CONVENTION BETWEEN
THE SWISS CONFEDERATION AND
THE ARGENTINE REPUBLIC
FOR THE AVOIDANCE OF DOUBLE TAXATION
WITH RESPECT TO TAXES ON INCOME AND ON CAPITAL

THE SWISS FEDERAL COUNCIL

AND

THE GOVERNMENT OF THE ARGENTINE 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 residents of one or both of the Contracting States.

Article 2

Taxes covered

1. This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, 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, as well as taxes on capital appreciation.

3. The existing taxes to which the Convention shall apply are in particular:

(a) in the Argentine Republic:

(i) the income tax (impuesto a las ganancias);

(ii) the presumptive minimum income tax (impuesto a la ganancia mínima presunta);

(iii) the personal assets tax (impuesto sobre los bienes personales)

(hereinafter referred to as "Argentine Tax");

(b) in Switzerland:

the federal, cantonal and communal taxes

(i) on income (total income, earned income, income from capital, industrial and commercial profits, capital gains, and other items of income); and

(ii) on capital (total property, movable and immovable property, business assets, paid-up capital and reserves, and other items of capital)

(hereinafter referred to as "Swiss 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. The competent authorities of the Contracting States shall notify each other of substantial 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 Contracting State" and "the other Contracting State" mean the Argentine Republic or Switzerland as the context requires;

(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 Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting 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 Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(f) the term "tax" means Argentine tax or Swiss tax, as the context requires;

(g) the term "national" means:

(i) any individual possessing the nationality of a Contracting State;

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

(h) the term "competent authority" means:

(i) in the case of the Argentine Republic, the Ministry of Economy and Public Finance, Secretariat of Treasury (el Ministerio de Economía y Finanzas Públicas, Secretaría de Hacienda);

(ii) in the case of Switzerland, the Head of the Federal Department of Finance or his authorized representative.

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

Article 4

Resident

1. For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that 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 5

Permanent establishment

1. For the purposes of this Convention, the term "permanent establishment" means a fixed place of business through which the business of an enterprise is wholly or partly carried on.

2. The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop, and

(f) a mine, an oil or gas well, a quarry or any other place relating to the exploration for and the exploitation of natural resources.

3. The term "permanent establishment" likewise encompasses:

(a) a building site, a construction, assembly or installation project or supervisory activities in connection therewith, but only where such site, project or activities continue for a period or periods aggregating more than six months within any twelve month period;

(b) the furnishing of services, including consultancy services, by an enterprise through employees or other personnel engaged by the enterprise for such purpose, but only where such activities continue, for the same and connected project, within the country for a period or periods aggregating more than six months within any twelve month period.

4. Notwithstanding the preceding provisions of this Article, the term "permanent establishment" shall be deemed not to include:

(a) the use of facilities solely for the purpose of storage or display of goods or merchandise belonging to the enterprise;

(b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage or display;

(c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in subparagraphs (a) to (e), provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

5. Notwithstanding the provisions of paragraphs 1 and 2, where a person —other than an agent of an independent status to whom paragraph 6 applies— is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph 4 which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

6. An enterprise shall not be deemed to have a permanent establishment in a Contracting 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. However, when activities of such an agent are devoted wholly or almost wholly on behalf of that enterprise, he will not be considered an agent of an independent status within the meaning of this paragraph.

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

Article 6

Income from immovable property

1. Income derived by a resident of a Contracting State from immovable property (including income from agriculture or forestry) situated in the other Contracting State may be taxed in that other State.

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

Article 7

Business profits

1. The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State.

2. Subject to the provisions of paragraph 3, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing wholly independently with the enterprise of which it is a permanent establishment.

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

4. Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph 2 shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles 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. Notwithstanding the provisions of paragraph 1, profits derived by an enterprise of a Contracting State from the activity of granting insurance or re-insurance covering property situated in the other Contracting State or persons which are residents of that other State, at the time of the conclusion of the insurance contract, may be taxed in that other State, whether or not the enterprise carries on its activity in that other State through a permanent establishment situated therein. However, in such case, the tax charged in that other State shall not exceed 2.5 per cent of the gross amount of the premium.

8. 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 Contracting 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 Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship is a resident.

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.

4. In this Article:

(a) the term "profits" includes:

(i) profits, net profits, gross receipts and revenues derived directly from the operation of ships or aircraft in international traffic, and

(ii) interest on sums generated from the operation of ships or aircraft in international traffic provided that such interest is paid on funds connected with such operation;

(b) the term "operation of ships or aircraft" in international traffic by an enterprise of a Contracting State includes:

(i) the charter or rental of ships or aircraft,

(ii) the rental of containers and related equipment, and

(iii) the alienation of ships, aircraft, containers and related equipment,

by that enterprise provided that such charter, rental or alienation is incidental to the operation by that enterprise of ships or aircraft in international traffic.

Article 9

Associated enterprises

1. Where

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

(b) the same persons participate directly or indirectly in the management, control or capital of an enterprise of a Contracting State and an enterprise of the other Contracting State,

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

2. When profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other Contracting State and taxed accordingly, and the profits so included are profits which would have accrued to that enterprise of the other State, if the conditions made between the enterprises had been those which would have been made between independent enterprises, then the competent authorities of the Contracting States may consult together with a view to reach an agreement on the adjustments of profits in both Contracting States.

3. A Contracting State shall not change the profits of an enterprise in the circumstances referred to in paragraph 1 after the expiry of the time limits provided in its national laws and, in any case, after six years from the end of the year in which the profits which would be subject to such change would have accrued to an enterprise of that State. This paragraph shall not apply in the case of fraud or wilful default.

Article 10

Dividends

1. Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

2. However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident and 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:

(a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 25 per cent of the capital of the company paying the dividends;

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

The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of these limitations.

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

3. The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debtclaims, 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.

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

5. Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of 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 Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 12 per cent of the gross amount of the interest. The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this limitation.

3. Notwithstanding the provisions of paragraph 2:

(a) interest arising in a Contracting State and paid in respect of a bond, debenture or other similar obligation of the government of that Contracting State or of a political subdivision or local authority thereof shall, provided that the interest is beneficially owned by a resident of the other Contracting State, be taxable only in that other State;

(b) interest arising in the Argentine Republic and paid to a resident of Switzerland shall be taxable only in Switzerland if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured under the Swiss provisions regulating the "garantie contre les risques à l'exportation" or by any institution specified and agreed in letters exchanged between the competent authorities of the Contracting States;

(c) interest arising in Switzerland and paid to a resident of the Argentine Republic shall be taxable only in the Argentine Republic if it is paid in respect of a loan made, guaranteed or insured, or a credit extended, guaranteed or insured by the "Banco Central de la República Argentina", the "Banco de la Nación Argentina" or the "Banco de la Provincia de Buenos Aires" as is specified and agreed in letters exchanged between the competent authorities of the Contracting States;

(d) interest arising in a Contracting State shall be exempt from tax in that State if it is beneficially owned by a resident of the other Contracting State and is paid with respect to indebtedness arising as a consequence of the sale on credit by a resident of that other State of any industrial machinery or equipment; and

(e) interest arising in a Contracting State shall be exempt from tax in that State if it is beneficially owned by a resident of the other Contracting State and is paid with respect to any development loan granted by a bank to an unrelated party at a preferential rate provided the time period of such loan is no less than three years.

4. The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures, as well as income which is subjected to the same taxation treatment as income from money lent by the laws of the State in which the income arises. However the term "interest" does not include income dealt with in Article 8 or in Article 10.

5. The provisions of paragraphs 1, 2, and 3 shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting 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.

6. Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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 of fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

Article 12

Royalties

1. Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

2. However, such royalties may also be taxed in the Contracting 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:

(a) 3 per cent of the gross amount paid for the use of, or the right to use, news;

(b) 5 per cent of the gross amount paid for the use of, or the right to use, copyright of literary, dramatic, musical or other artistic work (but not including royalties in respect of motion picture films and works on film or videotape or other means of reproduction for use in connection with television);

(c) 10 per cent of the gross amount paid for the use of, or the right to use, industrial, commercial or scientific equipment or any patent, trade mark, design or model, plan, secret formula or process, computer software or for information concerning industrial or scientific experience including payments for the rendering of technical assistance; and

(d) 15 per cent of the gross amount of the royalties in all other cases.

3. The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, news, any copyright of

literary, dramatic, musical or other artistic work, any patent, trade mark, design or model, plan, secret formula or process or other intangible property, or for the use of, or the right to use, computer software, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, and includes payments for the rendering of technical assistance and payments of any kind in respect of motion picture films and works on film, videotape or other means of reproduction for use in connection with television.

4. The provisions of paragraphs 1 and 2 shall not apply if the beneficial owner of the royalties, being 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 7 or Article 14, as the case may be, shall apply.

5. Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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.

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 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 13

Capital gains

1. Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 and situated in the other Contracting State may be taxed in that other State.

2. Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

3. 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 Contracting State in which the profit of the enterprise are taxable according to Article 8 of this Convention.

4. Gains derived by a resident of a Contracting State from the alienation of shares deriving more than 50 per cent of their value directly or indirectly from immovable property situated in the other Contracting State may be taxed in that other State. The provisions of the preceding sentence shall not apply to gains:

(a) from the alienation of shares quoted on a stock exchange established in either Contracting State or on a stock exchange as may be agreed by the competent authorities of the Contracting States; or

(b) from the alienation of shares in a company the value of which consist of more than 50 per cent of immovable property, in which the company carries on its business.

5. Unless the provisions of paragraph 4 are applicable, gains derived by a resident of a Contracting State from the alienation of shares or securities representing the capital of a company that is a resident of the other Contracting State may be taxed in that other State, but the tax so charged shall not exceed:

(a) 10 per cent of the gain if it is realized on a participation detaining directly at least 25 per cent of the capital;

(b) 15 per cent of the gain in all other cases.

6. Gains derived by a resident of a Contracting State from the alienation of any property, other than that referred to in the preceding paragraphs, situated in the other Contracting State may be taxed in that other State.

7. Gains from the alienation of any property other than that referred to in paragraphs 1, 2, 3, 4, 5 and 6 shall be taxable only in the Contracting State of which the alienator is a resident.

Article 14

Independent personal services

1. Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State.

2. Notwithstanding the provisions of paragraph 1, such income may be taxed in the other Contracting State in accordance with the laws of that State:

(a) if he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. However, only so much of the income may be taxed in the other Contracting State as is attributable to that fixed base; or

(b) if he does not have a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities, but the professional services or other activities of an independent character are performed in the other Contracting State. In such a case, the tax charged by the other Contracting State shall not exceed 10 per cent of the gross amount of that income.

3. 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 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

2. Notwithstanding the provisions of paragraph 1, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period, and

(b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State, and

(c) the remuneration is not borne by a permanent establishment 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 Contracting 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 resident of a Contracting State in his capacity as a member of the board of directors or a similar organ of a company which is a resident of the other Contracting State may be taxed in that other State.

Article 17

Artistes and sportsmen

1. Notwithstanding the provisions of Articles 7, 14 and 15, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

2. Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

3. The provisions of paragraph 2 shall not apply if it is established that neither the entertainer or the sportsman nor persons related thereto, participate directly or indirectly in the profits of the person referred to in that paragraph.

4. The provisions of paragraphs 1 and 2 shall not apply to income derived from activities performed in a Contracting State in the context of a visit in that State of a non-profits organization of the other State provided that the visit is substantially supported by public funds of such other State.

Article 18

Pensions and annuities

1. Notwithstanding the provisions of paragraph 2 of Article 19, pensions ("jubilaciones") paid to a resident of a Contracting State shall be taxable only in that State.

2. Annuities paid to a resident of a Contracting State shall be taxable only in that State. The term "annuities" as used in this Article means a stated sum paid periodically at stated time during the life, or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

3. Alimony and other maintenance payments paid to a resident of a Contracting State shall be taxable only in that State.

Article 19

Government service

1. (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:

(i) is a national of that State; or

(ii) did not become a resident of that State solely for the purpose of rendering the services.

2. (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

3. The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

Article 20

Students

Payments which a student, apprentice or business trainee who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that State, provided that such payments arise from sources outside that State.

Article 21

Capital

1. Capital represented by immovable property referred to in Article 6, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

2. Capital represented by movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or by movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, may be taxed in that other State.

3. Capital represented by ships and aircraft operated in international traffic, and by movable property pertaining to the operation of such ships or aircraft, shall be

taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

4. All other elements of capital of a resident of a Contracting State, situated in the other Contracting State, may be taxed in that other State.

Article 22

Elimination of double taxation

1. In the case of the Argentine Republic, double taxation shall be avoided as follows:

(a) Where a resident of the Argentine Republic derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in Switzerland, the Argentine Republic shall allow as a deduction from the tax on the income or capital of that resident an amount equal to the income or capital tax paid in Switzerland on income arising from sources outside the Argentine Republic or capital situated outside the Argentine Republic. Such deduction shall not, however, exceed that part of the income or capital tax, as computed before the deduction is given, which is attributable to the income or capital which may be taxed in Switzerland.

(b) Where, in accordance with any provision of this Convention, income derived or capital owned by a resident of the Argentine Republic is exempt from tax in the Argentine Republic, the Argentine Republic may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

2. In the case of Switzerland, double taxation shall be avoided as follows:

Where a resident of Switzerland derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the Argentine Republic, Switzerland shall, subject to the provisions of paragraph 3, exempt such income or capital from tax but may, in calculating the amount of tax on the remaining income or capital of that resident, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

3. Where a resident of Switzerland derives dividends, interest or royalties which, in accordance with the provisions of Article 10, 11, or 12, may be taxed in the Argentine Republic, Switzerland shall allow, upon request, a relief to such resident. The relief may consist of:

(a) a deduction from the tax on the income of that resident of an amount equal to the tax levied in the Argentine Republic in accordance with the provisions of Articles 10, 11 and 12; such deduction shall not, however, exceed that part of the Swiss tax, as computed before the deduction is given, which is appropriate to the income which may be taxed in the Argentine Republic; or

(b) a lump sum reduction of the Swiss tax; or

(c) a partial exemption of such dividends, interest or royalties from Swiss tax, in any case consisting at least of the deduction of the tax levied in the Argentine Republic from the gross amount of the dividends, interest or royalties.

Switzerland shall determine the applicable relief and regulate the procedure in accordance with the Swiss provisions relating to the carrying out of international conventions of the Swiss Confederation for the avoidance of double taxation.

4. A company which is a resident of Switzerland and which derives dividends from a company which is a resident of the Argentine Republic shall be entitled, for the purposes of Swiss tax with respect to such dividends, to the same relief which would be granted to the company if the company paying the dividends were a resident of Switzerland.

Article 23

Non-discrimination

1. Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances, in particular with respect to residence, are or may be subjected. This provision shall, notwithstanding the provisions of Article 1, also apply to persons who are not residents of one or both of the Contracting States.

2. The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which it grants to its own residents.

3. Except where the provisions of Article 9, paragraph 7 of Article 11, or paragraph 6 of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting 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 resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting 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 resident of the first-mentioned State.

4. Enterprises of a Contracting State, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subjected in the first-mentioned 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. The provisions of this Article shall, notwithstanding the provisions of Article 2, apply to taxes of every kind and description.

Article 24

Mutual agreement procedure

1. Where a person considers that the actions of one or both of the Contracting 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 Contracting State of which he is a resident or, if his case comes under paragraph 1 of Article 23, to that of the Contracting State of which he is a national. 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 Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

3. A Contracting State shall not, after the expiry of the time limits provided in its national laws and, in any case, after six years from the end of the taxable period in which the income concerned has accrued, increase the tax base of a resident of either of the Contracting States by including therein items of income which have also been charged to tax in the other Contracting State. This paragraph shall not apply in the case of fraud or wilful default.

4. The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

5. The competent authorities of the Contracting States may consult together for the elimination of double taxation in cases not provided for in the Convention and may communicate with each other directly for the purpose of applying the Convention.

Article 25

Exchange of information

1. The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to the Convention. The exchange of information is not restricted by Articles 1 and 2.

2. Any information received under paragraph 1 by a Contracting 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) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to the taxes referred to in paragraph 1, or the oversight of the above. 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. Notwithstanding the foregoing, information received by a Contracting State may be used for other purposes when such information may be used for such other purposes under the laws of both States and the competent authority of the supplying State authorises such use.

3. In no case shall the provisions of paragraphs 1 and 2 be construed so as to impose on a Contracting State the obligation:

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

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

4. If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph 3 but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

5. In no case shall the provisions of paragraph 3 be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person. In order to obtain such information, the tax authorities of the requested Contracting State, if necessary to comply with its obligations under this paragraph, shall have the power to enforce the disclosure of information covered by this paragraph, notwithstanding paragraph 3 or any contrary provisions in its domestic laws.

Article 26

Diplomatic agents and consular officers

1. Nothing in this Convention shall affect the fiscal privileges of diplomatic agents or consular officers under the general rules of international law or under the provisions of special agreements.

2. Notwithstanding the provisions of Article 4, an individual who is a member of a diplomatic mission, consular post or permanent mission of a Contracting State which is situated in the other Contracting state or in a third State shall be deemed, for the purposes of this Convention, to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his total income or on capital as are residents of that State.

3. The Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic mission, consular post or permanent mission of a third State, being present in a Contracting State and not treated in either Contracting State as residents in respect of taxes on income or on capital.

Article 27

Entry into force

1. The Governments of the Contracting States shall notify each other that the constitutional requirements for the entry into force of this Convention have been complied with.

2. The Convention shall enter into force thirty days after the later of the notifications referred to in paragraph 1 and its provisions shall have effect in both Contracting States:

(a) in respect of taxes withheld at source, on income derived on or after the first day of January of the calendar year in which the Convention enters into force;

(b) in respect of other taxes on income or capital, for taxes chargeable for any fiscal year beginning on or after the first day of January in the calendar year next following the year in which the Convention enters into force;

(c) in respect of Article 25, for information that relates to fiscal years or business years beginning on or after the first day of January of the calendar year next following the entry into force of the Convention.

3. The effect of the Agreement between the Government of the Argentine Republic and the Swiss Government for the avoidance of double taxation on income derived from shipping and air transport, concluded by exchange of notes dated 13 January 1950, shall be suspended and shall not have effect as long as this Convention has effect.

Article 28

Termination

This Convention shall remain in force until terminated by a Contracting State. Either Contracting State may terminate the Convention, through diplomatic channels, by giving written notice of termination at least six months before the end of any calendar year from the date of which the Convention enters into force. In such event, the Convention shall cease to have effect in both Contracting States:

(a) in respect of taxes withheld at source, on income derived on or after 1 January in the calendar year next following the year in which the notice is given;

(b) in respect of other taxes on income or capital, for taxes chargeable for any fiscal year beginning on or after 1 January in the calendar year next following the year in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorized thereto, have signed this Convention.

Done in duplicate at Berne this 20th of March 2014, in the French, Spanish and English languages, all texts being equally authentic. In case there is any divergency of interpretation between the French and the Spanish texts, the English text shall prevail.

For the Swiss Federal Council:	For the Government of the Argentine Republic:
Jacques de Watteville	Ricardo Echegaray

PROTOCOL

The Swiss Federal Council and the Government of the Argentine Republic have agreed at the signing at Berne on the 20th of March 2014, of the Convention between the two States for the avoidance of double taxation with respect to taxes on income and on capital upon the following provisions which shall form an integral part of the said Convention.

1. **Ad Article 5**

It is understood that the term “exploitation of natural resources” includes fishing activities with or without a fixed place of business when such activities continue for a period of more than ninety days within any twelve month period.

2. **Ad Article 7**

(a) With respect to paragraph 1, it is understood that the profits of the enterprise shall be considered to be attributable to the permanent establishment if the enterprise sells goods or merchandise or carries on business of the same or similar kind as the sales or business undertaken by the permanent establishment provided that the permanent establishment has taken an active part in the realization of such activities. In such situation, there shall be attributed to the permanent establishment that part of the profits which corresponds to the activities carried out by the permanent establishment.

(b) With respect to paragraphs 1 and 2, it is understood that in the case of contracts for the survey, supply, installation or construction of industrial, commercial or scientific equipment or premises, or of public works, when the enterprise has a permanent establishment, the profits of such permanent establishment shall not be determined on the basis of the total amount of the contract, but shall be determined only on the basis of that part which is effectively carried out by the permanent establishment in the State where the permanent establishment is situated. The profits related to that part of the contract which is carried out by the head-office of the enterprise shall be taxable only in the State of which the enterprise is a resident.

(c) With respect to paragraph 3, it is understood that a Contracting State shall not be obliged to allow the deduction of expenses incurred abroad, which are not reasonably attributable to the activity carried on by the permanent establishment, taking into account the general principles contained in the domestic legislation concerning executive and administrative expenses and expenses for assistance services.

(d) With respect to paragraph 5 of Article 7 and notwithstanding subparagraph (d) of paragraph 4 of Article 5, it is understood that the export of goods or merchandise purchased in the Argentine Republic through a fixed place of business of a Swiss enterprise shall be subjected to the domestic legislation in force in the Argentine Republic concerning exports.

3. **Ad Article 10**

(a) Nothing contained in the Convention shall prevent the Argentine Republic from taxing at the rate determined by Argentine law, the profits or income attributable to a permanent establishment maintained in the Argentine Republic by a company which is a resident of Switzerland. However, the total amount of tax so charged shall not exceed the income tax applied on profits of an Argentine company plus 10 per cent of such profits after deduction of such company tax.

(b) The limitation of paragraph 2 of Article 10 shall not apply to the withholding tax applicable according to Argentine Income Tax Law where a company which is a resident of the Argentine Republic pays dividends or distributes profits, exceeding the accumulated taxable profits at the end of the fiscal year immediately before the date of payment or distribution, determined according to the provisions of Argentine Income Tax Law.

4. **Ad Articles 10 and 11**

It is understood that where, according to the Convention, dividends or interest shall be relieved from tax in Switzerland and these dividends or interest, according to the law in force in the Argentine Republic, are considered to be foreign-source income and for that reason are exempt from tax in the Argentine Republic, Switzerland may tax such dividends or interest as if the Convention had not come into effect.

5. **Ad Article 12**

(a) With respect to paragraph 2, the limitation on the taxation at source by the Argentine Republic shall apply to the extent that the contracts regarding transference of technology are registered or authorized according to the requirements of its domestic law.

(b) The tax limitation established in paragraph 2 subparagraph (b) of Article 12 referred to royalties derived from the use or the right to use any copyright of literary, dramatic, musical or any other artistic work, shall apply solely if the beneficial owner is the author or his/her heirs.

(c) With respect to paragraph 2, subparagraph (c), it is understood that leasing payments arising in a Contracting State in respect of optional leasing (leasing with an option to purchase machinery, scientific or industrial equipments) shall be exempt from tax in that State according to the conditions provided for under the laws of that State.

6. **Ad Article 22**

To the extent that, according to the laws in force in Switzerland, dividends paid by a company which is a resident of the Argentine Republic to a resident of Switzerland or business profits attributable to a permanent establishment maintained in Argentina by an enterprise which is a resident of Switzerland are exempt from tax in Switzerland, Article 21 of the Income Tax Law of Argentina (text as approved in 1997 and its subsequent modifications) in force at the signing

of this Convention shall not apply. The referred Article of the Income Tax Law of Argentina shall only apply in cases where, in accordance with its provisions, the beneficial owner, being a resident of Switzerland, is subject to Swiss Income tax on income arising in the Argentine Republic and exempted therein based on laws that grant special fiscal incentives destinated to promote regional or sectorial activities.

7. Ad Article 23

The provisions of paragraph 3 shall apply to the extent that the contracts regarding transference of technology are registered or authorized according to the requirements of the domestic law of the Argentine Republic.

8. **Ad Article 25**

(a) It is understood that an exchange of information will only be requested once the requesting Contracting State has exhausted all regular sources of information available under the internal taxation procedure.

(b) It is understood that the tax authorities of the requesting State shall provide the following information to the tax authorities of the requested State when making a request for information under Article 25:

(i) the identity of the person under examination or investigation;

(ii) the period of time for which the information is requested;

(iii) a statement of the information sought including its nature and the form in which the requesting State wishes to receive the information from the requested State;

(iv) the tax purpose for which the information is sought;

(v) to the extent known, the name and address of any person believed to be in possession of the requested information.

(c) It is understood that the reference to “foreseeable relevance” is intended to provide for exchange of information in tax matters to the widest possible extent and, at the same time, to clarify that the Contracting States are not at liberty to engage in “fishing expeditions” or to request information that is unlikely to be relevant to the tax affairs of a given taxpayer. While subparagraph (b) contains important procedural requirements that are intended to ensure that fishing expeditions do not occur, clauses (i) through (v) of subparagraph (b) nevertheless are not to be interpreted in order to frustrate effective exchange of information.

(d) It is understood that Article 25 does not require the Contracting States to exchange information on an automatic or a spontaneous basis.

(e) It is understood that in case of an exchange of information, the administrative procedural rules regarding taxpayers’ rights provided for in the requested Contracting State remain applicable. It is further understood that these

provisions aim at guaranteeing the taxpayer a fair procedure and not at preventing or unduly delaying the exchange of information process.

9. In the event that the Argentine Republic changes its policy with respect to arbitration as a solution for unresolved mutual agreement procedures, the competent authorities shall consult each other in order to consider the negotiation of an agreement on the modification of the Convention.

10. It is understood that nothing in the Convention shall prevent a Contracting State from applying the provisions of its domestic law regarding "thin capitalization".

Done in duplicate at Berne this 20th of March 2014, in the French, Spanish and English languages, all texts being equally authentic. In case there is any divergency of interpretation between the French and the Spanish texts, the English text shall prevail.

For the Swiss Federal Council:	For the Government of the Argentine Republic:
Jacques de Watteville	Ricardo Echegaray