

N° 3323.

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## FRANCE ET ITALIE

Convention pour éviter les doubles impositions et régler certaines autres questions en matière fiscale, avec protocole, signés à Rome, le 16 juin 1930, et Avenant à la convention susmentionnée, avec protocole, signés à Rome, le 16 novembre 1931.

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## FRANCE AND ITALY

Convention for the Avoidance of Double Taxation and the Settlement of Other Fiscal Questions, and Protocol, signed at Rome, June 16, 1930, and Additional Agreement to the above Convention and Protocol, signed at Rome, November 16, 1931.

<sup>1</sup> TRADUCTION. — TRANSLATION.

No. 3323. — CONVENTION <sup>2</sup> BETWEEN FRANCE AND ITALY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE SETTLEMENT OF OTHER FISCAL QUESTIONS. SIGNED AT ROME, JUNE 16, 1930.

*French official text communicated by the Minister for Foreign Affairs of the French Republic and by the Italian Minister for Foreign Affairs. The registration of this Convention took place January 5, 1934.*

THE PRESIDENT OF THE FRENCH REPUBLIC and HIS MAJESTY THE KING OF ITALY, being desirous of avoiding double taxation and settling certain other fiscal questions, have decided to conclude a Convention and have appointed for this purpose as their Plenipotentiaries :

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. Marcel BORDUGE, Councillor of State, Director-General at the Ministry of Finance ;

HIS MAJESTY THE KING OF ITALY :

His Excellency M. Giuseppe DE MICHELIS, Ambassador of His Majesty the King of Italy, Senator of the Kingdom ;

M. Gino BOLAFFI, Chief Director of Division in the Ministry of Finance ;

Who, having communicated their full powers, found in good and due form, have agreed on the following provisions :

## PART I.

## DOUBLE TAXATION.

*Article I.*

The object of the present Convention is to avoid the double imposition of impersonal or personal direct taxes on the taxpayers of the Contracting States.

For the purposes of this Convention, direct taxes are those which are levied directly on income, whether on behalf of the State, or on behalf of the provinces, departments and communes, even when in the form of " supplementary " taxation.

This Convention prescribes separate rules for impersonal direct taxation and for personal direct taxation.

<sup>1</sup> Traduit par le Secrétariat de la Société des Nations, à titre d'information.

<sup>1</sup> Translated by the Secretariat of the League of Nations, for information.

<sup>2</sup> The exchange of ratifications took place at Rome, October 27, 1933. The Convention came into force January 1st, 1934.

For the purposes of this Convention, impersonal taxes are the direct taxes levied on the various classes of income separately. Personal taxes are the direct taxes levied on the total income of each taxpayer as a separate person.

At the date of the present Convention, the impersonal taxes referred to are the following :

- (1) *Under Italian Law :*
- (a) The land tax (*imposta sul reddito dei terreni*) ;
  - (b) The tax on buildings (*imposta sul reddito dei fabbricati*) ;
  - (c) The tax on income derived from movable property (*imposta sui redditi di ricchezza mobile*) ;
  - (d) The tax on income derived from agricultural property (*imposta sui redditi agrari*) ;
- (2) *Under French Law :*
- (a) The property tax (both land and buildings) ;
  - (b) The tax on industrial and commercial profits ;
  - (c) The proportional mining royalty ;
  - (d) The tax on profits derived from agriculture ;
  - (e) The tax on salaries, fees and emoluments, wages, pensions and life annuities ;
  - (f) The tax on profits from non-commercial professions ;
  - (g) The tax on income derived from transferable securities and capital.

The personal taxes referred to are the following :

- (1) *Under Italian Law :*
- The graded surtax on total income (*imposta complementare progressiva sul reddito complessivo del contribuente*).
- (2) *Under French Law :*
- The general income tax.

## SECTION I. — IMPERSONAL TAXES.

### *Article 2.*

Under reservation of the exceptions resulting from subsequent Articles, impersonal taxes shall, in principle, be levied in the country from which the income is derived.

### *Article 3.*

Income derived from immovable property, up to the amount of its actual or estimated rentable value, together with all other income from such property which is not covered by Article 6 below, shall be taxable in the State in whose territory such immovable property is situated.

### *Article 4.*

Income derived from public funds, bonds, loans, deposits and deposit accounts, and from all other claims, shall be taxable in the State where the party liable in respect of such payments is established.

If the party liable has permanent establishments in the sense of Article 6 below in both States, and if one of these establishments, within the ambit of its ordinary operations, contracts a loan or receives a deposit, the tax shall be levied by the State in whose territory such establishment is situated.

*Article 5.*

Income derived from shares or similar interests, or from limited partnerships, or from shares in companies regulated by the Civil Code and limited liability companies, shall be taxable in the State where the actual seat of the company is situated.

*Article 6.*

Income derived from all industrial, commercial, mining or agricultural undertakings shall be taxable in the State in whose territory there are permanent establishments, even when the undertaking extends its operations to the territory of the other State without having an establishment there.

For the purposes of the present Convention, the term "permanent establishment" shall be understood to mean a permanent productive organisation belonging to the undertaking, in which all or some of the activities of the undertaking are carried on.

If the undertaking has permanent establishments in both the Contracting States, each State shall tax that part of the income which is derived from the operations of the establishment situated in its territory, and, to this end, the taxpayer shall submit for examination his general and special accounts and all documents necessary for the division of the income.

In the absence of a system of accountancy regularly showing such income separately, the financial authorities of the two Contracting States shall concert rules for apportionment.

*Article 7.*

Profits derived from shipping or air navigation undertakings shall be taxable only in the State in whose territory the actual central headquarters of the undertaking are situated, provided that the ships or aircraft fly the flag or possess the nationality of such State.

*Article 8.*

Percentages, attendance fees, and other emoluments of directors of limited companies shall be taxable in accordance with the rule laid down in Article 5.

*Article 9.*

Income derived from work, including income derived from the liberal professions, shall be taxable in the State in whose territory the personal occupation whence the income is derived is carried on. A liberal profession shall be deemed to have been practised in a given place only if the professional occupation is carried on there in a permanent establishment.

Private pensions shall be taxable in the State where the party liable to pay them is situated.

Salaries, wages, annuities, pensions and other remunerations payable by the State, by provinces or departments, by communes and other public corporations regularly constituted in accordance with the municipal law of the Contracting States, shall be taxable in the State to which the party liable to pay them belongs.

*Article 10.*

Life annuities and income derived from all lucrative occupations not specified in the previous Articles shall be taxable in the State on whose territory the recipient has his fiscal domicile. If the taxpayer has fiscal domicile in both States, the tax shall be levied by the State of which he is a national.

*Article 11.*

By derogation from Articles 4 and 5 above, each Contracting State may, for the purpose of maintaining equality of fiscal burdens in its territory or among its nationals, impose an impersonal tax, in accordance with its general law, on income derived from foreign capital invested in its territory and on income derived from national capital invested abroad in the form of State funds, shares or bonds ; but, in that case, it shall agree to deduct in advance, from the taxes levied under its own general tariff, those paid in the other State for the same object.

## SECTION II. — PERSONAL TAXES.

*Article 12.*

The personal tax on total income shall be levied by the State within whose territory the taxpayer has his fiscal domicile, that is to say, his ordinary residence, understood in the sense of permanent abode.

*Article 13.*

If the taxpayer has fiscal domicile in both the Contracting States, the personal tax shall be levied in each of them in proportion to the period spent there during the fiscal year. Any period spent in a third country shall be reckoned to the account of the State of which the taxpayer is a subject.

## SECTION III. — MISCELLANEOUS PROVISIONS.

*Article 14.*

If the measures taken by the financial authorities of the Contracting States have resulted in double taxation, the taxpayer affected may forward a protest to the State of which he is a subject ; if the protest is admitted to be justified, the supreme financial authority of such State shall be authorised to arrange with the supreme financial authority of the other State to find a just remedy for the double taxation.

*Article 15.*

The Contracting Parties entrust the supreme financial authorities of the two States with the conclusion of agreements for the avoidance of double taxation in cases not specifically provided for in the present Convention, and with the settlement of any difficulties arising out of it in practice.

## PART II.

## ADMINISTRATIVE ASSISTANCE.

*Article 16.*

For the purpose of improving the application of the personal tax on the whole income, the Contracting States undertake, on condition of reciprocity, to exchange such fiscal information as the administration of one State may have or be able to obtain and as may be useful to the administration of the other State for the supervision of such taxation.

Such exchanges shall be made directly between the two supreme financial authorities, either as a matter of routine or on request.

*Article 17.*

As regards the classes of income detailed below, the State which levies impersonal taxation shall automatically communicate the basis of taxation to the other State, if the recipient of such income is domiciled in the territory of the latter State and is, on that ground, liable to personal taxation :

- (1) Income derived from landed property ;
- (2) Mortgage interest ;
- (3) Profits of industrial, commercial, mining and agricultural undertakings ;
- (4) Percentages and other directors' fees, income derived from limited partnerships, and from partnerships in commercial companies or in companies regulated by the Civil Code ;
- (5) Income derived from work or from public or private pensions.

Inversely, the State which levies the personal tax shall inform the other State of such life annuities and interest on debts as the party liable may have asked to have deducted as encumbrances on his total income.

*Article 18.*

Independently of the routine exchange of information in accordance with Article 17 above, the administration of either country may ask that of the other country for information in respect of actual cases.

This provision, however, may in no case result in imposing on one of the Contracting States an obligation to communicate information which might infringe the secrecy of banking transactions or provide information which its own fiscal law does not allow it to obtain, or to take administrative action not permitted by its own regulations or precedents.

Moreover, a State may refuse to comply with a request for information, if it considers that compliance would be contrary to public order or policy.

*Article 19.*

The Contracting Parties undertake to give each other mutual assistance in the notification of instruments relating to the assessment and collection of the direct taxes covered by the present Convention.

They also undertake to consider, in a spirit of friendly co-operation, the possibility of taking steps to secure the collection of the taxes which taxpayers domiciled in the territory of one State owe to the other State.

The two supreme financial authorities shall concert the rules covering the assistance provided for by the present Article.

*Article 20.*

The present Convention shall be ratified and the instruments of ratification shall be exchanged at Rome as soon as possible.

The Convention shall come into force on January 1st of the year following that of ratification. It may cease to have effect as from January 1st in any year, provided that it has been denounced at least eight months previously.

In faith whereof the Plenipotentiaries have signed the present Convention and have affixed thereto their seals.

Done at Rome, in duplicate, on June 16, one thousand nine hundred and thirty.

(L. S.) M. BORDUGE.

(L. S.) Gius. DE MICHELIS.

(L. S.) Gino BOLAFFI.

PROTOCOL.

At the moment of signing the present Convention, concluded on this day's date between France and Italy regarding double taxation and administrative assistance, the undersigned Plenipotentiaries have made the following declarations, which shall form an integral part of the said Convention :

(1) The term " permanent establishments " in the sense of Article 6 of the Convention shall include, not only the head offices and the actual headquarters, but also the branches, agencies, factories, works, laboratories, premises for purchase and sale, warehouses and other commercial establishments in the nature of permanent remunerative organisations, together with permanent representatives' offices.

(2) The rules laid down in paragraphs 3 and 4 of Article 6 of the Convention shall be applied if there is, in one of the States, an undertaking which, while legally independent under the law of that country, is connected with or related to an undertaking established in the territory of the other State in the way of dependence or participation, so that the two undertakings constitute a single economic unit.

(3) In the third paragraph of Article 6 of the Convention :

(a) " General accounts " shall mean those showing the general results of the undertaking and drawn up and published in accordance with the laws of the State in which the head office or actual headquarters of the undertaking is situated ;

(b) " Special accounts " shall mean those showing the results of the conduct of the establishments situated in the State which levies the tax and drawn up and published in accordance with the laws of such State ;

(c) " All other documents " shall mean all documents relating to the conduct of the establishments and necessary for the calculation of the income derived from such establishments which is taxable in the State levying the tax.

(4) It is understood that, under the rule laid down in Article 7 of the Convention, shipping or air navigation undertakings whose actual headquarters are in Italy and whose ships or aircraft fly the Italian flag or have Italian nationality and embark or disembark passengers or goods in French territory shall not be subject to licence fees or to any other tax which may be substituted for them, if such enterprises have neither agencies nor branches in that territory, even though they may use the services of an intermediary to collect freight or sell tickets.

Reciprocally, neither the Italian provincial and communal tax on industry, commerce, professions and trades, nor the trader's tax, nor any other tax that may be substituted for it, shall be imposed upon French shipping or air navigation undertakings whose ships or aircraft fly the French flag or have French nationality and embark or disembark passengers or goods in Italian territory under the conditions indicated in the preceding paragraph.

It is, moreover, agreed that the taxes from which the undertakings specified in Article 7 of the Convention may be exempted by the effect of that Article shall not be claimed retrospectively save when process of collection shall have been initiated before the date of the present Convention.

(5) As regards the taxation of private pensions in accordance with the rule laid down in the second paragraph of Article 9 of the Convention, it is understood that, if the pension is paid by an undertaking which has establishments in both countries, the establishment responsible for making the payment shall be considered the party liable.

(6) It is expressly stated that, in accordance with Articles 4, 5 and 11 of the Convention and by derogation from general French Law, Italian companies shall enjoy the benefits of Articles 27, 28 and 29 of the French law of July 31, 1920, and of Article 25 of that of March 19, 1928, under the conditions fixed by the said articles.

(7) It is expressly stated that, for the purposes of Article 11 of the Convention, the expression " national capital " shall mean, as regards France, capital supplied by companies whose seat is in France or by persons domiciled in France.

In accordance with Article 11, the French Government shall take the following measures :

(a) It shall cease to levy the tax on income derived from undiscounted foreign securities so far as it applies to Italian securities which have been taxed at the rate of 20 per cent in Italy ;

(b) It shall cease to levy the tax of 16 per cent on discounted Italian bonds which have been taxed in Italy at the rate of 20 per cent.

The same rules shall be applicable, *mutatis mutandis*, to Italy.

Should Italy lay a tax on transferable Italian securities, the French tax shall only be levied on the same income after deduction of the tax levied in Italy.

Should Italy lay a tax on income derived from transferable foreign securities, such tax shall only be levied after deduction of the tax paid in France.



(8) Regard being had to the law now in force in Italy, it is expressly stated that, under Article 12 of the Convention, taxpayers who have their fiscal domicile in French territory, and who, as such, are liable to personal taxation, shall not be liable to personal taxation in Italy in respect of the income derived from their property situated in Italian territory, if they have no domicile there.

(9) It is expressly stated that, for the purposes of Article 13 of the Convention, each State, after calculating the personal tax on the taxpayer's total income in accordance with its own scale, shall reduce the sum thus obtained to that proportionate to the period spent in its territory.

(10) Students residing in one of the Contracting States solely for the purpose of their studies shall not be taxed by such State on any allowances they may receive from their relations resident in the other State, provided that such allowances constitute the major portion of the funds necessary to them for their maintenance and studies.

Done at Rome, in duplicate, on June 16, one thousand nine hundred and thirty.

(L. S.) M. BORDUGE.

(L. S.) Gius. DE MICHELIS.

(L. S.) Gino BOLAFFI.

## AGREEMENT

ADDITIONAL TO THE CONVENTION OF JUNE 16, 1930, BETWEEN FRANCE AND ITALY FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE SETTLEMENT OF CERTAIN FISCAL QUESTIONS. SIGNED AT ROME, NOVEMBER 16, 1931.

THE PRESIDENT OF THE FRENCH REPUBLIC and HIS MAJESTY THE KING OF ITALY, being desirous of supplementing the provisions of the Convention of June 16, 1930, between France and Italy for the avoidance of double taxation and the settlement of other fiscal questions, have decided to conclude an Agreement additional to the said Convention, and have appointed for this purpose as their Plenipotentiaries :

THE PRESIDENT OF THE FRENCH REPUBLIC :

M. Marcel BORDUGE, former Councillor of State, unattached Director-General at the Ministry of Finance ;

HIS MAJESTY THE KING OF ITALY :

His Excellency M. Giuseppe DE MICHELIS, Ambassador, Senator of the Kingdom ;  
M. Gino BOLAFFI, Director-in-Chief of Division at the Ministry of Finance ;

Who, having communicated their full powers, found in good and due form, have agreed on the following provisions :

*Article 1.*

The above-mentioned Convention of June 16, 1930, shall be supplemented by the following Article, which shall be inserted after Article 11 of the Convention itself and shall be numbered 11 (a) :

“ *Article 11 (a).* — Companies which actually have their head offices in Italy and which have a permanent establishment in France and are subject to income tax (*impôt sur le revenu des capitaux mobiliers*) under the Law of June 29, 1872, and the Decree of December 6 following, shall pay such tax subject to the conditions laid down in these provisions; nevertheless, the taxed income may not exceed the amount of the profits made in France, including any profits or advantages which the company may have derived indirectly from its branch or which may have been allotted or accorded to third parties either through an increase or decrease in the purchase or sale prices or by any other means.

“ Companies which actually have their head offices in Italy may not be made subject in France to the income tax (*impôt sur le revenu des capitaux mobiliers*) by reason of their participation in a company whose head offices are actually in France; but the profits distributed by the French company and liable to income tax, shall, if necessary, be increased, for the purpose of the collection of that tax, by any profits or advantages which the Italian company may have derived indirectly from its participation or which may have been allotted or accorded to third parties, either through an increase or decrease in the purchase or sale prices or by any other means. ”

*Article 2.*

The present Additional Agreement shall be ratified and shall come into force at the same time as the Convention of June 16, 1930, and shall share the fate of the latter.

In faith whereof the Plenipotentiaries have signed the present Additional Agreement and have affixed thereto their seals.

Done at Rome, in duplicate, the sixteenth day of November, one thousand nine hundred and thirty-one.

(L. S.) Marcel BORDUGE.

(L. S.) Gius. DE MICHELIS.

(L. S.) Gino BOLAFFI.

## PROTOCOL.

At the moment of signing the present Additional Agreement, concluded on this day's date between France and Italy to supplement the Convention of June 16, 1930, relating to double taxation, the undersigned Plenipotentiaries made the following declaration, which shall form an integral part of the said Convention :

It is understood that, for the purposes of Article 6 of the Convention of June 16, 1930, the income referred to in Articles 4 and 5 and derived from one of the States shall not be included in the profits subject in the other State, either to income tax (*impôt sur la richesse mobilière*) or to the tax on industrial and commercial profits.

Done at Rome, in duplicate, on the sixteenth day of November, one thousand nine hundred and thirty-one.

(L. S.) M. BORDUGE.

(L. S.) Gius. DE MICHELIS.

(L. S.) Gino BOLAFFI.