

1966 Income and Inheritance Tax Convention, as Amended (English Translation)

Treaty Partners: France; Gabon

Signed: April 21, 1966

Status: In Force

History: This convention, signed [April 21, 1966](#), has been amended by protocols signed [January 23, 1973](#), and [October 2, 1986](#).

Editor's Note: The text presented below incorporates changes made by protocols, exchanges of notes, and other similar agreements to show the text of the treaty as it currently reads. Only those subsequent agreements that amend the text of the treaty (rather than provide explanatory information), and that have entered into force have been incorporated into the text.

TAX CONVENTION BETWEEN THE GOVERNMENT OF THE FRENCH REPUBLIC AND THE GOVERNMENT OF THE GABONESE REPUBLIC

The Government of the French Republic and the Government of the Republic of Gabon, desiring to avoid, insofar as possible, double taxation and to establish reciprocal rules of assistance with respect to taxes on profits and on income, inheritances, registration, and stamp duties have, to that effect, 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. The term "France" means the European and overseas departments of the French Republic, including territorial waters and, beyond the latter, those areas over which, in accordance with international law, the French Republic has sovereign rights for the purpose of the exploration and use of resources from the ocean floor, its sub-strata, and contiguous waters.

The term "Gabon" means the national territory, including its territorial waters and, beyond the latter, those areas over which, in accordance with international law, the Republic of Gabon has sovereign rights for the purpose of the exploration and use of resources from the ocean floor, its sub-strata, and contiguous waters.

Article 2

1. For the purpose of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that Contracting State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that Contracting State in respect only of income derived from sources in that Contracting State or capital situated therein.
2. Where by reason of the provisions of paragraph 1 an individual is a resident of both Contracting States, then his status shall be determined as follows:
 - a) he shall be deemed to be a resident of the State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);
 - b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;
 - c) if he has an habitual abode in both States or in neither of them, he shall be deemed to be a resident of the State of which he is a national;
 - d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
3. Where by reason of the provisions of paragraph 1 a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

Article 3

The term "permanent establishment" means a fixed place of business through which the business of an 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, an oil or gas well, a quarry or any other place of extraction of natural resources;
 - (gg) A building site or construction or assembly project;
 - (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 in character.
 - (c) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State, other than an agent of independent status within the meaning of sub-paragraph (e) below, shall be deemed

to constitute 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.

Such authority shall, in particular, be deemed to be exercised by an agent who habitually has available to him in the first-mentioned Contracting State 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 a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that State 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 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 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, irrespective of the customs duties to which this stock is subject.
- (f) 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 4

For the purposes of this Agreement, rights which are governed by the taxation laws 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 of the State in which the

property in question or the property to which the right in question relates is situated.

Article 5

1. Nationals and companies and other associations (groupements) of one Contracting State shall not be subjected in the other State to any taxation other or higher than the taxation to which nationals and companies and other associations of the latter State in the same circumstances are subjected.
2. In particular, nationals of one of the Contracting States who are liable to taxation in the territory of the other Contracting State shall be entitled, under the same conditions as nationals of that other State, to such exemptions, reliefs, rebates and reductions of any taxes or charges whatsoever as may be granted in respect of family dependants.

Article 6

In the application of the provisions of this Agreement, the term "competent authorities" means:

In the case of France, the Minister of Finance and Economic Affairs or his duly authorized representative;

In the case of Gabon, the Minister of Finance or his duly authorized representative.

Article 7

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

TITLE II DOUBLE TAXATION

Chapter I. Income Taxes

Article 8

1. This chapter shall apply to taxes on profits and income charged on behalf of each Contracting State and its local authorities, irrespective of the tax system in use.

Taxes on total income or items of income (including capital gains) shall be considered as taxes on profits and income.

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 residence, determined in accordance with article 2, in one of the Contracting States, from the simultaneous or successive collection in that State and the other Contracting State of the taxes referred to in paragraph 1 above.

3. Existing taxes to which this chapter shall apply are:

In France:

- a) L'impôt sur le revenu (income tax);
- b) L'impôt sur les sociétés (company tax);

including all withholding, prepayments and advances charged on the taxes referred to above; and

In Gabon:

- a) L'impôt sur les sociétés et le minimum de perception de l'impôt sur les sociétés (company tax and minimum company tax);
- b) La taxe complémentaire sur les traitements publics et privés, les indemnités et émoluments, les salaires (tax surcharge on public and private wages, emoluments and salaries);
- c) L'impôt sur le revenu des personnes physiques (individual income tax);
- d) La taxe forfaitaire de solidarité nationale (flat-rate general national tax);
- e) L'impôt sur le revenu des valeurs mobilières (tax on income from securities).

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 State shall notify the competent authorities of the other Contracting State of any changes made in their taxation laws as soon as such changes are promulgated.

5. If, owing to changes in the taxation laws of either of the Contracting States, it appears expedient to adapt certain articles of the Agreement without affecting its general principles, the necessary adjustments may be made, by agreement, through an exchange of diplomatic notes.

Article 9

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

Article 10

1. Income from industrial, mining, commercial or financial enterprises shall be taxable only in the State in which a permanent establishment is situated.
2. Where an enterprise maintains permanent establishments in both Contracting States, each State may tax only the income derived from the operations of the 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 Contracting States do not keep regular accounts showing separately and exactly the profits accruing to the permanent establishments situated in each State, the amount of profit taxable by each State may be determined by apportioning the total earnings between the two States in proportion to the turnover realized in their respective territories.
5. If one of the establishments situated in either Contracting State realizes no turnover, or if the business carried on in the two States is not comparable, the competent authorities of the two States shall consult together to establish the manner in which paragraphs 3 and 4 above are to be applied.

Article 11

1. Where an enterprise of a Contracting State, by reason of its participation directly or indirectly in the management or capital of an enterprise of the

other Contracting State, directly or indirectly makes or imposes upon the latter, 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 12

Income derived from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the enterprise has its effective place of management.

Article 13

1. Subject to the provisions of articles 15 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 residence in one of the Contracting States shall be taxable in that State.
2. Dividends distributed by a French company which, if received by a person resident of France would entitle the recipient to tax credit (avoir fiscal) shall, when paid to an individual or a company resident of Gabon and fulfilling the conditions specified in paragraphs 3 and 4 below, entitle the recipient to a payment in an amount equal to such tax credit less the amount of the tax deducted at the source computed at the rate of 15 per cent of the aggregate of the dividend distributed and the said tax credit.
3. An individual resident of Gabon shall be entitled to the payment provided for in paragraph 2 above only if he includes the amount of that payment as a dividend in the basis upon which the tax referred to in article 26, paragraph 4, is imposed.
4. A company resident of Gabon shall be entitled to the payment provided for in paragraph 2 above only if the dividend paid by the French company and the payment are included in the basis upon which the tax on income to which that company is subjected in Gabon is imposed.

Article 14

A company of one of the Contracting States may not be subjected in the territory of the other Contracting State 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 resident of that other State 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 State has indirectly derived from the said companies, either by increasing or decreasing purchase or selling prices or by any other means.

Article 15

1. Where a company resident of one of the Contracting States is liable in that State 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) and maintains one or more permanent establishments in the other Contracting State in respect of which it is also liable in the latter State to a similar tax, the taxable income shall be apportioned between the two States, in order to avoid double taxation.
2. The apportionment provided for in the foregoing paragraph shall be established for each fiscal year on the basis of the ratio:

The letter A represents the total book profits accruing to the company from all its permanent establishments in the State in which it is not a resident, 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 10 and 11 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 either 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 Contracting States concerned.

3. Where the distributed profits include earnings from holdings of the company in the capital of other companies and such holdings fulfil the conditions under which affiliated companies are accorded special tax treatment under the internal legislation either of the State of which the company is a resident or of the other State (according as such holdings are credited in the balance-sheet under the head of permanent establishments situated in the first or in the second State), each State shall apply to such part of the said distributed profits as consists of earnings from holdings governed by its internal legislation the provisions of that legislation, while that part of the said distributed profits which does not consist of earnings from such holdings shall be taxed by each State in accordance with the manner of apportionment provided for in paragraph 2 above.

Article 16

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 15, paragraph 2, such adjustments shall be taken into account in the apportionment between the two Contracting States 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 State.

Article 17

1. The apportionment of tax bases referred to in article 15 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 of each State 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 legislation, copies of the documents produced to or deposited with the administration of the other State.

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 41.

Article 18

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 Contracting State of which the company is a resident, subject to the application of articles 22 and 23 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 Contracting State, the above-mentioned directors' percentages, attendance fees and other emoluments shall be taxable in accordance with the provisions of article 15 to 17.

Article 19

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 State of which the creditor is a resident.
2. However, each Contracting State shall retain the right, if its internal legislation so provides, 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 a resident of one of the Contracting States, maintains in the other Contracting State, in which the interest arises, a permanent establishment with which the debt-claim producing the interest is actually connected. In that case, article 10 relating to the attribution of profits to permanent establishments shall apply.

Article 20

1. Royalties paid for the "jouissance" of immovable property or the use of mines, oil or gas wells, quarries, or other natural resources shall be taxable only in the Contracting State in which these property, mines, quarries or other natural resources are situated.
2. Other royalties arising in a State and paid by a resident person of that State to a resident person of the other State shall be taxable in that other State.
3. However, such royalties shall also be taxable in the State in which they arise and according to the laws of that State. The tax so charged shall not exceed 10 per cent of the gross amount of the royalties if the recipient is the beneficial owner of the royalties.
4. The term "royalties" as used in paragraph 2 of this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work including cinematograph films and any recording of sounds or images.

It also covers payments concerning the use of, or the right to use, a patent, trade mark, design or model, plan, secret formula or process, and the use of, or the right to use, industrial, commercial or scientific equipment and information concerning industrial, commercial or scientific experience.

Included in such royalties is remuneration for research of a scientific, geological or technical nature, and for engineering work and any plans related thereto.

5. Notwithstanding the provisions of paragraph 3, 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 such work as is recorded for radio and television broadcasts, shall be taxable only in the Contracting State of which the recipient of such payment is a resident, if such person is the beneficial owner of the royalties.
6. The provisions of paragraphs 2 and 3 shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 10 or Article 23, as the case may be, shall apply.

7. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a territorial authority, a public law entity, or a resident of that State. Where, however, the payer of the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.
8. 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 Contracting State, due regard being had to the other provisions of this Convention.

Article 21

Pensions and annuities shall be taxable only in the Contracting State in which the recipient is a resident.

Article 22

1. Failing specific agreements providing for special treatment in the matter, wages, salaries and other similar remuneration received by a resident of one of the two Contracting States in respect of gainful employment shall be taxable only in that State, unless the employment is exercised in the other Contracting State. If the employment is exercised in the other Contracting State, the remuneration derived from it shall be taxable in the latter State.
2. Notwithstanding the provisions of paragraph 1 above, remuneration received by a resident of a Contracting State in respect of gainful employment 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;
 - (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 deducted from the profits of a permanent establishment or fixed base maintained by the employer in the other State.
3. Notwithstanding the preceding provisions of this article, remuneration for work done on board a ship or aircraft in international traffic shall be taxable only in the Contracting State in which the effective place of management of the enterprise is situated.

Article 23

1. Income derived by a resident of a Contracting State from a profession or from other independent activities of a similar character shall be taxable only in that State, unless the person in question has a fixed base for his activities regularly available to him in the other Contracting State. If he has such a fixed base, such part of the income as is attributable to that base shall be taxable in the other State.
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 24

Payments which a student or trainee from one of the Contracting States who is present in the other Contracting State solely for the purpose of his education or training receives for 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.

Article 25

Income not mentioned in the foregoing articles shall be taxable only in the Contracting State of which the recipient is a resident, unless such income is connected with the activity of a permanent establishment maintained by the recipient in the other Contracting State.

Article 26

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

1. A contracting State may not include in the bases upon which the taxes on income referred to in article 8 are imposed any income which is taxable only in the other Contracting State under the terms of this Agreement; but each

State 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 13, 15 and 18 originating in Gabon and payable to residents of France shall not be charged in Gabon with any tax other than the tax on income from securities.

Conversely, similar income originating in France and payable to residents of Gabon shall not be charged in France with any tax other than the tax deducted at the source on income from movable capital. The rate of such deduction shall be reduced to 15 per cent in the case of income which is treated in the manner referred to in article 13, paragraph 2.

3. Income referred to in Articles 13, 15, 18 and 20 arising in Gabon and received by residents of France shall be taxable in France on the basis of the gross amount of that income. The Gabonese tax charged on that income entitles said French residents to a tax credit corresponding to the amount of Gabonese tax charged but which shall not exceed the amount of French tax charged which is attributable to such income.
4. The income referred to in Articles 13, 15, 18 and 20, arising in France and received by the residents of Gabon shall be taxable in that Contracting State only as applicable to company tax or personal income tax. The French tax charged on such income entitles Gabonese residents to a tax credit corresponding to the amount of French tax charged but which shall not exceed the amount of Gabonese tax charged which is attributable to such income.

Chapter II. Succession Duties

Article 27

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

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 Gabon: the succession duty.

Article 28

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

Article 29

Tangible or intangible movable property left by a deceased person who at the time of his death was resident of one of the Contracting States 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 Contracting States, the property shall be liable to duty only in that State; this provision shall apply even where the enterprise extends its operations to the territory of the other Contracting State, without maintaining a permanent establishment there;

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

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 30

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

Article 31

Tangible movable property other than the movables referred to in articles 29 and 30, including furniture, linen and household goods and art objects and

collections, shall be liable to succession duty only in the Contracting State in which it is actually situated at the date of death.

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

Article 32

Property of a deceased person's estate to which articles 28 to 31 do not apply shall be liable to succession duties only in the Contracting State of which the deceased was a resident at the time of his death.

Article 33

1. Debts pertaining to enterprises of the kinds referred to in articles 29 and 30 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 Contracting States, 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 31, or on property used in the practice of a profession as provided for in article 30, or on the property of an enterprise of the kind referred to in article 29, shall be charged against such property. If a debt is secured at the same time on property situated in both States, 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 paragraphs 1 and 2 shall be charged against property covered by the provisions of article 32.
4. If, after the procedure provided for in the three preceding paragraphs, there remains an outstanding balance in one of the Contracting States, such balance shall be deducted from the value of any other property liable to succession duty in the same State. If there is no other property subject to duty in that State or if after such deduction a balance still remains, such balance shall be charged against the property subject to duty in the other Contracting State.

Article 34

Notwithstanding the provisions of articles 28 to 33, each Contracting State 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 legislation.

Chapter III. Registration Taxes Other Than Succession Duties. Stamp Taxes

Article 35

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

However, instruments or judgements transferring the ownership or usufruct of an immovable or a business or the use of an immovable, and instruments or judgements 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 Contracting State in whose territory 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 State in which the company has its effective place of management. In cases of mergers or similar operations, the tax shall be levied in the State in which the new or absorbing company has its registered offices.

Article 36

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

TITLE III

ADMINISTRATIVE ASSISTANCE

Article 37

1. The taxation authorities of each of the Contracting States shall communicate to the taxation authorities of the other Contracting State 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. Assistance may be withheld where the requested State considers that it would be likely to endanger its sovereignty or security or to prejudice its general interests.
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 States shall agree on the list of classes of information to be furnished as a matter of routine.

Article 38

1. The Contracting States agree to mutually assist and support one another for the purpose of collecting, according to their respective laws or regulations, taxes covered by this Convention, as well as any tax surcharge, additional duties, delay allowances, interest and expenses attributable to such taxes if such amounts are definitively payable according to the laws or regulations of the applicant Contracting State.
2. At the request of the petitioning Contracting State, the petitioned Contracting State shall proceed to collect any tax debts of said State, according to the laws and applicable administrative practice applicable to the collection of its own tax debts, unless this Convention otherwise requires.
3. The provisions of the preceding paragraph shall apply only to tax debts which are subject to an authorization permitting tax collection in the petitioning Contracting State, provided that such tax debts are not contested.
4. The petitioned Contracting State shall not be obliged to respect such a request:
 - a) If the petitioning Contracting State has not first exhausted, on its own territory, every means of collecting its tax debt;

- b) If, and insofar as it can determine, the tax debt is incompatible with the provisions of this Convention.
- 5. The request for assistance for the purpose of the collection of a tax is accompanied:
 - a) by an attestation specifying that the tax debt concerns a tax covered by this Convention and which is not contested;
 - b) by an official copy of the authorization permitting enforcement of the collection in the petitioning Contracting State;
 - c) by any other document required for such collection and,
 - d) if appropriate, by a certified true copy of any ruling pronounced by an administrative body or court.
- 6. The authorization permitting enforcement in the petitioning Contracting State is, where required, and in accordance with the provisions in force in the petitioned Contracting State, accepted, certified, completed or replaced as soon as possible following the date on which the request for assistance is received, by an authorization permitting enforcement in the petitioned Contracting State.
- 7. Questions concerning the term of limitation of the tax debt are governed exclusively by the laws of the petitioning Contracting State.
- 8. Collection measures taken by the petitioned Contracting State in response to the request for assistance and which, according to the laws of that Contracting State, would result in the suspension or interruption of the term of limitation period shall have the same effect in the sight of the laws of the petitioning State. The petitioned State shall inform the petitioning State of the action it has taken in this respect.
- 9. The tax debt for which collection assistance is granted enjoys the same guarantees and privileges as debt-claims of the same nature in the petitioned Contracting State.
- 10. Where a tax debt in a Contracting State is subject to an appeal and the guarantees provided for in the laws of that Contracting State could not be secured, the tax authorities of that Contracting State may, in order to safeguard its rights, request the tax authorities in the other Contracting State to take such conservative measures as the laws or regulations of such other Contracting State shall authorize.

If it considers that the taxation was not established in accordance with the provisions of the Convention, that other Contracting State shall immediately demand a meeting of the Joint Committee referred to in title IV.

Article 40

The measures of assistance specified in article 38 shall also apply to the recovery of any taxes and duties other than those to which this Agreement relates, and, in general, to all debt-claims of whatsoever nature of the Contracting States.

TITLE IV MISCELLANEOUS PROVISIONS

Article 41

1. Where a taxpayer shows proof that as a result of measures taken by the taxation authorities of the Contracting States 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 State in the territory of which he is a resident or to those of the other State. If the application is upheld, the competent authorities of the two States shall reach agreement with a view to the equitable avoidance of double taxation.
2. The competent authorities of the Contracting States 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 the 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 State, appointed by their respective Ministers of Finance. The commission shall be presided over alternately by a member of each delegation.

Article 42

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

Article 43

1. This Agreement shall be approved in accordance with the constitutional provisions in force in each of the two States. It shall enter into force upon

the exchange of notes indicating that both Parties have complied with these 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 1963 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 15 to 18, the Agreement shall apply to distributions 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 14 December 1956 and 3 January 1957 between the Government of France and the Government General of French Equatorial Africa for 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 as between France and Gabon upon the entry in force of the present Agreement.

Article 44

This Agreement shall remain in force indefinitely.

However, on or after 1 January 1971 either of the Contracting States 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 judgements dated not later than the thirty-first day of December of that year.

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

Done at Libreville, on 21 April 1966.



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