

No. 27618

**FRANCE
and
OMAN**

**Convention for the avoidance of double taxation (with
exchange of letters). Signed at Paris on 1 June 1989**

Authentic texts: French and Arabic.

Registered by France on 30 October 1990.

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et
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**Convention en vue d'éviter les doubles impositions (avec
échange de lettres). Signée à Paris le 1^{er} juin 1989**

Textes authentiques : français et arabe.

Enregistrée par la France le 30 octobre 1990.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE GOVERNMENT OF THE FRENCH
REPUBLIC AND THE GOVERNMENT OF THE SULTANATE OF
OMAN FOR THE AVOIDANCE OF DOUBLE TAXATION

The Government of the French Republic and
The Government of the Sultanate of Oman,
Desiring to conclude a convention for the avoidance of double taxation,
Have agreed as follows:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

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

(a) In France:

The income tax (in particular for individuals);

The corporation tax;

The inheritance tax;

The personal services tax, solely within the scope of the provisions of article 7;
including any withholding tax, prepayment (*précompte*) or advance payment with
respect to the aforesaid taxes (hereinafter referred to as “French tax”).

(b) In the Sultanate of Oman:

The company income tax (hereinafter referred to as “Sultanate of Oman 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.

3. The Convention shall apply in particular to any tax introduced by the Sul-
tunate of Oman on total income or parts thereof, including gains from the alienation
of movable or immovable property, any inheritance tax and any other taxes which
are identical to those to which this Convention applies in the case of France.

The competent authorities of both States shall notify each other of significant
changes which have been made in their respective taxation laws and which concern
this Convention.

¹ Came into force on 1 August 1990, i.e., the first day of the second month following the date of receipt of the last of the notifications (of 25 April and 4 June 1990) by which the Parties had informed each other of the completion of the required procedures, in accordance with article 23 (1).

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” shall mean, according to the case, the French Republic or the Sultanate of Oman;

(b) The term “person” includes individuals, companies and any other body of persons deemed taxable by virtue of the laws in force in one of the Contracting States;

(c) The term “company” means any body corporate or any legal entity which is treated as a body corporate for tax purposes;

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

(e) 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 State;

(f) The term “competent authority” means:

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

(ii) In the case of the Sultanate of Oman, the Deputy Prime Minister for Financial and Economic Affairs 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 closest (centre of vital interests);

(b) If the State in which he has his centre of vital interests cannot be determined, or if he has no 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 both States shall settle the question by mutual agreement.

3. Where by reason of the provisions of paragraph 1 a person other than an individual is 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 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 shall be taxable 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 private 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, boats and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall apply to income derived from the use or letting of immovable property.

4. Where the ownership of stocks, shares or other rights in a company or other legal entity entitles the owner to the enjoyment of immovable property situated in a State and held by that company or other legal entity, the income which the owner derives from the use or letting of his right of enjoyment shall be taxable in that State.

Article 6. BUSINESS PROFITS

1. The profits of an enterprise of a State shall be taxable only in that State unless the enterprise carries on business in the other State through a permanent establishment situated therein. If the enterprise carries on business in such a manner, 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. The profits attributed to a permanent establishment are those which it might be expected to make if it were a distinct and separate enterprise dealing wholly independently with the enterprise of which it is a permanent establishment. In the determination of such profits, there shall be allowed as deductions the total amount of expenses which are incurred in the acquisition of the taxable income, whether in that State or elsewhere.

3. For the purposes of the preceding paragraphs, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on, including in particular a sales outlet, a place of management, a branch, an office, a factory, a workshop, a mine, a quarry or any other place of extraction of natural resources. A building or assembly site constitutes a permanent establishment only if it lasts more than six months.

However, the term “permanent establishment” does not include the use of facilities or the maintenance of a stock of goods solely for the purpose of storage, display, processing, delivery, or the maintenance of a place of business of a non-profit nature.

Article 7. SHIPPING AND AIR TRANSPORT

1. Income derived by a French enterprise from the operation of ships or aircraft in international traffic, including incidental income from such operation, shall be exempt in the Sultanate of Oman from the taxes mentioned in paragraphs 1 (b), 2 and 3 of article 2 of this Convention.

2. Income derived by an Omani enterprise from the operation of ships or aircraft in international traffic, including incidental income from such operation, shall be exempt in France from the taxes mentioned in paragraphs 1 (a) and 2 of article 2 of this Convention.

3. Notwithstanding the provisions of paragraph 1 (d) of article 3:

(a) For the purposes of paragraph 1 of this article, the term “enterprise of the Sultanate of Oman” refers to Gulf Air and any enterprise designated by the Government of the Sultanate of Oman, and the term “enterprise of France” refers to any enterprise designated by the French Government.

(b) The list of enterprises designated by each Government shall be exchanged by letter through the diplomatic channel and shall be subject to modification by the same procedure.

4. If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or a boat, then it shall be deemed to be situated in the State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the State of which the operator of the ship or boat is a resident.

5. The provisions of the preceding paragraphs shall also apply to profits from 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 State to a resident of the other State may be taxed in the first State only if:

The beneficial owner of the dividends holds directly or indirectly over 25 per cent of the capital of the company paying the dividends; however, the tax so charged may not exceed 5 per cent of the gross amount of the dividends, or

The holding in respect of which the dividends are paid is effectively connected either with an industrial or commercial activity carried on in that State through a permanent establishment situated therein, or with independent personal services performed in that State by the beneficial owner of the dividends from a fixed base situated therein.

2. Notwithstanding article 1 of this Convention, the provisions of paragraph 1 apply equally to dividends paid by a company of one State to the other State itself, the Central Bank or the public institutions of that other State.

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

4. A resident of the Sultanate of Oman who receives dividends paid by a company which is the resident of France may obtain a refund of the withholding tax on these dividends paid by that company, if any.

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

Article 9. INCOME FROM DEBT-CLAIMS

1. Income from debt-claims arising in a State and paid to a resident of the other State may only be taxed in the first State if the debt-claim in respect of which the income is paid is effectively connected either with business carried on in that State by a permanent establishment situated therein, or with independent personal services performed in that State from a fixed base situated therein.

2. 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 10. ROYALTIES

1. Royalties arising in a State and paid to a resident of the other State may be taxed in the first State only if the right or property in respect of which the royalties are paid is effectively connected with business carried on in that State through a permanent establishment situated therein or with independent personal services performed in that State by the beneficial owner of the royalties from a fixed base situated therein.

2. 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 cinematographic 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 11. CAPITAL GAINS

1. (a) 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.

(b) Gains from the alienation of shares in a company of which over 80 per cent of the assets consist of immovable property or rights to such property may be taxed in the State where that immovable property is situated when, under the laws of that State, such gains are subject to the same taxation treatment as gains from the alienation of immovable property. In the application of this provision, immovable property used by that company for its own industrial, commercial or agricultural activity or for the performance of non-commercial personal services shall be excluded from consideration.

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

unless the property in respect of whose alienation the gain arises is effectively connected with business carried in the other State by a permanent establishment situated therein or with independent personal services performed in the other State by the alienator from a fixed base situated therein.

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 the company is a resident. Participation shall be considered to be substantial when the alienator holds, directly or indirectly, shares which, together, provide an entitlement to 25 per cent or more of the company's profits.

Article 12. INDEPENDENT PERSONAL SERVICES

1. Income derived by a resident of a State in respect of personal 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 "personal services" includes, especially, independent scientific, literary, artistic, educational or teaching activities of physicians, lawyers, engineers, architects, dentists and accountants.

Article 13. DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 14, 15 and 16, salaries, wages and other similar remuneration derived by a resident of a State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other 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 State in respect of an employment exercised in the other State shall be taxable only in the first 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. Subject to the provisions of articles 15 and 16, and notwithstanding the provisions of paragraphs 1 and 2 above, any remuneration derived in respect of his activities by a teacher or researcher who immediately before visiting one State is or was a resident of the other State and who is present in the first State for the sole purpose of teaching or carrying on research there may only be taxed in the other State. This provision shall apply for a period not exceeding 24 months from the date of first arrival of the teacher or researcher in the first State in order to teach or carry on research there.

4. Notwithstanding the preceding provisions of this article, remuneration derived by a resident of a State in respect of an employment exercised aboard a ship or aircraft operated in international traffic shall be taxable only in that State.

Article 14. PENSIONS

1. Subject to the provisions of article 15, pensions and other similar remuneration paid to a resident of a State in respect 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 State shall be taxable in that State.

Article 15. GOVERNMENT SERVICE

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

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

The services are, or were, rendered in connection with a business carried on by a State or a local authority thereof.

Article 16. 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 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. Remuneration 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 State solely for the purpose of his education or training, receives in respect of services rendered in the first State shall not be taxable 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 17. INHERITANCES

1. Immovable property shall be subject to inheritance tax only in the State where it is situated.

2. Tangible or intangible movable property which is effectively connected with independent personal services performed or with business carried on in a State shall be subject to inheritance tax only in that State.

3. Tangible movable property (including securities, deposits and other similar property) to which paragraph 2 of this article does not apply shall be subject to inheritance tax only in the State where the deceased was a resident at the time of his death.

Article 18. SPECIAL PROVISIONS

1. Individuals who are residents of the Sultanate of Oman and have one or more places of accommodation available to them for their private use in France without being domiciled there for tax purposes under French law shall be exempt from income tax charged on the basis of the rental value of such place or places of accommodation.

2. Nothing in this Convention shall prevent the application of more favourable tax regulations which may be provided for by domestic French laws for foreign public investment.

3. If a person who is a resident of a State under the domestic laws of that State is considered to be a resident of the other State on the basis of the citizenship criterion set forth in article 4, paragraph 2 (c), the first State may refuse to grant that person the tax exemptions or reliefs accorded by the Convention to the residents of the other State, but shall nevertheless treat that person as a non-resident in the application of its domestic laws.

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

Article 19. PROVISIONS FOR THE ELIMINATION OF DOUBLE TAXATION

Double taxation shall be avoided in the following manner:

I. In the case of France:

A. (1) Profits and other positive income from the Sultanate of Oman which are taxable there in accordance with the provisions of this Convention shall also be taxable in France if they accrue to a resident of France. Tax paid in the Sultanate of Oman shall not be deductible for the computation of taxable income in France, but the recipient shall have a right to a tax credit attributable to the French tax on the base of which such income is included. Such tax credit shall be equal:

In respect of the income referred to in article 8, to the amount of tax paid in the Sultanate of Oman in accordance with the provisions of this article, except that it shall not exceed the amount of French tax payable on that income.

In respect of all other income, to the amount of the corresponding French tax. This provision shall also apply to the remuneration referred to in article 15 if the recipient is a resident of France.

(2) Where a person who is a resident of the Sultanate of Oman, or is established there, whose tax residence for the purposes of domestic French law is France, or which is a branch controlled directly or indirectly at over 50 per cent by a company whose place of management is in France, the income of that person shall be taxable in France notwithstanding any other provision of this Convention. In such case, in respect of all income taxable in the Sultanate of Oman under this Convention, France shall allow against the tax on such income the amount of tax levied by the Sultanate of Oman. The provisions of paragraph I A (2) above shall not apply to individuals who have Omani nationality.

B. Notwithstanding the provisions of article 17, the inheritance rights which apply to property included in the inheritance of a resident of France shall be computed for property taxable in France under this Convention according to the average rate applicable to all property which its domestic laws allow it to tax.

II. In the case of the Sultanate of Oman,

Double taxation shall be avoided by the application of the provisions of Omani laws.

Article 20. 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 domestic 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 two 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 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 States

3. The competent authorities of the State shall endeavour to resolve by mutual agreement any difficulties or to dispel any 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. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the States.

5. The competent authorities of the States shall by mutual agreement settle the mode of application of the Convention and, especially, the requirements to which the residents of a State shall be subjected in order to obtain, in the other State, the tax reliefs or exemptions provided for by the Convention.

Article 21. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions 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 22. TERRITORIAL SCOPE

1. This Convention shall apply:

In the case of France, to the European and overseas departments of the French Republic, including territorial waters and any area beyond the territorial waters over

which, in accordance with international law, the French Republic has sovereign rights with respect to the exploration and exploitation of the resources of the seabed and the subsoil thereof and of the superjacent waters.

In the case of the Sultanate of Oman, to the territory of Oman and the islands belonging thereto, including territorial waters and any area beyond the territorial waters over which, in accordance with international law, the Sultanate of Oman has sovereign rights with respect to the exploration and exploitation of the resources of the seabed and the subsoil thereof and of the superjacent waters.

2. This Convention may be extended, either in its present form or with the necessary amendments, to the overseas territories and other territorial entities 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 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 overseas territories and other territorial entities to which it has been extended.

3. Unless otherwise agreed by the States, the termination of the Convention by one of them under article 23 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 23. ENTRY INTO FORCE AND TERMINATION

1. Each of the 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 second month following the date on which the last of these notifications is received.

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 realized during the calendar year during which the Convention enters into force or relating to the financial year which concludes in the course of that year. However, the provisions of article 7 shall apply to income derived from the operation of aircraft in international traffic from the time the air link is established;

(c) In respect of inheritance tax, to estates of persons deceased from the date on which the Convention enters into force;

(d) In respect of the personal services tax mentioned in article 7, to the tax imposed for the year in which the Convention enters into force.

3. This Convention shall remain in force until such time as it is terminated by a Contracting State. Either State may, by giving at least six months' notice through diplomatic channels, denounce the Convention for the end of a calendar year after the year 1993.

4. In such case, the Convention shall apply for the last time:

(a) In respect of taxes withheld at source, to amounts payable on or before 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 inheritance taxes, to the estates of persons deceased on or before 31 December of the calendar year at the end of which it will cease to be in force;

(d) In respect of personal services tax, to the tax imposed for the year at the end of which notice has been given for termination.

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

DONE at Paris on 1 June 1989, in duplicate, in the French and Arabic languages, both texts being equally authentic.

For the Government
of the French Republic:
[PIERRE BÉRÉGOVOY]

For the Government
of the Sultanate of Oman:
[QAIS AL-ZAWAWI]

EXCHANGE OF LETTERS

I

Sir,

During the negotiations leading to today's signature of the Convention between the Government of the French Republic and the Government of the Sultanate of Oman for the Avoidance of Double Taxation, it was felt expedient to clarify the provisions of article 6 through an exchange of letters. To this end, I have the honour to propose the following:

With regard to the second sentence of paragraph 2 of article 6 of the Convention, it is understood that the total amount of expenses allowed as deductions shall not be restricted to the sole amount of expenses which are incurred by the permanent establishment itself in the acquisition of the taxable income, but shall also include the expenses incurred by the enterprise in the State in which it is resident or in a third State, and which contribute to the acquisition of the taxable income of the permanent establishment.

I should be grateful if you would inform me of the agreement of your Government to the above provisions.

This interpretive exchange of letters shall constitute an integral part of the Convention.

Accept, Sir, etc.

[Signed]

PIERRE BÉRÉGOVOY

Minister of State

Minister of the Economy, Finance and the Budget

His Excellence Qais al-Zawawi

Vice Prime Minister with responsibility for Finance and the Economy

II

Sir,

I have received your letter of today, which reads as follows:

[*See letter I*]

I have the honour to inform you of the agreement of my Government to the above interpretation and of my Government's view that this interpretative exchange of letters constitutes an integral part of the Convention.

Accept, Sir, etc.

[QAIS AL-ZAWAWI]
