

No. 26452

**SPAIN
and
VENEZUELA**

**Agreement for the avoidance of international double taxation
with respect to maritime and air transport. Signed at
Caracas on 6 March 1986**

Authentic text: Spanish.

Registered by Spain on 27 February 1989.

**ESPAGNE
et
VENEZUELA**

**Accord tendant à éviter la double imposition internationale
des revenus en matière de transports maritimes et
aériens. Signé à Caracas le 6 mars 1986**

Texte authentique : espagnol.

Enregistré par l'Espagne le 27 février 1989.

[TRANSLATION — TRADUCTION]

**AGREEMENT¹ BETWEEN THE GOVERNMENT OF SPAIN AND
THE GOVERNMENT OF THE REPUBLIC OF VENEZUELA FOR
THE AVOIDANCE OF INTERNATIONAL DOUBLE TAXATION
WITH RESPECT TO MARITIME AND AIR TRANSPORT**

The Government of Spain and the Government of the Republic of Venezuela, desiring to avoid, through a bilateral agreement, international double taxation on income derived from the business of international maritime and air transport, signed an agreement to that effect at Caracas on 2 February 1979. Because of changes in the tax legislation of both States, together with changes in the economic realities on which that legislation was based, before the instruments of ratification of the said Agreement were exchanged, the two Governments have agreed as follows:

Article I

This Agreement shall apply to taxes on income imposed on behalf of each of the Contracting States, irrespective of the manner in which they are levied.

The existing taxes to which the Agreement shall apply are in particular:

- (a) In Venezuela, the income tax; and
- (b) In Spain, the corporate tax and the individual income tax;
- (c) The Agreement shall apply also to such identical or substantially similar taxes as may be levied in addition to, or in place of, the existing taxes.

Article II

For the purposes of this Agreement:

(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 one of the Contracting States by the laws in force in that State. In the case of dual residency, such individual or legal entity shall for the purposes of this Agreement be deemed to be a resident of the State in which the place of effective management of the enterprise is situated.

(b) The term “operation of ships or aircraft in international traffic” means the 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, as well as any other preparatory, auxiliary or complementary activity thereto related, except when such activity is carried out between points situated in only one of the Contracting States.

(c) The terms “a Contracting State” and “the other Contracting State” refer to Spain and Venezuela, as the context of the Agreement requires.

(d) The term “competent authorities” means, in the case of Venezuela, the Sectoral Department of Revenue of the Ministry of Finance and, in the case of Spain,

¹ Came into force on 18 April 1988, the date of the last of the notifications (effected on 20 January 1987 and 18 April 1988) by which the Contracting Parties informed each other of the completion of the required procedures, in accordance with article VII (2).

the Ministry of Economic Affairs and Finance or any other authority designated by the Minister.

Article III

1. As regards the application of this Agreement by a Contracting State, any term not defined herein shall have the meaning which it has under the tax laws of that State.

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

3. Either Contracting State may request such consultations, and meetings for the purpose of holding them shall begin within 60 days of the date of the request.

Article IV

1. Income derived by an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be exempt from taxation in the other Contracting State.

2. The same rule shall apply to profits derived by an enterprise of a Contracting State from participation in joint activities or pools of any kind for the operation of ships or aircraft.

3. Gains derived by an enterprise of a Contracting State from the alienation of ships or aircraft operated in international traffic, or of movable property pertaining to the operation of such ships or aircraft, shall be exempt from taxation in the other Contracting State.

4. The provisions of the preceding paragraphs shall apply also to any air transport enterprise designated under the terms of the Air Transport Agreement between Venezuela and Spain of 25 July 1972.¹

5. The regime outlined in the preceding paragraphs shall not apply to income derived from the transport of hydrocarbons.

6. The maritime and air transport enterprises of each Contracting State shall submit, in accordance with the internal legislation of the other Contracting State and solely for statistical purposes, a statement of their profits and losses from the business of maritime or air transport and any related operations carried out in the other Contracting State.

Article V

The competent authorities of the Contracting States may exchange information that they deem necessary for the implementation of this Agreement, such information being obtained in accordance with the procedure laid down in article IV, paragraph 6.

Article VI

The competent authorities of the Contracting States shall, by the procedure mentioned in article III, paragraph 2, ensure that the tax arrangements set out in this Agreement are not taken advantage of unduly by enterprises of third States.

¹ United Nations, *Treaty Series*, vol. 1455, No. I-24619.

Article VII

1. Each Contracting State shall notify the other as early as possible, in writing, through the diplomatic channel, of the completion of the procedures required by its law to bring this Agreement into force.

2. The Agreement shall enter into force on the date of the latter of these notifications and shall thereupon have effect as regards income derived in the fiscal year commencing immediately after its entry into force.

3. Notwithstanding the provisions of the preceding paragraph, no tax shall be levied on income derived from the operation of ships or aircraft in international traffic by tax payers to whom the Agreement entered into by the two Contracting Parties on 2 February 1979 would have applied, if the necessary exchange of instruments of ratification had been made, up to and including the fiscal year in which this Agreement enters into force.

Article VIII

This Agreement shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Agreement, through the diplomatic channel, by giving notice of termination at least six (6) months before the end of any calendar year.

In that event, the Agreement shall cease to have effect as regards income derived in the fiscal year next following that in which notice is given.

IN WITNESS WHEREOF, the Plenipotentiaries named below, being duly authorized thereto, have hereunto set their hand and seal.

DONE at Caracas on 6 March 1986 in duplicate in the Spanish language, both copies being equally authentic.

For the Government
of Spain:

[Signed]

AMARO GONZALEZ DE MESA
Y GARCÍA SAN MIGUEL
Ambassador of Spain

For the Government
of the Republic of Venezuela:

[Signed]

SIMÓN ALBERTO CONSALVI
Minister for Foreign Affairs