

## **1970 Income and Inheritance Tax Agreement (English Translation)**

**Signed date:** March 27, 1970

**In force date:** June 23, 1971

**Effective date:** Income subject to withholding tax, succession duties, and registration and stamp taxes, from June 23, 1971. Other provisions, from January 1, 1968. See Article 42.

**Status:** In Force

### **TAX AGREEMENT BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT COUNCIL OF THE TERRITORY OF THE COMORO ISLANDS FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE ESTABLISHMENT OF RULES OF RECIPROCAL ADMINISTRATIVE ASSISTANCE IN FISCAL MATTERS**

The Government of the French Republic, represented by the Minister of Economic Affairs and Finance and the Government Council of the Territory of the Comoro Islands, desiring to avoid double taxation as far as is possible and to establish rules of reciprocal assistance with respect to taxes on income, succession duties, registration duties and stamp duties, have for that purpose agreed upon the following provisions:

Title I

General Provisions

#### **Article 1**

For the purposes of this Agreement:

1. The term "person" means:

- (a) Any individual;
- (b) Any body corporate;
- (c) Any unincorporated group of individuals.

2. (a) The term "France" means the metropolitan departments and the overseas departments

(Guadeloupe, Guiana, Martinique and Reunion);

(b) The term "the Comoro Islands" means the Overseas Territory of the Republic defined in article 1 of Act No. 61-1412 of 22 December 1961, as amended by Act No. 68-4 of 3 January 1968;

(c) The terms "one of the Contracting Parties", "the other Contracting Party" or "each Contracting Party" mean either France, as defined in subparagraph (a) above, or the Comoro Islands, as the context requires;

(d) The term "territory" means either France, as defined in subparagraph (a) above, or the Comoro Islands, as the context requires.

#### **Article 2**

1. For the purposes of this Agreement, an individual shall be deemed to be domiciled in the place in which he has his "permanent home", the latter expression being understood to mean the centre of vital interests--i.e., the place with which his personal relations are closest.

Where the domicile of an individual cannot be determined on the basis of the foregoing subparagraph, he shall be deemed to be domiciled in the territory in which he principally resides. In case of dispute, the competent authorities of the two Contracting Parties shall resolve the difficulty by agreement.

2. For the purposes of this Agreement, a body corporate shall be deemed to have its domicile in the place in which its registered offices (siege social statutaire) are situated; an unincorporated group of individuals shall be deemed to have its domicile in the place in which its centre of actual management is situated.

#### **Article 3**

The term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(a) The following shall in particular be deemed to be permanent establishments:

- (aa) A place of management;
- (bb) A branch;
- (cc) An office;
- (dd) A factory;
- (ee) A workshop;
- (ff) A mine, quarry or other place of extraction of natural resources;
- (gg) A building site or assembly project which continues in operation for at least three months;

- (hh) A fixed place of business used for the purpose of storage, display and delivery of goods or merchandise belonging to the enterprise;
- (ii) A stock of goods or merchandise belonging to the enterprise maintained for the purpose of storage, display and delivery;
- (jj) A fixed place of business used for the purpose of purchasing goods or merchandise, or for collecting information which is the actual object of the business of the enterprise;
- (kk) A fixed place of business used for the purpose of advertising.
- (b) The term "permanent establishment" shall not be deemed to include:
- (aa) The maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (bb) The maintenance of a fixed place of business solely for the purpose of the supply of information, for scientific research or for similar activities which, so far as the enterprise is concerned, are preparatory or auxiliary in character.
- (c) A person acting in a territory on behalf of an enterprise of the other territory, other than an agent of independent status within the meaning of subparagraph (e) below, shall be deemed to constitute a "permanent establishment" in the first-mentioned territory if he has, and habitually exercises in that territory, an authority to conclude contracts in the name of the enterprise. Such authority shall, in particular, be deemed to be exercised by an agent who habitually has available to him in the first-mentioned territory a stock of goods or merchandise, belonging to the enterprise, from which he regularly fills orders received by him on behalf of the enterprise.
- (d) An insurance enterprise of one of the territories shall be deemed to have a permanent establishment in the other territory if it collects premiums in that territory or insures risks situated therein through a representative who is not an agent within the meaning of subparagraph (e) below.
- (e) An enterprise of a territory shall not be deemed to have a permanent establishment in the other territory merely because it carries on business in that other territory through a broker, general commission agent or any other agent of independent status, where such persons are acting in the ordinary course of their business. However, where the agent whose services are used has available to him a stock of goods or merchandise on consignment from which the sales and deliveries are made, such stock shall be deemed to imply the existence of a permanent establishment of the enterprise.
- (f) The fact that a company which is domiciled in a territory controls or is controlled by a company which is domiciled in the other territory, or which carries on business in that other territory (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

#### **Article 4**

For the purposes of this Agreement, rights which are governed by the taxation laws or regulations relating to real property, and rights of usufruct in immovable property, with the exception of claims of any kind secured by pledge of immovables, shall be deemed to be immovable property. The question whether a property or a right is an immovable property or a right in respect of immovable property or can be considered to be an accessory to real property shall be decided in accordance with the laws or regulations of the Contracting Party in whose territory the property in question or the property to which the right in question relates is situated.

#### **Article 5**

In the application of the provisions of this Agreement, the term "competent authorities" means: As regards the Government of the French Republic, the Minister of Economic Affairs and Finance or his duly authorized representative; As regards the Government Council of the Comoro Islands, the Secretary of State for Economic Affairs and Finance or his duly authorized representative.

#### **Article 6**

In the application of this Agreement by one of the Contracting Parties, any term not defined in this Agreement shall, unless the context otherwise requires, have the meaning which it has under the laws or regulations in force in its territory with respect to the taxes referred to in this Agreement.

Title II

Double Taxation

Chapter I. Income taxes

#### **Article 7**

1. This chapter shall apply to taxes on income levied in whatsoever manner on behalf of either Contracting Party or of its administrative subdivisions.

The expression "taxes on income" shall be deemed to mean taxes levied on total income or on elements of income (including capital appreciation).

2. The object of the provisions of this chapter is to avoid double taxation such as might result, for persons (as defined in article 1) having their fiscal domicile, determined in accordance with article 2, in one of the territories, from the simultaneous or successive collection in that territory and the other territory of the taxes referred to in paragraph 1 above.

3. The existing taxes to which this chapter shall apply are:

In the case of France:

- (a) The tax on the income of individuals (l'impôt sur le revenu des personnes physiques);
- (b) The complementary tax (taxe complémentaire);
- (c) The company tax (l'impôt sur les sociétés), as well as any deductions at the source, prelevés (precomptes) and advances on these taxes.

In the case of the Comoro Islands:

- (a) The general income tax (l'impôt general sur le revenu);
- (b) The profits tax (l'impôt sur les bénéfices divers);
- (c) The tax on income from movable capital (l'impôt sur le revenu des capitaux mobiliers).

4. The Agreement shall also apply to any identical or similar taxes which may subsequently be added to or substituted for the existing taxes. The competent authorities of either Contracting Party shall notify the competent authorities of the other Contracting Party of any changes made in their taxation laws or regulations as soon as such changes are promulgated.

It is agreed that, if the taxation laws or regulations of either Contracting Party are amended in a manner substantially affecting the nature or the character of the taxes referred to in paragraph 3 of this article, the competent authorities of the two Contracting Parties shall consult together to determine any necessary adjustments to this Agreement.

#### **Article 8**

Income from immovable property, including profits from agricultural and forestry enterprises, shall be taxable only in the territory in which the property is situated.

#### **Article 9**

1. Income from industrial, mining, commercial or financial enterprises shall be taxable only in the territory in which a permanent establishment is situated.

2. Where an enterprise maintains permanent establishments in both territories, each of them may tax only the income derived from the operations of the permanent establishments situated in its territory.

3. Such taxable income may not exceed the amount of the industrial, mining, commercial or financial profits realized by the permanent establishment, including, where appropriate, any profits or advantages derived indirectly from that establishment or allotted or granted to third parties either by increasing or decreasing purchase or selling prices or by any other means. Part of the overhead expenses of the head office of the enterprise shall be charged against the earnings of the various permanent establishments in proportion to their turnover.

4. Where taxpayers with business in both territories do not keep regular accounts showing separately and exactly the profits accruing to the permanent establishments situated in each territory, the amount of profit taxable in each territory may be determined by apportioning the total earnings between the two territories in proportion to the turnover realized in each of them.

5. If one of the establishments situated in either territory realizes no turnover, or if the business carried on in the two territories is not comparable, the competent authorities of the two Contracting Parties shall consult together to establish the manner in which paragraphs 3 and 4 above are to be applied.

#### **Article 10**

1. Where an enterprise of one of the Contracting Parties, by virtue of its participation in the management or the capital of an enterprise of the other Contracting Party, makes or imposes upon that enterprise, in their commercial or financial relations, conditions differing from those which it would make with any other enterprise, all profits which would normally have appeared in the accounts of one of the enterprises but which have in this manner been transferred to the other enterprise may be incorporated in the taxable profits of the first enterprise.

2. An enterprise shall in particular be deemed to participate in the management or the capital of another enterprise when the same persons participate directly or indirectly in the management or the capital of both enterprises.

#### **Article 11**

Income derived from the operation of ships or aircraft shall be taxable only in the territory in which the enterprise has its fiscal domicile.

### **Article 12**

1. Subject to the provisions of articles 14 to 17 below, income from securities and assimilated income (earnings from shares, founders' shares or partnership or commandite interests; interest on bonds and on all other negotiable certificates of indebtedness) paid by companies or by public or private authorities having their fiscal domicile in one of the territories shall be taxable in that territory.

2. Where dividends distributed by companies having their fiscal domicile in France give rise to the payment of the prelevy on movable property, recipients of such income who are domiciled in the Comoro Islands may obtain a refund. The mode of application of this provision shall be determined by agreement between the competent authorities of the two Contracting Parties.

### **Article 13**

A company of one of the Contracting Parties may not be subjected in the territory of the other Contracting Party to a tax on its distributions of income from securities and of assimilated income (earnings from shares, founders' shares or partnership or commandite interests; interest on bonds and on all other negotiable certificates of indebtedness) solely by virtue of its participation in the management or the capital of companies domiciled in that other Contracting Party or because of any other relationship with such companies; but income distributed by the latter companies and liable to the tax shall where appropriate be increased by the amount of any profits or advantages which the company of the first-mentioned Contracting Party has indirectly derived from the said companies, either by increasing or decreasing purchase or selling prices or by any other means.

### **Article 14**

1. Where a company having its fiscal domicile in one of the territories is subject in that territory to the tax regulations governing joint-stock companies and maintains one or more permanent establishments in the other territory in respect of which it is liable in the latter territory to a tax on distributions of income from securities and of assimilated income (earnings from shares, founders' shares or partnership or commandite interests; interest on bonds and on all other negotiable certificates of indebtedness), the taxable income shall be apportioned between the two territories.

2. The apportionment provided for in the foregoing paragraph shall be established for each fiscal year on the basis of the ratio:

A

- for the territory in which the company does

B

not have its fiscal domicile;

B - A

----- for the territory in which the company

B

has its fiscal domicile.

The letter A represents the total book profits accruing to the company from all its permanent establishments in the territory in which it does not have its fiscal domicile, after setting off against each other the profits and losses of those establishments. Book profits shall be understood to mean the profits deemed to have been earned in the said establishments in the light of the provisions of articles 9 and 10 of this Agreement.

The letter B represents the company's total book profits, as shown by its general balance-sheet.

In determining the total book profits, no account shall be taken of over-all losses established in respect of all the company's permanent establishments in another Overseas Territory or in a foreign State after setting off against each other the profits and losses of those establishments.

Where there is either no over-all book profit or an over-all book loss in respect of a given fiscal year, the apportionment shall be effected on the bases previously established.

In the absence of previously established bases, the apportionment shall be effected in accordance with a ratio determined by agreement between the competent authorities of the two Contracting Parties.

3. Where the distributed profits include earnings from holdings of the company in the capital of other companies and such holdings fulfil the conditions on which affiliated companies are accorded special tax treatment under the internal laws in force in the territory in which the company has its fiscal domicile or in the other territory (according as such holdings are credited in the balance-sheet under the head of permanent establishments situated in the first or in the second territory), each

Contracting Party shall apply to such part of the said distributed profits as consists of earnings from holdings governed by its internal laws or regulations the provisions of those laws or regulations, while that part of the said distributed profits which does not consist of earnings from such holdings shall be taxed by each Party in accordance with the manner of apportionment provided for in paragraph 2 above.

#### **Article 15**

1. Where, as a result of checks carried out by the competent taxation administrations, the total profits earned during a fiscal year are adjusted in such a way as to modify the ratio defined in article 14, paragraph 2, such adjustments shall be taken into account in the apportionment between the two Contracting Parties of the tax bases pertaining to the fiscal year in which the adjustments took place.
2. Where such adjustments relate to the amount of earnings to be apportioned but do not affect the ratio of profits earned taken into account in the apportionment of the earnings to which the adjustments relate, a supplementary tax apportioned in the same ratio as the initial tax shall be imposed in accordance with the rules applicable in each Contracting Party.

#### **Article 16**

1. The apportionment of tax bases referred to in article 14 shall be made by the company and communicated by it to each of the competent taxation administrations within the time-limit prescribed by the laws or regulations of each Contracting Party for declaring such distributions of taxable earnings as the company is carrying out.

In support of such apportionment, the company shall furnish to each of the above-mentioned administrations, in addition to the documents which it is required to produce or deposit under internal laws or regulations, copies of the documents produced to or deposited with the taxation administration of the other Contracting Party.

2. Any difficulties or disputes which may arise in connexion with the apportionment of tax bases shall be settled by agreement between the competent taxation administrations. Failing agreement, the difference shall be settled by the mixed commission referred to in article 40.

#### **Article 17**

Directors' percentages, attendance fees and other emoluments received by members of the boards of directors or supervisory boards of joint-stock companies, limited share partnerships (societes en commandite par actions) or co-operative societies in their capacities as such shall be taxable in the territory in which the company, partnership or society has its fiscal domicile, subject to the application of articles 21 and 22 below in respect of remuneration received by them in any other effective capacity.

Where the company, partnership or society maintains one or more permanent establishments in the other territory, the above-mentioned directors' percentages, attendance fees and other emoluments shall be taxable in accordance with the provisions of articles 14 to 16.

#### **Article 18**

1. Income from loans, deposits, deposit accounts, notes of indebtedness and any other forms of debt-claims not represented by negotiable instruments shall be taxable in the territory in which the creditor has his fiscal domicile.
2. However, each Contracting Party shall retain the right, if its internal laws or regulations so provide, to tax the income referred to in paragraph 1 above by deduction at the source.
3. The provisions of paragraphs 1 and 2 above shall not apply if the recipient of the interest in question, being domiciled in one of the territories, maintains in the other territory, in which the interest arises, a permanent establishment with which the debt-claim producing the interest is actually connected. In that case, article 9 relating to the attribution of profits to permanent establishments shall apply.

#### **Article 19**

1. Royalties paid for the use of immovable property or for the working of mines, quarries or other natural resources shall be taxable only in the territory in which such property, mines, quarries or other natural resources are situated.
2. Copyright royalties and proceeds or royalties from the sale or grant of licenses for the use of patents, trade marks, secret processes and formulae, paid in one of the territories to a person having his fiscal domicile in the other territory shall be taxable only in the latter territory.
3. The royalties referred to in paragraph 2 above shall be deemed to include payments made for the hire of or for the right to use cinematographic films, similar remuneration for the provision of information concerning industrial, commercial or scientific experience and rentals for the use of

industrial, commercial or scientific equipment, except where such equipment is an immovable property, in which case paragraph 1 shall apply.

4. Where a royalty exceeds the intrinsic and normal value of the rights for which it is paid, the exemption provided for in paragraphs 2 and 3 shall apply only to that part of the royalty which corresponds to the said intrinsic and normal value.

5. The provisions of paragraphs 2 and 3 shall not apply where the recipient of the royalties or other payments maintains in the territory of the Contracting Party in which the income arises a permanent establishment or fixed place of business used for the practice of a profession or of any other independent activity and where the said royalties or other payments are attributable to that permanent establishment or fixed place of business. In such cases, the Contracting Party in question shall be entitled to tax the income in accordance with its laws or regulations.

#### **Article 20**

Pensions and annuities shall be taxable only in the territory in which the recipient has his fiscal domicile.

#### **Article 21**

1. Failing specific agreements providing for special treatment in the matter, wages, salaries and other similar remuneration received by a person domiciled in one of the two territories in respect of gainful employment shall be taxable only in that territory, unless the employment is exercised in the other territory. If the employment is exercised in the other territory, the remuneration derived from it shall be taxable in the latter territory.

2. Notwithstanding the provisions of paragraph 1 above, remuneration received by a person domiciled in a territory in respect of gainful employment in the other territory shall be taxable only in the first-mentioned territory if:

(a) The recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned;

(b) The remuneration is paid by or on behalf of an employer who is not domiciled in the other territory; and

(c) The remuneration is not deducted from the profits of a permanent establishment or fixed base maintained by the employer in the other territory.

3. Notwithstanding the preceding provisions of this article, remuneration for work done on board a ship or aircraft shall be taxable only in the territory in which the enterprise has its fiscal domicile.

#### **Article 22**

1. Income derived by a person domiciled in a territory from a profession or from other independent activities of a similar character shall be taxable only in that territory, unless the person in question has a fixed base for his activities regularly available to him in the other territory. If he has such a fixed base, such part of the income as is attributable to that base shall be taxable in the other territory.

2. For the purposes of this article, professions shall be deemed to include scientific, artistic, literary, educational or teaching activities and the activities of medical practitioners, lawyers, architects or engineers.

#### **Article 23**

Payments which a student or trainee from one of the territories who is present in the other territory solely for the purpose of his education or training receives for his maintenance, education or training shall not be taxed in that other territory, provided that such payments are made to him from sources outside that other territory.

#### **Article 24**

Income not mentioned in the foregoing articles shall be taxable only in the territory in which the recipient has his fiscal domicile, unless such income is connected with the activity of a permanent establishment maintained by the recipient in the other territory.

#### **Article 25**

It is agreed that double taxation shall be avoided in the following manner:

1. A Contracting Party may not include in the bases upon which the taxes on income referred to in article 7 are imposed any income which is taxable only in the other Contracting Party under the terms of this Agreement; but each Contracting Party shall retain the right to calculate the tax at a rate corresponding to the total income taxable under its legislation.

2. Income of the kinds referred to in articles 12, 14, 17 and 18 originating in the Comoro Islands and payable to persons domiciled in France shall not be charged in the Comoro Islands with any tax other than the tax on income from movable capital.

Income of the kinds referred to in articles 12, 14 and 18 originating in France and payable to persons domiciled in the Comoro Islands shall be exempt in France from any tax deducted at the source.

3. Income from movable capital and interest of the kinds referred to in articles 12, 14, 17 and 18 originating in the Comoro Islands and payable to individuals, companies or other bodies domiciled in France shall for the purposes of French taxation be included as to their gross amount in the bases upon which the taxes referred to in article 7, paragraph 3, above are imposed, subject to the following provisions:

(a) Income from movable capital of the kinds referred to in articles 12, 14 and 17 originating in the Comoro Islands and liable under the terms of the said articles to the Comoro Islands tax on income from movable capital shall entitle the recipient to a deduction applicable to the taxes payable in France on the same income.

The said deduction shall be 25 per cent in the case of dividends and 12 per cent in the case of other categories of income;

(b) Interest of the kinds referred to in article 18 which originates in the Comoro Islands and which has been charged with the Comoro Islands tax on income from movable capital shall entitle a recipient of the said interest domiciled in France to a tax credit of 15 per cent in that country. Such credit shall be allowed either against the tax on the income of individuals or against the company tax.

4. Income from movable capital and interest of the kinds referred to in articles 12, 14, 17 and 18 originating in France and payable to persons domiciled in the Comoro Islands shall not be charged in that territory with any tax other than the general income tax.

## Chapter II.

### Succession Duties

#### **Article 26**

1. This chapter shall apply to succession duties levied on behalf of either Contracting Party.

The term "succession duties" shall be understood to mean taxes levied at death in the form of estate duties, inheritance taxes, death-duties or taxes on gifts mortis causa.

2. The existing duties to which this chapter shall apply are:

In the case of France: the succession duty;

In the case of the Comoro Islands: the succession duty.

#### **Article 27**

Immovable property (including accessories) shall be liable to succession duty only in the territory in which it is situated; equipment or livestock of agricultural or forestry enterprises shall be taxable only in the territory in which the enterprise is situated.

#### **Article 28**

Tangible or intangible movable property left by a deceased person who at the time of his death was domiciled in one of the territories and invested in a commercial, industrial or handicraft enterprise of any kind shall be liable to succession duty in accordance with the following rule:

(a) If the enterprise has a permanent establishment in only one of the two territories, the property shall be liable to duty only in that territory; this provision shall apply even where the enterprise extends its operations to the other territory, without maintaining a permanent establishment there;

(b) If the enterprise has a permanent establishment in each of the two territories, the property shall be liable to duty in each territory to the extent that it is used for a permanent establishment situated in that territory.

However, the provisions of this article shall not apply to investments made by the deceased in joint-stock companies (limited companies, limited share partnerships (societes en commandite par actions), private limited companies (societes a responsabilite limitee), co-operative societies, civil companies subject to the tax regulations governing joint-stock companies) or--in the form of commandite interests--in simple limited partnerships (societes en commandite simple).

#### **Article 29**

Tangible or intangible movable property connected with a fixed place of business and used in the practice of a profession in one of the territories shall be liable to succession duty only in the territory in which such place of business is situated.

#### **Article 30**

Tangible movable property other than the movables referred to in articles 28 and 29, including furniture, linen and household goods and art objects and collections, shall be liable to succession duty only in the territory in which it is actually situated at the date of death.

However, ships and aircraft shall be liable to succession duty only in the territory in which they were registered.

### **Article 31**

Property of a deceased person's estate to which articles 27 to 30 do not apply shall be liable to succession duties only in the territory in which the deceased was domiciled at the time of his death.

### **Article 32**

1. Debts pertaining to enterprises of the kinds referred to in articles 28 and 29 shall be charged against the property of those enterprises. If the enterprise has a permanent establishment or fixed place of business, as the case may be in both territories, the debts shall be charged against the property of the establishment or place of business to which they pertain.
2. Debts secured on immovable property or on rights in immovable property, or on ships or aircraft as referred to in article 30, or on property used in the practice of a profession as provided for in article 29, or on the property of an enterprise of the kind referred to article 28, shall be charged against such property. If a debt is secured at the same time on property situated in both territories, it shall be charged against the property situated in each of them in proportion to the taxable value thereof. This provision shall apply to the debts referred to in paragraph 1 only to the extent to which they are not covered in the manner provided for in that paragraph.
3. Debts not provided for in paragraph 1 and 2 shall be charged against property covered by the provisions of article 31.
4. If, after the procedure provided for in the three preceding paragraphs, there remains an outstanding balance in one of the territories, such balance shall be deducted from the value of any other property liable to succession duty in the same territory. If there is no other property subject to duty in that territory or if after such deduction a balance still remains, such balance shall be charged against the property subject to duty in the other territory.

### **Article 33**

Notwithstanding the provisions of articles 27 to 32, each Contracting Party shall retain the right to assess the duty on inherited property which it has the exclusive right to tax at the average rate applicable to the sum of the property which would be liable to duty under its internal laws or regulations.

Chapter III.

Registration Taxes Other Than Succession Duties. Stamp Taxes

### **Article 34**

Where an instrument or judgement drawn up in one of the territories is presented for registration in the other territory, the taxes applicable in the latter territory shall be determined in accordance with the provisions of its internal laws or regulations, provided that the taxes due in that territory shall where appropriate be reduced by the amount of the registration taxes already levied in the first-mentioned territory.

However, instruments or judgments transferring the ownership or usufruct of an immovable or a business or the use of an immovable, and instruments or judgments registering the sale of a right to lease or to benefit by an option to lease all or part of an immovable, may be charged with a transfer tax only in the territory in which the immovable or business is situated.

The provisions of the first paragraph of this article shall not apply to company articles of association or amendments thereto. Such documents shall be liable to the ad valorem capital contribution tax (droit proportionnel d'apport) only in the territory in which the company has its registered offices. In cases of mergers or similar operations, the tax shall be levied in the territory in which the new or absorbing company has its registered offices.

### **Article 35**

Instruments or bills (effects) drawn up in one territory shall not be subject to stamp tax in the other territory if they have actually been charged with such tax at the rate applicable in the first-mentioned territory or if they are legally exempt from such tax in the first-mentioned territory.

Title III

Administrative Assistance

### **Article 36**

1. The taxation authorities of each of the Contracting Parties shall communicate to the taxation authorities of the other Contracting Party any fiscal information available to them and useful to the latter authorities to ensure the proper assessment and collection of the taxes to which this Agreement relates and the enforcement with respect to such taxes of the statutory provisions concerning the prevention of tax fraud.
2. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes to which this Agreement

relates. No information shall be exchanged which would reveal a commercial, industrial or professional secret.

3. Information shall be exchanged as a matter of routine or on request in connexion with particular cases. The competent authorities of the two Contracting Parties shall agree on the list of classes of information to be furnished as a matter of routine.

### **Article 37**

1. The Contracting Parties agree to lend each other assistance and support with a view to the collection, in accordance with the rules of their respective laws or regulations, of the taxes to which this Agreement relates and of any tax increases, surcharges, overdue payment penalties, interest and costs pertaining to the said taxes, where such sums are finally due under the laws or regulations of the requesting Party.

2. Requests for assistance shall be accompanied by such documents as are required under the laws or regulations of the requesting Party as evidence that the sums to be collected are finally due.

3. On receipt of the said documents, writs shall be served and measures of recovery and collection taken in the requested Party in accordance with the laws or regulations governing the recovery and collection of its own taxes.

4. Tax debts to be recovered shall enjoy the same safeguards and privileges as similar tax debts in the Contracting Party effecting recovery.

### **Article 38**

In the case of tax debts still subject to appeal, the taxation authorities of the creditor Contracting Party may, in order to safeguard the latter's rights, request the competent taxation authorities of the other Contracting Party to take such interim measures as its laws or regulations permit.

### **Article 39**

The measures of assistance specified in articles 37 and 38 shall also apply to the recovery of any taxes and duties other than those to which this Agreement relates.

Title IV

Miscellaneous Provisions

### **Article 40**

1. Where a taxpayer shows proof that as a result of measures taken by the taxation authorities of the Contracting Parties he has suffered double taxation in respect of the taxes to which this Agreement relates, he may make application to the competent authorities of the Contracting Party in the territory of which he has his fiscal domicile or to those of the other Contracting Party. If the application is upheld, the competent authorities of the two Contracting Parties shall reach agreement with a view to the equitable avoidance of double taxation.

2. The competent authorities of the Contracting Parties may also reach agreement with a view to the prevention of double taxation in cases not provided for in this Agreement, and in cases where the application of this Agreement gives rise to difficulties.

3. If it appears that agreement would be facilitated by negotiations, the matter shall be referred to a mixed commission composed of an equal number of representatives of each Contracting Party, appointed by the competent authorities. The commission shall be presided over alternately by a member of each delegation.

### **Article 41**

The competent authorities of the two Contracting Parties shall consult together to determine, by agreement and so far as may be necessary, the procedure for the application of this Agreement.

### **Article 42**

1. This Agreement shall be approved in accordance with the provisions in force in each of the two Contracting Parties.

It shall enter into force when both Parties have complied with the said provisions, it being understood that it shall apply for the first time:

In respect of taxes on income, to the taxation of income relating to the calendar year 1968 or to fiscal years ended in the course of that year. However, in the case of income the taxation of which is governed by articles 12 to 17, the Agreement shall apply to distribution taking place after the entry into force of the Agreement;

In respect of succession duties to the estates of persons deceased on or after the day of entry into force of the Agreement;

In respect of other registration taxes and of stamp taxes, to instruments and judgements drawn up after the entry into force of the Agreement.

2. The provisions of the Agreement concluded on 13 October and 12 November 1958 between the two Contracting Parties for the avoidance of double taxation and the establishment of rules of reciprocal administrative assistance with respect to taxes on income from movable capital shall cease to have effect upon the entry in force of the present Agreement.

### **Article 43**

This Agreement shall remain in force indefinitely.

However, on or after 1 January 1972, either Contracting Party may give notice to the other of its intention to terminate this Agreement, such notice to be given before the thirtieth day of June of any year. In that event the Agreement shall cease to apply as from the first day of January of the year following the year in which the notice was given, it being understood that its effects shall be limited: In respect of taxes on income, to income acquired or paid during the year in which notice of termination was given;

In respect of succession duties, to the estates of persons deceased not later than the thirty-first day of December of that year;

In respect of other registration taxes and of stamp taxes, to instruments and judgments dated not later than the thirty-first day of December of that year.

In witness whereof the undersigned have signed this Agreement, drawn up in two original copies.

Done at Paris, on 27 March 1970, and at Moroni, on 8 June 1970.

**FOR THE GOVERNMENT OF THE REPUBLIC:**

*Valery Giscard D'estaing*

**FOR THE GOVERNMENT COUNCIL OF THE TERRITORY OF THE COMORO ISLANDS:**

*Mikidache Abdou Rahim*

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