

1966 Income and Capital Tax Convention (English Translation)

Signed date: December 20, 1966

In force date: January 1, 1969

Effective date: January 1, 1969. See Article 29.

Status: In Force

This convention has been amended by a protocol signed February 24, 1995. The text as amended is also available.

CONVENTION BETWEEN THE REPUBLIC OF AUSTRIA AND SPAIN FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND FORTUNE

The Republic of Austria and Spain, desiring to conclude an Agreement for the avoidance of double taxation with respect to taxes on income and fortune, have agreed as follows:

Article 1

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

Article 2

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

2. There shall be regarded as taxes on income and on fortune all taxes imposed on total income, on total fortune, or on elements of income or of fortune, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

3. The existing taxes to which this Agreement shall apply are, in particular:

(a) In Austria:

(i) The income tax (Einkommensteuer);

(ii) The corporation tax (Körperschaftsteuer);

(iii) The contribution from income for the promotion of residential building and for the equalization of family burdens (Beitrag vom Einkommen zur Förderung des Wohnbaues und für Zwecke des Familienlastenausgleiches);

(iv) The tax on directors' fees (Aufsichtsratsabgabe);

(v) The business tax (Gewerbesteuer), including the pay-roll tax (Lohnsummensteuer);

(vi) The tax on fortune (Vermögensteuer);

(vii) The land tax (Grundsteuer);

(viii) The tax on agricultural and forestry enterprises (Abgabe von land- und forstwirtschaftlichen Betrieben);

(ix) The tax on the land value of undeveloped real estate (Abgabe vom Bodenwert bei unbebauten Grundstücken);

(x) The tax on property exempt from the inheritance tax (Abgabe von Vermögen, die der Erbschaftssteuer entzogen sind);

(hereinafter referred to as "Austrian tax");

(b) In Spain:

(i) The general tax on the income of individuals (Impuesto General sobre la Renta de las Personas Físicas);

(ii) The general tax on the income of companies and other legal entities (Impuesto General sobre la Renta de Sociedades y demás entidades jurídicas), including the special tax of 4 per cent instituted by article 104 of Act No. 41/1964 of 11 June 1964;

(iii) The following taxes collected in advance: the land tax on agricultural and stock-raising property and livestock (Contribución Territorial sobre la Riqueza Rústica y Pecuaria), the land tax on urban property (Contribución Territorial sobre la Riqueza Urbana), the tax on earnings from personal services (Impuesto sobre los rendimientos del Trabajo Personal), the tax on income from capital (Impuesto sobre las Rentas del Capital) and the tax on commercial and industrial activities and profits (Impuesto sobre Actividades y Beneficios Comerciales e Industriales);

- (iv) In Fernando Poo, Rio Muni, Sahara and Ifni, the taxes on income (on earnings from services and from fortune) and on the profits of enterprises [impuestos sobre la renta (sobre los rendimientos del trabajo y del patrimonio) y sobre los beneficios de las empresas];
- (v) The tax on surface area (canon de superficie), the tax on gross earnings (impuesto sobre el producto bruto) and the special tax on profits (impuesto especial sobre los beneficios) governed by the Act of 26 December 1958 (applicable to enterprises engaged in prospecting for and extracting oil);
- (vi) The local taxes on income or fortune (impuestos locales sobre la renta o el patrimonio); (hereinafter referred to as "Spanish tax").

4. This Agreement shall also apply to any identical or similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other each year of any changes which have been made in their respective taxation laws. If any change is made in the taxation law of either Contracting State, especially with regard to the taxation of dividends or interest, the two Contracting States shall, at the request of either of them, enter into negotiations with a view to revising such provisions of this Agreement as are affected by the change.

Article 3

1. In this Agreement, unless the context otherwise requires:

- (a) The terms "a Contracting State" and "the other Contracting State" mean the Republic of Austria or Spain (Peninsular Spain, the Balearic and Canary Islands, the Spanish towns and provinces in Africa, and Equatorial Guinea, consisting of the Territories of Rio Muni and Fernando Poo, both Territories being in the process of self-determination), as the context requires;
 - (b) The term "person" comprises an individual, a company and any other body of persons;
 - (c) The term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (d) The terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean an enterprise carried on by a resident of Austria or an enterprise carried on by a resident of Spain, as the context requires;
 - (e) The term "competent authority" means:
 - 1. In Austria: the Federal Ministry of Finance;
 - 2. In Spain: the Minister of Finance, the Director-General for Direct Taxes or any other authority designated by the Minister.
2. As regards the application of the Agreement by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Agreement.

Article 4

- 1. For the purposes of this Agreement, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.
- 2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:
 - (a) He shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);
 - (b) If the Contracting 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 Contracting State, he shall be deemed to be a resident of the Contracting State in which he has a habitual abode;
 - (c) If he has a habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national.
- 3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the Contracting State in which its place of effective management is situated. If the place of effective management cannot be determined, then it shall be deemed to be a resident of the Contracting State in which its registered offices are situated.

Article 5

- 1. For the purposes of this Agreement, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
- 2. The term "permanent establishment" shall include especially:

- (a) A place of management;
- (b) A branch;
- (c) An office;
- (d) A factory;
- (e) A workshop;
- (f) A mine, quarry or other place of extraction of natural resources;
- (g) A building site or construction or assembly project which exists for more than twelve months.

3. The term "permanent establishment" shall not be deemed 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 for collecting information, for the enterprise;
- (e) The maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

4. A person acting in a Contracting State on behalf of an enterprise of the other Contracting State-- other than an agent of an independent status to whom paragraph 5 applies--shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

5. An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

6. 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

1. Income from immovable property shall be taxable only in the Contracting State in which such property is situated.

2. The term "immovable property" shall be defined in accordance with the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources.

3. The provisions of paragraph 1 shall apply to income derived from the direct use, letting or use in any other form of immovable property.

4. The provisions of paragraphs 1 and 3 shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of professional services.

Article 7

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 shall be taxable only in the other State but only so much of them as is attributable to that permanent establishment.

2. Where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

3. In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment including executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

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

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

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

7. The provisions of paragraphs 1 to 6 shall also apply to income derived by a silent partner from a silent partnership formed under Austrian law.

Article 8

1. Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

2. Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

Article 9

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.

Article 10

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 be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed:

(a) 10 per cent of the gross amount of the dividends if the recipient is a company (excluding partnership) which holds directly at least 50 per cent of the capital of the company paying the dividends and which has owned the shares in question for at least one year immediately prior to the date of distribution;

(b) In all other cases, 15 per cent of the gross amount of the dividends.

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

3. The term "dividends" as used in this article means income from shares, jouissance shares or jouissance rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the

dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case the provisions of article 7 shall apply.

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

Article 11

1. Subject to the provisions of paragraph 3, 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 be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 5 per cent of the amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Interest on government securities issued by a Contracting State shall be taxable only in that State.

4. The term "interest" as used in this article means income from government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

5. The provisions of paragraphs 1, 2 and 3 shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of article 7 shall apply.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connexion with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

7. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, 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 recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments may be taxed according to the law of each Contracting State, due regard being had to the other provisions of this Agreement.

Article 12

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 be taxed in the Contracting State in which they arise, and according to the law of that State, but the tax so charged shall not exceed 5 per cent of the gross amount of the royalties.

3. The term "royalties" as used in this article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

4. The provisions of paragraphs 1 and 2 shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of article 7 shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connexion with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

6. Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this article shall apply only to the last-mentioned amount. In that case, the excess part of the payments may be taxed according to the law of each Contracting State, the regard being had to the other provisions of this Agreement.

Article 13

1. Gains from the alienation of immovable property, as defined in article 6, paragraph 2, shall be taxable only in the Contracting State in which such property is situated.

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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, shall be taxable only in the other State. However, gains from the alienation of movable property of the kind referred to in article 23, paragraph 3, shall be taxable only in the Contracting State in which such movable property is taxable according to the said article.

3. Gains from the alienation of any property other than those mentioned in paragraphs 1 and 2 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

1. Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar 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 shall be taxable only 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 and accountants.

Article 15

The provisions of article 7 shall apply mutatis mutandis to income which a resident of a Contracting State derives from the other Contracting State in respect of his activities as a broker, general commission agent or other agent of an independent status.

Article 16

1. Subject to the provisions of articles 19 and 20, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an 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 shall be taxable only in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an 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 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. Notwithstanding the preceding provisions of this article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, or aboard a boat engaged in inland waterways transport, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

Article 17

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

Article 18

Notwithstanding the provisions of articles 14 and 16, income derived by public entertainers, such as theatre, motion picture, radio or television artists, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

Article 19

Subject to the provisions of article 20, paragraph 1, pensions and similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

Article 20

1. Remuneration, including pensions, paid by, or out of funds created by, a Contracting State or a political or administrative subdivision, local authority or public corporation thereof to any individual in respect of services rendered to that State or subdivision, local authority or public corporation thereof in the discharge of functions of a governmental nature shall be taxable only in that State.

2. The provisions of articles 16, 17 and 19 shall apply to remuneration or pensions in respect of services rendered in connexion with any trade or business carried on by one of the Contracting States or a political or administrative subdivision, local authority or public corporation thereof.

Article 21

1. Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting 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 other State, provided that such payments are made to him from sources outside that other State.

2. Remuneration derived by a student or business apprentice who is or was formerly a resident of a Contracting State from an employment which he exercises in the other Contracting State for the purposes of practical training for a period or periods not exceeding a total of 183 days in the calendar year concerned shall not be taxed in that other State.

Article 22

Any income of a resident of a Contracting State which is not expressly mentioned in the foregoing articles shall be taxable only in that State.

Article 23

1. Fortune represented by immovable property, as defined in article 6, paragraph 2, shall be taxable only in the Contracting State in which such property is situated.

2. Fortune represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, shall be taxable only in the Contracting State in which the permanent establishment or fixed base is situated.

3. Ships and aircraft operated in international traffic and boats engaged in inland waterways transport, and movable property pertaining to the operation of such ships, aircraft and boats, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of fortune of a resident of a Contracting State shall be taxable only in that State.

Article 24

1. Where a resident of a Contracting State derives income or owns fortune which, in accordance with the provisions of this Agreement, is taxable only in the other Contracting State, the first-mentioned State shall, subject to the provisions of paragraph 2, exempt such income or fortune from tax but may, in calculating tax on the remaining income or fortune of that person, apply the rate of tax which would have been applicable if the exempted income or fortune had not been so exempted.

2. Where a resident of a Contracting State derives income which, in accordance with the provisions of article 10, paragraph 2, article 11, paragraph 2, and article 12, paragraph 2, may be taxed in the other Contracting State, the first-mentioned State shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in the other Contracting State. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from that other Contracting State.

3. In Spain the tax paid in the Republic of Austria shall be deducted also from the tax collected in advance, in accordance with the provisions of paragraph 2. If the Spanish tax collected in advance is collected before the Austrian tax which is deductible therefrom in accordance with this Agreement, and if the amount of the Spanish general taxes is less than the amount which is deductible in accordance with this paragraph and the preceding paragraph, then the difference shall be refunded.

Article 25

1. The nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the

taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

2. The term "nationals" means:

(a) All individuals possessing the nationality of a Contracting State;

(b) All legal persons, partnerships and associations deriving their status as such from the law in force in a Contracting State.

3. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities.

This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

4. 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 Contracting 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 that first-mentioned State are or may be subjected.

Article 26

1. Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Agreement, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

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 an appropriate 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 not in accordance with the Agreement.

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

4. The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs. When it seems advisable in order to reach agreement to have an oral exchange of opinions, such exchange may take place through a commission consisting of representatives of the competent authorities of the Contracting States.

Article 27

1. The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Agreement and of the domestic laws of the Contracting States concerning taxes covered by this Agreement in so far as the taxation thereunder is in accordance with this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons or authorities other than those concerned with the assessment or collection of the taxes which are the subject of the Agreement.

2. In no case shall the provisions of paragraph 1 be construed so as to impose on one of the Contracting States the obligation:

(a) To carry out administrative measures at variance with the laws or the administrative practice of that or of the other Contracting State;

(b) To supply particulars which are 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 (ordre public).

Article 28

Nothing in this Agreement shall affect the fiscal privileges of diplomatic or consular officials under the general rules of international law or under the provisions of special agreements.

Article 29

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

2. The Agreement shall enter into force on 1 January of the year following the exchange of the instruments of ratification, and its provisions shall have effect as from that date.

3. Article 8 and article 23, paragraph 3, shall apply, notwithstanding the provisions of paragraph 2, as from 1 January 1965.

Article 30

This Agreement shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Agreement, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year. In such event, the Agreement shall cease to be effective as respects taxes levied for calendar years following the year in which notice of termination is given.

In witness whereof the plenipotentiaries of the two Contracting States, being duly authorized thereto, have signed and sealed this Agreement.

Done at Vienna, on 20 December 1966, in duplicate in the German and Spanish languages, both texts being equally authentic.

FOR THE REPUBLIC OF AUSTRIA:

Dr. Josef Hammerschmidt

FOR SPAIN:

Antonio de Luna