

No. 22715

**SPAIN
and
ARGENTINA**

Convention for the avoidance of international double taxation relating to the operation of maritime and air transport (with additional protocol). Signed at Buenos Aires on 30 November 1978

Authentic text: Spanish.

Registered by Spain on 21 February 1984.

**ESPAGNE
et
ARGENTINE**

Convention tendant à éviter la double imposition internationale des revenus provenant de l'exploitation des transports maritimes et aériens (avec protocole additionnel). Signée à Buenos Aires le 30 novembre 1978

Texte authentique : espagnol.

Enregistrée par l'Espagne le 21 février 1984.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE KINGDOM OF SPAIN AND THE GOVERNMENT OF THE ARGENTINE REPUBLIC FOR THE AVOIDANCE OF INTERNATIONAL DOUBLE TAXATION RELATING TO THE OPERATION OF MARITIME AND AIR TRANSPORT

The Government of the Kingdom of Spain and the Government of the Argentine Republic, desiring to avoid, through a bilateral agreement, international double taxation relating to the operation of maritime and air transport, have agreed as follows:

Article 1. This Convention shall apply:

(a) In the case of Spain, to taxes on income and on capital imposed on behalf of the Government of the Kingdom of Spain.

(b) In the case of Argentina, to taxes on income, on capital or on gains imposed on behalf of the Government of the Argentine Republic.

(c) The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

Article 2. For the purposes of this Convention:

(a) The term “enterprise of a Contracting State” means an enterprise carried on by an individual or legal entity deemed, for tax purposes, to be a resident of either Contracting State, in accordance with the laws in force in that State. If the individual or legal entity is a resident of both Contracting States, for the purposes of this Convention, that individual or entity shall be deemed to be a resident of the State in which the centre of actual management of the enterprise is situated.

(b) The term “operation of maritime and air transport” means international transport by sea or air of persons, livestock and fish, mail or goods carried out by the owner, charterer or hirer of ships or aircraft.

(c) The term “international transport” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between two places situated in the other Contracting Party.

(d) The terms “a Contracting State” and “the other Contracting State” refer to Argentina and Spain as the context of the Convention requires.

(e) The term “competent authorities” refers, in the case of Argentina, to the Ministry of Economic Affairs (Secretariat of State for Finance) and, in the case of Spain, to the Ministry of Finance or any other authority designated by the Minister.

Article 3. 1. For the purpose of the implementation of this Convention by a Contracting State, any term not defined herein shall, unless the context of the Con-

¹ Came into force on 11 February 1983, i.e., 30 days after the exchange of the instruments of ratification, which took place at Madrid on 12 January 1983, in accordance with article 7.

vention otherwise requires, have the meaning which it has under the tax laws of that State.

2. The competent authorities may hold consultations whenever they deem it necessary, with a view to ensuring the mutual application and implementation of the principles and provisions of this Convention.

3. Either Contracting State may request such consultations, and meetings for the purpose of holding them within the framework of a Joint Commission shall begin within 60 days from the date of the request, which shall be transmitted through the diplomatic channel, as shall requests for the other consultations and negotiations referred to in this instrument.

Article 4. 1. Income from the operation of international transport earned by maritime and air transport enterprises shall be taxable only in the Contracting State of which the said enterprises are residents.

2. The same rule shall be applicable to profits derived by an enterprise of a Contracting State from participation in joint activities or pools of any kind for the operation of maritime and air transport.

3. Income from the sale of movable and immovable property belonging to international transport enterprises which is assigned directly to that particular line of business shall be taxable only in the Contracting State of which the said enterprises are residents.

4. Income from the sale of ships or aircraft assigned to international transport shall be taxable only in the Contracting State of which the enterprise that owns the said ships or aircraft is a resident.

Article 5. Capital belonging to international transport enterprises which is assigned directly to that particular line of business shall be taxable only in the Contracting State of which the enterprise that owns the said capital is a resident.

Article 6. The competent authorities of the Contracting States may exchange information which they deem to be necessary for the implementation of this Convention.

Article 7. This Convention shall enter into force on the thirtieth day following the exchange of the instruments of ratification and shall thereupon have effect as regards income earned or capital owned on or after the first day of January of the year following that in which the exchange of the instruments of ratification takes place.

Article 8. This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year.

In such event, the Convention shall cease to have effect in the fiscal year beginning on or after the first day of January in the calendar year next following that in which the notice is given.

ABROGATION PROVISION

This Convention abrogates and replaces the Agreement for the Avoidance of Double Taxation of Income Derived from Sea and Air Transport signed between the two countries on 31 December 1948.

SIGNED *ad referendum* by the respective Governments in Buenos Aires, on 30 November 1978, in two original copies, both being equally authentic.

For the Government
of the Kingdom of Spain:

[Signed]

MARCELINO OREJA AGUIRRE
Minister for Foreign Affairs

For the Government
of the Argentine Republic:

[Signed]

CARLOS W. PASTOR
Minister for Foreign Affairs
and Public Worship

ADDITIONAL PROTOCOL TO THE CONVENTION OF 30 NOVEMBER 1978
FOR THE AVOIDANCE OF INTERNATIONAL DOUBLE TAXATION RE-
LATING TO THE OPERATION OF MARITIME AND AIR TRANSPORT

When signing the Convention between the Government of the Kingdom of Spain and the Government of the Argentine Republic for the Avoidance of Double Taxation relating to the Operation of Maritime and Air Transport the undersigned, duly authorized thereto, agreed that the following provisions shall form an integral part of this Convention.

1. Notwithstanding the provisions of article 7, this Convention shall have effect in the Argentine Republic with regard to capital taxes for any fiscal year for which tax obligations are not subject to prescription.

2. The provisions of this Convention shall also be applicable, on the basis of reciprocity, to any taxes or charges on gross income or patents levied on income-generating activities within the jurisdiction of the municipality of the city of Buenos Aires and in the national territory of Tierra del Fuego, Antarctica and the South Atlantic islands.

Notwithstanding the provisions of article 7, this clause shall have effect for any fiscal year for which tax obligations are not subject to prescription.
