

# **1997 Income and Capital Tax Convention and Final Protocol (English Translation)**

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## **CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF ARMENIA AND THE GOVERNMENT OF THE FRENCH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION AND FRAUD WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL**

[TRANSLATION]

The Government of the Republic of Armenia and the Government of the French Republic, desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion and fraud with respect to taxes on income and on capital, have agreed as follows:

### **Article 1 Personal Scope**

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

### **Article 2 Taxes Covered**

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its territorial political subdivisions or local authorities, irrespective of the manner in which they are levied.
2. There shall be regarded as taxes on income and on capital all taxes imposed on total income, on total capital, or on elements of income or of 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.
3. The existing taxes to which the Convention shall apply are in particular:
  - a) in France:
    - i) l'impôt sur le revenu (income tax);
    - ii) l'impôt sur les sociétés (company tax);
    - iii) la taxe sur les salaires (tax on salaries);
    - iv) l'impôt de solidarité sur la fortune (wealth tax); y compris toutes retenues à la source, tous précomptes et avances décomptés sur ces impôts (including all withholding tax, prepayments and advances paid on such taxes);(which shall be referred to hereafter as the "French tax");
  - b) in Armenia:
    - i) l'impôt sur le bénéfice (profits tax);
    - ii) l'impôt sur le revenu (income tax);
    - iii) l'impôt sur la fortune (capital tax);
    - iv) l'impôt foncier (property tax);(which shall be referred to hereafter as the "Armenian 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 shall notify each other within a reasonable time of changes which have been made in their respective taxation laws.

### **Article 3 General Definitions**

1. For the purposes of this Convention, unless the context otherwise requires:
  - a) the terms "Contracting State" and "other Contracting State" mean, according to the context, Armenia or France;
  - b) the term "Armenia" means the territory of the Republic of Armenia and, used in its geographical sense, its territory, including its landlocked sea, where Armenia exercises its sovereign rights in accordance with its laws and international law;
  - c) the term "France" means the European and overseas departments of the French Republic, its territorial waters and, beyond the latter, those areas over which, in accordance with international law, the French Republic has sovereign rights pertaining to the exploration and use of natural resources from the ocean substrata, subsoil and contiguous waters;

- d) the term "territorial political subdivisions" means the territorial political subdivisions of the Republic of Armenia;
  - e) the term "person" includes an individual, a company and any other body of persons;
  - f) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
  - g) 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;
  - h) the term "international traffic" means any transport by a ship, aircraft, or road or railway vehicle operated by an enterprise which is a resident of a Contracting State, except where such ship, aircraft or road or railway vehicle is operated solely between places in the other Contracting State;
  - i) the term "competent authority" means:
    - i) in Armenia, the Minister of Finance or his authorized representative;
    - ii) in France, the Budget Minister or his authorized representative;
  - j) the term "national" means:
    - i) any individual possessing the nationality of a Contracting State;
    - ii) any legal person, partnership or other organization deriving its status as such from the laws in force in a Contracting State.
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. The meaning attributed to a term by the tax laws of that State shall take precedence over the meaning attributed to that term by the other branches of law of that State.

#### **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 record or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
  - a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are 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 an habitual abode;
  - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
  - d) if he is a national of both States or of neither of them, the competent authorities of 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 registered as such in both Contracting States, it shall be deemed to be a resident of the State in which its place of effective management is situated. If there should be any doubt as to the location in which the place of effective management is situated, the competent authorities shall strive to reach an agreement on that location. But if the latter fail to reach an agreement, it shall be deemed, for purposes of the Convention, to be a resident of neither State.
4. The term "resident of a Contracting State" includes that State, its territorial political subdivisions and its local authorities, as well as their public-law corporations.

#### **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 workshop, and

- f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.
3. A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve 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 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 sub-paragraphs a) to e), provided that the overall activity of the fixed place of business resulting from this combination is 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 conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those 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, provided that 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 derived from immovable property (including income from agriculture or forestry) may be taxed in the Contracting State in which such immovable property is situated.
2. For the purposes of this Convention, 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, mines and other natural resources; ships, aircraft, or road or railway vehicles shall not be regarded as immovable property.
3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting, sharecropping, 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 of equity, shares or other rights in a company grants to the owner of such shares or membership rights the "jouissance" of immovable property held by that company, the income derived from the direct use, letting or use in any other form of such "jouissance" rights may be taxed in the Contracting State in the territory of which that immovable property is situated.

### **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 determining 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission, for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise, no account shall be taken, in the determination of the profits of a permanent establishment, for amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

4. No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

5. 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 the contrary.

6. 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, 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.

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 International Traffic**

1. The profits derived by an enterprise of a Contracting State from the operation of ships, aircraft, or road or railway vehicles in international traffic shall be taxable only in that State. Such profits include income derived by this enterprise from other activities, and in particular from the use, maintenance or rental of containers for the transport of goods or merchandise in international traffic, provided that such activities are incidental to the operation by the enterprise of ships, aircraft, or road or railway vehicles in international traffic.

2. If the place of effective management of a shipping is aboard a ship, then 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 of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency, but only that part of the profits derived from participation in that group.

### **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

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 make an appropriate adjustment to the amount of the tax charged therein on those profits, if it considers that such an 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 according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

a) 5 percent of the gross amount of the dividends if the beneficial owner is a company which holds directly or indirectly at least 10 percent of the capital of the company paying the dividends;

b) 15 percent of the gross amount of the dividends in all other cases. This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as, in the case of Armenia, income from other corporate rights which is subjected to the same taxation treatment as income from shares and, in the case of France, income subject to the distribution treatment provided for by its taxation laws. It is agreed that the term "dividends" does not include income referred to in Article 16.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, 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 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 if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

6. Notwithstanding the provisions of paragraph 5 and of Article 24, where a company which is a resident of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, the profits of that permanent establishment may be subject, after payment of company tax, and in accordance with the laws of that other State, to taxation at a rate which shall not exceed 5 percent.

### **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 10 percent of the gross amount of the interest.

3. Notwithstanding the provisions of paragraph 2, the interest mentioned in paragraph 1 shall be taxable only in the Contracting State of which the recipient of such interest is a resident, if such person is the beneficial owner of the interest and provided that one of the following conditions has been met:

a) such person is one of the Contracting States, one of its territorial political subdivisions or local authorities, or one of their public-law corporations, including the central bank of that State; or such interest is paid by one of those States, territorial political subdivisions, local authorities public-law corporations;

- b) such interest is paid by means of debt-claims or loans secured or insured or financed by a Contracting State or by another person acting on behalf of a Contracting State;
  - c) such interest is paid by reason of the credit sale of industrial, commercial or scientific equipment, or by reason of the credit sale of goods or merchandise or the supplying of services by one enterprise to another enterprise; or
  - d) such interest is paid by reason of loans of every kind granted by a bank.
4. The term "interest" means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. The term "interest" shall not include items of income regarded as dividends under the provisions of Article 10.
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, 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 with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
6. Interest shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
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:
- a) 5 percent of the gross amount of the royalties paid for the use of, or the right to use, any copyright;
  - b) 10 percent of the gross amount of the royalties in all other cases.
3. The term "royalties" 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, any patent, trade mark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience (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 business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.
5. Royalties shall be deemed to arise in a Contracting State when the payer is a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
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 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 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.a) Gains from the alienation of the immovable property referred to in Article 6 may be taxed in the Contracting State in which that immovable property is situated.

b) Gains from the alienation of equities, shares or other rights in a company the assets or property of which consist directly or indirectly--through the interposition of one or several other companies--principally of immovable property referred to in Article 6 and situated in a Contracting State, or of rights pertaining to such property, may be taxed in that 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 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 property forming part of the business property of an enterprise of a Contracting State and which consist of ships, aircraft, or road or railway vehicles operated by that enterprise in international traffic or movable property pertaining to the operation of such ships, aircraft, or road or railway vehicles, shall be taxable only in that State.

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 unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

2. The term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

### **Article 15 Dependent Personal Services**

1. Subject to the provisions of Articles 16, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of a salaried employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of a salaried employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve-month period commencing or ending in the fiscal year concerned, and

b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

3. Subject to the provisions of Articles 19 and 20, and notwithstanding the provisions of paragraphs 1 and 2, payments which a teacher or a researcher who is or who was immediately before going to a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of teaching or conducting research receives for performing such activities, shall be taxable only in that other State. This provision shall apply for a period which shall not exceed twenty-four months as from the date of the initial arrival of the teacher or researcher in the first-mentioned State for the purpose of teaching or conducting research. This provision shall not apply to income from teaching or research activities if such work is not undertaken in the public interest but principally for the purpose of creating a special advantage for the benefit of one or several specific persons.

4. Notwithstanding the preceding provisions of this Article, remuneration derived in respect of a salaried employment exercised aboard a ship, aircraft, or road or railway vehicle operated in international traffic by an enterprise of a Contracting State may be taxed in that State.

#### **Article 16 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 the supervisory board or other similar body 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 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 himself 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. Notwithstanding the provisions of paragraph 1, income derived by a resident of a Contracting State in his capacity as an entertainer or sportsman from his personal activities as such exercised in the other Contracting State shall be taxable only in the first-mentioned State when these activities in the other State are subsidized principally by government funds of the first-mentioned State, its territorial political subdivisions or local authorities, or by their public-law corporations.

4. Notwithstanding the provisions of paragraph 2, where income derived by a resident of a Contracting State in his capacity as an entertainer or sportsman from his personal activities as such exercised in the other Contracting State accrues not to the entertainer or sportsman himself but to another person, such income, notwithstanding the provisions of Articles 7, 14 and 15, shall be taxable only in the first-mentioned State if such other person is subsidized principally by government funds of that first-mentioned State, its territorial political subdivisions, local authorities, or by their public-law corporations.

#### **Article 18 Pensions**

Subject to the provisions of paragraph 2 of Article 19, 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 Government Service**

1.a) Salaries, wages and other similar remuneration, other than a pension, paid by a Contracting State or a territorial political subdivision or local authority thereof, or by one of their public-law corporations, to an individual in respect of services rendered to that State or subdivision or authority or legal entity shall be taxable only in that State.

b) However, such salaries, wages and other similar 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, and a national of, that State and is not at the same time a national of the first-mentioned State.

2.a) Any pension paid by, or out of funds created by, a Contracting State or territorial political subdivision or local authority or legal entity dealing with public law thereof to an individual in respect of services rendered to that State, subdivision, authority or legal entity 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 of, and a national of, that State and is not at the same time a national of the first-mentioned State.

3. The provisions of Articles 15, 16 and 18 shall apply to salaries, wages and other similar remuneration, and to 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 or a public-law corporation thereof.

#### **Article 20 Students**

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.

#### **Article 21 Other Income**

1. Items of income of a resident of a Contracting State, wherever arising, of which such resident is the beneficial owner and which are not dealt with in the foregoing Articles of this Convention shall be taxable only in that State if such resident is liable to tax by reason of those items of income in that State. If this condition is not met, such items of income shall remain taxable in the other Contracting State and in accordance with its laws.

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, 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 with such permanent establishment or fixed base. 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 may be taxed in the Contracting State in which that property is situated.

b) Capital represented by shares, equity or other rights in a company the assets or property of which are principally represented--directly or through the interposition of one or several other companies--by immovable property referred to in Article 6 and situated in a Contracting State or by rights pertaining to such property, may be taxed in that State.

2. Capital represented by shares, equity or other rights not referred to in b) of paragraph 1, forming part of a substantial participation in a company which is a resident of a Contracting State may be taxed in that State. It shall be deemed that a substantial participation exists if one person, acting alone or in concert with a group of persons has, directly or indirectly, at any time during the five years preceding the transfer, held any shares, equity or other rights which together confer the right to at least 25 percent of the company's profits.

3. Capital represented by 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 by 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, may be taxed in that other State.

4. Capital represented by property forming part of the business property of an enterprise of a Contracting State, and which consists of ships, aircraft, or road or railway vehicles operated by the enterprise in international traffic, or by movable property pertaining to the operation of such ships, aircraft, or road or railway vehicles shall be taxable only in that State.

5. All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

### **Article 23 Elimination of Double Taxation**

1. In Armenia, double taxation shall be eliminated as follows.

a) Where a resident of Armenia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in France, Armenia shall allow:

i) as a deduction from the tax levied on the income of that resident, an amount equal to the tax on income paid in France;

ii) as a deduction from the tax levied on the capital of that resident an amount equal to the tax on capital paid in France. Such deduction, in either case, shall not, however, exceed that part of the income tax or capital tax, as computed before the deduction is given, which corresponds, as the case may be, to the income or the capital which may be taxed in France.

b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Armenia is exempt from tax in Armenia, Armenia may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

2. In France, double taxation shall be eliminated as follows.

a) Notwithstanding any other provision of this Convention, income which may be taxed or which shall be taxable only in Armenia in accordance with the provisions of the Convention, and which represents the income of a resident of France, shall be taken into account in calculating the French tax when such income is not exempted from company tax under French domestic law. In such case, the Armenian tax shall not be deductible from such income, but the resident of France has the right, subject to the conditions and limitations provided for in i) and ii), to a tax credit which can be applied against the French tax. This tax credit is equal:

i) for income not mentioned in ii), to the amount of French tax which corresponds to such income, provided that the recipient is liable to Armenian tax by reason of such income;

ii) for income--subject to French company tax--referred to in Article 7 and in paragraphs 1 and 2 of Article 13, and for income referred to in Article 10, in paragraph 4 of Article 15, in Article 16, and in paragraphs 1 and 2 of Article 17, to the amount of tax paid in Armenia in accordance with the provisions of these Articles; however, such tax credit shall not exceed the amount of French tax which corresponds to such income.

b) A resident of France who owns capital taxable in Armenia in accordance with the provisions of paragraphs 1, 2 or 3 of Article 22 shall also be liable to taxation in France by reason of that capital. The French tax is calculated on the basis of the deduction of a tax credit equal to the amount of tax paid in Armenia on such capital. However, such tax credit shall not exceed the amount of French tax which corresponds to such capital.

c)

i) It is agreed that the term "amount of French tax which corresponds to such income" used in a means:

- where the tax payable by reason of such income is calculated by application of a proportional rate, the product of the net income amount considered by the rate which is actually applied to them;
- where the tax payable by reason of such income is calculated by application of a progressive scale, the product of the net income amount considered by the rate resulting from the ratio between the tax actually payable on the total net income taxable in accordance with French law and the amount of such total net income.

This interpretation is applicable by analogy to the term "amount of French tax which corresponds to such capital" used in b.

ii) It is agreed that the term "amount of the tax paid in Armenia" used in a and c means the amount of Armenian tax actually and definitively levied on the income or elements of capital considered, in accordance with the provisions of the Convention, by the resident of France who benefits from such income or owns such elements of capital.

#### **Article 24 Non-Discrimination**

1.a) 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, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to individuals who are not residents of one or both of the Contracting States.

b) For the purposes of sub-paragraph a, it is agreed that an individual or body corporate, partnership or association which is a resident of a Contracting State shall not be considered to be in the same circumstances as an individual or body corporate, partnership or association which is not a resident of that State; and this shall apply however nationality may be defined, even if the body corporate, partnership and association shall be regarded as nationals of the Contracting State of which they are residents.

2. Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances are or may be subjected.

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 paragraph 1 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. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted 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. Contributions paid by or on behalf of an individual who is a resident of a Contracting State or who is temporarily staying in that State in a retirement institution established and liable to tax in the other Contracting State may be granted a tax benefit in the first-mentioned State, provided that such a pension plan is regarded by the competent authority as a pension plan established and liable to tax in that State. In such case, the tax benefit granted shall be that which would be applicable if that pension plan were established and liable to tax in that State.

7. The exemptions and other advantages provided for by the laws of a State for the benefit of that State, its territorial political subdivisions or local authorities or public-law corporations which do not carry on a business activity, shall apply under the same conditions respectively to the other State, its territorial political subdivisions or local authorities or public-law corporations engaged in the same or similar activities. Notwithstanding the provisions of paragraph 8, the provisions of this paragraph shall not apply to taxes or duties payable in consideration of services rendered.

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

9. If a bilateral treaty or agreement concluded between the two Contracting States, other than this Convention, bears a non-discrimination clause or a most-favored-nation clause, it is agreed that such clauses shall not be applicable in respect of tax matters.

#### **Article 25 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 24, 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. Any agreement reached shall be implemented notwithstanding any time limits in the domestic law of the Contracting States.

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

#### **Article 26 Exchange of Information**

1. The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not 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) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the 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 paragraph 1 be construed so as to impose on a Contracting State the obligation:

- a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;
- c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

#### **Article 27 Tax Collection Assistance**

1. At the request of the competent authority of a Contracting State (hereafter designated as the "Petitioning State"), the other Contracting State (hereafter designated as the "Petitioned State"), subject to the provisions of paragraphs 7, 9 and 10, shall collect the tax debts of the first-mentioned State as if such debts were considered to be its own tax debts. It is agreed that the term "tax debts" means any tax amount, interest, tax penalties or sanctions and collection fees pertaining thereto, which are payable and which are not yet paid.
2. The provisions of paragraph 1, unless otherwise agreed by the competent authorities, shall apply only to uncontested tax debts for which there is an authorization permitting their collection in the Petitioning State.
3. The obligation to provide assistance for the purpose of the collection of tax debts which concern a deceased person or his estate or inheritance is limited to the value of his estate or inheritance, or of the property which the beneficiaries of his estate or inheritance received, depending upon whether the debt is to be recovered from the estate or inheritance, or from beneficiaries of the latter.
4. At the request of the competent authority of the Petitioning State, the competent authority of the Petitioned State shall take the necessary steps to collect the specific tax amount, even if the debt-claim is contested or the writ of execution has not yet been issued.
5. The request for administrative assistance shall be accompanied:
  - a) by an attestation specifying the nature of the tax debt and, in respect of collection, that the conditions provided in paragraph 2 have been met;
  - b) by an official copy of the authorization permitting enforcement in the Petitioning State; and
  - c) by any other document required for such collection or for setting up the administrative steps to do so.
6. The authorization permitting enforcement in the Petitioning State shall, where required, and in accordance with the provisions in force in the Petitioned State, be accepted, certified, completed or replaced as soon as possible following the date on which the request for assistance is received, by an authorization permitting enforcement in the Petitioned State.
7. Questions concerning the time limit beyond which payment of the tax debt cannot be required shall be settled by the domestic laws of the Petitioning State. The request for assistance contains information concerning this time limit.
8. Collection measures carried out by the Petitioned State in response to the request for assistance and which, according to the domestic laws of that State, would result in the suspensions or interruption of the time limit mentioned in paragraph 7, shall have the same effect with respect to the domestic laws of the Petitioning State. The Petitioned State shall inform the Petitioning State of any measures which it has carried out for this purpose.
9. In any event, the Petitioned State is not obliged to act upon any request for assistance which is presented after a period of fifteen years from the date of the initial writ of execution.
10. The tax debt for the collection of which assistance is given shall not benefit, in the Petitioned State, from privileges attached especially to any tax debts of that State, even if the collection procedure used is that which shall apply to its own tax debts.
11. The Petitioned State, insofar as is allowed, in similar circumstances, under its domestic laws or administrative practice, may permit an extension of payment or payment in installments, but shall provide prior notice thereof to the Petitioning State.
12. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

#### **Article 28 Diplomatic Agents and Consular Officers**

1. Nothing in this Convention shall affect the fiscal privileges of members of diplomatic missions, members of consular posts, and members of the permanent delegations of international organizations under the general rules of international law or under the provisions of special agreements.
2. Notwithstanding the provisions of Article 4, any individual who is a member of a diplomatic mission, a consular post or a permanent delegation of a State which is situated in the other State, or in a Third

State, shall be deemed, for the purposes of the Convention, to be a resident of the Accrediting State, provided that he is subject in such Accrediting State to the same obligations in terms of taxation on his total income and total capital as are the residents of that State.

3. The Convention shall not apply to international organizations, their representative bodies or their officials, nor to persons who are members of a diplomatic mission, a consular post, or a permanent delegation of a Third State when they are located on the territory of a Contracting State and are not subject, in one of the Contracting States, to the same obligations in terms of taxation on their total income and total capital as are the residents of that State.

#### **Article 29 Mode of Application**

1. The competent authorities of the Contracting States may jointly or separately determine the mode of application of this Convention.

2. In particular, in order to obtain, in a Contracting State, the benefits provided in Articles 10, 11 and 12, residents of the other Contracting State must, unless the competent authorities otherwise determine, submit a declaration of residence form which specifies the nature, as well as the amount or value, of the income or capital concerned, and which bears the authenticating seal of the tax administration of that other State.

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

1. Each Contracting State shall notify the other when it has completed the procedures required of it for the entry into force of this Convention. The latter shall enter into force on the first day of the second month following the day on which the last of such notifications is received.

2. The provisions of the Convention shall apply:

a) as regards withholding taxes paid on income, to those amounts taxable after the calendar year during which the Convention entered into force;

b) as regards taxes on income not paid by means of withholding taxes, to income which accrues, as the case may be, to any calendar year or any fiscal period beginning after the calendar year during which the Convention entered into force;

c) as regards other taxes, to taxes whose taxable event shall have occurred after the calendar year during which the Convention entered into force.

#### **Article 31 Termination**

1. This Convention shall remain in force without any time limit. However, as from the fifth calendar year following the year in which the Convention enters into force, each of the Contracting States may terminate the Convention through diplomatic channels by giving notice of termination at least six months before the end of any calendar year.

2. In such case, the Convention shall no longer apply:

a) as regards withholding taxes paid on income, to those amounts taxable after the calendar year during which the notice of termination shall have been given;

b) as regards taxes on income not paid by means of withholding taxes, to income which accrues, as the case may be, to any calendar year or any period beginning after the calendar year during which the notice of termination shall have been given;

c) as regards other taxes, to taxes whose taxable event shall have occurred after the calendar year during which the notice of termination shall have been given.

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

Done in duplicate at Paris, this 9th day of December 1997, in the Armenian and French languages, each version being equally authentic.

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

At the time of signing the Convention between the Government of the Republic of Armenia and the Government of the French Republic for the avoidance of double taxation and the prevention of fiscal evasion and fraud with respect to taxes on income and on capital, the undersigned have agreed upon the following provisions, which form an integral part of the Convention:

1. As regards a of paragraph 3 of Article 2, the tax on salaries shall apply to residents of Armenia where such residents are liable to tax in France under Articles 7 and 14 of the Convention.

2. As regards f of paragraph 1 of Article 3, the term "company" includes any partnership or body of persons subject, in accordance with French law, to a tax treatment similar to that applicable to partnerships whose place of effective management is situated in France.

3. As regards a and b of paragraph 4 of Article 5, a delivery made from a stock of goods or merchandise situated in a Contracting State constitutes a permanent establishment in that State if

operations other than storage, display, transport or any other activities of a preparatory or auxiliary character are made in that State from such place of storage.

4. It is agreed that the term "immovable property" defined in paragraph 2 of Article 6 includes options, sale agreements, and similar rights pertaining to such goods or merchandise.

5. As regards Article 12, remuneration paid for technical services, including analyses or studies of a scientific, geological or technical nature, for engineering projects, including plans pertaining thereto, or for consultation or surveillance services, shall not be regarded as remuneration paid for information concerning industrial, commercial or scientific experience.

6. Nothing in this Convention shall in any way preclude France from applying the provisions of Article 212 of its general tax code or other similar provisions which would amend or replace those of this Article.

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

Done in duplicate at Paris, this 9th day of December 1997, in the Armenian and French languages, each version being equally authentic.

**FOR THE GOVERNMENT OF THE REPUBLIC OF ARMENIA:**

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

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