

No. 21846

FRANCE
and
EGYPT

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital (with protocol). Signed at Paris on 19 June 1980

Authentic texts: French and Arabic.

Registered by France on 12 April 1983.

FRANCE
et
ÉGYPTE

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 Paris le 19 juin 1980

Textes authentiques : français et arabe.

Enregistrée par la France le 12 avril 1983.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE ARAB REPUBLIC OF EGYPT FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME AND CAPITAL

The Government of the French Republic and the Government of the Arab Republic of Egypt,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and 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 political subdivisions or 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 France:

- (i) The income tax;
- (ii) The corporation tax; including any withholding tax, prepayment (*précompte*) or advance payment with respect to the aforesaid taxes; (hereinafter referred to as "French tax").

(b) In Egypt:

- (i) The tax on income derived from immovable property (including the land tax, the building tax and the guard (*khafir*) tax);
- (ii) The tax on income from movable capital;
- (iii) The tax on industrial and commercial profits;
- (iv) The tax on wages, salaries, indemnities and pensions;

¹ Came into force on 1 October 1982, i.e., the first day of the second month following that of the last of the notifications (effected on 30 March and 10 August 1982) by which the Parties informed each other of the completion of their legal procedures, in accordance with article 29 (1).

- (v) The tax on profits from liberal professions and all other non-commercial professions;
- (vi) The general income tax;
- (vii) The defence tax;
- (viii) The national security tax;
- (ix) The war (*jihād*) tax; and
- (x) Supplementary taxes imposed as a percentage of these taxes; (hereinafter referred to as "Egyptian tax").

4. The Convention shall also apply 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.

Article 3. GENERAL DEFINITIONS

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

(a) The term "Egypt" means the Arab Republic of Egypt and the areas outside the territorial sea but adjacent to that territorial sea over which Egypt may exercise sovereign rights, in accordance with international law, with respect to the sea-bed and its subsoil. The term "France" means the *départements* of the French Republic and the areas outside the territorial sea but adjacent to that territorial sea over which France may exercise sovereign rights, in accordance with international law, with respect to the sea-bed and its subsoil;

(b) The terms "a State" and "the other State" mean France or Egypt, as the context requires;

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

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

(e) 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;

(f) The term "tax" means French tax or Egyptian tax, as the context requires;

(g) 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;

(h) The term "competent authority" means:

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

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

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 a habitual abode;
- (c) If he has a habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (d) If he is a national of both States or of neither of them, the competent authorities of the States shall settle the question by mutual agreement.

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

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) Premises used as a sales outlet;
- (d) An office;
- (e) A factory;
- (f) A workshop;
- (g) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (h) A farm or plantation.

3. A building site or a construction, assembly or installation project constitutes a permanent establishment only if it lasts 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 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 the purpose of carrying on a combination of activities mentioned in subparagraphs (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.

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 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 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 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 also 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 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. In so far 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

1. 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.

2. If, for the purposes of paragraph 1 of this article, the information available to the competent authority concerned is insufficient to determine the profits which

could have accrued to an enterprise, nothing in that paragraph shall affect the application of the law of one or the other State with respect to the obligation of that enterprise to pay tax on a sum estimated by the competent authority of that State, provided that such estimation is made in accordance with the principles set forth in that paragraph and that the sum thus determined or the estimation thus made may be amended or revised when sufficient information has been provided to the competent authority concerned.

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, subject to the provisions of paragraphs 3 and 4, 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.

3. If the recipient is the beneficial owner of the dividends, the tax charged in France under the provisions of paragraph 2 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.

4. If the recipient is the beneficial owner of the dividends, the taxes which may be charged in Egypt under the provisions of paragraph 2 of this article shall be none other than the following:

- (a) The tax on income from movable capital, the defence tax, the national security tax, the war (*jihad*) tax, the supplementary taxes imposed on such taxes and any taxes of a similar nature which may enter into force after the date of signature of this Convention; these taxes shall be deducted at source, provided that the dividend, paid out of profits which are subject to tax in respect of the same tax year and not out of reserves or assets, is considered as deductible from those profits of the enterprise which are subject to the tax on industrial and commercial profits;
- (b) The general income tax assessed on overall net income, when the dividend is paid to an individual, provided that the tax thus charged shall not exceed 20 per cent of the net amount of the dividend paid to that individual.

5. The provisions of paragraphs 1 and 2 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.

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, 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. The term also covers the income earned by a limited partner by virtue of his participation in a limited partnership and income accruing from distributions of certificates by an investment company.

7. Where an enterprise 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 enterprise, 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. Neither may it subject the enterprise's undistributed profits to a tax on the enterprise'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.

8. Paragraph 4 of this article shall also apply to dividends paid by an enterprise which is a resident of France within the meaning of article 4, paragraph 1, and whose business is carried on exclusively or principally in Egypt, provided that such business is carried on through a permanent establishment situated therein.

9. Paragraph 4 of this article shall also apply to dividends considered, under Egyptian law, as being paid, separately from annual profits by a permanent establishment in Egypt belonging to a company which is a resident of France.

10. A resident of Egypt who receives dividends paid by an enterprise which is a resident in France may obtain reimbursement of any *précompte* relating to such dividends which may have been paid by the enterprise. Such reimbursement shall be subject to tax in France in accordance with the provisions of paragraph 2 of this article. The gross amount of the *précompte* shall be considered a dividend for the purposes of this Convention.

11. Notwithstanding the provisions of paragraph 7 of this article, where an enterprise which is a resident of Egypt carries on business in France through a permanent establishment situated therein, the profits of that permanent establishment may, after being subjected to the corporation tax, be taxed, under French law, at a rate not exceeding 5 per cent.

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, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 25 per cent of the gross amount of that interest.

3. Notwithstanding the provisions of paragraph 2, interest relating to debt-claims secured by a mortgage on immovable property may be taxed in the State where that property is situated and in accordance with the laws of that State.

4. Notwithstanding the provisions of paragraph 2, interest arising in a State shall be exempt from tax in that State provided that it is beneficially owned:

(a) By the other State or a public body of that other State whose income is not subject to tax in that other State, or

(b) By a resident of the other State in respect of loans granted, secured or assumed by that other State or a public body of that other State.

5. 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.

6. The provisions of paragraphs 1 and 2 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 cases, the provisions of article 7 or article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a State when the payer is that State itself, a political subdivision, a local authority, a corporate body governed by public law 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.

8. 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 25 per cent of the gross amount of the royalties for the use of, or the right to use, trade marks, and 15 per cent in all other cases.

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 radio or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the 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 cases the provisions of article 7 or article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a State when the payer is that State itself, a political subdivision, a local authority, a corporate body governed by public law 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 estab-

lishment or fixed base, then 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.

7. The provisions of this article shall not apply to dividends on founders' shares issued in Egypt as consideration for rights mentioned in paragraph 3 of this article and which are taxed in Egypt in accordance with the provisions of article 1 of Law No. 14 of 1939. In such case, the provisions of article 10 shall apply.

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 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 property other than that referred to in paragraphs 1, 2 and 3 may be taxed in each State in accordance with the laws of that State.

Article 14. INDEPENDENT PERSONAL SERVICES

1. Income derived by an individual who is a resident of a State in respect of professional services or other activities of an independent character may be taxed in that State. Such income may also be taxed in the other State if:

- (a) The individual is present in that other State for a period or periods exceeding in the aggregate 120 days in the fiscal year concerned, but only so much of the income as is derived from his activities performed in that State; or
- (b) The individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much of the income as is derived from his activities performed in that State.

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 in respect of 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 member of the Board of Directors of a company which is a resident of the other State may be taxed in that other State.

Article 17. ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of articles 14 and 15, income derived by a resident of a 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 benefits and the salaries, wages and other similar income derived by an entertainer or athlete who is a resident of a State in respect of his personal activities as such exercised in the other State shall be taxable only in the first-mentioned State if such activities in the other State are substantially supported by public funds of the first State, or by any political subdivision, local authority or corporate body governed by public law thereof.

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

Article 18. PENSIONS

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

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

3. The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

Article 19. GOVERNMENT SERVICE

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

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

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 political subdivision, local authority or corporate body governed by public law 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 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 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 in respect of services rendered in the first-mentioned State shall not be taxed in the first-mentioned State, provided that such services are related to his education or training or that the remuneration for such services is necessary to supplement the resources available for his maintenance.

Article 21. TEACHERS AND RESEARCH WORKERS

1. Remuneration which a teacher or 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 carrying out research work receives in respect of such activities shall not be taxed in that State for a period not exceeding two years from the date on which he begins to carry out such activities in that State.

2. The provisions of paragraph 1 shall only apply to income derived from research if such research is undertaken by the individual in the public interest and not primarily for the benefit of some other private person or persons.

Article 22. OTHER INCOME

Items of income not dealt with in the foregoing articles of this Convention may be taxed in each State in accordance with the laws of that State.

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 the 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 their 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 of a resident of a State may be taxed in each State in accordance with the laws of that State.

Article 24. PROVISIONS FOR THE ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

1. In the case of Egypt:

(a) Income and capital other than that referred to in subparagraph (b) below shall be exempt from the Egyptian taxes referred to in article 2, paragraph 3 (b), if the income or capital is taxable in France under this Convention;

(b) Income and capital referred to in articles 10, 11 and 12, article 13, paragraph 4, articles 14, 16, 17 and 22 and article 23, paragraph 4, received from France may be taxed in Egypt, in accordance with the provisions of these articles, in respect of their gross amount. The French tax levied on such income (with the exception, in the case of dividends, of the tax chargeable on profits other than those in respect of which the dividends are paid) or on such capital entitles residents of Egypt to a tax credit corresponding to the amount of French tax levied but which shall not exceed the amount of Egyptian tax chargeable on such income or capital. Such credit shall be allowed against taxes referred to in article 2, paragraph 3 (b), in the bases of which such income or capital is included;

(c) Notwithstanding the provisions of subparagraphs (a) and (b), Egyptian tax is computed on income or capital chargeable in Egypt by virtue of this Convention at the rate appropriate to the total of the income or capital chargeable in accordance with Egyptian law.

2. In the case of France:

(a) Income and capital other than that referred to in subparagraph (b) below shall be exempt from the French taxes referred to in article 2, paragraph 3 (a), if the income or capital is taxable in Egypt under this Convention.

(b) Income and capital referred to in articles 10, 11 and 12, article 13, paragraph 4, articles 14, 16, 17 and 22 and article 23, paragraph 4, received from Egypt may be taxed in France, in accordance with the provisions of these articles, in respect of their gross amount. The Egyptian tax levied on such income (with the exception, in the case of dividends, of the tax chargeable on profits other than those in respect of which the dividends are paid) or on such capital entitles residents of France to a tax credit corresponding to the amount of Egyptian tax levied but which

shall not exceed the amount of French tax chargeable on such income or capital. Such credit shall be allowed against taxes referred to in article 2, paragraph 3 (a), in the bases of which such income or capital is included.

(c) For the purposes of subparagraph (b) and with respect to income referred to in articles 10, 11 and 12, the amount of the tax credit allowed to residents of France shall be the higher of the following amounts:

- (i) The amount of the Egyptian tax actually levied, or
- (ii) With respect to income referred to in article 10, 25 per cent of the gross amount of such income, and with respect to income referred to in articles 11 and 12, 20 per cent of the gross amount of such income, provided that the provisions of articles 16 and 18 of Egypt's Law No. 43 of 1974, as amended by Law No. 32 of 1977, apply to such income,

but shall not exceed the amount of French tax levied on such income.

(d) Notwithstanding the provisions of subparagraphs (a) and (b), French tax is computed on income or capital chargeable in France by virtue of this Convention at the rate appropriate to the total of the income or capital chargeable in accordance with French law.

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. The term "nationals" means:

- (a) All individuals possessing the nationality of a State;
- (b) All legal persons, partnerships and associations deriving their status as such from the laws in force in a State.

3. Stateless persons who are residents 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 State in the same circumstances are or may be subjected.

4. The taxation on 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.

5. Except where the provisions of article 9, article 11, paragraph 7, or article 12, paragraph 17, 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.

6. 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.

7. (a) In the case of Egypt:

Nothing in this article may be construed as affecting the application in Egypt of article 11, paragraphs 1 and 2, of Law No. 14 of 1939 or the exemptions applicable in Egypt under articles 5 and 6 of Law No. 14 of 1939;

(b) In the case of France:

- (i) Nothing in paragraph 1 may be construed as preventing France from restricting the benefit of exemption with respect to profits arising from the alienation of immovable property or parts of immovable property which constitute the residence in France of French nationals who are not domiciled in France, as provided for under article 150 (c) of the General Tax Code, to persons of French nationality only; and
- (ii) Nothing in paragraph 5 may be construed as preventing France from applying the provisions of article 212 of the General Tax Code with respect to interest paid by a French company to a foreign parent company.

8. 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 the 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 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 two States shall endeavour to resolve by mutual agreement any difficulties arising as to the application of the Convention.

The competent authorities of the two States may, in particular, consult together for the purpose of reaching an agreement:

- (a) On equal treatment in the two States of the profits attributable to a permanent establishment situated in a State of an enterprise of the other State;
- (b) On equal treatment of the income derived by a resident of a Contracting State and an associated person, as mentioned in article 9, who is a resident of the other State.

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 two States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding

paragraphs. If it appears that oral exchanges of views would facilitate such agreement, such exchanges of views may take place in the context of a commission consisting of representatives of the competent authorities of the States.

5. The competent authorities of the two States shall establish by common agreement the methods for implementation of the Convention, including, in particular, the procedures which must be followed by residents of a State in order to obtain, in the other State, the tax reductions or exemptions provided for by 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 those 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 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 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 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 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 AND CONSULAR OFFICIALS

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions and consular posts 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 or consular post which is situated in the other State or in a third State shall be considered, for the purposes of this Convention, to be a resident of the sending State, provided that:

- (a) He is not, under international law, subject to tax in the receiving State with respect to income from sources external to that State or to capital situated outside that State; and
- (b) He is subject to the same obligations in the sending State, with respect to taxes on the total of his income or capital, as are residents of that State.

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

Article 29. ENTRY INTO FORCE

1. Each State shall notify the other when the procedures required under its laws for the entry into force of this Convention have been completed. The Convention shall enter into force on the first day of the second month following the month in which the last such notification is received.

2. Its provisions shall apply for the first time:

- (a) In respect of withholding taxes, to sums payable as of the date of entry into force of the Convention;
- (b) In respect of other taxes on income, to income received during the calendar year in the course of which the Convention enters into force or relating to the financial year which concludes after the entry into force of the Convention.

3. The exchange of letters of 5 September 1968 between the Government of the French Republic and the Government of the Arab Republic of Egypt providing for reciprocal exemption from taxes on income arising from international air traffic,¹ and the agreement of 15 July 1975 concluded between the said Governments providing for reciprocal exemption from taxes on income arising from shipping, shall be suspended during the period of application of this Convention.

Article 30. TERMINATION

1. This Convention shall remain in force indefinitely. However, after a period of five years beginning from the date of its entry into force, either State may denounce it, with effect from the end of any calendar year, by giving notice of termination at least six months in advance through the diplomatic channel.

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

- (a) In respect of withholding taxes, to sums payable by 31 December of the calendar year for the end of which notice of termination has been given;
- (b) In respect of other taxes on income, to income received during the calendar year for the end of which notice of termination has been given or relating to the financial year which concludes in the course of that year.

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

DONE at Paris on 19 June 1980, in duplicate in the French and Arabic languages, both texts being equally authentic.

For the Government
of the French Republic:

[Signed]

MAURICE PAPON
Minister for the Budget

For the Government
of the Arab Republic of Egypt:

[Signed]

Dr. ABD EL RAZZAK ABD EL MEGUID
Deputy Prime Minister for
Economic and Financial Affairs

PROTOCOL

On the occasion of the signature of the Convention between the Government of the French Republic and the Government of the Arab Republic of Egypt for the avoidance of double taxation with respect to taxes on income and capital, the undersigned have agreed on the following provisions:

¹ United Nations, *Treaty Series*, vol. 753, p. 49.

Article I. With regard to article 7, paragraphs 1 and 2, 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 that permanent establishment shall be determined not on the basis of the total amount received by the enterprise but solely on the basis of the remuneration attributable to the actual activity of the permanent establishment in connection with such sales or such business.

In the case of contracts for the supply, installation or construction of industrial, commercial or scientific facilities or establishments or of public works, where the enterprise has a permanent establishment, the profits of that permanent establishment shall be determined not on the basis of the total amount of the contract but solely on the basis of the part of the contract which is actually carried out by that permanent establishment in the State where that permanent establishment is situated. The profits relating to the part of the contract which is carried out by the head office of the enterprise shall be taxable only in the State of which that enterprise is a resident.

For the purposes of the preceding paragraphs, where the contract does not specify separately the cost of, on the one hand, the supply of equipment and, on the other hand, its installation and assembly:

- If the enterprise apportions the total amount between the two types of operations, such apportionment shall be accepted by the tax authorities, except in the case of fraud;
- If the enterprise does not make such an apportionment, the entire contract may be considered to be an operation of the permanent establishment. However, the cost of supplies for the establishment shall, naturally, be considered as deductible for the purpose of determining its profits.

Any practical difficulties which may arise in applying the aforementioned solutions, particularly with respect to determination of the cost of supplies, shall be considered in the framework of the mutual agreement procedure and the exchange of information provided for in articles 26 and 27.

Article II. It is agreed, for practical reasons, that payments relating to contracts for research and consultants' services shall be taxed, as if they were royalties, in accordance with the rules laid down in article 12. However, the tax levied in the country from which such payments derive may not exceed 10 per cent of their gross amount. In addition, should a more favourable treatment be accorded to the payments in question by one of the two States in a taxation agreement concluded with a third State, that treatment shall be extended to the other State.

Article III. This Protocol shall remain in force for as long as the Convention between the Government of the French Republic and the Government of the Arab Republic of Egypt for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and capital, signed this day, remains in force.

DONE at Paris on 19 June 1980, in duplicate in the French and Arabic languages, both texts being equally authentic.

For the Government
of the French Republic:

[Signed]

MAURICE PAPON

For the Government
of the Arab Republic of Egypt:

[Signed]

Dr. ABD EL RAZZAK ABD EL MEGUID