

No. 26267

**FRANCE
and
BULGARIA**

Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income (with protocol). Signed at Sofia on 14 March 1987

Authentic texts: French and Bulgarian.

Registered by France on 4 November 1988.

**FRANCE
et
BULGARIE**

Convention en vue d'éviter les doubles impositions et de prévenir l'évasion fiscale en matière d'impôts sur le revenu (avec protocole). Signée à Sofia le 14 mars 1987

Textes authentiques : français et bulgare.

Enregistrée par la France le 4 novembre 1988.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE FRENCH REPUBLIC AND THE
PEOPLE'S REPUBLIC OF BULGARIA FOR THE AVOIDANCE
OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL
EVASION WITH RESPECT TO TAXES ON INCOME

The President of the French Republic and

The Council of State of the People's Republic of Bulgaria,

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, and to promote and strengthen economic relations between the two countries on the basis of the principles of the Final Act of the Conference on Security and Cooperation in Europe,²

Have decided to conclude a Convention and to that end have appointed as their plenipotentiaries:

For the President of the French Republic: Mr. Michel Noir, Minister-delegate to the Minister of State, Minister for Economics, Finance and Privatization, with responsibility for foreign trade; and

For the Council of State of the People's Republic of Bulgaria: Mr. Andrei Loukanov, First Vice-President of the Council of Ministers,

who, having exchanged their full powers found in good and one form, have agreed to the following provisions:

Article 1. PERSONAL SCOPE

1. This Convention shall apply to persons who are residents of one or both of the Contracting States.

2. For the purposes of this Convention, the following shall be considered residents:

(a) Of the People's Republic of Bulgaria: individuals who are nationals of the People's Republic of Bulgaria, and bodies corporate and groups of persons who have their main office in the People's Republic of Bulgaria or are registered therein;

(b) Of the French Republic: persons who, under the laws of France, are liable to tax therein by reason of their domicile, residence, place of management or any other similar criterion.

3. Where, by reason of the provisions of paragraph 2, an individual is a resident of both Contracting States, then he shall be deemed to be a resident of the State with which his personal and economic ties are closer (centre of vital interests). If it is not possible to determine with which State his personal and economic ties are closer, the competent authorities of the Contracting States shall decide the matter by mutual agreement.

¹ Came into force on 1 May 1988, i.e., the first day of the third month following the date of the last of the notifications (effected on 29 May 1987 and 23 February 1988) by which the Contracting Parties had informed each other of the completion of the required procedures, in accordance with article 26 (1).

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

4. Where, by reason of the provisions of paragraph 2, a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated.

Article 2. TAXES COVERED

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

(a) In France:

(i) The income tax;

(ii) The corporation tax;

including all withholdings at source, deductions or advances on the taxes mentioned above (hereinafter referred to as “French Tax”),

(b) In Bulgaria:

(i) The tax on total income;

(ii) The tax on the income of unmarried, widowed and divorced persons and spouses without children;

(iii) The tax on profits (hereinafter referred to as “Bulgarian Tax”).

2. The Convention shall apply also to any taxes identical or similar to those mentioned in paragraph 1 of this article, 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 Contracting States shall notify each other of any substantial changes which have been made in their respective tax laws.

Article 3. GENERAL DEFINITIONS

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

(a) The terms “a Contracting State” and “the other Contracting State” mean, as the case may be, France and Bulgaria.

(b) The term “person” includes:

— Individuals;

— Bodies corporate, including companies or any other entity which is treated as a body corporate for tax purposes;

— Any other group of persons.

Among other things it includes, in France, partnerships (*sociétés de personnes*) and, in Bulgaria, associations set up in accordance with order No. 535 (1980) of the Council of State of the People’s Republic of Bulgaria.

(c) The terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State.

(d) 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 Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State.

- (e) The term “competent authority” means:
- (i) In the French Republic, the Minister responsible for the budget or his authorized representative;
 - (ii) In the People’s Republic of Bulgaria, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by a Contracting 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. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which an enterprise of a Contracting State wholly or partly carries on its business in the other Contracting State.

2. The term “permanent establishment” includes especially:

- (a) A place of management;
- (b) A branch;
- (c) An office;
- (d) A factory;
- (e) A workshop, and particularly a maintenance workshop;
- (f) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) A construction or assembly site, but only if it is in operation for more than 12 months.

3. 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 display of goods or merchandise by the enterprise at a fair or exhibition and their sale after its closure;
- (d) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (e) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the enterprise;
- (f) 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;
- (g) The use of a fixed place of business solely for any combination of the activities mentioned in subparagraphs (a) to (f) above, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

4. Notwithstanding the provisions of paragraphs 1 and 2, where a person — other than an agent of independent status to whom paragraph 5 applies — is acting on behalf of an enterprise and has and habitually exercises in one 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 which are mentioned in paragraph 3 which, if exercised through a fixed place of business, would not make the latter a permanent establishment under the provisions of that paragraph.

5. An enterprise shall not be deemed to have a permanent establishment in a Contracting 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.

6. The fact that a company which is a resident of a Contracting State has shares in a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself make either company a permanent establishment of the other.

Article 5. INCOME FROM IMMOVABLE PROPERTY

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting 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 Contracting State in which the property in question is situated.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

Article 6. BUSINESS PROFITS

1. The profits of an enterprise of a Contracting State shall be taxable only in that State, unless the enterprise carries on business in the other Contracting 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 Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting 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 purpose 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. No profits shall be attributed to a permanent establishment simply by reason of its purchase of goods or merchandise for the enterprise.

5. 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 7. INTERNATIONAL TRANSPORT

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Such profits shall also include secondary income derived by the enterprise from the use of containers for the international transport of goods and merchandise.

2. If the place of effective management of a shipping enterprise is aboard a ship or a boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat 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 8. DIVIDENDS

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

(a) Five per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 15 per cent of the capital of the company paying the dividends;

(b) Fifteen per cent of the gross amount of the dividends in all other cases.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this article means income from shares or other rights, not being debt claims, participating in profits, as well as income subject to the distribution scheme under the tax laws of the Contracting State of which the company making the distribution is a resident.

Profits derived, in proportion to their interest, by members of a French partnership or of an association set up under order No. 535 (1980) of the Council of State of the People's Republic of Bulgaria shall not be considered dividends.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting 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 6 or article 12, as the case may be, shall apply.

5. A resident of Bulgaria who receives dividends paid by a company which is a resident of France may obtain a refund of the withholding tax on these dividends paid by that company, if any. Such refund shall be taxable in France under the provisions of paragraph 2.

The gross amount of the withholding tax thus refunded shall be considered a dividend for the application of all provisions of this Convention.

6. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, 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, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

7. Notwithstanding the provisions of paragraph 6, where a company which is a resident of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment may, after being subjected to the corporation tax, be taxed, under the laws of that other State, at a rate not exceeding 5 per cent.

Article 9. INTEREST

1. Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. The term "interest" as used in this article means income from debt claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this article.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting 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 therewith. In such cases the provisions of article 6 or article 12, as the case may be, shall apply.

4. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a territorial authority, a body corporate under public law or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting 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.

Article 10. ROYALTIES

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State, the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films, or films or tapes used for radio and television broadcasting, inventions protected by patents or authors' certificates and proposals for rationalization, any trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience (know-how).

The term "royalties" also includes payments received for the use of a computer program or for the use of, or the right to use, industrial, commercial or scientific equipment, but only to the extent that such payments represent compensation for a transfer of know-how.

4. The provisions of this article shall apply also to payments received for technical services, where such payments are related to the use of, or the right to use, any rights or property referred to in paragraph 3.

5. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting 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 therewith. In such cases the provisions of article 6 or article 12, as the case may be, shall apply.

6. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a territorial authority, a body corporate under public law or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

Article 11. CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 5 may be taxed in the Contracting State in which the immovable property is situated.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting 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 in the Contracting State in which the place of effective management of the enterprise is situated.

4. Gains from the alienation of any property other than that referred to in paragraphs 1, 2 and 3 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 12. PROFESSIONAL AND SIMILAR SERVICES

1. Income derived by a resident of a Contracting 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 Contracting 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 13. SALARIES

1. Subject to the provisions of articles 14, 16, 17 and 18, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting 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 Contracting State in respect of an employment exercised in the other Contracting 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 by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

Article 14. MEMBERS OF BOARDS OF DIRECTORS AND SUPERVISORY BOARDS

Payments of any kind derived by a resident of a Contracting State in his capacity as a member of the Board of Directors or the supervisory board of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 15. ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of articles 12 and 13, income derived by a resident of a Contracting 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 Contracting 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 6, 12 and 13, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. Notwithstanding the provisions of paragraph 1, remuneration or benefits and wages, salaries and other similar income derived by an entertainer or an athlete who is a resident of a Contracting State from his personal activities as such exercised in the other Contracting State may be taxed in the first-mentioned State only where such activities in the other State receive substantial public funding from the first State or from a territorial authority or body corporate under public law thereof.

4. Notwithstanding the provisions of paragraph 2, where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such in a Contracting State accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of articles 6, 12 and 13, be taxed in the other Contracting State only where that other person receives substantial public funding from that other State or from a territorial authority or body corporate under public law thereof, or where that other person is a non-profit organization of that other State.

Article 16. PENSIONS

1. Subject to the provisions of paragraph 2 of article 17, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment 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 Contracting State shall be taxable in that State.

Article 17. GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a territorial authority or a body corporate under public law thereof to an individual in respect of services rendered to that State, authority or body corporate, shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that other State and the individual is a resident of that State who:

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

2. Any pension paid by, or out of funds created by, a Contracting State or a territorial authority or a body corporate under public law thereof to an individual in

respect of services rendered to that State, authority or body corporate shall be taxable in that State.

3. Notwithstanding the provisions of paragraphs 1 and 2 of this article, articles 13, 14 and 16 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a territorial authority or a body corporate under public law thereof.

4. The provisions of paragraph 1 shall apply also for a period of not more than four calendar years to remuneration received by a resident of a Contracting State in respect of services rendered to an agency not having the character of a permanent establishment or fixed base, to a cultural institution or as a press, radio or television correspondent, if the recipient is present in the other Contracting State solely for the purpose of rendering the above-mentioned services therein and if the remuneration is paid directly by the first State.

Article 18. STUDENTS

1. Payments which a student or business apprentice who is a resident of a Contracting State, and who is present in the other Contracting 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 12 and 13 and of paragraph 1 of this article, remuneration which a student or business apprentice who is a resident of a Contracting State, and who is present in the other Contracting State solely for the purpose of his education or training, receives in respect of services rendered in that other State shall not be taxed in that 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 19. OTHER INCOME

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing articles of this Convention, shall be taxable only in that State.

Article 20. PROVISIONS FOR THE ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

1. In the case of Bulgaria:

(a) Where a resident of Bulgaria derives income which, in accordance with the provisions of this Convention, may be taxed in France, Bulgaria shall, subject to the provisions of subparagraphs (b) and (c) below, exempt such income from tax;

(b) Where a resident of Bulgaria derives items of income which, in accordance with the provisions of articles 8 and 10 of this Convention, may be taxed in France, Bulgaria shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid in France. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is attributable to such items of income derived from France;

(c) Where in accordance with any provision of this Convention, income derived by a resident of Bulgaria is exempt from tax in Bulgaria, Bulgaria may never-

theless, in calculating the amount of tax on the remaining income of such resident, take into account the exempted income.

2. In the case of France:

Income derived from Bulgaria which has been taxed therein in accordance with the provisions of this Convention shall also be taxable in France when it is paid to a resident of France.

Tax paid in Bulgaria shall not be deductible in calculating the taxable income in France. However, the recipient shall be entitled to a tax credit on the taxes referred to in paragraph 1 of article 2 of this Convention in the base of which such income is included. Such tax credit shall be equal:

- In respect of the income referred to in articles 8 and 10, to the amount of the tax paid in Bulgaria under this Convention, except that it shall not exceed the amount of the French tax payable on that income;
- In respect of other income, to the amount of the corresponding French tax.

Article 21. NON-DISCRIMINATION

1. Individuals who are nationals of a Contracting State and bodies corporate set up in accordance with the laws of a Contracting 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 individuals who are nationals of that other State and bodies corporate set up in accordance with the laws 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 Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting 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 Contracting State to grant to residents of the other Contracting 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.

3. Interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting 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.

4. Enterprises of a Contracting State in which shares are held by one or more residents of the other Contracting 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.

5. The provisions of this article shall, notwithstanding the provisions of article 2, apply to taxes of every kind and description.

Article 22. MUTUAL AGREEMENT PROCEDURE

1. Where a person considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic

law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph 1 of article 21, to that of the Contracting 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 Contracting 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 Contracting States.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties arising as to the application of the Convention.

The competent authorities of the Contracting States may, among other things, consult together in an attempt to reach agreement or identical tax treatment in the two States of profits attributable to a permanent establishment situated in one Contracting State of an enterprise of the other Contracting 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 Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. If oral exchanges of views seem likely to facilitate such an agreement, they may take place within a commission made up of representatives of the competent authorities of the Contracting States.

5. The competent authorities of the Contracting States shall set by mutual agreement the procedures for implementing the Convention, in particular the formalities that residents of a Contracting State must complete, in the other Contracting State, in order to obtain the tax reductions or exemptions provided for in the Convention.

Article 23. EXCHANGE OF INFORMATION

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention, in so far as the taxation thereunder is not contrary to the Convention. Any information so exchanged shall be treated as secret and may be divulged only to persons, authorities or jurisdictions with special responsibility for the assessment, collection or litigation of the taxes which are the subject of the Convention.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on a Contracting State the obligation:

(a) To carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;

(b) To supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting 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 24. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

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

Article 25. TERRITORIAL SCOPE

1. This Agreement shall apply:

(a) To the territory of the People's Republic of Bulgaria, including the territorial sea, and to any area beyond such territory over which, under international law, the People's Republic of Bulgaria has sovereign rights for the purposes of the exploration and exploitation of the natural resources of the seabed, the subsoil thereof and the superjacent waters;

(b) To the territory of the European and overseas departments of the French Republic, including the territorial sea, and to any area beyond such territory over which, under international law, the French Republic has sovereign rights for the purposes of the exploration and exploitation of the natural resources of the seabed, the subsoil thereof and the superjacent waters.

2. This Convention may be extended, either in its present form or with the necessary amendments, to the overseas territories of the French Republic which levy taxes substantially similar to those to which the Convention applies. Any such extension shall take effect on the date set by mutual agreement between the Contracting States by an exchange of diplomatic notes or by any other procedure in keeping with their constitutional provisions. Such agreement shall also provide for the necessary amendments to the Convention and stipulate the conditions under which it is to be applied in the territories to which it has been extended.

3. Unless otherwise agreed by the Contracting States, the termination of the Convention by one of them under article 27 shall also terminate, under the conditions provided for in that article, the application of the Convention to any territory to which it has been extended under this article.

Article 26. ENTRY INTO FORCE

1. Each of the Contracting States shall notify the other of the completion of the procedures required for the entry into force of this Convention. The Convention shall enter into force on the first day of the third month following the date of the last of these notifications.

2. The provisions of the Convention shall apply for the first time:

(a) In respect of taxes withheld at source, to sums payable from the date of entry into force of the Convention;

(b) In respect of other taxes on income, to income earned during the calendar year or financial year during which the Convention entered into force.

Article 27. TERMINATION

1. This Convention shall remain in force indefinitely. However, once five years have elapsed since the date of its entry into force, either Contracting State may, by giving at least six months' notice through the diplomatic channel, terminate it for the end of a calendar year.

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

(a) In respect of taxes withheld at source, to sums taxable for the calendar year for the end of which notice of termination has been given;

(b) In respect of other taxes on income, to income earned during the calendar year for the end of which notice of termination has been given or to income relating to the financial year ending during that calendar year.

IN WITNESS WHEREOF the plenipotentiaries of the two Contracting States have signed and sealed this Convention.

DONE at Sofia, on 14 March 1987, in two copies in the French and Bulgarian languages, both texts being equally authentic.

For the President
of the French Republic:

[Signed]

MICHEL NOIR

For the Council of State
of the People's Republic
of Bulgaria:

[Signed]

ANDREI LUKANOV

PROTOCOL

On the occasion of the signature of the Convention between the French Republic and the People's Republic of Bulgaria for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, the undersigned have agreed to the following provisions, which are an integral part of the Convention.

1. With respect to article 6, paragraphs 1 and 2, where an enterprise of a Contracting State sells goods or merchandise or carries on business in the other Contracting 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 study, 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 Contracting 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.

2. With respect to article 10, paragraph 4, payments received for technical services, including scientific, geological or technical analyses or studies, for engineering work, including the relevant plans, or for consulting or supervisory services, shall not be considered payments received for information relating to experience acquired in an industrial, commercial or scientific field.

3. This Convention shall not preclude the application of any fiscal oversight provision of the respective laws of the two Contracting States. In particular, articles 9 and 10 of this Convention shall not apply to that part of any interest or royalties exceeding the rates and amounts customarily retained between enterprises. Any such excess shall be taxable under the laws of each Contracting State and in accordance with the other provisions of this Convention.

4. With respect to article 11, paragraph 1, it is understood that gains from the alienation of shares in a company or body corporate whose assets are mainly made up of immovable property or rights to such property shall be taxable in France when that property is situated therein.

5. Notwithstanding the provisions of article 11, paragraph 4, gains from the alienation of shares that are part of a substantial holding in the capital of a company which is a resident of France shall be taxable in France under the provisions of article 160 of the General Tax Code (*Code général des impôts*). A holding shall be deemed to be substantial when the transferor, by himself or with related persons, directly or indirectly controls shares which, in the aggregate, give a right to 25 per cent or more of the company's profits.

6. With respect to article 20, paragraph 2, it is understood that income derived by a resident of France from a partnership set up in Bulgaria in accordance with

order No. 535 (1980) of the Council of State of the People's Republic of Bulgaria shall be taxable in Bulgaria under the provisions of article 6 of this Convention.

7. With respect to article 21:

(a) Nothing in paragraph 1 shall be construed as preventing France from granting only to persons of French nationality the benefit of exemption in respect of gains from the alienation of buildings or parts of buildings constituting the residence in France of French nationals not domiciled in France, as provided for in article 150 (c) of the General Tax Code;

(b) Nothing in paragraph 3 shall be construed as preventing France from applying the provisions of article 212 of the General Tax Code in respect of interest paid by a French company to a foreign parent company.

8. With respect to article 27, it is understood that those provisions of the Convention relating to the elimination of double taxation, the mutual agreement procedure and administrative assistance shall continue to apply after 31 December of the calendar year for the end of which notice of termination has been given, for the assessment of taxes on income covered by this Convention under article 27, paragraph 2.

9. The two Contracting States shall review questions relating to international road transport when enterprises which are residents of either of the two States are able to set up permanent establishments in the other State which is not their State of residence.

DONE at Sofia, on 14 March 1987, in two copies in the French and Bulgarian languages, both texts being equally authentic.

For the President
of the French Republic:

[Signed]

MICHEL NOIR

For the Council of State
of the People's Republic
of Bulgaria:

[Signed]

ANDREI LOUKANOV