

No. 30505

**SWITZERLAND
and
CÔTE D'IVOIRE**

**Convention for the avoidance of double taxation with respect
to taxes on income (with protocol). Signed at Abidjan on
23 November 1987**

Authentic text: French.

Registered by Switzerland on 24 November 1993.

**SUISSE
et
CÔTE D'IVOIRE**

**Convention en vue d'éviter les doubles impositions en matière
d'impôts sur le revenu (avec protocole). Signée à Abidjan
le 23 novembre 1987**

Texte authentique : français.

Enregistrée par la Suisse le 24 novembre 1993.

[TRANSLATION — TRADUCTION]

CONVENTION¹ BETWEEN THE SWISS CONFEDERATION AND
THE REPUBLIC OF CÔTE D'IVOIRE FOR THE AVOIDANCE OF
DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME

The Swiss Federal Council and the Government of the Republic of Côte d'Ivoire,

Desiring to conclude a Convention for the avoidance of double taxation with respect to taxes on income,

Have agreed as follows:

Article 1. PERSONAL SCOPE

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

Article 2. TAXES COVERED

1. This Convention shall apply to taxes on income imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

2. There shall be regarded as taxes on income all taxes imposed on total income or on elements of income, including taxes on gains from the alienation of movable or immovable property, taxes on the total amounts of wages or salaries paid by enterprises, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are, in particular:

(a) In Switzerland: The federal, cantonal and communal taxes on income (total income, earned income, income from capital, industrial and commercial profits, capital gains and other income); (hereinafter referred to as "Swiss tax");

(b) In Côte d'Ivoire:

- (i) The tax on industrial, commercial and agricultural profits;
 - (ii) The tax on non-commercial profits;
 - (iii) The tax on salaries and wages;
 - (iv) The tax on income from movable capital;
 - (v) The general income tax;
- (hereinafter referred to as "Côte d'Ivoire tax").

4. 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. The competent authorities of the Contracting States

¹ Came into force on 30 December 1990, i.e., the thirtieth day following the exchange of the instruments of ratification, which took place at Berne on 30 November 1990, in accordance with article 25 (2).

shall notify each other of changes which have been made in their respective taxation laws.

5. The Convention shall not apply to taxes deducted at the source on lottery prizes.

Article 3. GENERAL DEFINITIONS

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

(a) The term “Switzerland” means the Swiss Confederation;

(b) The term “Côte d’Ivoire” means the national territory, together with the maritime zones under the national jurisdiction of the Republic of Côte d’Ivoire, including any area beyond the territorial waters of Côte d’Ivoire which, in accordance with international law, has been or could subsequently be designated, under the laws of Côte d’Ivoire concerning the continental shelf, a region within which Côte d’Ivoire may exercise rights with respect to the seabed and sub-soil and their natural resources;

(c) The terms “a Contracting State” and “the other Contracting State” mean, as the context requires, Switzerland or Côte d’Ivoire;

(d) The term “person” includes an individual, a company and any other body of persons;

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

(f) 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;

(g) 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;

(h) The term “competent authority” means:

(i) In Switzerland, the Director of the Federal Tax Administration or his authorized representative;

(ii) In Côte d’Ivoire, 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. RESIDENT

1. For the purposes of this Convention, the term “resident of a Contracting 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. This term does not, however, include persons who are liable to tax in

that State only on income from sources in that State. In the case of Switzerland, the term includes a partnership established or organized under Swiss law.

2. Where, by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, 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 has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has a habitual abode;

(c) If he has a 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 the Contracting 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 Contracting States, it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 5. PERMANENT ESTABLISHMENT

1. For the purposes of this Convention, the term “permanent establishment” means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term “permanent establishment” includes especially:

(a) A place of management;

(b) A branch;

(c) An office;

(d) A factory;

(e) A sales outlet;

(f) A workshop;

(g) A mine, an oil or gas well, a quarry or any other place of extraction of natural resources;

(h) A fixed place of business used for collecting information when this activity is the object of the enterprise.

3. A building site or temporary assembly line or supervisory activities shall not constitute a permanent establishment unless such site, line or activities continue for more than six months.

4. 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 maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) The maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information for the enterprise;

(e) The maintenance of a fixed place of business solely for the purpose of advertising, supplying information, conducting scientific research or carrying on similar activities of a preparatory character for the enterprise;

(f) The maintenance of a fixed place of business solely for the purpose of carrying on a combination of the activities referred to in subparagraphs (a) to (e), provided that the combined activities of the fixed place of business retain their preparatory or auxiliary character.

5. An individual acting in a Contracting State on behalf of an enterprise of the other Contracting State (other than an agent of an independent status to whom paragraph 7 applies) shall be deemed to be a “permanent establishment” in the first-mentioned Contracting State:

(a) If he has and habitually exercises in that State an authority to conclude contracts in the name of the enterprise;

(b) If he maintains in the first-mentioned Contracting State a stock of goods or merchandise belonging to the enterprise from which he habitually fills orders and makes deliveries on behalf of the enterprise.

6. Notwithstanding the preceding provisions of this article, an insurance enterprise of one of the Contracting States shall, except in regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through a person other than an agent of an independent status to whom paragraph 7 applies.

7. 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. However, when the activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an independent agent within the meaning of this paragraph.

8. The fact that a company which is a resident of a Contracting State controls or is controlled by 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 constitute either company a permanent establishment of the other.

Article 6. 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. 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 general law respecting landed property apply, usufruct of immovable property 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 and aircraft shall not be regarded as immovable property.

3. The provisions of paragraph 1 shall also 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 7. 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 purposes 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. In so far as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this article.

5. For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

6. Where profits include items of income which are dealt with separately in other articles of this Convention, the provisions of those articles shall not be affected by the provisions of this article.

Article 8. SHIPPING AND AIR 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.

2. If the place of effective management of a shipping enterprise is on board a ship, it shall be deemed to be situated in the Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship 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. This provision applies only to the share of profits attributed to the Côte d'Ivoire participant of the multinational company Air-Afrique.

Article 9. ASSOCIATED ENTERPRISES

Where:

(a) An enterprise of a Contracting State participates directly or indirectly in the management, control or capital of an enterprise of the other Contracting State, or

(b) The same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, any profits which would, but for those conditions, have accrued to one of the enterprises but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Article 10. 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 15 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

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 and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case, the provisions of article 7 shall apply.

5. 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 situated in that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11. 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. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2, interest arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner thereof shall be taxable only in that other State to the extent that such interest is paid:

(a) In respect of credit extended by the seller for the sale of industrial, commercial or scientific equipment, or

(b) In respect of credit extended by the seller for the sale of goods or merchandise.

4. 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 purposes of this article.

5. The provisions of paragraphs 1, 2 and 3 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 and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case, the provisions of article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority 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 in con-

nection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, the interest shall be deemed to arise in the State in which the permanent establishment is situated.

7. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 12. 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 recipient is the beneficial owner of the royalties, the tax so charged shall not exceed 10 per cent of the gross amount of the royalties. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

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 or television broadcasting, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, agricultural, industrial, commercial or scientific equipment, or for information concerning agricultural, industrial, commercial or scientific experience.

4. 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 and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case, the provisions of article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority 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 in connection with which the liability to pay the royalties was incurred and such royalties are borne by such permanent establishment, such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In such case, the excess part of the

payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

Article 13. CAPITAL GAINS

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in article 6 and situated in the other Contracting State may be taxed in that other State.

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, including such gains from the alienation of such permanent establishment (alone or with the whole enterprise), 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 only 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 14. INDEPENDENT AND DEPENDENT PERSONAL SERVICES

1. Subject to the provisions of articles 15, 17, 18 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment and income derived in respect of professional services or other independent activities of a similar character shall be taxable only in that State, unless the employment, services or activities are exercised or carried out in the other Contracting State. If the employment, services or activities are so exercised or carried out, such remuneration or income as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration or income derived by a resident of a Contracting State in respect of an employment, services or activities exercised or carried out 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 a twelve-month period, and

(b) The remuneration or income is paid by, or on behalf of, a person that is not a resident of the other State, and

(c) The remuneration or income is not borne by a permanent establishment which that person has in the other State.

3. Notwithstanding the preceding provisions of this article, remuneration derived in respect of an employment exercised on board 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 15. DIRECTORS' FEES

Directors' fees and other similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors or trustees of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 16. ENTERTAINERS AND ATHLETES

1. Notwithstanding the provisions of article 14, 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 7 and 14, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply to income from activities of entertainers which are directly or indirectly subsidized in large part by public funds.

Article 17. PENSIONS AND ANNUITIES

1. Subject to the provisions of paragraphs 1 and 2 of article 18, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and annuities paid to a resident of a Contracting State shall be taxable only in that State.

2. The term "annuity" means a fixed sum payable periodically at regular intervals for life or for a specified or specifiable period, in fulfilment of an obligation to make the payments in return for full and adequate consideration in money or money's worth.

Article 18. GOVERNMENT SERVICE

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or authority 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 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. (a) Any pension paid directly by, or out of funds created by, a Contracting State or a political subdivision or local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident and national of that State.

3. The provisions of articles 14, 15 and 17 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 19. STUDENTS

1. Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned 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. Any individual who is or previously was a resident of a Contracting State and who is present in the other Contracting State in order to pursue his education, research or training or in order to acquire technical, professional or business experience shall, for a period or periods not exceeding in the aggregate 12 months, be exempt in that other State from tax on remuneration for an employment in that other State, provided that the employment is directly related to his education, research, training or apprenticeship and that the remuneration derived therefrom does not exceed 18,000 Swiss francs or the equivalent in Côte d'Ivoire currency at the official rate of exchange.

Article 20. OTHER INCOME

1. 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.

2. The provisions of paragraph 1 shall not apply to income, other than income from immovable property as defined in paragraph 2 of article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case, the provisions of article 7 shall apply.

Article 21. ELIMINATION OF DOUBLE TAXATION

1. In the case of Switzerland, double taxation shall be avoided in the following manner:

(a) Where a resident of Switzerland derives income which, in accordance with the provisions of this Convention, may be taxed in Côte d'Ivoire, Switzerland shall, subject to the provisions of subparagraphs (b) and (c), exempt such income from tax but may, in calculating the amount of tax on the remaining income of such resident, apply the rate which is appropriate to the total income without taking into account the exemption.

(b) Where a resident of Switzerland receives dividends or royalties which, in accordance with the provisions of articles 10 and 12, may be taxed in Côte d'Ivoire,

Switzerland shall allow, upon request, a relief to such resident. The relief may consist of:

- (i) A deduction from the Swiss tax on the income of that resident of an amount equal to the tax paid in Côte d'Ivoire in accordance with the provisions of articles 10 and 12; such deduction shall not, however, exceed that part of the Swiss tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in Côte d'Ivoire; or
- (ii) A lump-sum reduction of the Swiss tax; or
- (iii) A partial exemption of such dividends or royalties from Swiss tax, in any case consisting at least of the deduction of the tax paid in Côte d'Ivoire from the gross amount of the dividends or royalties.

Switzerland shall determine the applicable relief and regulate the procedure in accordance with the Swiss provisions relating to the carrying out of international conventions concluded by the Swiss Confederation for the avoidance of double taxation.

(c) Where a resident of Switzerland derives interest which, in accordance with the provisions of article 11, may be taxed in Côte d'Ivoire, Switzerland shall allow a relief to such resident upon his request. The relief may consist of:

- (i) A deduction of 5 per cent of the gross amount of the interest, and
- (ii) A deduction from the Swiss tax on the income of that resident, computed in accordance with the relief mentioned in subparagraph *c*, (i), of 10 per cent of the gross amount of the interest; such deduction shall be determined in accordance with the general principles of relief specified in subparagraph (*b*).

2. In the case of Côte d'Ivoire, double taxation shall be avoided in the following manner:

The tax authorities of Côte d'Ivoire may not include in the tax base income that is taxable in the other Contracting State under this Convention. Côte d'Ivoire nevertheless reserves the right to take into account, in determining the rate of tax, the income so excluded.

3. For the purposes of paragraphs 1 and 2, profits, income or capital gains of a resident of a Contracting State which are taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources situated in that other Contracting State.

Article 22. NON-DISCRIMINATION

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals 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 term "nationals" means:

- (a) All individuals possessing the nationality of a Contracting State;
- (b) All legal persons, partnerships and associations deriving their status as such from the laws in force in a Contracting State.

3. 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.

4. Except where the provisions of article 9, paragraph 7 of article 11 or paragraph 6 of article 12 apply, 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.

5. Enterprises of a Contracting State the capital of which is wholly or partly owned or controlled, directly or indirectly, 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.

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

Article 23. 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 22, 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 the Convention.

3. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or 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 Contracting 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 in a commission consisting of representatives of the competent authorities of the Contracting States.

Article 24. DIPLOMATIC AGENTS AND CONSULAR OFFICERS

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

2. Notwithstanding the provisions of article 4, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed to be a resident of the sending State if:

(a) In accordance with international law he is not liable to tax in the receiving State in respect of income from sources outside that State, and

(b) He is liable in the sending State to the same obligations in relation to tax on his total income as are residents of that State.

3. This Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income.

Article 25. ENTRY INTO FORCE

1. This Convention shall be ratified and the instruments of ratification shall be exchanged at Bern as soon as possible.

2. The Convention shall enter into force on the thirtieth day following the date of the exchange of the instruments of ratification, and its provisions shall apply:

(a) In Switzerland:

- (i) To taxes levied by deduction at the source on income paid on or after 1 January of the year immediately following the year in which the instruments of ratification are exchanged;
- (ii) To other taxes levied for the fiscal years beginning on 1 January of the year immediately following the year in which the instruments of ratification are exchanged and thereafter;

(b) In Côte d'Ivoire:

- (i) To taxes on industrial, commercial or agricultural profits levied for any fiscal period beginning on 1 October of the calendar year immediately following the year in which the instruments of ratification are exchanged;
- (ii) To other taxes on income levied for any fiscal period beginning on 1 January of the calendar year immediately following the year in which the instruments of ratification are exchanged;
- (iii) To taxes levied by deduction at the source on income paid on or after 1 January of the year immediately following the year in which the instruments of ratification are exchanged.

Article 26. TERMINATION

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through the diplomatic

channel, by giving notice of termination at least six months before the end of any calendar year. In such event, the Convention shall cease to apply:

(a) In Switzerland:

- (i) To taxes levied by deduction at the source on income paid after 31 December of the year of termination;
- (ii) To other taxes levied for the fiscal years ending before 31 December of the year immediately following the year of termination;

(b) In Côte d'Ivoire:

- (i) To taxes levied by deduction at the source on income paid after 31 December of the year of termination;
- (ii) To taxes on industrial, commercial or agricultural profits levied on income for fiscal periods ending no later than 30 September of the year immediately following the year of termination;
- (iii) To taxes levied on income for fiscal periods beginning on 1 January of the year immediately following the year of termination.

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

DONE at Abidjan on 23 November 1987 in duplicate in the French language.

For the Swiss Federal Council:

C. CARATSCH

For the Government
of the Republic of Côte d'Ivoire:

S. AKÉ

PROTOCOL TO THE CONVENTION ON TAXATION BETWEEN
SWITZERLAND AND CÔTE D'IVOIRE

On signing the Convention between the Swiss Confederation and the Republic of Côte d'Ivoire for the avoidance of double taxation with respect to taxes on income,

The undersigned have agreed on the following provisions:

Notwithstanding the provisions of article 10, paragraph 2, so long as a company which is a resident of Côte d'Ivoire is exempt from the Côte d'Ivoire tax on profits or pays this tax at a lower rate than the rate established by general law, dividends paid by such company may be taxed in Côte d'Ivoire at a rate not exceeding 18 per cent of the gross amount of the dividends.

In such case, the relief allowed by Switzerland shall, notwithstanding the provisions of article 21 of the Convention, consist in a deduction of 18 per cent of the gross amount of the dividends.

IN WITNESS WHEREOF the undersigned have signed this Protocol, which shall have the same force and validity as the Convention.

For the Swiss Federal Council:

C. CARATSCH

For the Government
of the Republic of Côte d'Ivoire:

S. AKÉ
