

**No. 25789**

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**FRANCE  
and  
UNION OF SOVIET SOCIALIST REPUBLICS**

**Convention for the avoidance of double taxation on income  
(with protocol). Signed at Paris on 4 October 1985**

*Authentic texts: French and Russian.*

*Registered by France on 16 March 1988.*

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**FRANCE  
et  
UNION DES RÉPUBLIQUES  
SOCIALISTES SOVIÉTIQUES**

**Convention en vue d'éviter la double imposition des revenus  
(avec protocole). Signée à Paris le 4 octobre 1985**

*Textes authentiques : français et russe.*

*Enregistré par la France le 16 mars 1988.*

## [TRANSLATION — TRADUCTION]

CONVENTION<sup>1</sup> BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE UNION OF SOVIET SOCIALIST REPUBLICS FOR THE AVOIDANCE OF DOUBLE TAXATION ON INCOME

The Government of the French Republic and

The Government of the Union of Soviet Socialist Republics,

Desiring, in the spirit of the Final Act of the Conference on Security and Co-operation in Europe, signed at Helsinki on 1 August 1975,<sup>2</sup> to develop and strengthen their economic, commercial, industrial, scientific, technical and cultural co-operation,

And with a view to avoiding double taxation,

Have decided to conclude this Convention and have agreed on the following provisions:

*Article 1. PERSONS TO WHOM THE CONVENTION APPLIES*

1. This Convention shall apply to persons who, for tax purposes, are deemed to be residents of one or both States.

2. For the purposes of this Convention, the term “resident of one State” means any body corporate or any entity deemed to be a body corporate for tax purposes and liable to taxation in that State, by reason of its place of management or of any other criterion of a similar nature, as well as any individual liable to taxation in that State by reason of his domicile.

3. The term “resident of both States” means a person who, during one and the same period, is deemed by the tax laws of one State to be a resident of that State, and by the tax laws of the other State to be a resident of that other State.

4. Where by reason of the provisions of paragraphs 1 to 3 of this article an individual is deemed to be 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 does not have 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;

<sup>1</sup> Came into force on 28 March 1987, i.e., 30 days after the date of the last of the notifications (effected on 24 July 1986 and 3 February 1987) by which the Parties informed each other of the completion of the required formalities, in accordance with article 18 (2).

<sup>2</sup> *International Legal Materials*, vol. 14 (1975), p. 1292 (American Society of International Law).

(d) If he is deemed to be a national of both States or if he is a national of neither of them, the competent authorities of the said States shall determine by mutual agreement the question of his tax status.

5. Where by reason of the provisions of paragraphs 1 to 3 of this article a person other than an individual is deemed to be 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 2. TAXES TO WHICH THE CONVENTION APPLIES

1. This Convention shall apply to taxes on income imposed, in accordance with the laws of each State, on individuals and bodies corporate in respect of total income or of elements of that income, including the proceeds from the alienation of movable and immovable property.

The existing taxes to which the Convention shall apply are:

(a) In the case of the USSR: the income tax on foreign bodies corporate, the income tax on the population;

(b) In the case of France: the income tax, the company tax.

2. This Convention shall also apply to taxes similar to those specified in paragraph 1 of this article which are imposed in addition to, or in place of, the existing taxes after the date of signature of this Convention.

#### Article 3. GENERAL DEFINITIONS

1. For the purposes of this Convention:

(a) The terms "one State", "the other State" or "the States" mean, as the context requires, either the French Republic (France) or the Union of Soviet Socialist Republics (USSR) or both States, unless it is apparent from the text that reference is to a third State.

(b) The term "France", when used in a geographical sense, means:

— The territory of the *départements* of the French Republic, including the territorial waters;

— The sea-bed and subsoil of the submarine areas situated beyond the limits of the territorial waters over which the French Republic exercises, in accordance with international law, sovereign rights with respect to the exploration and exploitation of the natural resources of such areas. However, the term includes such areas only in cases where the person, property or activity in respect of whom or which the taxation problems arise is affected by such exploration or exploitation.

(c) The term "USSR", when used in a geographical sense, means:

— The territory of the Union Republics, including the territorial waters;

— The sea-bed and subsoil of the submarine areas situated beyond the limits of the territorial waters over which the USSR exercises, in accordance with international law, sovereign rights with respect to the exploration and exploitation of the natural resources of such areas. However, the term includes such areas only in cases where the person, property or activity in respect of whom or which the taxation problems arise is affected by such exploration or exploitation.

(d) The term "competent authorities" means:

(1) In the case of the French Republic, the Minister for the Budget or his authorized representative;

(2) In the case of the USSR, the Ministry of Finance of the USSR or its authorized representative.

2. As regards the application of this Convention, any term or expression not defined therein shall, unless the context otherwise requires, have the meaning which it has under the laws of the State in which the taxation is imposed.

*Article 4. INCOME FROM A PERMANENT REPRESENTATION*

1. Income earned in one State by a resident of the other State shall be taxable in the first State only if the income is derived through a permanent representation in that State, and only in respect of the amount attributable to the activities of that permanent representation.

2. The term “permanent representation” means any fixed place of business, through which a person who is a resident of one State carries on all or part of his business in the other State.

3. A resident of one State shall not be deemed to have a permanent representation in the other State merely because he carries on business there through a broker, a commission agent or any other agent or intermediary of an independent status, provided that such persons are acting in the ordinary course of their business.

For the purpose of this Convention, the fact that a resident of one State controls or is controlled by a person who is a resident of the other State or of a third State shall not of itself constitute one of such persons a permanent representation of the other.

A resident of one State shall not be deemed to have a permanent representation in the other State, even when contracts are concluded in his name in that other State by a person having an authority to act on his behalf — other than an intermediary of an independent status referred to above — when acting in such representative capacity does not constitute that person’s ordinary course of business.

4. Building sites or construction, assembly or installation projects established in one State by a resident of the other State shall not be deemed to constitute a permanent representation in the first State if the duration of the work does not exceed 24 months.

Where the duration of such construction, assembly or installation projects exceeds 24 months, the competent authorities of the States shall determine by mutual agreement the tax status of income derived from such activities.

5. Notwithstanding the provisions of paragraph 2 of this article, the following activities, carried on by a resident of one State in the other State shall not be deemed to be carried on in that State through a permanent representation:

- (a) The purchase of goods or merchandise;
- (b) The use of facilities and of various technical processes for the purposes of warehousing, storage or delivery of goods or merchandise belonging to that resident;
- (c) The display at exhibitions of goods, samples and other articles belonging to that resident and sales of such articles at the conclusion of exhibitions;
- (d) Advertising, the collection and dissemination of information, market research or other similar activities which are auxiliary or preparatory to the principal activity of that resident;
- (e) Any activity auxiliary or preparatory to the principal activity of that resident.

6. In determining the income derived from a permanent representation, all expenses incurred in connection with the activities of the permanent representation,

both in the State in which it is located and also abroad, and, in particular, management costs and general administrative costs, shall be deductible.

7. The provisions of this article shall not apply to the income referred to in articles 5, 6, 9, 10, 11 and 12 of this Convention.

*Article 5. INCOME FROM INTERNATIONAL TRANSPORT*

1. Income which a resident of one State derives from international transport operations carried out by sea or air transport enterprises shall not be taxable in the other State.

2. The term "international transport" means any transport of goods, merchandise and passengers between points situated in one State and points situated in the other State or in a third State. It also means any transport by container when that transport is only an extension of an international transport operation effected by sea or air transport enterprises. If the transport operation is effected solely between points situated in a single State, it shall not be deemed to be an international transport operation.

3. The provisions of this article shall also apply to income derived from participation in a pool, a joint enterprise or an international transport organization.

*Article 6. INCOME DERIVED FROM COPYRIGHT, LICENCES  
AND OTHER SIMILAR RIGHTS*

1. Income derived from copyright, licences and other similar rights which has its source in one of the States and is paid to a resident of the other State, shall not be taxable in the first State.

2. For the purposes of paragraph 1 of this article, the term "income" includes all sums paid as a consideration for the sale of, the use of or the granting of the right to use:

- (a) Copyright in scientific, literary and artistic works;
- (b) Inventions (whether or not protected by patents or author's certificates) and proposals for rationalization;
- (c) Industrial specimens and samples for the use of the public;
- (d) Factory marks, trade marks and service marks;
- (e) Registered trade names and other similar rights;
- (f) Computer programs;
- (g) Tapes for the production of gramophone records and other means of sound reproduction;
- (h) Tapes and films used for radio broadcasting, the cinema and television broadcasting;
- (i) Experience, knowledge and production secrets (know-how).

3. The provisions of this article shall also be applicable to income of any kind deriving from:

- (a) The sale of, the use of or the granting of the right to use single samples of industrial, commercial and scientific equipment, as well as other scientific and technical resources, provided that such operations are incidental to the sale, use or granting of the right to use referred to in paragraph 2 above;

(b) The provision of technical services, when such provision of services is incidental to the sale, use or granting of the right to use referred to in paragraph 2 above;

(c) The production of recordings on gramophone records, tapes and other means of sound reproduction.

#### *Article 7. DIVIDENDS*

1. Dividends paid by a resident of one State to a resident of the other State may be taxed in the first State. However, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

2. The term "dividends" as used in this article means income from shares, as well as other income which is subjected to the same tax regime as income from shares by the laws of the State of which the person making the distribution is a resident.

#### *Article 8. INTEREST*

1. Interest on bank credits and loans and interest on commercial credits arising from sources located in one of the States and received by a resident of the other State shall not be taxable in the first State. Interest other than that referred to above may be taxed in the first State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

2. The term "interest" as used in this article means income from debt-claims of every kind, and in particular, income from bank and commercial credits, bank deposits, government borrowing, as well as all income deemed to be interest for tax purposes by the laws of the State of which the payer is a resident.

#### *Article 9. WAGES AND OTHER INCOME OF INDIVIDUALS*

1. Wages and similar remuneration which an individual resident in one State receives in the other State and which are not exempt from taxation by virtue of paragraph 2 of this article and of the other articles of this Convention shall not be taxable in that other State when:

- The individual is present in the other State for a period or periods not exceeding in the aggregate 183 days in the calendar year; and
- The remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- The remuneration is not borne by a permanent representation which the employer has in the other State.

2. Notwithstanding the provisions of paragraph 1 of this article, the following categories of income, received by an individual who is or was previously a resident of one of the States immediately prior to being sent to the other State, shall not be taxable in that other State;

(a) Income derived from paid work performed in the other State and directly connected with building sites or construction, assembly or installation projects, income from which is not taxable in that other State by virtue of article 4, paragraph 4, of this Convention;

(b) Income of persons present in the other State at the invitation of a governmental agency or institution or of an educational or scientific research institution of that other State for the purpose of teaching, engaging in scientific research or participating in scientific, technical or professional conferences or for the purpose of im-

plementing intergovernmental co-operation programmes where the income is received in respect of the types of activity specified above in this subparagraph.

The exemption of such income in the other State shall be limited to a period of three years. The provisions of this subparagraph shall not apply when the teaching, scientific research or participation in conferences are performed or undertaken, not within the framework of the co-operation between the two States referred to above, but to serve the private interests of the individual concerned.

(c) Grants awarded to students, graduate students and trainees present in the other State for the purpose of studying or acquiring practical training in their field of specialization, as well as sums of money from sources outside the other State received by those persons for the purpose of their maintenance, education or practical training in their field of specialization. The provisions of this subparagraph shall apply only during the period necessary to attain the purpose of the visit;

(d) Remuneration paid during a period or periods not exceeding 730 days in three consecutive calendar years to individuals present in the other State as journalists or press, radio or television correspondents and derived from sources outside that other State;

(e) Wages of staff working on means of transport used for international transport operations by one of the States or by one of its residents, as well as wages of nationals of one of the States employed in a permanent representation situated in the other State or of a person of the first State operating means of air or sea transport, when the wages of those nationals derive from the performance of an activity directly pertaining to the operation of those means of transport;

(f) Wages of technicians sent on assignment by an organization of one State to an organization of the other State, in connection with contracts for the sale and provision of materials, goods and merchandise, paid by the sending organization during a period not exceeding 365 days in two consecutive calendar years.

3. The following income received by an individual resident in one State from sources situated in the other State shall not be taxable in that other State:

(a) Income from performances, tours and other forms of public entertainment;

(b) Sums paid in the form of prizes, awards and other rewards for winning or participating in sporting contests, competitions and other similar events;

(c) Amounts paid to a person as compensation for damages.

4. For the purposes of the application of the provisions of paragraph 2 of this article, tax shall be calculated in the other State on the basis of the income earned by the individuals concerned as from the day following the expiry of the periods of exemption provided for in that paragraph.

#### *Article 10. REMUNERATION IN RESPECT OF GOVERNMENT SERVICE AND PENSIONS*

1. Wages, salaries and other similar income received by a national of one State in respect of public duties performed in the service of that State, if those duties are deemed to be such by the domestic law of that State, shall not be taxable in the other State.

The remuneration paid by Soviet foreign trade organizations or by French commercial organizations to persons engaged in a commercial activity, such as their

agents or representatives, shall not be deemed to be remuneration paid in respect of public duties.

2. Pensions and other similar allowances received by a national of a State in respect of the performance in the past of public duties referred to in paragraph 1 of this article, as well as pensions and allowances paid in accordance with the social security legislation of that State, shall be taxable only in that State.

*Article 11. TAXATION OF INCOME DERIVED FROM THE USE  
AND ALIENATION OF PROPERTY*

1. Income derived by a resident of one State from the use, alienation, exchange and letting of immovable property which he possesses in the other State shall not be taxable in the first State.

2. Proceeds from the alienation of movable property, including means of transport, belonging to or used by a resident of one State and situated in the other State, shall not be taxable in that other State, except for the proceeds from the alienation of movable property belonging to a permanent representation covered by the provisions of article 4 of this Convention.

3. For the purposes of the application of this article, immovable property and movable property mean property recognized as such by the domestic laws of the State in whose territory the property is situated.

The shares of a body corporate possessing immovable property shall be treated in the same way as immovable property, where those shares are subjected to the same tax regime as immovable property under the laws of the State in which that immovable property is situated.

*Article 12. OTHER INCOME*

Income not specified in the foregoing articles of this Convention received by a resident of one State and derived from sources situated in the other State shall not be taxable in that other State.

*Article 13. NON-DISCRIMINATION IN TAX MATTERS*

1. A national of one of the States shall not be subjected, in the other State, to any taxation more burdensome than that to which nationals of that other State engaged in the same activities whose residence status is identical are subjected.

2. The taxation on a national of one of the States who is a resident of the other State or on the permanent representation which a national or a resident of one State has in the other State shall not be less favourably levied in that other State than the taxation levied on nationals of third countries who are residents of that other State or than that levied on permanent representations of nationals or residents of third countries engaged in a similar activity.

3. The provisions of paragraph 2 of this article shall not oblige either of the States to grant to nationals or to permanent representations of residents of the other State the tax benefits granted under special agreements to nationals or permanent representations of residents of third countries.

*Article 14. DIPLOMATIC AND CONSULAR REPRESENTATIONS*

1. The provisions of this Convention shall not affect the tax privileges which, under the general rules of international law or the provisions of special agreements, are accorded to diplomatic and consular representations, other institutions and organ-



izations belonging to the States which enjoy the same tax privileges, the heads and members of those diplomatic and consular representations, the staff and employees of such representations, institutions and organizations, and members of their families and their private staff, and the service staff of those diplomatic and consular representations, with the exception of nationals of the country of residence of those representations.

2. The provisions of paragraph 1 of this article shall also apply to members of permanent representations of the States to international organizations, to members of parliamentary and governmental delegations from the States, and to persons accompanying delegations from the States who are visiting the USSR or France, as the case may be, in order to take part in negotiations between States or in international meetings and conferences or on other official business.

#### *Article 15. PROCEDURES FOR THE APPLICATION OF THE CONVENTION*

1. This Convention shall apply to the taxation of income received solely in respect of activities carried on in one State in accordance with the laws and regulations in force in that State.

2. The provisions of this Convention shall not affect the tax provisions of agreements signed previously between the States. However, where this Convention provides for a more favourable tax regime, it is this Convention which shall apply.

3. Unless otherwise provided for in the foregoing articles of this Convention or in those of other agreements in force between the States, the income of a resident of one State shall be taxable only in that State in accordance with the laws in force in that State.

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

(a) Income other than that referred to in subparagraph (b) below shall be exempt from the French taxes mentioned in article 2, paragraph 1, subparagraph (b) of this Convention, where that income is taxable in the USSR under the provisions of this Convention;

(b) The income referred to in articles 7 and 8 of this Convention shall entitle residents of France to a tax credit corresponding to the amount of the tax levied in the USSR on that income, but not exceeding the amount of the French tax applicable to that income. This credit shall be applied to the taxes referred to in article 2, paragraph 1, subparagraph (b) of this Convention, the tax base for its application being the gross amount of the income in question;

(c) Notwithstanding the provisions of subparagraphs (a) and (b), the French tax shall be calculated on the income taxable in France having regard to this Convention, at the rates corresponding to the total income taxable under French laws.

5. In the case of the USSR, double taxation shall be avoided in accordance with the laws in force in that State.

#### *Article 16. EXCHANGE OF INFORMATION*

The competent authorities of the States shall, when necessary and to the extent allowed by their national legislation, exchange information concerning changes in their tax laws and also, on request, any other material necessary for the application of the provisions of this Convention.

All information and other material referred to in this article shall be used solely for purposes connected with the application of this Convention.

*Article 17. SETTLEMENT OF DISPUTES*

1. Where a resident of one State 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 laws of the State of which he is a resident, submit as rapidly as possible an objection to the competent authorities of one of the two States. The competent authorities of that State shall endeavour, if the objection appears to them to be justified, to reach an agreement as soon as possible with the competent authorities of the other State, with a view to the avoidance of taxation which is not in accordance with the provisions of this Convention.

2. Where such an agreement is reached, the competent authorities of the State concerned shall, as appropriate, refund the amounts paid in excess, grant the tax benefits provided for in the Convention, or proceed to levy the tax.

3. The competent authorities of the States shall endeavour to eliminate, by mutual agreement, any difficulties arising from the application of the provisions of this Convention. They may also, within the framework of the procedure provided, consult together with a view to avoiding double taxation or tax discrimination in cases not provided for in this Convention.

*Article 18. ENTRY INTO FORCE*

1. The States shall notify each other, through the diplomatic channel, of the completion of all the formalities required under their laws for the entry into force of this Convention.

2. The Convention shall enter into force on the expiry of a period of thirty days following the date of receipt of the last such notification under paragraph 1 of this article, and its provisions shall apply to the taxes established or levied in respect of periods of taxation commencing on or after 1 January or after 1 January of the calendar year following the year in which the Convention enters into force.

*Article 19. TERMINATION*

This Convention shall remain in force until terminated by one of the States. Either State may, on the expiry of a period of three years from the date of the entry into force of the Convention, terminate it by giving notice of termination through the diplomatic channel at least six months before the end of any calendar year. In such event, the Convention shall cease to apply to the taxes established or levied in respect of periods of taxation commencing on or after 1 January of the calendar year following the year in which notification of termination of the Convention is given.

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

DONE at Paris, on 4 October 1985, in duplicate in the French and Russian languages, both texts being equally authentic.

For the Government  
of the French Republic:

[ROLAND DUMAS]

For the Government  
of the Union of Soviet Socialist  
Republics:

[E. SHEVARDNADZE]

## PROTOCOL

At the time of signature of the Convention between the Government of the French Republic and the Government of the Union of Soviet Socialist Republics for the avoidance of double taxation on income, the undersigned have agreed that the following provisions shall form an integral part of the Convention.

1. With regard to the application of article 4, in the case of research contracts and contracts for the supply of goods or for construction, assembly or installation projects, where a resident of one State has a permanent representation in the other State, the profits of that permanent representation shall be determined, not on the basis of the total amount of the contract, but solely on the basis of the proportion of the contract which is actually performed by that permanent representation in the State in which it is situated. The profits pertaining to the proportion of the contract which is performed in the State of which that person is a resident shall be taxable only in that State.

2. With regard to the tax regime applicable to the income referred to in articles 7 and 8, it is understood that such a regime shall not apply if the shares or debt-claims from which that income is derived appear on the balance sheet of a permanent representation which the resident of one State has in the other State. In such event the provisions of article 4 shall apply.

3. Notwithstanding the provisions of article 11, paragraph 2, gains from the alienation of shares representing a substantial participation in the capital of a company which is a resident of France shall be taxable in France in accordance with the provisions of article 160 of the General Tax Code. A substantial participation shall be deemed to exist where the alienator holds shares totaling an amount which entitles him to 25 per cent or more of the profits of the company.

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

DONE at Paris, on 4 October 1985, in duplicate in the French and Russian languages, both texts being equally authentic.

For the Government  
of the French Republic:

[ROLAND DUMAS]

For the Government  
of the Union of Soviet Socialist  
Republics:

[E. SHEVARDNADZE]