notwithstanding the provisions of sub-paragraphs *a)* and *b)*, Mauritius tax is computed on income chargeable in Mauritius by virtue of the Convention at the rate appropriate to the total of the income chargeable in accordance with the Mauritius laws.

2. In the case of France:

a) Income other than that referred to in sub-paragraphs *b)* and *c)* below shall be exempt from the French taxes referred to in sub-paragraph *a)* of paragraph 3 of Article 2 if the income is taxable in Mauritius under the Convention.

b) Income referred to in Articles 11, 12, 14, 16 and 17 received from Mauritius may be taxed in France in accordance with the provisions of these Articles, on their gross amount. The Mauritius tax levied on such income entitles residents of France to a tax credit corresponding to the amount of Mauritius tax levied.

c) Income referred to in Article 10 received from Mauritius may be taxed in France in accordance with the provisions of this article, on their gross amount. The residents of France receiving such income shall be entitled to a tax credit equal to twenty-five per cent of the amount of these dividends.

d) The tax credits referred to in sub-paragraphs *b)* and *c)* shall not exceed the amount of French tax attributable to the income concerned. They are allowed against taxes referred to in sub-paragraph *a)* of paragraph 3 of Article 2, in the bases of which the income concerned is included.

e) Notwithstanding the provisions of sub-paragraphs *a)* to *d)*, French tax is computed on income chargeable in France by virtue of the Convention at the rate appropriate to the total of the income chargeable in accordance with the French laws.

Article 25. NON-DISCRIMINATION

1. Nationals of a 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 States.

2. Stateless persons who are residents of a State shall not be subjected in either 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 circumstance are or may be subjected.

3. The taxation of a permanent establishment which an enterprise of a 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, paragraph 7 of Article 11, or paragraph 7 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a State 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. 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 a 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. 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 the provisions of 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 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 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 the 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 arising as to the application of the Convention.

In particular, the competent authorities of the States may consult together to endeavour to reach an agreement:

- a) In order that the profits attributable to a permanent establishment situated in a State and owned by an enterprise of the other State may be attributed in the same manner in the two States;
- b) In order that the income receivable by a resident of a State and an associate person referred to in Article 9 who is a resident of the other State may be allocated in the same manner.

They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

4. The competent authorities of the 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 by mutual agreement settle the mode of application of the Convention and, especially, the requirements to which the residents of a State shall be subjected in order to obtain in the other State, the tax reliefs or exemptions provided for by the Convention.

Article 27. 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 insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Article 1. Any information received by a 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 covered by 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, commercial or 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 personal domestics, of members of consular missions, or of members of permanent missions to international organisations 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 a State 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 or on capital situated outside that State; and
- b) He is liable in the sending State to the same obligations in relation to tax on his total world income or capital as are residents of that State.

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

Article 29. TERRITORIAL SCOPE

1. This Convention shall apply:

- a) In the case of Mauritius, to all the islands, the territorial seas and the continental shelf which, in accordance with international law and the laws of Mauritius are under the jurisdiction of Mauritius;
- b) In the case of France, to the European and overseas departments of the French Republic, and to any area outside the territorial sea of those departments which is, in accordance with international law, an area within which France may exercise rights with respect to the sea bed and sub-soil 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 notes to be exchanged through diplomatic channels 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 them under Article 31 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 30. ENTRY INTO FORCE

1. Each State shall notify to the other the completion of the procedure required by its law for the bringing into force of this Convention. This Convention shall enter into force one month after the date of receipt of the later of these notifications.

2. Its provisions shall apply for the first time:

- a) As regards taxes withheld at source, to amounts payable on or after the date of entry into force of this Convention;
- b) As regards other taxes on income:
- With respect to Mauritius tax, to income derived during the income year in which this Convention entered into force, or relating to the accounting period ending during that year;
 - With respect to French tax, to income derived during the calendar year in which this Convention entered into force, or relating to the accounting period ending during that year.

Article 31. TERMINATION

1. This Convention shall remain into force indefinitely. However, on and after 1982, each State may, by giving at least six months notice of termination through diplomatic channels, denounce the Convention for the end of a calendar year.

2. In such an event, its provisions shall apply for the last time:

- a) As regards taxes withheld at source, to amounts payable on or before the 31st of December of the calendar year for the end of which the termination has been notified;
- b) As regards other taxes on income:
- With respect to Mauritius tax, to income derived during the income year in which the termination will take effect or relating to the accounting period ending during that year;
 - With respect to French tax, to income derived during the calendar year, for the end of which the termination has been notified or relating to the accounting period ending during that year.

IN WITNESS WHEREOF, the undersigned have signed this Convention.

DONE at Port Louis, Mauritius, this 11th day of December 1980 in duplicate, in the English and French languages, both texts being equally authoritative.

For the Government
of the French Republic:

[Signed]¹

For the Government
of Mauritius:

[Signed]²

¹ Signed by J. J. Mano.

² Signed by Veerasamy Ringadoo.

PROTOCOL

At the time of signature of the Convention between the Government of the French Republic and the Government of Mauritius for the avoidance of double taxation with respect to taxes on income and on capital, the undersigned have agreed upon the following provisions.

Article I. 1. In respect of paragraph 1 *f*) of Article 3, the term “international traffic” also means any transport by a container where such transport is supplementary to a transport in international traffic.

2. In respect of Article 6, income from shares, rights or participations in a company or a legal person owning immovable property situated in a State, which, under the laws of that State, is subjected to the same taxation treatment as income from immovable property, may be taxed in that State.

3. *a*) In respect of paragraphs 1 and 2 of Article 7, where an enterprise of a State sells goods or merchandise or carries on business in the other State through a permanent establishment situated therein, the profits of this permanent establishment are not determined on the basis of the total amount received by the enterprise, but are determined only on the basis of the remuneration which is attributable to the actual activity of the permanent establishment for such sales or business.

In the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, the profits of such permanent establishment are not determined on the basis of the total amount of the contract, but are determined only on the basis of that part of the contract which is effectively carried out by the permanent establishment in the State where the permanent establishment is situated. The profits related to that part of the contract which is carried out by the head office of the enterprise shall be taxable only in the State of which the enterprise is a resident.

b) In respect of paragraph 1 of Article 7, payments of any kind received as a consideration for the use of, or the right to use, industrial, commercial or scientific equipment shall be deemed to be profits of an enterprise to which the provisions of Article 7 apply. Similarly, payments received as a consideration for technical services, including studies or surveys of a scientific, geological or technical nature, or for engineering contracts including blue prints related thereto, or for consultant or supervisory services shall be deemed to be profits to which the provisions of Article 7 apply.

4. Notwithstanding the provisions of paragraph 8 of Article 10, where a company which is a resident of Mauritius carries on an industrial or commercial activity in France through a permanent establishment situated therein, the profits of this permanent establishment after having borne the Corporation tax, may be taxed at a rate not exceeding fifteen per cent, according to the French laws.

5. In respect of Article 11, interest arising in Mauritius and paid to a resident of France shall be taxable only in France if it is paid in respect of a loan made or guaranteed, or of a credit granted or guaranteed, by the French Bank of External Trade (La Banque Française pour le Commerce Extérieur).

6. *a*) In respect of article 13, gains from the alienation of shares, rights or participations in a company or a legal person owning immovable property situated

in a State, which under the laws of that State, are subjected to the same taxation treatment as gains from the alienation of immovable property may be taxed in that State.

b) Notwithstanding the provisions of paragraph 4 of Article 13, gains from the alienation of shares or rights, forming part of a substantial interest in the capital of a company which is a resident of a State may be taxed in that State, according to the laws of that State. A substantial interest shall be deemed to exist when the alienator, alone or together with associated or related persons, holds directly or indirectly shares or rights, which together give right to 25 per cent or more of the company profits.

7. In respect of Article 23, elements of capital represented by shares, rights or participations in a company or a legal person owning immovable property situated in a State, which, under the laws of that State, are subjected to the same taxation treatment as immovable property, may be taxed in that State.

8. In respect of Article 25:

- a) Nothing in paragraph 1 shall be construed as preventing France from granting only to persons possessing the French nationality the benefit of the exemption of the capital gains derived from the alienation of immovable property or part of immovable property constituting a residence in France of French persons who are not domiciled in France, as provided for in Article 6-II of Law No. 76.660 of July 19, 1976;
- b) Nothing in paragraph 4 shall be construed as preventing France from applying the provisions of Article 212 of the *Code général des Impôts* as regards interest paid by a French company to a foreign parent company.

Article II. 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 Mauritius for the avoidance of double taxation with respect to taxes on income and on capital shall remain in force.

DONE at Port Louis, Mauritius, this 11th day of December 1980 in duplicate, in the English and French languages, both texts being equally authoritative.

For the Government
of the French Republic:

[Signed]¹

For the Government
of Mauritius:

[Signed]²

¹ Signed by J. J. Mano.

² Signed by Veerasamy Ringadoo.