STATUTORY INSTRUMENTS

1963 No. 887

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Japan) Order 1963

Laid before the House of Commons in draft

Made - - - - *2nd May* 1963

At the Court at Buckingham Palace, the 2nd day of May 1963

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the Commons House of Parliament in accordance with the provisions of subsection (6) of section 347 of the Income Tax Act 1952(a), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of this Order:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by subsection (1) of the said section 347 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Japan) Order 1963.

2. It is hereby declared—

(*a*) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of Japan with a view to affording relief from double taxation in relation to income tax or profits tax and taxes of a similar character imposed by the laws of Japan ; and

(*b*) that it is expedient that those arrangements should have effect.

W. G. Agnew.

SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF JAPAN FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Japan ;

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10.

Desiring to conclude a Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income;

Have agreed as follows:

ARTICLE I

(1) The taxes which are the subject of the present Convention are:—

(*a*) In the United Kingdom of Great Britain and Northern Ireland:
The income tax (including surtax) and the profits tax (hereinafter referred to as "United Kingdom tax");

(*b*) In Japan:
The income tax and the corporation tax (hereinafter referred to as "Japanese tax");

and the local taxes referred to in Article V and XVII of the present Convention.

(2) The present Convention shall also apply to any other taxes of a character substantially similar to those referred to in the preceding paragraph imposed in the United Kingdom or Japan subsequently to the date of signature of the present Convention.

ARTICLE II

(1) In the present Convention, unless the context otherwise requires:

(*a*) the term "United Kingdom" means Great Britain and Northern Ireland;

(*b*) the term "Japan", as used in a geographical sense, means all the territory in which the laws relating to Japanese tax are enforced;

(*c*) the terms "one of the Contracting States" and "the other Contracting State" mean the United Kingdom or Japan, as the context requires;

(*d*) the term "tax" means United Kingdom tax or Japanese tax, as the context requires;

(*e*) the term "United Kingdom corporation" means any body corporate which is managed and controlled in the United Kingdom and which is not a Japanese corporation, and the term "Japanese corporation" means any corporation or other association having juridical personality or any association without juridical personality which has its head or principal office in Japan; and the terms "corporation of one of the Contracting States" and "corporation of the other Contracting State" mean a United Kingdom corporation or a Japanese corporation, as the context requires;

(*f*) the terms "resident of the United Kingdom" and "resident of Japan" mean respectively any individual who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Japan for the purposes of Japanese tax, and any individual who is resident in Japan for the purposes of Japanese tax and not resident in the United Kingdom for the purposes of United Kingdom tax, and the terms "resident of one of the Contracting States" and "resident of the other Contracting State" mean a resident of the United Kingdom or a resident of Japan, as the context requires;

(*g*) the terms "United Kingdom enterprise" and "Japanese enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident or corporation of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident or corporation of Japan, and the terms "enterprise of one of the Contracting States" and "enterprise of the other Contracting State" mean a United Kingdom enterprise or a Japanese enterprise, as the context requires;

(*h*) the term "industrial or commercial profits" includes manufacturing, mercantile, agricultural, fishing, mining, financial and insurance profits, but does not include income in the form of dividends, interest, rent, a royalty as defined in paragraph (2) of Article VIII, a sum of the kind referred to in paragraph (3) of that Article, a royalty or other amount of the kind referred to in paragraph (6) of that Article, gains derived from the alienation of capital assets or remuneration for personal services;

(*i*) (i) The term " permanent establishment " means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(ii) A permanent establishment shall include especially:

(*aa*) a place of management;

(*bb*) a branch;

(*cc*) an office;

(*dd*) a factory;

(*ee*) a workshop;

(*ff*) a mine, quarry or other place of extraction of natural resources;

(*gg*) a building site or construction or assembly project which exists for more than twelve months.

(iii) The term " permanent establishment " shall not be deemed to include:

(*aa*) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;

(*bb*) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;

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

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

(*ee*) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(iv) An enterprise of one of the Contracting States shall be deemed to have a permanent establishment in the other Contracting State if

(*aa*) it carries on supervisory activities in that other Contracting State for more than twelve months in connection with a construction, installation or assembly project which is being undertaken in that other Contracting State;

(*bb*) it carries on a business which consists of providing the services of public entertainers referred to in paragraph (5) of Article X in that other Contracting State.

(v) A person acting in one of the Contracting States on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom subparagraph (*i*) (vi) applies—shall be deemed to be a permanent establishment in the former Contracting State if

(*aa*) he has, and habitually exercises in the former Contracting State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or

(*bb*) he maintains in the former Contracting State a stock of goods or merchandise belonging to the enterprise from which he regularly fills orders on behalf of the enterprise.

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

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

(*j*) the term "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; in the case of Japan, the Minister of Finance or his authorised representative; and in the case of any territory to which the present Convention is extended under Article XXII, the competent authority for the administration in such territory of the taxes to which the present Convention applies.

(2) Where the present Convention provides (with or without other conditions) that income from sources in one of the Contracting States shall be exempt from tax of, or taxed at a reduced rate by, that Contracting State if it is subject to tax in the other Contracting State, and under the law in force in that other Contracting State the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the exemption or reduction of tax to be allowed under the present Convention in the former Contracting State shall apply only to so much of the income as is remitted to or received in the other Contracting State.

(3) In the application of the provisions of the present Convention by one of the Contracting States, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws in force in that Contracting State relating to the taxes which are the subject of the present Convention.

ARTICLE III

(1) (*a*) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Japanese tax unless the enterprise carries on a trade or business in Japan through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Japan, but only on so much of them as is attributable to that permanent establishment.

(*b*) The industrial or commercial profits of a Japanese enterprise shall not be subject to United Kingdom tax unless the enterprise carries on a trade or business in the United Kingdom through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by the United Kingdom, but only on so much of them as is attributable to that permanent establishment.

(2) Where an enterprise of one of the Contracting States carries on a trade or business in the other Contracting State through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other Contracting State if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(3) In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses which would be deductible if the permanent establishment were an independent enterprise in so far as they are reasonably allocable to the permanent establishment, including executive and general administrative expenses so deductible and allocable, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) No portion of any profits arising to an enterprise of one of the Contracting States shall be attributed to a permanent establishment situated in the other Contracting State by reason of the mere purchase of goods or merchandise within that other Contracting State by the enterprise.

ARTICLE IV

Where

(*a*) an enterprise of one of the Contracting States 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 one of the Contracting States and an enterprise of the other Contracting State,

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

ARTICLE V

(1) Notwithstanding the provisions of Article III, profits which an enterprise of one of the Contracting States derives from the operation of ships or aircraft shall be exempt from tax of the other Contracting State.

(2) An enterprise of one of the Contracting States shall likewise be exempt from any local tax in the other Contracting State which is or may be imposed on the basis of profits derived from the operation of ships or aircraft.

(3) The Agreement between the Contracting States constituted by the Notes exchanged in London on the 10th August, 1929(a), for the reciprocal exemption from taxation on shipping profits shall, on the entry into force of the present Convention, cease to be effective as from the dates from which the provisions of the present Convention have effect.

ARTICLE VI

(1) (*a*) Dividends derived from sources within the United Kingdom by a resident of Japan who is subject to Japanese tax in respect thereof shall be exempt from United Kingdom surtax.

(*b*) Dividends derived from sources within Japan by a resident of the United Kingdom or a United Kingdom corporation that is subject to United Kingdom tax in respect thereof shall not be subject to tax in Japan at a rate exceeding 15 per cent. However, the rate of tax shall not exceed 10 per cent. on a dividend paid by a Japanese corporation to a United Kingdom corporation if, during the whole of the taxable year for which the dividend is paid, more than 50 per cent. of the voting shares of the Japanese corporation was beneficially owned by the United Kingdom corporation.

(2) Where a corporation of one of the Contracting States derives profits or income from sources within the other Contracting State, there shall not be imposed in that other Contracting State any form of taxation on dividends paid by the corporation unless such dividends are paid to a resident or a corporation of that other Contracting State, or any tax in the nature of an undistributed profits tax on undistributed profits of the corporation, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

(3) The provisions of paragraph (1) of this Article shall not apply where a resident or a corporation of one of the Contracting States has a permanent establishment in the other Contracting State and such dividends are attributable to that permanent establishment; in such event such dividends as are attributable to that permanent establishment shall be treated as if they were industrial or commercial profits to which the provisions of Article III are applicable.

(a) S.R. & O. 1929/1004 (Rev. X, p. 426: 1929, p. 505).

(4) If any of the rates of tax on the profits of corporations are altered in either Contracting State, the taxation authorities of the two Contracting States may consult each other in order to determine whether it is necessary for this reason to amend the provisions of paragraph (1) of this Article.

ARTICLE VII

(1) The rate of tax imposed by one of the Contracting States on interest derived from sources within that Contracting State by a resident or a corporation of the other Contracting State, that is subject to tax in that other Contracting State in respect thereof, shall not exceed 10 per cent.

(2) The provisions of paragraph (1) of this Article shall not apply where a resident or a corporation of one of the Contracting States has a permanent establishment in the other Contracting State and such interest is attributable to that permanent establishment; in such event such interest as is attributable to that permanent establishment shall be treated as if it were industrial or commercial profits to which the provisions of Article III are applicable.

(3) The term "interest" as used in the present Convention means interest on bonds, securities, notes, debentures, or any other form of indebtedness (including mortgages or bonds secured by immovable property), as well as any excess of the amount repaid in respect of any form of indebtedness over the amount lent.

(4) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the Contracting States' own laws, due regard being had to the other provisions of the present Convention.

ARTICLE VIII

(1) The rate of tax imposed by one of the Contracting States on any royalty derived from sources within that Contracting State by a resident or a corporation of the other Contracting State, that is subject to tax in that other Contracting State in respect thereof, shall not exceed 10 per cent.

(2) The term "royalty" (as used in paragraph (1) of this Article) means any royalty or other amount paid as consideration for the use of, or for the right to use, any copyright, patent, design, secret process or formula, trade mark or other like property, and includes any rental or like payment in respect of cinematograph or television films or for the use of industrial, commercial or scientific equipment.

(3) The rate of tax imposed by one of the Contracting States on any sum arising within that Contracting State from the alienation of copyrights, patents, designs, secret processes and formulae, trade marks or other industrial inventions or of cinematograph or television films or rights therein and paid to a resident or a corporation of the other Contracting State shall not exceed 10 per cent.

(4) The provisions of paragraphs (1) and (3) of this Article shall not apply where a resident or a corporation of one of the Contracting States has a permanent establishment in the other Contracting State and such royalty or sum is attributable to that permanent establishment; in such event such royalty or sum as is attributable to that permanent establishment shall be treated as if it were industrial or commercial profits to which the provisions of Article III are applicable.

(5) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalty or the sum paid, having regard to the use, right or property for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of the preceding paragraphs of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the Contracting States' own laws, due regard being had to the other provisions of the present Convention.

(6) Any royalty or other amount paid in respect of the operation of a mine, quarry or any other place of extraction of natural resources may be taxed in the Contracting State in which the mine, quarry or place of extraction is situated.

ARTICLE IX

(1) Gains derived from the alienation of capital assets (other than any sum referred to in paragraph (3) of Article VIII) in one of the Contracting States by a resident or a corporation of the other Contracting State shall be exempt from tax of that former Contracting State.

(2) Notwithstanding the provisions of paragraph (1) of this Article:

(*a*) gains derived from the alienation of immovable property situated in one of the Contracting States or of rights to use such property or to operate a mine, quarry or other place of extraction of natural resources situated in that Contracting State by a resident or a corporation of the other Contracting State may be taxed in that former Contracting State;

(*b*) gains derived from the alienation of a permanent establishment or fixed base situated in one of the Contracting States or from the alienation of capital assets pertaining to such permanent establishment or fixed base may be taxed in that Contracting State; in such event those gains shall be deemed to be attributable to that permanent establishment or fixed base;

(*c*) gains derived by a resident of one of the Contracting States from the alienation of personal property in the other Contracting State during his stay in that other Contracting State may be taxed in that other Contracting State;

(*d*) gains derived by a resident or a corporation of one of the Contracting States from the alienation of shares of a corporation of the other Contracting State may be taxed in that other Contracting State, if

(i) shares held or owned by the alienator (together with such shares held or owned by any other related persons as may be aggregated therewith) amount to at least 25 per cent. of the entire share capital of such corporation at any time during the taxable year or year of assessment, and

(ii) the total of the shares alienated by the alienator and such related persons during that taxable year or year of assessment amounts to at least 5 per cent. of the entire share capital of such corporation.

ARTICLE X

(1) Income derived by a resident of one of the Contracting States in respect of professional services or other independent activities of a similar character shall not be subject to tax in the other Contracting State unless he has a fixed base regularly available to him in that other Contracting State for the purpose of performing his activities. If he has such a fixed base, such part of that income as is attributable to that fixed base may be taxed in that other Contracting State.

(2) Subject to the provisions of Articles XI to XIV, salaries, wages and similar remuneration derived by a resident of one of the Contracting States in respect of an employment shall not be subject to tax in the other Contracting State unless the employment is exercised in that other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other Contracting State.

(3) Notwithstanding the provisions of paragraph (2) of this Article, remuneration derived by a resident of one of the Contracting States in respect of an employment exercised in the other Contracting State shall be exempt from tax of that other Contracting State in any taxable year or year of assessment, if

(*a*) he is present within that other Contracting State for a period or periods not exceeding in the aggregate 183 days during that year, and

(*b*) he is employed by a resident or a corporation of the former Contracting State and is paid by or on behalf of that resident or corporation, and

(*c*) the remuneration is not deducted from the profits of a permanent establishment or a fixed base which the employer has in that other Contracting State.

(4) In relation to the remuneration of a director of a company or a corporation derived from the company or the corporation the preceding provisions of this Article shall apply as if the remuneration were remuneration of an employee in respect of an employment, and as if the reference to an employer were a reference to the company or the corporation.

(5) Notwithstanding the provisions of paragraphs (1) and (3) of this Article, the profits or remuneration of public entertainers, such as theatre, motion picture, radio or television artistes, musicians and athletes, from their personal activities as such may be taxed in the Contracting State in which these activities are exercised.

(6) Notwithstanding the provisions of paragraphs (2) to (5) of this Article, where an individual performs services as an employee on ships or aircraft operated by an enterprise of one of the Contracting States, such services shall be deemed to be exercised in that Contracting State.

ARTICLE XI

(1) (*a*) Remuneration (not being a pension) paid by the Government of Japan or any local government of Japan to any individual in respect of services rendered in the discharge of governmental functions and any pension paid to such an individual in respect of such services shall be exempt from United Kingdom tax, unless the individual is ordinarily resident in the United Kingdom and, where the remuneration is not a pension, is not so resident solely for the purpose of rendering those services.

(*b*) Remuneration, including pensions, paid out of public funds of the United Kingdom or Northern Ireland or the funds of any local authority in the United Kingdom to any individual in respect of services rendered in the discharge of governmental functions shall be exempt from Japanese tax, unless the individual is a national of Japan or is admitted to Japan for permanent residence therein.

(2) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on for purposes of profit.

ARTICLE XII

(1) Pensions and other similar remuneration received in respect of past employment by a resident of one of the Contracting States who is subject to tax there in respect thereof shall be exempt from tax of the other Contracting State.

(2) The provisions of paragraph (1) of this Article shall not apply to pensions of the kind referred to in paragraph (1) of Article XI, or to other pensions in the nature of social security provisions paid by the Government of Japan or any local government or government agency of Japan, or paid out of funds to which the Government of Japan or any local government or government agency of Japan contributes.

ARTICLE XIII

A professor or teacher from one of the Contracting States, who visits the other Contracting State for a period not exceeding two years for the purposes of teaching at a university, college, school or other educational institution in that other Contracting State, shall be exempt from tax of that other Contracting State in respect of remuneration for that teaching.

ARTICLE XIV

(1) An individual from one of the Contracting States who is temporarily present in the other Contracting State solely as a student at a recognized university, college or school, or as a business apprentice, shall be exempt from tax of that other Contracting State in respect of—

(*a*) remittances from the former Contracting State for the purpose of his maintenance, education or training; and

(*b*) any scholarship or similar grant, allowance or award.

(2) An individual from one of the Contracting States who is temporarily present in the other Contracting State for a period not exceeding two years as a recipient of a grant, allowance or award for the primary purpose of study or research from a governmental, religious, charitable, scientific, literary or educational organization shall be exempt from tax of that other Contracting State in respect of the amount of such grant, allowance or award.

(3) An individual from one of the Contracting States who is an employee of, or is under contract with, an enterprise of that Contracting State or any such organization of that Contracting State as is referred to in paragraph (2) of this Article, and who is temporarily present in the other Contracting State for a period not exceeding one year solely to acquire technical, professional or business experience from a person other than such enterprise or organization, shall be exempt from tax of that other Contracting State on remittances from the former Contracting State for the purpose of his maintenance.

ARTICLE XV

(1) Individuals who are residents of Japan shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom income tax as British subjects not resident in the United Kingdom.

(2) Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Japanese income tax as Japanese nationals not resident in Japan.

ARTICLE XVI

(1) For the purposes of the present Convention:

(*a*) dividends paid by a corporation of one of the Contracting States shall be treated as income from sources within that Contracting State;

(*b*) interest paid by one of the Contracting States, including local governments thereof, or by an enterprise of one of the Contracting States, shall be treated as income from sources within such Contracting State, except that interest (other than that paid on indebtedness in connection with the purchase of ships or aircraft) which is paid

(i) by an enterprise of one of the Contracting States with a permanent establishment outside both Contracting States to a resident or a corporation of the other Contracting State, or

(ii) by an enterprise of one of the Contracting States with a permanent establishment in the other Contracting State

on indebtedness incurred for the use of (or, in the case of a banking business, on deposits made with) the permanent establishment in the conduct of its trade or business and which is borne by that permanent establishment shall be treated as income from sources within the territory where the permanent establishment is situated;

(*c*) royalties as defined in paragraph (2) of Article VIII shall be treated as income from sources within the Contracting State in which the property referred to in that paragraph is used;

(*d*) sums derived from the alienation of the property referred to in paragraph (3) of Article VIII shall be treated as arising from sources within the Contracting State in which such property is used.

(2) For the purposes of Article XVII:

(*a*) income in respect of professional services or other independent activities of a similar character shall be deemed to be income from sources within the Contracting State in which the services or activities are performed;

(*b*) salaries, wages or similar remuneration in respect of an employment or directorship shall be deemed to be income from sources within the Contracting State in which the employment or directorship is exercised;

(*c*) income derived from immovable property (not including interest from mortgages or bonds secured by immovable property) shall be treated as income derived from sources within the Contracting State in which the immovable property is situated.

ARTICLE XVII

(1) The laws of the Contracting States shall continue to govern the taxation of income arising in either of the Contracting States, except where express provision to the contrary is made in the present Convention. Where income is subject to tax in both Contracting States, relief from double taxation shall be given in accordance with the following paragraphs of this Article.

(2) (*a*) Subject to the provisions of the law in the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom, Japanese tax payable, whether directly or by deduction, in respect of income from sources within Japan shall be allowed as a credit against the United Kingdom tax payable in respect of that income. Where such income is a dividend paid by a Japanese corporation to a United Kingdom company which controls, directly or indirectly, not less than 25 per cent. either of the voting shares of the Japanese corporation or of the total shares issued by that corporation, the credit shall take into account the Japanese tax payable by the Japanese corporation in respect of its profits.

(*b*) For the purposes of this paragraph, the term "Japanese tax" shall be taken to include local taxes in so far as they are levied on profits or income.

(3) Subject to the provisions of the law of Japan regarding the allowance as a credit against Japanese tax of tax payable in any country other than Japan, United Kingdom tax payable, whether directly or by deduction, in respect of income from sources within the United Kingdom shall be allowed as a credit against the Japanese tax payable in respect of that income. Where such income is a dividend paid by a United Kingdom company to a Japanese corporation which owns not less than 25 per cent. either of the voting shares of the United Kingdom company or of the total shares issued by that company, the credit shall take into account the United Kingdom tax payable by the United Kingdom company in respect of its profits.

ARTICLE XVIII

The provisions of the present Convention shall not be construed so as to restrict in any manner any exemption, relief, deduction, credit or other allowance now or hereafter accorded by the laws of either of the Contracting States in determining the tax of that Contracting State.

ARTICLE XIX

The taxation authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present Convention or for the prevention of fraud or for the administration of statutory provisions against tax avoidance in relation to the taxes which are the subject of the present Convention. 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 tax or the determination of appeals in relation thereto. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

ARTICLE XX

(1) Where a taxpayer shows to the satisfaction of the taxation authorities of the Contracting State of which the taxpayer is a resident or a corporation that the taxpayer has not received the treatment in the other Contracting State to which the taxpayer is entitled under any provision of the present Convention, those taxation authorities shall consult with the taxation authorities of the other Contracting State with a view to the avoidance of the double taxation in question.

(2) The taxation authorities of the Contracting States may communicate with each other directly for the purpose of giving effect to the provisions of the present Convention and for resolving any difficulty or doubt as to the application or interpretation of the present Convention.

ARTICLE XXI

(1) The nationals of one of the Contracting States 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 Contracting State in the same circumstances are or may be subjected.

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

(3) Enterprises of one of the Contracting States, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents or corporations of the other Contracting State, shall not be subjected in the former Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the former Contracting State are or may be subjected.

(4) In this Article the term " nationals " means:

(*a*) in relation to the United Kingdom:

(i) all citizens of the United Kingdom and Colonies and British protected persons other than those citizens and protected persons who derive their status as such from connection with any territory to which the present Convention may be extended under Article XXII but has not been so extended;

(ii) all citizens of Rhodesia and Nyasaland, provided that the present Convention has been extended under Article XXII to the Federation of Rhodesia and Nyasaland; and

(iii) all legal persons, partnerships, associations and other entities deriving their status as such from the law in force in the United Kingdom or any territory to which the present Convention is extended under Article XXII;

(*b*) in relation to Japan, all individuals possessing the nationality of Japan and all corporations and other associations (with or without juridical personality) deriving their status as such from the law in force in Japan.

(5) In this Article the term " taxation " means taxes of every kind.

(6) Nothing contained in this Article shall be construed—

(*a*) as obliging either of the Contracting States to grant to nationals of the other Contracting State not resident in the former Contracting State those personal allowances, reliefs and reductions for tax purposes which are by law available only to residents of that former Contracting State; or

(*b*) as affecting the provisions of the Japanese law under which distributed profits are, in the case of Japanese corporations, taxed at a lower rate than undistributed profits.

ARTICLE XXII

(1) The present Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those which are the subject of the present Convention, and any such extension shall take effect from such date and subject to such modifications and conditions (including, if necessary, conditions as to the entry into force and termination of such extension) as may be specified and agreed between the Contracting States.

(2) The termination by the United Kingdom or Japan of the present Convention under Article XXIV shall, unless otherwise expressly agreed by both Contracting States, terminate the application of the present Convention to any territory to which the present Convention has been extended under this Article.

ARTICLE XXIII

(1) The present Convention shall be ratified and the instruments of ratification shall be exchanged at London as soon as possible.

(2) Upon the exchange of the instruments of ratification the present Convention shall enter into force(a), and its provisions shall have effect:

(*a*) In the United Kingdom:

as respects income tax (including surtax) for any year of assessment beginning on or after the sixth day of April in the calendar year in which the exchange of the instruments of ratification takes place; and

as respects profits tax in respect of the following profits—

(i) profits by reference to which income tax is, or but for the present Convention would be, chargeable for any year of assessment beginning on or after the sixth day of April in the said calendar year;

(ii) other profits being profits by reference to which income tax is not chargeable, but which arise in any chargeable accounting period beginning on or after the first day of April in the said calendar year or are attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(*b*) In Japan:

as respects income for any taxable year beginning on or after the first day of January in the calendar year in which the exchange of the instruments of ratification takes place.

ARTICLE XXIV

Either of the Contracting States may terminate the present Convention after a period of five years from the date on which the present Convention enters into force by giving to the other Contracting State, through the diplomatic channel, written notice of termination, provided that any such notice shall be given only on or before the thirtieth day of June in any calendar year, and, in such event, the present Convention shall cease to be effective:

(*a*) In the United Kingdom:

as respects income tax (including surtax) for any year of assessment beginning on or after the sixth day of April in the calendar year next following that in which the notice is given;

as respects profits tax in respect of the following profits—

(i) profits by reference to which income tax is chargeable for any year of assessment beginning on or after the sixth day of April in the calendar year next following that in which the notice is given;

(ii) other profits being profits by reference to which income tax is not chargeable, but which arise in any chargeable accounting period beginning on or after the first day of April in the next following calendar year or are attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(a) Instruments of ratification were exchanged on 23rd April 1963.

(*b*) In Japan:
as respects income for any taxable year beginning on or after the first day of January in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, being duly authorised thereto by their respective Governments, have signed the present Convention.

Done in duplicate at Tokyo this fourth day of September, one thousand nine hundred and sixty-two, in the English and Japanese languages, both texts being equally authoritative.

For the Government of the United Kingdom of Great Britain and Northern Ireland:
O. C. MORLAND.

For the Government of Japan:
MASAYOSHI OHIRA.

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

Under the Convention with Japan which is scheduled to this Order, certain classes of income derived from one country by a resident of the other country are (subject to certain conditions) to be exempt from tax in the former country: these classes are shipping and air transport profits, certain trading profits not arising through a permanent establishment, pensions other than Government pensions and earnings of temporary business visitors. Government salaries and pensions are normally to be taxed in the country of the paying Government only. There are also provisions under which the remuneration of visiting professors and teachers and certain maintenance payments, scholarships and grants received by students, business apprentices, etc., who are temporarily present in one of the countries may be exempt from tax in the country visited.

The rate of Japanese tax which may be imposed on dividends received from Japan by United Kingdom residents is generally not to exceed 10 per cent. where the recipient is a parent company, and 15 per cent. in other cases; dividends received from the United Kingdom by residents of Japan are generally to be exempt from United Kingdom surtax. The rate of tax imposed by one country on interest or royalties derived from that country by a resident of the other country is generally not to exceed 10 per cent.

Residents of Japan are to be entitled to the same personal allowances as British subjects resident abroad, and residents of the United Kingdom are to be entitled to the same personal allowances as Japanese subjects resident abroad.

Where income continues to be taxable in both countries, credit is to be given by the country of the taxpayer's residence for the tax payable in the country of origin of the income.

Provision is included for the exchange of information between the taxation authorities of the two countries.

The Convention is to take effect for the fiscal year beginning in the calendar year in which the exchange of instruments of ratification takes place.