

# 1999 Income, Capital, and Inheritance Tax Convention and Final Protocol (English Translation)

**Signed date:** October 17, 1999

**In force date:** December 1, 2002

**Effective date:** Income subject to withholding tax, from December 1, 2002; other income tax relating to 2002 and later, from January 1, 2002; other provisions, from December 1, 2002. See Article 30.

**Status:** In Force

## CONVENTION BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, CAPITAL, AND ESTATES

[TRANSLATION]

The Government of the French Republic and the Government of the People's Democratic Republic of Algeria, desiring to enter into a convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, capital, and estates, have agreed as follows:

### Article 1 Personal Scope

This Convention shall apply:

- a) Insofar as taxes on income and on capital are concerned, to persons who are residents of a Contracting State or of both Contracting States;
- b) Insofar as estate taxes are concerned, to the estates of persons who were, at the time of their death, residents of a Contracting State or of both Contracting States.

### Article 2 Taxes Covered

1. This Convention shall apply to taxes on income, capital, and estates imposed on behalf of a Contracting State or one of its local authorities, irrespective of the manner in which they are levied.
2. a) There shall be regarded as taxes on income and capital all taxes imposed on total income, total capital, or on elements of income or capital, 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.  
b) There shall be regarded as estate taxes any taxes levied upon death of a person in the form of taxes on the estate, taxes on parts of an estate, capital transfer tax or taxes on gifts mortis causa.
3. The existing taxes to which this Convention shall apply are in particular:
  - a. insofar as France is concerned:
    - i) income tax (l'impôt sur le revenu);
    - ii) corporation tax (l'impôt sur les sociétés);
    - iii) salary tax (la taxe sur les salaires);
    - iv) solidarity tax on capital (l'impôt de solidarité sur la fortune);
    - v) tax on capital transfer on death (les droits de mutation par décès);  
(which shall be referred to hereinafter as "French Taxes").
  - b. insofar as Algeria is concerned:
    - i) overall income tax (l'impôt sur le revenu global);
    - ii) corporate profit tax (l'impôt sur le bénéfices des sociétés);
    - iii) professional activity tax (la taxe sur l'activité professionnelle);
    - iv) flat-rate payment (le versement forfaitaire);
    - v) royalty and tax on the profits from prospecting, exploration, use, and pipeline transport of hydrocarbons (la redevance et l'impôt sur les résultats relatifs aux activités de prospection, de recherche, d'exploitation et de transport par canalisation des hydrocarbures);
    - vi) asset tax (l'impôt sur le patrimoine);
    - vii) estate taxes (les droits de succession);  
(which shall be referred to hereinafter as "Algerian Taxes").
4. This Convention shall also apply to any identical or substantially similar taxes which are imposed after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of significant changes which have been made in their respective taxation laws.

### Article 3 General Definitions

1. For the purposes of this Convention, unless the context requires a different interpretation:
  - a) the terms "Contracting State" and "the other Contracting State" refer to France or Algeria, in accordance with the context herewith.
  - b) the term "France" refers to the European and overseas departments of the French Republic, including its territorial waters, and beyond thereof, the areas over which, in accordance with international law, the French Republic exercises its sovereign rights for the purpose of exploration and use of the natural resources of the sea bottom, the subsea bottom and the water column situated on top thereof;
  - c) the term "Algeria" refers to the territory of the People's Democratic Republic of Algeria, including its territorial waters, and, beyond thereof, the areas over which, in conformity with international law, the People's Democratic Republic of Algeria has jurisdiction or exercises its sovereign rights for the purpose of exploration and use of the natural resources of the sea bottom, the subsea bottom and the water column situated on top thereof;
  - d) the term "person" refers to any individual or company or group of people;
  - e) the term "company" refers to 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" refer, respectively, to an enterprise carried on by a resident of a Contracting State and to an enterprise carried on by a resident of the other Contracting State;
  - g) the term "international traffic" refers to 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" refers to:
    - (i) insofar as France is concerned, the minister in charge of budget issues or his or her authorized representative;
    - (ii) insofar as Algeria is concerned, the minister in charge of finance or his or her authorized representative.
2. As regards the application of this Convention by a Contracting State, any term or expression not defined herein shall, unless the context otherwise requires, have the meaning which it has at that time under the law of that State concerning the taxes to which this 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 substantially similar nature. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources situated in that State or of capital located therein.
2. Where by reason of the provisions of paragraph 1, an individual is a resident of both Contracting States, then his or her status shall be determined as follows:
  - a) this person shall be deemed to be a resident only of the State in which he or she has a permanent home available to him or her; if he or she has a permanent home available to him or her in both States, he or she shall be deemed to be a resident of the State with which his or her personal and economic relations are closer (center of vital interests);
  - b) if the State in which such person has his or her center of vital interests cannot be determined, or if he or she has not a permanent home available to him or her in either State, he or she shall be deemed to be a resident only of the State in which he or she has an habitual abode;
  - c) if such person has a habitual abode in both States or in neither of them, he or she shall be deemed to be a resident only of the Contracting State of which he or she is a national;
  - d) in the event that the preceding criteria do not make it possible to determine the State in which a person reside, 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, then such person shall be deemed to be a resident of the State in which its place of effective management is situated.
4. The term "resident of a Contracting State" shall include, insofar as France is concerned, companies and other groups of people who are subject to a substantially similar tax treatment (and) whose place of effective management is located in France and whose shareholders, partners or other members are personally liable to tax therein for their share of profits, in application of domestic French laws.

#### **Article 5 Permanent Establishment**

1. For the purposes of this Convention, the term "permanent establishment" refers to a fixed place of business through which the business of an enterprise is wholly or partly carried on.
2. The term "permanent establishment" includes in particular the following:
  - a) a place of management;
  - b) a branch;
  - c) an office;
  - d) a factory;
  - e) a workshop;
  - g) a sales store;
  - f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A construction or assembly site only shall only be deemed a permanent establishment as long as its duration exceeds three months.
4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include the following:
  - 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 carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;
  - f) the maintenance of a fixed place of business solely for any combination of activities mentioned in Subparagraphs a) through e), provided that the overall activity of the fixed place of business resulting from this combination remains of a preparatory or auxiliary character.
5. Notwithstanding the provisions of paragraphs 1 and 2, where a person - other than an agent of an independent status to whom paragraph 6 applies - is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to enter into contracts on behalf 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 mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.
6. 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, as long as such persons are acting in the ordinary course of their business.
7. 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 from immovable property (including income from agricultural or forestry operations) may be taxed in the Contracting State in which such property is situated.
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 agricultural and forestry operations, 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, boats, and aircraft shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, leasing 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.

5. Where the ownership or shares, stocks or other rights in a company or in another legal person grants the owner the right of enjoyment with respect to immovable property situated in a Contracting State and which is held by that company or another legal person, any income derived by the owner from the direct use, letting or use in any other form of his or her right of enjoyment shall be taxable in that State, the provisions of Articles 7 and 14 notwithstanding.

### **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 enterprise engaged in the same or substantially similar activities under the same or substantially similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In determining the profits of a permanent establishment, there shall be allowed as deductions any 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 this permanent establishment is situated or elsewhere. No deduction shall be permitted, however, for sums which would otherwise be paid (for purposes other than the reimbursement of expenses incurred) by the permanent establishment to the headquarters of the enterprise or to any one of its establishments as royalties, fees or other similar payments for the use of patents or other rights or as a commission for specific services rendered or for a management activity or, except in the case of a banking enterprise, as interest on sums loaned to the permanent establishment. In addition, in calculating the profits of a permanent establishment, any sums (other than for the purpose of reimbursing expenses incurred) which are charged by the permanent establishment to the headquarters of the enterprise or any of its establishments as royalties, fees or other similar payments for the use of patents or other rights or as a commission for specific services rendered or for a management activity or, except in the case of a banking enterprise, as interest on sums loaned to the headquarters of the enterprise or any of its establishments, shall be included.

4. Insofar 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, no provision contained 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, however, shall be such that the result shall be in accordance with the principles contained in this Article.

5. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of merchandise on behalf of the enterprise.

6. For the purposes of the preceding paragraphs of this Article, 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 proceed otherwise.

7. 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 8 Sea and Air Traffic**

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 income that is accessory to such use and, in particular, accessory income derived by such enterprise from the use of containers for international transport of goods and merchandise.

2. Where the place of effective management of a shipping enterprise is aboard a ship or boat, then such enterprise shall be deemed to be situated in the Contracting State in which the home harbor of this ship or boat is situated, or, if there is no such home harbor, 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 arising out of the participation in a pool, a joint business, or an international operating agency.

### **Article 9 Associated Enterprises**

1. 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 where

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, then 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.

2. Where a Contracting State includes in the profits of an enterprise of that State - and taxes accordingly - profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall proceed to make an appropriate adjustment to the amount of the tax charged therein on those profits as long as it believes that such adjustment is justified. In determining such adjustment, due regard shall be had to the other provisions of this Convention, and the competent authorities of the Contracting States shall if necessary consult each other.

### **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 in accordance with the laws of that State, but if the person receiving the dividends is their beneficial owner, the tax so charged shall not exceed the following:

a) five per cent of the gross amount of the dividends if the beneficial owner is a company which holds, whether directly or indirectly, at least 10 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.

The provisions of this present paragraph shall not affect the taxation of the company in respect of the profits which are used to pay dividends.

3. A resident of Algeria who receives dividends paid by a company which is a resident of France can obtain reimbursement of the equalization tax to the extent that the same has been actually paid by the company for these dividends. The gross amount of the equalization tax reimbursed shall be considered a dividend for the application of this Convention ; it is taxable in France in accordance with the provisions of paragraph 2.

4. The term "dividends" as used in this Article refers to income from shares, "jouissance" shares or certificates, mining or founder's shares or other beneficiary rights, not being debt-claims, as well as income which is subjected to the same taxation treatment as income from shares under the laws of the State of which the company making the distribution is a resident. Please note that the term "dividend" does not include the income set forth under Article 16.

5. 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, either an industrial or commercial activity through a permanent establishment situated therein, or independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected therewith. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

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 insofar as such dividends are paid to a resident of that other State or insofar 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 in case 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 in accordance with the laws of that State, but if the person receiving the interest is its beneficial owner, the tax so charged shall not exceed 10 per cent of the gross amount of interest in case such interest

arises in France, and 12 per cent of the gross amount of interest in case such interest arises in Algeria.

3. The provisions of paragraph 2 notwithstanding, in the following cases, the interest mentioned in paragraph 1 shall only be taxable in the Contracting State in which its beneficial owner is a resident:

- a) such interest is paid in connection with the sale on deferred terms of industrial, commercial, or scientific equipment, or
- b) such interest is paid in connection with the sale on deferred terms of merchandise or the provision of services between enterprises, or
- c) such interest is paid for a loan of any kind granted by a financial institution.

4. The provisions of paragraph 2 notwithstanding, any interest arising in a Contracting State shall be exempt from tax in that State in the following cases:

- a) the person paying such interest is that State or one of its local authorities, or
- b) such interest is paid to the other Contracting State or one of its local authorities or institutions or entities (including financial institutions) which belong entirely to that other State or one of its local authorities, or
- c) such interest is paid to other institutions or entities (including financial institutions) for financing granted by them within the scope of agreements entered into between the Contracting States.

5. 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 clause establishing the 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. Late-payment penalties shall not be considered interest as defined in this Article.

6. The provisions of paragraphs 1, 2, 3, and 4 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on an industrial or commercial activity 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply.

7. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority thereof, or another resident of that State. Where, however, the person paying the interest, whether he or she 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.

8. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some third parties, 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 a similar 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 in accordance with 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 shall be taxable in that other State.

2. These royalties, however, shall also be taxable in the Contracting State in which they arise and in accordance with the laws of this State, although, the tax so charged shall not exceed the following:

a) five per cent of the gross amount of the royalties paid for the use or the right to use any copyright of literary, artistic or scientific work, excluding cinematograph films and recordings for radio and televised transmissions;

b) In all other cases, 10 per cent of the gross amount of the royalties, insofar as the same arise in France, and 12 per cent of the gross amount of the royalties, insofar as the same arise in Algeria.

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 and recordings for radio and televised transmission, any patent, trademark, design or model, plan, secret formula or process as well as for the use of, or the right to use, any industrial, commercial, agricultural or scientific equipment or for any information related with experience acquired in the field of industry, commerce, or science (know-how).

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 an industrial or commercial activity 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 case the provisions of Article 7 or Article 14, as the case may be, shall apply.

5. The royalties are deemed to arise in a Contracting State in case the payer is that State itself, a local authority thereof, or another resident of that State. In case the payer of the royalties, whether a resident of a Contracting State or not, however, has a permanent establishment in a Contracting State for which the contract giving rise to the payment of the royalties has been entered and which as such incurs the charge thereof, such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

6. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some third parties, the amount of the royalties, having regard to the service 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 similar relationships, 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 in accordance with the laws of each Contracting State, due regard being had to the other provisions of this Convention .

### **Article 13 Capital Gains**

1. a) Gains derived from the alienation of immovable property referred to in Article 6 may be taxed in the Contracting State in which such property is situated.

b) Gains derived from the alienation of shares, parts or other rights in a company or legal person whose assets mainly consist, whether directly or via one or several other companies or legal persons, of immovable property situated in a Contracting State or rights pertaining to such assets shall be taxable in that State. In applying such provision, immovable property used by this company or legal person in its own industrial, commercial or agricultural operations or in its exercise of independent professional services shall not be taken into consideration.

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 a 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 goods belonging to the business property of an enterprise and which consist in ships or aircraft operated by such enterprise 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 Personal 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; such income, however, shall also be taxable in the other Contracting State in the following cases:

a) In case this resident habitually has, in that other State, a fixed base for the exercise of his or her activities; in this case, only that part of the income which is attributable to this fixed base shall be taxable in that other State; or

b) In case he or she is present in that other State for a period or periods with a total length of equal to or more than 183 days during the fiscal year in question; in this case, only that part of the income which is derived from activities exercised in that other State shall be taxable in that other State.

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 15 Dependent Personal Services**

1. Subject to the provisions of Articles 16, 18, and 19, salaries, wages and other similar remuneration received by a resident of a Contracting State in respect of paid 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 received therefor 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 paid 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 during the fiscal year in question, 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, any remuneration derived in respect of paid 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 16 Directors' Fees**

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

#### **Article 17 Artists and Sportsmen**

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artist, or a musician, or as a sportsman, from his or her 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 a sportsman in his capacity as such accrues not to the entertainer or sportsman him or herself but to another person, that income may, notwithstanding the provisions of Articles 7, 14, and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraph 1 notwithstanding, any income which an entertainer or a sportsman, being a resident of a Contracting State, derives from his or her personal activities exercised in the other Contracting State in this capacity, shall only be taxable in the first-mentioned State as long as these activities in the other State are mainly financed by using public funds of the first-mentioned State, its local authorities, or its public-law entities.

4. Notwithstanding the provisions of paragraph 2, where income from activities which an entertainer or a sportsman personally and as such exercises in a Contracting State does not accrue to the artist or sportsman him or herself, but to another person, such income shall only be subject to tax, the provisions of Articles 7, 14, and 15 notwithstanding, in the other State in case this other person is mainly financed by using public funds of such other State, its local authorities, or its public-law entities.

#### **Article 18 Pensions**

Subject to the provisions of paragraph 1 of Article 19, any 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.

#### **Article 19 Remuneration and Pensions for Government Service**

1. a) Any remuneration and pensions paid by a Contracting State or one of its local authorities or one of its public-law entities, whether directly or by drawing upon funds set up for that purpose, shall be taxable only in that State.

b) However, such remuneration and pensions shall be taxable only in the other Contracting State if he individual receiving them is a resident and a national of that State without, at the same time, being a national of the first-mentioned State.

2. The provisions of Articles 15, 16, and 18 shall apply to remuneration as well as pensions in respect of services rendered in connection with an industrial or commercial activity carried on by a Contracting State or one of its local authorities or one of its public-law entities.

#### **Article 20 Students and Interns**

1. Payments which a student or intern 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 studies or training receives for the purpose of his maintenance, studies or training shall not be taxed in that State as long as such payments arise from sources that are located outside that State.

2. Insofar as stipends and remuneration for paid employment to which paragraph 1 does not apply are concerned, a student or an intern as defined by paragraph 1 shall be entitled, in addition, throughout

the duration of his or her studies or training, to receive the same exemptions, tax benefits or tax reductions as the residents of the Contracting State in which he or she is present.

### **Article 21 Other Income**

1. Items of income of a resident of a Contracting State, regardless of where they arise, which are 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, as long as the beneficiary of such income, being a resident of a Contracting State, carries on an industrial or commercial activity in the other Contracting State 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 income is paid is effectively connected therewith. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

### **Article 22 Capital**

1. a) Capital represented by immovable property referred to in Article 6 which is held by a resident of a Contracting State and which is situated in the other Contracting State shall be taxable in that other State;
- b) Capital represented by shares, parts or other rights in a company or legal person whose assets are mainly represented, whether directly or via one or several other companies or legal persons, by immovable property situated in a Contracting State or rights pertaining to such assets shall be taxable in that State. In applying such provision, immovable property used by this company or legal person in its own industrial, commercial or agricultural operations or in its exercise of independent professional services shall not be taken into consideration.
2. Capital represented by movable property which belongs to the assets of a permanent establishment which an enterprise of a Contracting State maintains in the other Contracting State, or movable property belonging to a fixed base which a resident of a Contracting State has available to him or her in the other Contracting State for the purpose of exercising independent professional services shall be taxable in that other State.
3. Capital represented by assets which belong to the property of an enterprise and which are represented by ships and aircraft operated by such enterprise in international traffic as well as by movable property used in the operation of these ships or aircraft shall only be taxable in the Contracting State where the place of effective management of the enterprise is located.
4. All other items of capital of a resident of a Contracting State shall only be taxable in that State.

### **Article 23 Estates**

1. a) Any immovable property referred to in Article 6 and letter b) of this present paragraph which belongs to the estate of a resident of a Contracting State and which is situated in the other Contracting State shall be taxable in that other State;
- b) In applying the provisions of this Article, the shares, parts or other rights in a company or legal person whose assets are mainly represented, whether directly or via one or several other companies or legal persons, by immovable property situated in a Contracting State or rights pertaining to such assets shall be considered immovable property situated in that State.
2. a) Movable property of an enterprise belonging to the estate of a resident of a Contracting State and which belongs to a permanent establishment located in the other Contracting State shall be taxable in that other State;
- b) Movable property belonging to the estate of a resident of a Contracting State and which are used in the exercise of a liberal profession or other activities of an independent character which belong to a fixed base situated in the other Contracting State shall be taxable in that other State.
3. Movable tangible property other than the movable property referred to in paragraph 2 which belongs to the estate of a resident of a Contracting State and which is situated in the other Contracting State shall be taxable in that other State.
4. Movable property other than the movable property referred to in paragraph 2 which belongs to the estate of a resident of a Contracting State and which is represented by debt-claims against a debtor who is a resident of the other Contracting State or a permanent establishment located in that other State, or which are represented by securities issued by that other State or by one of its local authorities, or by one of its public-law entities, or by a company that is domiciled in that other State, shall be taxable in that other State.
5. Any assets, regardless of the circumstances, belonging to the estate of a resident of a Contracting State and which are not referred to in paragraphs 1, 2, 3, and 4 shall only be taxable in that State.

6. a) Any debts related with the purchase, construction, transformation, improvement, distribution or maintenance of the assets referred to in Article 6 shall be deducted from the value of these assets;
- b) Subject to the provisions of letter a), any debts related with a permanent establishment or a fixed base shall be deducted, as the case may be, from the value of the permanent establishment or the value of the fixed base;
- c) Any debts related with movable tangible property referred to in paragraph 3 shall be deducted from the value of these assets;
- d) Any debts related with movable property referred to in paragraph 4 shall be deducted from the value of these assets;
- e) Any other debts shall be deducted from the value of the assets to which the provisions of paragraph 5 apply;
- f) In case a debt exceeds the value of the assets from which it can be deducted in a Contracting State in accordance with the provisions of letters a), b), c), or d), the balance shall be deducted from the value of other assets which are subject to tax in that State;
- g) In case after the deductions referred to in letters e) or f), a balance remains which is not covered in a Contracting State, such balance shall be deducted from the value of the assets which are subject to tax in the other Contracting State.

#### **Article 24 Elimination of Double Taxation**

1. Insofar as France is concerned, double taxation shall be avoided as described below:

- a) Income arising in Algeria and which is taxable or only taxable in that State in accordance with the provisions of this Convention shall be taken into account in calculating the French tax provided its beneficiary owner is a resident of France and as long as it is not exempt from corporation tax in application of domestic French laws. In this case, Algerian tax shall not be deductible from such income, although the beneficiary owner shall be entitled to receive a tax credit on the French tax. The amount of this tax credit shall be as described below:
  - i) For income not mentioned under item ii), the equivalent of the amount of French tax pertaining to such income;
  - ii) For income referred to under Articles 10, 11, 12, paragraph 1 b of Article 14, paragraph 3 of Article 15, Article 16 and under paragraphs 1 and 2 of Article 17, the equivalent of the amount of the tax paid in Algeria in accordance with the provisions of these Articles; this tax credit, however, can not exceed the amount of French tax pertaining to such income.
- b) Insofar as the application of letter a) to the income referred to under Articles 11 and 12 is concerned, where the amount of tax paid in Algeria in accordance with the provisions of these Articles exceeds the amount of French tax pertaining to such income, a resident of France who is the beneficiary owner of such income shall be entitled to present his or her case to the competent French authority. In case it appears to such authority that this situation leads to taxation which is not comparable to taxation of net income, this competent authority can, subject to conditions to be determined by it, allow the deduction of the uncovered amount of the tax paid in Algeria from the French tax on other income of this resident from foreign sources.
- c) A resident of France who holds capital which is subject to tax in Algeria in accordance with the provisions of paragraphs 1 or 2 of Article 22 shall also be subject to tax in France for such capital. The French tax shall be calculated after deducting a tax credit which matches the amount of tax paid in Algeria on this capital. This tax credit, however, must not exceed the amount of French tax pertaining to such capital.
- d) i) In case a deceased person was, at the time of his or her death, a resident of France, France shall subject to tax all assets belonging to the estate, including any assets which are taxable in Algeria in accordance with the provisions of this Convention, and shall grant, on that tax, a deduction which matches the amount of tax paid in Algeria for the assets which, at the time of death and in accordance with the provisions of this Convention, are subject to tax in Algeria. This deduction, however, must not exceed the share of French tax, calculated prior to such deduction, which corresponds to the assets on the basis of which the deduction must be granted;
- ii) In case, at the time of his or her death, a deceased person was not a resident of France, the French tax on the assets which are taxable in France in accordance with this Convention shall be calculated at a rate which corresponds to all assets which are subject to tax by virtue of domestic French laws.

2. Insofar as Algeria is concerned, double taxation shall be eliminated as described below:

- a) Where a person residing in Algeria receives income or holds capital which, in accordance with the provisions of this Convention are taxable in France, Algeria shall deduct the following:
  - i) from the tax levied by Algeria on the income of this resident, the equivalent of the income tax paid in France;

ii) from the tax levied by Algeria on the capital of this resident, the equivalent of the asset tax paid in France.

However, the amount deducted in either case must not exceed the share of the income tax or asset tax, calculated prior to the deduction, corresponding, as the case may be, to the income or capital which is subject to tax in France.

b)i) In case a deceased person was, at the time of his or her death, a resident of Algeria, Algeria shall subject to tax all assets belonging to the estate, including any assets which are taxable in France in accordance with the provisions of this Convention, and shall grant, on that tax, a deduction which matches the amount of tax paid in France for the assets which, at the time of death and in accordance with the provisions of this Convention, are subject to tax in France. This deduction, however, must not exceed the share of Algerian tax, calculated prior to such deduction, which corresponds to the assets on the basis of which the deduction must be granted;

ii) In case, at the time of his or her death, a deceased person was not a resident of Algeria, the Algerian tax on the assets which are taxable in Algeria in accordance with this Convention shall be calculated at a rate which corresponds to all assets which are subject to tax by virtue of domestic Algerian laws.

### **Article 25 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, in particular in terms of residence.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favorably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This present 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. Except where the provisions of paragraph 1 of Article 9, paragraph 8 of Article 11, or paragraph 6 of Article 12, apply, any 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. In addition, any debts of an enterprise of a Contracting State vis-a-vis a resident of the other Contracting State shall be deductible for the purpose of determining the taxable capital of such enterprise under the same conditions as if such debts had been contracted with a resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, whether 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.

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

### **Article 26 Mutual Agreement Procedure**

1. Where a person considers that the actions taken by one or both of the Contracting States result or will result for him or her in taxation not in accordance with the provisions of this Convention, he or she may, irrespective of the remedies provided by the domestic law of those States, present his or her case to the competent authority of the Contracting State of which he or she is a resident or, if his or her case comes under paragraph 1 of Article 25, to that of the Contracting State of which he or she 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 this Convention .

2. The competent authority shall endeavor, 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 set forth in the domestic laws of the Contracting States.

3. The competent authorities of the Contracting States shall endeavor, by mutual agreement, to resolve any difficulties or eliminate any doubts arising as to the interpretation or application of this

Convention . They may also consult together for the elimination of double taxation in cases not provided for under this Convention .

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement as indicated in the preceding paragraphs. In case it appears that oral communication would facilitate reaching such an agreement, such communication can take place in a commission consisting of representatives of the competent authorities of the Contracting States

### **Article 27 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 this Convention insofar as the taxation thereunder is not contrary to this Convention. The exchange of information shall not be restricted by Article 1. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of the taxes covered by this Convention, the enforcement or prosecution in respect of these taxes, or the determination of appeals in relation to these taxes. Such persons or authorities shall use said information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

b) to supply information which can not be obtained under its laws or in the normal course of its administration of that of the other Contracting State;

c) to supply information which would disclose any trade, industrial, professional secret or trade process, or information, the disclosure of which would be contrary to public policy (ordre public).

3. a) Information is exchanged either ex officio or in response to a request pertaining to a specific case. The competent authorities of the Contracting States shall consult each other in order to determine the list of information which is provided ex officio;

b) In case a Contracting State requests information in accordance with the provisions of this Article, the other Contracting State shall endeavor to obtain the information pertaining to such request in the same manner as if its own taxes were at stake, even in case that, at the time, such Contracting State is not in need of such information.

### **Article 28 Collection Assistance**

1. The Contracting States shall mutually assist and support each other for the purpose of collecting their respective tax claims, in accordance with the rules set forth in their respective laws or regulation. The term "tax claim" refers, for the purpose of this Article, to the taxes referred to in Article 2 as well as extra fees, surcharges, late-payment penalties, interest, and expenses related with these taxes as long as these amounts are definitely owing in application of the laws or regulations of the Requesting State.

2. At the request of the Requesting State, the State Receiving the Request shall proceed with the collection of the tax claims of the first-mentioned State in accordance with the laws and the administrative practice which apply to the collection of its own tax claims, unless provided for otherwise under this Convention .

3. The provisions of paragraph 2 only apply to tax claims which are covered by a writ making it possible to pursue their collection in the Requesting State and which can no longer be contested.

4. The State Receiving the Request shall be under no obligation to grant the request in the following cases:

a) in case the Requesting State has failed to exhaust all means of collecting its tax claim which are available to it on its own territory, unless where the use of such means would entail unreasonable difficulties;

b) in case and insofar as it believes that the tax claim is incompatible with the provisions of this Convention or those of any other convention to which the two Contracting States are parties.

5. The assistance provided in terms of collecting tax claims concerning a deceased person or its estate shall be limited to the value of the estate or the share received by each beneficiary of the estate, depending on whether the claim must be collected from the estate or from the beneficiaries of the same.

6. The request for assistance in terms of collecting a tax claim shall be accompanied by the following documents:

- a) a statement specifying that the tax claim pertains to a tax covered by this Convention and that the same can no longer be contested;
- b) an official copy of the writ permitting its execution in the Requesting State;
- c) any other document required for collection purposes; and,
- d) if applicable, a certified copy of any ruling in this matter issued by an administrative body or court.

7. The writ permitting the execution (of the tax claim) in the Requesting State shall, if applicable and in accordance with the provisions in effect in the State Receiving the Request, be admitted, ratified, completed or replaced as soon as possible after the date of receipt of the request for assistance by a writ permitting the execution (of the tax claim) in the State Receiving the Request.

8. Any issues regarding the statute of limitations of the tax claim are governed exclusively by the laws of the Requesting State. The request for assistance shall specify this deadline.

9. The collection measures undertaken by the State Receiving the Request in response to a request for assistance and which, in accordance with the laws of such State, would lead to a suspension or interruption of the statute of limitations shall have the same effect in respect of the laws of the Requesting State. The State Receiving the Request shall notify the Requesting State of any measures undertaken to that effect.

10. The tax claim for the collection of which assistance is granted shall enjoy, in the State Receiving the Request, the same guaranties and privileges as debt-claims of the same type of such State.

11. Where a tax claim of a Contracting State is or may still be subject to a protest and where the guaranties provided for by the laws of such State could not be obtained, the competent authority of such State shall be entitled to request the competent authority of the other Contracting State to carry out precautionary measures permitted under the laws or regulations of the same. The provisions of the preceding paragraphs of this Article shall apply mutatis mutandis to these measures.

12. The provisions of this Article must under no circumstances be construed to place the State Receiving the Request under obligation:

- a) to undertake measures which are at variance with the laws or the administrative practice of either of the Contracting States;
- b) to undertake measures which it believes to be contrary to public order (ordre public).

### **Article 29 Members of Diplomatic Missions and Consular Posts**

1. No provision of this Convention shall affect the fiscal privileges of members of diplomatic missions or consular posts under the general rules of international law or under the provisions of special agreements.

2. The provisions of Article 4 notwithstanding, any individual who is a member of a diplomatic mission, a consular post or a permanent delegation of a Contracting State situated in the other Contracting State or in a third-party State shall be considered, for the purposes of this Convention, a resident of the accrediting State as long as such person is subject, in the accrediting State, to the same duties in tax matters, in respect of his or her entire income and capital, as residents of such State, and, insofar as estate taxes are concerned, in case his or her entire estate is subject to tax in the accrediting State in the same manner as the estate of residents of such State.

3. This Convention shall not apply to international organizations, their officers or representatives, nor to persons who are members of a diplomatic mission, a consular post or a permanent delegation of a third-party State, as long as they are present on the territory of a Contracting State and are not subject in a Contracting State to the same duties in tax matters, in respect of their entire income and capital, as residents of such State, or, insofar as estate taxes are concerned, in case the estate of such representatives or persons is not subject to tax, in a Contracting State, in the same manner as the estate of residents of such State.

### **Article 30 Entry Into Force**

1. Either of the Contracting States shall notify the other once the procedures required under its laws for the purpose of implementing this Convention have been completed. The same shall enter into force one the first day of the second month following the day on which the last of such notices was received.

2. The provisions of this Convention shall first apply:

- a) insofar as taxes withheld at the source are concerned, to amounts paid on or after the date on which this Convention takes effect;

b) insofar as other taxes on income are concerned, to any income pertaining to the calendar year during which this Convention took effect or pertaining to any accounting period which was opened during that year;

c) insofar as other taxes are concerned, to any taxes that are levied on the basis of circumstances which arise on or after the date on which this Convention takes effect.

3. The provisions of the Convention dated May 17, 1982, entered into between the Government of the French Republic and the Government of the People's Democratic Republic of Algeria concerning avoidance of double taxation with respect to taxes on income, estate taxes, registration fees and fiscal stamps as well as the provisions of special treaties or agreements pertaining to the income referred to in Article 19 shall cease to be in effect as of the date on which the provisions of this Convention apply for the first time.

### **Article 31 Termination**

1. This Convention shall remain in force for an unlimited period of time. After a period of five calendar years has elapsed from its date of entry into force, however, either Contracting State may terminate this Convention by giving at least six-month advance notice through diplomatic channels, effective by the end of the corresponding calendar year.

2. In such event, the provisions of this Convention shall apply for the last time:

a) insofar as taxes withheld at the source are concerned, to amounts paid no later than on December 31 of the calendar year at the end of which this Convention ceases to be in effect;

b) insofar as other taxes on income are concerned, to any income pertaining to the calendar year at the end of which this Convention ceases to be in effect or pertaining to any accounting period which was opened during that year;

c) insofar as other taxes are concerned, to any taxes that are levied on the basis of circumstances which arise no later than on December 31 of the calendar year at the end of which this Convention ceases to be in effect.

In witness whereof the undersigned, duly authorized to that effect, have signed this Convention .

Done in Algiers on October 17, 1999, in two original copies, in the Arabic and French languages; each version being equally authentic.

#### **FOR THE GOVERNMENT OF THE FRENCH REPUBLIC:**

*François Huwart*

*State Secretary of Foreign Trade*

#### **FOR THE GOVERNMENT OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA:**

*Abdelkrim Harchaoui*

*Minister of Finance*

### **PROTOCOL**

At the time of signing of this Convention between the Government of the French Republic and the Government of the People's Democratic Republic of Algeria concerning the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, capital, and estates, the undersigned have agreed upon the following provisions, which shall be an integral part of this Convention .

1. Insofar as paragraph 3 of Article 2 is concerned, it is understood that the tax on salaries and flat-rate payment shall be governed by the rules applicable, as the case may be, to profits of enterprises or income of professions of an independent nature.

2. Insofar as Article 4 is concerned, where a shareholder, partner or another member of a partnership or a group of persons referred to under paragraph 4 of this Article is considered a resident of Algeria in application of the provisions of paragraphs 1, 2, or 3 of the same Article, his or her status as a resident of Algeria shall not be affected by the provisions of paragraph 4 mentioned above.

3. Insofar as paragraph 4 of Article 5 is concerned, it is understood that the term "delivery" does not cover sales, but refers to the case of merchandise imported from a Contracting State whose price was determined prior to its storage in the other Contracting State, so that its placement or storage does create a point of sale.

4. Insofar as Article 7 is concerned:

a) where an enterprise of a Contracting State sells merchandise or exercises an activity in the other Contracting State through a permanent establishment situated therein, the profits of such permanent establishment shall not be calculated on the basis of the total amount received by the enterprise, but only on the basis of the income that is attributable to the actual activity of the permanent establishment in terms of such sales or for such activity;

b) In the case of contracts, in particular in the case of contracts pertaining to the study, supply, installation or construction of industrial, commercial, or scientific equipment or establishments or public works, where the enterprise has a permanent establishment available to it, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but solely on the basis of that part of the contract which is actually performed by that permanent establishment in the Contracting State where it is situated. The profits pertaining to that part of the contract which is carried out in the Contracting State where the place of effective management of the enterprise is located are only subject to tax in that State;

c) The provisions of Article 7 notwithstanding, French enterprises engaging in an activity in Algeria through a permanent establishment situated therein shall be entitled to take advantage of the flat-rate taxation system (withholding at the source) set forth by Algerian laws under the same conditions as enterprises of third-party States which are subject to these laws. In practice, such enterprises shall advise the Algerian tax authorities of their choice of flat-rate taxation prior to the start of the activity; a copy of the contract must accompany such notice.

5. Insofar as paragraph 1 of Article 24 is concerned:

a) Please note that the domestic French laws to which this paragraph refers comprise the provisions of Article 209 I of the French General Tax Code, according to which profits that are subject to corporation tax are determined solely on the basis of profits made in enterprises operated in France;

b) Please note that the term "amount of French tax pertaining to such income" refers to the following:

i) where the tax owed on such income is calculated by applying a proportional rate, the amount of net income in question multiplied by the rate which it's actually applied thereto;

ii) where the tax owed on such income is calculated by applying a progressive rate, the amount of net income in question multiplied by the rate resulting from the ratio between the tax actually owed for overall net income which is subject to tax in accordance with French laws and the amount of this overall net income.

Accordingly, this interpretation applies to the term "amount of French tax pertaining to such capital" and to the term "share of French tax calculated prior to deduction, pertaining to the assets on the basis of which the deduction must be granted";

c) Please note that the term "amount of tax paid in Algeria" refers to the amount of Algerian tax actually ultimately paid for the income or items of capital in question in accordance with the provisions of this Convention, by the resident of France who benefits from such income or holds such items of capital, or for the assets in question which belong to the estate of the resident of France.

6. Insofar as Article 26 is concerned, the competent authorities of the Contracting States shall establish, by mutual agreement, the rules of application of this Convention, and, in particular, the formalities to be completed by the residents of a Contracting State in order to obtain, in the other Contracting State, the fiscal benefits provided for under this Convention. These formalities may include, in the event that the competent authorities come to mutual agreement to that effect, the submission of a form which certifies residence, which indicates, in particular, the nature and the amount or value of income, items of capital or inheritance assets in question and which carries a certification by the fiscal authorities of the first-mentioned State.

7. The provisions of this Convention notwithstanding, France shall be entitled to apply the provisions of Articles 209 D, 209 B and 212 of its General Tax Code or other substantially similar provisions which may amend or replace those of these articles.

8. In the event that, in accordance with domestic laws, France determines the taxable profits of residents of France by deducting the losses of affiliated companies which are residents of Algeria or of permanent establishments situated in Algeria and by including the profits of these affiliated companies or these permanent establishments up to the amount of losses deducted, the provisions of this Convention shall not prevent the application of such laws.

9. Where a treaty, accord or convention between the Contracting States other than this Convention contains a non-discrimination clause or a most-favored-nation clause, it is understood that only the provisions of this Convention shall apply in fiscal matters, to the exclusion of such clauses.

10. Nationals of a Contracting State shall not be required, upon temporary or permanent departure from the territory of the other Contracting State, to comply with the formality of obtaining a certificate of fiscal compliance (quitus fiscal).

In witness whereof the undersigned, duly authorized to that effect, have signed this Convention.

Done in Algiers on October 17, 1999, in two original copies, in the Arabic and French languages; each version being equally authentic.

**FOR THE GOVERNMENT OF THE FRENCH REPUBLIC:**

*François Huwart*  
*State Secretary of Foreign Trade*

**FOR THE GOVERNMENT OF THE PEOPLE'S DEMOCRATIC REPUBLIC OF ALGERIA:**

*Abdelkrim Harchaoui*  
*Minister of Finance*