

No. 22412

**FRANCE
and
SAUDI ARABIA**

Convention for the avoidance of double taxation with respect to taxes on income and succession duties (with protocol). Signed at Paris on 18 February 1982

Authentic texts: French and Arabic.

Registered by France on 26 October 1983.

**FRANCE
et
ARABIE SAOUDITE**

Convention en vue d'éviter les doubles impositions en matière d'impôts sur le revenu et sur les successions (avec protocole). Signée à Paris le 18 février 1982

Textes authentiques : français et arabe.

Enregistrée par la France le 26 octobre 1983.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE KINGDOM OF SAUDI ARABIA FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND SUCCESSION DUTIES

The Government of the French Republic and the Government of the Kingdom of Saudi Arabia

Have agreed as follows:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

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

(a) In the case of France:

—The income tax;

—Succession duties

(hereinafter referred to as “French tax”);

(b) In the case of Saudi Arabia:

—The income tax;

—The religious tax on immovable and movable property (*zakat*);

—Succession duties or taxes similar to those to which this Convention applies in the case of France, if any are imposed

(hereinafter referred to as “Saudi Arabian tax”).

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

Article 3. GENERAL DEFINITIONS

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

(a) The terms “a State” and “the other State” mean France or Saudi Arabia, as the case may be;

(b) The term “person” means an individual;

¹ Came into force on 1 March 1983, i.e., the first day of the second month following the date of receipt of the latter of the notifications (effected on 5 and 30 January 1983) by which the Parties informed each other of the completion of the required legislative procedures, in accordance with article 20 (1).

(c) The term “competent authority” means:

- (i) In the case of France, the Minister, Delegate for the Budget or his authorized representative;
- (ii) In the case of Saudi Arabia, the Minister of Finance and National Economy, 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.

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

- (a) He shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
- (b) If the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
- (c) If he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
- (d) If he is a national of both States or of neither of them, the competent authorities of the States shall settle the question by mutual agreement.

Article 5. 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 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. Individuals who are residents of Saudi Arabia and who have one or more homes available to them for their private use in France, although their fiscal domicile, within the meaning of French laws, is not in France, shall be exempt

from the income tax imposed on the basis of the rental value of that home or those homes.

Article 6. DIVIDENDS

1. Dividends paid by a company 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 first-mentioned State, but only if:

- (a) The beneficial owner of the dividends holds, directly or indirectly, more than 20 per cent of the capital of the company paying the dividends, but the tax so charged shall not exceed 5 per cent of the gross amount of the dividends; or if:
- (b) The holding in respect of which the dividends are paid is effectively connected with a business carried on in that State by the beneficial owner of the dividends.

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

4. A resident of Saudi Arabia who receives dividends paid by a company which is a resident of France may obtain the refund of the prepayment relating to such dividends in the event it has been paid by that company.

The gross amount of the refunded prepayment shall be regarded as a dividend for the purposes of the application of the provisions of this Convention.

Article 7. INCOME FROM DEBT-CLAIMS

1. Income from debt-claims arising in a State and paid to a resident of the other State may be taxed in that other State.

2. However, such income from debt-claims may also be taxed in the State in which it arises, but if the claim in respect of which the income is paid is not effectively connected with a business carried on in that State by the beneficial owner:

- (a) No tax shall be levied in that State if such income is paid:
 - (i) In connection with any business transaction; or
 - (ii) In respect of loans of every kind granted by a bank; or
 - (iii) In respect of negotiable bonds;
- (b) The tax shall not exceed 5 per cent of the gross amount of the income in the other cases.

3. The term “income from debt-claims” 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.

Article 8. 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 be taxed in the first-mentioned State if the right or property in respect of which the royalties are paid is effectively connected with a profession or business carried on in that State by the beneficial owner 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 cinematograph 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.

Article 9. CAPITAL GAINS

1. Gains derived by a resident of a State from the alienation of immovable property referred to in article 5 and situated in the other State may be taxed in that other State.

2. Gains from the alienation of any property other than that referred to in paragraph 1 may be taxed only in the State of which the alienator is a resident, unless the property the alienation of which produces the gain is effectively connected with a profession or business carried on in the other State by the alienator.

3. Notwithstanding the provisions of paragraph 2, gains from the alienation of shares representing a substantial participation in the capital of a company may be taxed in the State of which that company is a resident. A substantial participation is deemed to exist when the alienator holds, directly or indirectly, shares which in the aggregate entitle him to 25 per cent or more of the profits of the company.

Article 10. 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 11. GOVERNMENT SERVICE

Remuneration and pensions paid by a State or a territorial authority thereof to an individual in respect of services rendered to that State or authority shall be taxable only in that State unless:

—Such individual is a national of the other State or was a resident of the other State before rendering the services and the services are rendered in that other State, or

—The services are rendered in connection with a business carried on by a State or a territorial authority thereof.

Article 12. 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 taxable in that State, provided that such payments arise from sources outside that State.

2. Remuneration which a student or business apprentice who is, or was immediately before visiting the 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 taxable 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 13. TEACHERS AND RESEARCHERS

1. Remuneration which a teacher or a researcher 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, derived in respect of such activities shall not be taxable in that State for a period not exceeding two years.

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 14. BUSINESSES

In the case of a business carried on by a resident of a State in the other State, the total gross income derived in respect of such business shall be taken into account for the purposes of taxation in that other State, but for the purpose of determining the taxable profits, the total expenses incurred, whether in that State or elsewhere, shall be deductible, in order that the profits taxed shall be only such as are attributable to the business carried on in that other State.

Article 15. RULES FOR AVOIDING DOUBLE TAXATION

1. In the case of Saudi Arabia, double taxation shall be avoided in accordance with the provisions of Saudi law.

2. In the case of France, double taxation shall be avoided as follows:

—Income from immovable property mentioned in article 5, capital gains mentioned in article 9, paragraph 1, and income from a business mentioned in article 14 received from Saudi sources by a resident of France shall be exempt from French tax.

—Other income mentioned by the Convention which is received by a resident of France may be taxed in France, but the Saudi tax levied on such income shall entitle him to a credit allowed against the French tax relating to such income.

—However, the French tax shall be computed on income taxable in France by virtue of this Convention at the rates corresponding to the total income which is taxable under French law.

Article 16. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 17. SUCCESSION

1. Immovable property shall be liable to succession duty only in the State in which it is situated.

2. Tangible or intangible movable property effectively connected with the performance of independent personal services or the carrying on of a business in a State shall be liable to succession duty only in that State.

3. Tangible movable property (including art objects and collections) other than that which is mentioned in paragraph 2 shall be liable to succession duty only in the State in which it is situated at the date of death.

4. Intangible movable property (including securities, deposits, etc.) to which paragraph 2 of this article is not applicable shall be liable to succession duty only in the State in which the deceased was a resident at the time of his death.

5. Notwithstanding the provisions of paragraphs 1 to 4, each State shall retain the right to assess the duty on inherited property which it has the exclusive right to tax at the average rate applicable to the sum of the property which would be liable to duty under its internal laws.

Article 18. 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 internal law of those States, present his case to the competent authority of the State of which he is a resident. The case must be presented within the two years following 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 internal law of the States.

3. The competent authorities of the States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. 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. If an oral exchange of opinions seems advisable for the purpose of reaching agreement, such an exchange of opinions may take place within a commission consisting of representatives of the competent authorities of the States.

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

Article 19. TERRITORIAL SCOPE

1. This Convention shall apply:

- (a) In the case of Saudi Arabia, to the mainland and the islands which constitute the Kingdom, including the territorial sea, and to any area beyond the territorial sea within which, in accordance with international law, the Kingdom may exercise rights with respect to the sea waters, the sea-bed and the subsoil thereof as well as their natural resources;
- (b) In the case of France, to the European and overseas departments of the French Republic, including the territorial sea, and to any area beyond the territorial sea of those departments within which, in accordance with international law, France may exercise rights with respect to the sea waters, the sea-bed and the subsoil thereof as well as 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 by an exchange of notes through the diplomatic channel or in any other manner in accordance with their constitutional procedure.

3. Unless otherwise agreed by both States, the termination of the Convention by one of them under article 20 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 20. ENTRY INTO FORCE AND TERMINATION

1. Each State shall notify the other of the completion of the procedures required by its legislation for the entry into force of this Convention. This Convention shall enter into force on the first day of the second month following the receipt of the last such notification.

2. Its provisions shall apply for the first time:

- (a) In respect of taxes withheld at source, to amounts payable on or after 1 January 1981;
- (b) In respect of other taxes on income, to income derived after 1 January of the 1981 calendar year or relating to the accounting period ending during that year;
- (c) In respect of succession duties, to the estates of persons deceased after 1 January 1981.

3. This Convention shall remain in force until the end of the fifth year following the year of its entry into force. It may, however, be extended for five-year periods upon agreement between the States by an exchange of notes through the diplomatic channel.

4. Its provisions shall apply for the last time:

- (a) In respect of taxes withheld at source, to amounts payable before or on 31 December of the calendar year at the end of which it ceases to be in force;
- (b) In respect of other taxes on income, to income derived during the calendar year at the end of which it ceases to be in force or relating to the accounting period ending during that year;
- (c) In respect of succession duties, to the estates of persons deceased on or before 31 December of the calendar year at the end of which it ceases to be in force.

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

DONE at Paris on 18 February 1982, in duplicate, in the French and Arabic languages, both texts being equally authentic.

For the Government
of the French Republic:

[LAURENT FABIUS]

For the Government
of the Kingdom of Saudi Arabia:

[Signed]

SHEIKH MOHAMED ABA ALKHIEL
Minister of Economy
and Finance

PROTOCOL

At the time of the signature between the Government of the French Republic and the Government of the Kingdom of Saudi Arabia of the Convention for the avoidance of double taxation with respect to taxes on income and succession duties, the undersigned have agreed upon the following provisions:

1. Notwithstanding articles 1, 2 and 3:

- It is agreed that the taxation of profits from the operation of aircraft in international traffic by an airline of a State shall be suspended in the other State until the entry into force of a specific agreement concerning airlines;
- The provisions of article 7 shall apply to income from debt-claims of every kind arising in a State and paid by a national of either State to a bank or financial institution which is a national of either State.

2. Notwithstanding article 20, paragraph 2, the provisions of article 5, paragraph 4 shall apply for the first time as from 1 January 1980.

IN WITNESS WHEREOF the undersigned have signed this Protocol, which shall have the same force and validity as the Convention.

For the Government
of the French Republic:

[LAURENT FABIUS]

For the Government
of the Kingdom of Saudi Arabia:

[SHEIKH MOHAMED ABA ALKHIEL]