

1994 Income and Capital Tax Convention and Final Protocol (English Translation)

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Status: In Force

CONVENTION BETWEEN THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA AND THE GOVERNMENT OF THE FRENCH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

[TRANSLATION]

The Government of the Republic of Bolivia and the Government of the French Republic, Desiring to conclude a Convention for the avoidance of double taxation 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 domiciled in one or both of the States.

Article 2 Taxes Covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf a State, its territorial authorities (in the case of France), or its political and administrative subdivisions (in the case of Bolivia), 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) l'impôt de solidarité sur la fortune (wealth tax);
 - iv) la taxe sur les salaires (tax on salaries), (which shall be referred to hereafter as "French tax");
 - b) in Bolivia:
 - i) el regime complementario al impuesto al valor agregado: RC-IVA (VAT tax surcharge)
 - ii) el impuesto a la renta presunta de empresas: IRPE (tax on the estimated income of enterprises);
 - iii) el impuesto a la renta presunta de propietarios de bienes: IRPPB (tax on the estimated income of owners of property);
 - iv) el impuesto a las transacciones: IT (transaction tax);
 - v) el impuesto a las utilidades obtenidas de la explotacion de hidrocarburos (tax on profits from hydrocarbon production), (which shall be referred to hereafter as "Bolivian 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. At the end of each year, the competent authorities of the States shall notify each other of significant changes which have been made in their respective taxation laws.

Article 3 General Definitions

1. For the purposes of this Convention, unless the context otherwise requires:
 - a) the terms "a State" and "the other State" mean, as the case may be, France or Bolivia;
 - b) the term "person" includes 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 State" and "enterprise of the other State" mean respectively an enterprise carried on by a person domiciled in a State and an enterprise carried on by a person domiciled in the other State;

e) the term "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a State, except when the ship or aircraft is operated solely between places in the other State;

f) the term "national" means:

i) any individuals possessing the nationality of a State;

ii) any legal person, partnership or association deriving its status as such from the laws in force in a State;

g) the term "competent authority" means:

i) in France, the Minister in charge of the Budget;

ii) in Bolivia, the Minister of Finance or his authorized representative.

2. As regards the application of the Convention by a State, any term not defined therein shall, unless the context otherwise requires, have the meaning which it has under the law of that State concerning the taxes to which the Convention applies.

Article 4 Resident

1. For the purposes of this Convention, a person is domiciled in a State when, by virtue of the laws of that State, that person is liable to tax therein by reason of his domicile, residence, habitual abode, place of management or any other criterion of a similar nature.

2. Where by reason of the provisions of paragraph 1 an individual is domiciled in both States, then his status shall be determined as follows:

a) he shall be deemed to be domiciled in 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 domiciled in 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 domiciled in 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 domiciled in 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 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 domiciled in both States, then it shall be deemed to be domiciled in the State in which its place of effective management is situated. This provision shall particularly apply to partnerships and other bodies of persons deemed to be legal entities for purposes of taxation.

Article 5 Permanent Establishment

1. For purposes of this Convention, the term "permanent establishment" means a fixed place of business through which business is carried on, and whose purpose is to generate profit.

2. The term "permanent establishment" includes especially:

a) an office, a main administrative office or place of management;

b) a branch or representative office;

c) a manufacturing facility, factory, a manufacturing or assembly shop, or agricultural operation;

d) a mine, a quarry or any other place of extraction of natural resources;

e) a building site or construction or installation project, only if it lasts more than six months.

3. A person acting in one State on behalf of an enterprise in the other State shall be deemed to constitute a permanent establishment in the first-mentioned State if that person has, and habitually exercises therein, an authority to conclude contracts in the name of the enterprise, unless the activities of such person are limited to the purchase of goods or merchandise for that enterprise.

4. 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 fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

c) the maintenance of a fixed place of business solely for the purpose of advertising, collecting information, scientific research or for the purpose of carrying on similar activities of a preparatory or auxiliary character, provided that such activities are carried out on behalf of the enterprise itself.

5. An enterprise shall not be deemed to have a permanent establishment in a 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.

6. The fact that a company which is domiciled in a State controls or is controlled by a company which is domiciled in the other State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

Article 6 Income From Immovable Property

1. Income from immovable property shall be taxable in the State in which that immovable property is situated.

2. The term "immovable property" shall have the meaning which it has under the law of the State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

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

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

Article 7 Business Profits

1. The profits of an enterprise of a State shall be taxable only in that State unless the enterprise carries on business in the other 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 State carries on business in the other State through a permanent establishment situated therein, there shall in each 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 those duly justified 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. Insofar as it has been customary in a 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 State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

5. 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.

6. 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.

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 Shipping and Air Transport

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

2. If the place of effective management of a shipping enterprise is aboard a ship, then it shall be deemed to be situated in the State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the State in which the operator of the ship is domiciled.

3. The provisions of paragraph 1 shall also apply to profits from the participation in a pool, a joint business or an international operating agency.

Article 9 Associated Enterprises

1. Where

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

b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a State and an enterprise of the other State, and in either case conditions are agreed upon or imposed between the two enterprises in their commercial or financial relations which differ from those which would be agreed upon 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 Dividends

1. Dividends paid by a company which is domiciled in a State to a person domiciled in the other State may be taxed in the first-mentioned State according to the laws of that State, but if the recipient is the beneficial owner of the dividends, the tax so charged shall not exceed 15 percent of the gross amount of the dividends. The provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

2.a) A person who is domiciled in Bolivia and who receives from a company domiciled in France dividends which would entitle him to a tax credit if they were received by a person domiciled in France, is entitled to a payment from the French Treasury in an amount equal to such tax credit, subject to the tax deduction provided for in paragraph 1.

b) The provisions of a) shall only apply to a person domiciled in Bolivia who is:

i) an individual or

ii) a company which directly or indirectly holds less than 10 percent of the capital of the French company that is paying such dividends.

c) the provisions of a) shall not apply if the beneficiary of the French Treasury payment is not subject to Bolivian tax by reason of these dividends and of that French Treasury payment.

d) French Treasury payments referred to in a) are considered to be dividends for purposes of this Convention.

3. A person domiciled in Bolivia who receives dividends paid by a company domiciled in France, and who is not entitled to the French Treasury payment referred to in paragraph 2, may obtain a refund of the prepayment insofar as the latter was effectively paid by the company by reason of such dividends. The gross amount of the refunded prepayment is considered to be a dividend for purposes of the Convention. It is taxable in France in accordance with the provisions of paragraph 1.

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

5. The provisions of paragraphs 1, 2, and 3 shall not apply if the beneficial owner of the dividends, domiciled in a State, carries on business in the other State in which the company paying the dividends is domiciled, 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.

6. Where a company domiciled in a State derives profits or income from the other 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 person domiciled in 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.

Article 11 Interest

1. Interest arising in a State and paid to a person domiciled in the other State may be taxed in the State in which it arises and according to the law of that State; but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 percent of the gross amount of the interest.

2. Notwithstanding the provisions of paragraph 1:

a) Interest arising in France and paid to the Bolivian State are exempt from the French tax.

b) Interest arising in Bolivia and paid to French government authorities or French public service institutions are exempt from the Bolivian tax.

3. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

4. The provisions of paragraph 1 shall not apply if the beneficial owner of the interest, domiciled in a State, carries on business in the other 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.

5. Interest shall be deemed to arise in a State when the payer is that State itself, one of its territorial authorities (in the case of France), one of its political and administrative subdivisions (in the case of Bolivia), one of their legal entities under public law or another person domiciled in that State. Where, however, the person paying the interest, whether he is domiciled in that State or not, has in a 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.

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 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 State, due regard being had to the other provisions of this Convention.

Article 12 Royalties

1. Royalties arising in a State and paid to a person domiciled in the other State shall be taxable in the 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 15 percent of the gross amount of the royalties.

2. 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, and for information concerning industrial, commercial or scientific experience.

3. The provisions of paragraph 1 shall not apply if the beneficial owner of the royalties, being domiciled in a State, carries on business in the other 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.

4. Royalties shall be deemed to arise in a State when the payer is that State itself, one of its territorial authorities (in the case of France), one of its political and administrative subdivisions (in the case of Bolivia), one of their legal entities under public law or another person domiciled in that State. Where, however, the person paying the royalties, whether he is domiciled in that State or not, has in a 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.

5. Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties, having regard to the use, right or information for which they are paid, exceeds the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each State, due regard being had to the other provisions of this Convention.

Article 13 Capital Gains

1. Gains derived by a person domiciled in a State from the alienation of immovable property as defined in paragraph 2 of Article 6 are taxable in the State in which such property is situated.
2. Gains from the alienation of stocks, shares or other rights in a company or in a legal entity possessing immovable property situated in a State or of rights connected with such property may be taxed in that State where they are subject, according to the laws of that State, to the same tax treatment as gains from the alienation of immovable property. For purposes of the application of this provision, immovable property used by this company or legal entity for its own industrial, commercial or agricultural operations, or for the performance of independent personal services are not taken into account.
3. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a State has in the other State or of movable property pertaining to a fixed base available to a person domiciled in a State in the other 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.
4. Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in the State in which the place of effective management of the enterprise is situated.
5. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3 and 4 shall be taxable only in the State in which the alienator is domiciled.

Article 14 Independent Personal Services

1. Income derived by a person domiciled in a 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 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 person domiciled in a State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other 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 person domiciled in a State in respect of an employment exercised in the other 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 consecutive twelve-month period, and
 - b) the remuneration is paid by, or on behalf of, an employer who is not domiciled in 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 derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic may be taxed in the State in which the place of effective management of the enterprise is situated.

Article 16 Directors' Fees

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

Article 17 Artistes and Athletes

1. Notwithstanding the provisions of Articles 14 and 15, income derived by a person as an entertainer, such as a theater, motion picture, radio or television artiste, or a musician, or as an athlete, shall be taxable in the State in which his activities are exercised.
2. Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the State in which the activities of the entertainer or athlete are exercised.

3. The provisions of paragraphs 1 and 2 shall not apply where the activities exercised in a State by an artist or athlete are totally or principally financed by the other State, one of its territorial authorities (in the case of France), one of its political and administrative subdivisions (in the case of Bolivia), or one of their legal entities under public law.

Article 18 Pensions

1. Subject to the provisions of paragraphs 1 and 2 of Article 19, pensions and other similar remuneration paid to a person domiciled in a State in consideration of past employment shall be taxable only in that State.
2. Notwithstanding the provisions of paragraph 1, pensions and other payments made in pursuance of laws pertaining to the social security system of a State shall be taxable only in that State.

Article 19 Government Service

1. Salaries, wages and other similar remuneration, other than a pension, paid directly by, or out of funds created by, a State or one of its territorial subdivisions (in the case of France), one of its political and administrative subdivisions (in the case of Bolivia) or by one of their legal entities under public law shall be taxable only in that State.
2. The provisions of paragraph 1 shall apply to remuneration, including pensions, paid to an expert or volunteer sent by one State to the other State, with the authorization of the latter, as part of an aid program between the two States financed through government funds of either one of the States.
3. The provisions of Articles 15, 16 and 18 apply to remuneration, including pensions, paid in respect of services rendered in connection with a business carried on by a State, one of its territorial authorities (in the case of France), one of its political and administrative subdivisions (in the case of Bolivia), or by one of their legal entities under public law.

Article 20 Teachers, Students and Business Apprentices

1. Payments which a teacher who is or was immediately before visiting a State domiciled in the other State and who has been present in that other State for a maximum period of two years for the purpose of perfecting his training, conducting research or for teaching, receives in connection with these activities shall be taxable only in the first-mentioned State provided that such payments do not arise from a source in the other State.
2. Where an individual who was domiciled in a State immediately before visiting the other State is temporarily present in that other State solely in the capacity of a student or pupil in a university, high school, or other educational institution, or in the capacity of an apprentice, such person is exempt from taxation in the other State as from the date of his arrival in that other State:
 - a) by reason of those amounts arising from outside the country whose purpose is to cover his maintenance, education or training costs;
 - b) for a period that shall not exceed three years, by reason of the payments earned by this person for services rendered in that other State for the sole purpose of supplementing the resources available to him for his maintenance, education or training.
3. Where an individual who was domiciled in a State immediately before visiting the other State, and who is temporarily present in that other State solely for the purpose of his education, research or training or in connection with a technical cooperation program initiated by a State, receives compensation for his maintenance or a grant from a scientific, educational or charitable organization, such person is exempt from taxation in the State in which he is present:
 - a) by reason of this compensation or of this grant;
 - b) by reason of those amounts arising from a source outside the country whose purpose is to cover his maintenance, education or training costs.

Article 21 Other Income

Items of income of a person domiciled in a State which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.

Article 22 Capital

1. Capital represented by immovable property as defined in paragraph 2 of Article 6 may be taxed in the State in which such property is situated. The provisions of this paragraph also apply to the capital represented by the stocks, shares or other rights referred to in paragraph 2 of Article 13.
2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a State has in the other State or by movable property pertaining to a fixed base available to a person domiciled in a State in the other State for the purpose of performing independent personal services, may be taxed in that other State.

3. The capital of an enterprise represented by ships and aircraft operated in international traffic and by movable property pertaining to the operation of such ships and aircraft shall be taxable only in the State in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a person domiciled in a State shall be taxable only in that State.

Article 23 Elimination of Double Taxation

Double taxation shall be eliminated as follows:

1. In France:

a) Where a person domiciled in France derives income or owns capital which, in accordance with the provisions of this Convention, may or may not be taxed only in Bolivia, such income or capital is taken into account in calculating the French tax if they are not exempt from the latter under French domestic law. The Bolivian tax is not deductible from this income or capital but such person is entitled to a tax credit deductible from the French tax. This credit is equal:

i) for income or capital taxable only in Bolivia, to the amount of French tax which corresponds to such income or capital;

ii) for income or capital not referred to in i) to the amount of tax paid in Bolivia in accordance with the provisions of the Convention; this credit shall not, however, exceed the amount of French tax which corresponds to such income or capital.

b) With respect to the application of a) to the income referred to in Articles 11 and 12, where the amount of the tax paid in Bolivia in accordance with the provisions of these Articles shall exceed the amount of French tax which corresponds to such income, the recipient of such income domiciled in France shall be permitted to present his case to the competent French authority. If it appears to such authority that the situation results for him in taxation not in accordance with net income tax, that competent authority, under such conditions as it shall determine, may allow a deduction for French taxation purposes that the amount exempted from the tax paid in Bolivia on other income that such person receives from foreign sources.

2. In Bolivia:

a) In the case of a person domiciled in Bolivia, any items of income arising from France and any elements of capital situated in France which, according to the provisions of the Convention, are taxable in France, are excluded from the basis of the Bolivia tax. However, Bolivia reserves the right, in determining the applicable tax rate, to take into account the items of income or capital thus excluded.

b) Notwithstanding the provisions of a), where a person domiciled in Bolivia receives dividends which, in accordance with the provisions of Article 10, are taxable in France, Bolivia grants, on the tax amount which it levies on such dividends, where applicable, a deduction in an amount equal to the tax paid in France. Such deduction shall not, however, exceed that part of the tax, as calculated before the deduction is given, which is attributable to such dividends received from France.

Article 24 Non-Discrimination

1. Nationals of a State shall not be subjected in the other 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 domicile, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to nationals of either State who are not domiciled in either of the two States.

2. The taxation on a permanent establishment which an enterprise of a State has in the other 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 State to grant to persons domiciled in the other State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to persons domiciled in its own territory.

3. Except where the provisions of Article 9, paragraph 6 of Article 11, or paragraph 5 of Article 12 apply, interest, royalties and other disbursements paid by an enterprise of a State to a person domiciled in the other 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 person domiciled in the first-mentioned State. Similarly, any debts of an enterprise of a State payable to a person domiciled in the other 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 person domiciled in the first-mentioned State.

4. Enterprises of a State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more persons domiciled in the other State, shall not be subjected in the first-

mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

5.a) The exemptions and other advantages provided for by the laws of a State for the benefit of that State, its territorial authorities (in the case of France), its political and administrative subdivisions (in the case of Bolivia), or their legal entities under public law which do not carry on a business activity, shall apply under the same conditions respectively to the other State, its territorial authorities (in the case of France), its political and administrative subdivisions (in the case of Bolivia), or their legal entities under public law which do not carry on a business activity.

b) Non-profit organizations of whatever description, which are created or organized in a State and carry on their activities in the scientific, artistic, cultural, educational or charitable fields shall benefit, in the other State, under conditions provided for by the laws of that other State, shall benefit from tax exemptions or other advantages granted in connection with gifts or successions to entities of the same nature created or organized in that other State. However, these exemptions or other advantages shall only apply if such organisms benefit from similar exemptions or advantages in the first-mentioned State.

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

Article 25 Mutual Agreement Procedure

1. Where a person considers that the actions of one or both of the 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 State in which he is domiciled or, if his case comes under paragraph 1 of Article 24, to that of the State of which he is a national. If he is not domiciled in either State, he can present his case to either State. 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 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 States.

3. The competent authorities of the 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 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 States.

5. The competent authorities of the States can reach a mutual agreement on the mode of application of the Convention, and especially the formalities which those persons domiciled in a State must complete in order to obtain, in the other State, the tax reductions or exemptions and other tax reliefs provided for in the Convention. These formalities may include the presentation of a domicile declaration indicating in particular the nature and amount or value of the income or capital in question and a certificate from the tax administration of the first-mentioned State.

Article 26 Exchange of Information

1. The competent authorities of the States shall exchange such information as is necessary for carrying out the provisions of this Convention. Any information received by a 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, these taxes. 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 State the obligation:

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

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

Article 27 Diplomatic and Consular Officers

1. Nothing in this Convention shall affect the tax privileges of members of diplomatic missions and their private domestic staffs, members of consular posts, or 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, individuals who are members 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 purpose of the Convention, to be domiciled in the accrediting State, provided that such persons are subject in such accrediting State to the same requirements in terms of taxation on their entire income or their entire capital as persons domiciled in that State.

3. This Convention shall not apply to international organizations, their representative bodies or their officials, nor to persons who are members of a diplomatic mission or a consular post or a permanent delegation of a third State, when they are located in the territory of a State and are not subject to the same requirements in terms of taxation on income and on capital as are persons domiciled in one or the other State.

Article 28 Entry Into Force

1. Each 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 these notifications is received.

2. The provisions of the Convention shall apply:

a) in France:

i) as regards withholding taxes paid, to those amounts taxable as from the date on which the Convention enters into force;

ii) as regards other taxes on income, to that income accrued during the calendar years following the year during which the Convention enters into force or to income accruing to the current accounting period which begins during such calendar year, as the case may be;

iii) as regards tax on capital, to that capital which was owned as of January 1 of the year following the year during which the Convention enters into force or after such date;

b) in Bolivia:

i) as regards taxes incurred during annual fiscal periods as from January 1 of the year following the year during which the Convention enters into force;

ii) as regards other taxes, as from the date that the Convention enters into force.

Article 29 Termination

1. This Convention shall remain in force indefinitely. However, as from the fifth calendar year following the year in which the Convention enters into force, each State 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 provisions of the Convention shall apply for the last time:

a) in France:

i) as regards withholding taxes, to those amounts taxable in respect of the calendar year in which notification of the year-end termination of the Convention shall have been given;

ii) as regards other taxes on income, to that income earned during the calendar year in which notification of the year-end termination shall have been given, or to that income accruing to the accounting period ended during that year, as the case may be;

iii) as regards taxes on capital, to that capital owned as from January 1 of the calendar year in which notification of the year-end termination shall have been given;

b) in Bolivia:

i) as regards taxes levied by annual fiscal periods, to those tax periods expiring immediately after December 31 of the calendar year in which notification of the year-end termination shall have been given;

ii) as regards other taxes, December 31 of the calendar year in which notification of the year-end termination shall have been given.

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

Done in duplicate at La Paz, this 15th day of December 1994 in the Spanish and French languages, each version being equally authentic.

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

The Government of the French Republic and the Government of the Republic of Bolivia, upon signing the Convention between the two Governments for the avoidance of double taxation on income and on capital, have agreed upon the following provisions, which are an integral part of the Convention.

1. This Convention is consistent with the respective tax systems of both States, meaning that the French tax system is based upon concepts of domicile and of international income, and the Bolivian tax system is based upon the concept of source of income.
2. As regards Article 3, the term "France," for the purposes of the Convention, does not include the overseas territories of the French Republic, nor the territorial authorities of Mayotte and Saint-Pierre-et-Miquelon.
3. As regards Article 6, where the ownership of stocks, shares or other rights in a company or legal entity entitles the owner to the "jouissance" of immovable property situated in a State, and held by such company or legal entity, the income which such owner derives from the direct utilization, rental or use, in any form, of this "jouissance" right is taxable in that State.
4. As regards Article 7:
 - a) Only such profits as are derived from activities pertaining to a building site or construction or installation or assembly project shall be taxable in the State in which such permanent establishment is situated. The profit which is derived from the supplying of goods or merchandise by the main office of the enterprise, by another establishment of the enterprise, or by a third party, whether accrued in connection with such activities or accrued independently of such activities, are not attributable to the building site or construction or installation or assembly project;
 - b) Income derived from activities involving plans, projects, construction, research, or technical services which are carried on in a State and which are connected with a permanent establishment situated in the other State, are not attributable to that permanent establishment.
5. As regards Articles 10, 11 and 12, if in a convention or agreement between Bolivia and a third State which is a member of the Organization for Economic Cooperation and Development, Bolivia reduces withholding taxes on dividends, interest or royalties by agreeing to lower tax rates (including zero tax rates), or more limited scopes of application, than the rates or scopes of application provided for in this Convention for the same categories of income, the same rates or scopes of application will automatically replace the rates or scopes of application provided for in this Convention, as from the date the Convention or Agreement between Bolivia and the third State enters into force.
6. As regards paragraph 2 of Article 12, remuneration for technical services rendered, including analyses or studies of a scientific, geological or technical nature for engineering projects, including plans related thereto, or for consultation or surveillance services rendered, shall not be considered as remuneration paid for information pertaining to experience acquired in industrial, commercial or scientific fields, but as income to which the provisions of Article 7 or of Article 14, as the case may be, shall apply.
7. As regards paragraph 1 or Article 23, it shall be understood that the expression "amount of French tax which corresponds to such income" shall mean:
 - a) Where the tax due by reason of such income is calculated by the application of a proportional tax, the amount of net income multiplied by the effective tax rate applied to them;
 - b) Where the tax due by reason of such income is calculated by the application of a progressive tax scale, the net income amount under consideration multiplied by the rate resulting from the actual tax due by reason of the total net taxable income under French law divided by such total net income.This interpretation similarly applies to the term "amount of French tax corresponding to such capital."
8. As regards paragraph 1 of Article 24, it is understood that an individual or legal entity, partnership or association which is domiciled in a State is not in the same situation as an individual or legal entity, partnership or association which is not domiciled in that State; and that, in such case, the provisions of this paragraph 1 are not applicable even if, in the case of legal entities, partnerships or associations, such entities are considered, in application of f) of paragraph 1 of Article 3, to be nationals of the State in which they are domiciled.
- 9.a) As regards Article 24 and point 5 of this Protocol, if another agreement, treaty or convention between France and Bolivia should include a most-favored-nation clause, it shall be understood that only the provisions in this Convention, with the exception of such clauses, shall apply for purposes of taxation.

b) It is understood that the provisions of Article 4 of the Agreement between the Government of the French Republic and the Government of the Republic of Bolivia concerning reciprocal investment incentives and protection, signed on October 25, 1989, shall not apply for purposes of taxation.

10. The provisions of the Convention shall in no way preclude France from applying:

a) Article 212 of its general tax code or other similar provisions which may be substituted for those in this Article;

b) The provisions of French law according to which, for the calculation of taxable profits of enterprises domiciled in France, the profits of permanent establishments or subsidiaries outside the country are taken into account within the scope of a tax system which provides for the deduction of losses or elimination of dual taxation.

Done in duplicate at La Paz, this 15th day of December 1994, in the Spanish and French languages, each version being equally authentic.

FOR THE GOVERNMENT OF THE REPUBLIC OF BOLIVIA:

FOR THE GOVERNMENT OF THE FRENCH REPUBLIC:

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