STATUTORY INSTRUMENTS

1967 No. 484

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Trinidad and Tobago) Order 1967

Laid before the House of Commons in draft
Made - - - - 23rd March 1967

At the Court at Windsor Castle, the 23rd day of March 1967

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 section 347(6) 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 section 347(1) of the said Income Tax Act 1952, as amended by section 64 of the Finance Act 1965(b), 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) (Trinidad and Tobago) Order 1967.

2. It is hereby declared—

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

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

W. G. Agnew.

(a) 15 & 16 Geo. 6 & 1 Eliz. 2. c. 10. (b) 1965 c. 25.

SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF TRINIDAD AND TOBAGO 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 Trinidad and Tobago;

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

Have agreed as follows:

ARTICLE 1

(1) The taxes which are the subject of this Agreement are—

(*a*) in the United Kingdom of Great Britain and Northern Ireland:
the income tax including surtax, and the corporation tax;

(*b*) in Trinidad and Tobago:
the income tax and the corporation tax.

(2) This Agreement shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes by either Government or by the Government of any territory to which the present Agreement is extended under Article 25.

ARTICLE 2

(1) In this Agreement, unless the context otherwise requires—

(*a*) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the seabed and sub-soil and their natural resources may be exercised;

(*b*) the term "Trinidad and Tobago" means the islands of Trinidad and Tobago and the territorial waters thereof, and when used in a geographical sense means the Island of Trinidad, the Island of Tobago and their Dependencies;

(*c*) the terms "one of the territories" and "the other territory" mean the United Kingdom or Trinidad and Tobago as the context requires;

(*d*) the term "competent authority" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; in the case of Trinidad and Tobago, the Minister of Finance or his authorised representative; and, in the case of any territory to which this Agreement is extended under Article 25, the competent authority for the administration in such territory of the taxes to which this Agreement applies;

(*e*) the term "United Kingdom tax" means tax imposed by the United Kingdom being tax to which this Agreement applies by virtue of Article 1; the term "Trinidad and Tobago tax" means tax imposed by Trinidad and Tobago being tax to which this Agreement applies by virtue of Article 1;

(*f*) the term "tax" means United Kingdom tax or Trinidad and Tobago tax as the context requires;

(*g*) the term "person" includes any body of persons, corporate or not corporate;

(*h*) the term "company" means any body corporate;

(*i*) the term "international traffic" includes traffic between places in one country in the course of a voyage which extends over more than one country;

(*f*) the term "national" means—

(i) in relation to the United Kingdom—

(*aa*) all citizens of the United Kingdom and Colonies who derive their status as such from connection with the United Kingdom,

(*bb*) all legal persons, associations and other entities deriving their status as such from the law of the United Kingdom;

(ii) in relation to Trinidad and Tobago—

(*aa*) any individual who is a Trinidad and Tobago citizen,

(*bb*) any legal person, partnership and association deriving its status as such from the law of Trinidad and Tobago.

(2) Where under this Agreement any income is exempt or relieved from tax in one of the territories and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption or reduction of tax to be allowed under this Agreement in the first-mentioned territory shall apply only to the amount so remitted or received.

(3) In the application of the provisions of this Agreement by one of the Contracting Governments any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Government relating to the taxes which are the subject of this Agreement.

ARTICLE 3

(1) For the purposes of this Agreement the terms "resident of the United Kingdom" and "resident of Trinidad and Tobago" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and any person who is resident in Trinidad and Tobago for the purposes of Trinidad and Tobago tax.

(2) Where by reason of the provisions of paragraph (1) above an individual is a resident of both territories, then his status shall be determined in accordance with the following rules—

(*a*) he shall be deemed to be a resident of the territory in which he has a permanent home available to him. If he has a permanent home available to him in both territories he shall be deemed to be a resident of the territory with which his personal and economic relations are closest (hereinafter referred to as his "centre of vital interests");

(*b*) if the territory 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 territory, he shall be deemed to be a resident of the territory in which he has an habitual abode;

(*c*) if he has an habitual abode in both territories or in neither of them, he shall be deemed to be a resident of the territory of which he is a national;

(*d*) if he is a national of both territories or of neither of them, the competent authorities of the territories shall determine the question by mutual agreement.

(3) Where by reason of the provisions of paragraph (1) above a legal person is a resident of both territories, then it shall be deemed to be a resident of the territory in which its place of effective management is situated.

(4) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of Trinidad and Tobago, as the context requires.

(5) The terms "United Kingdom enterprise" and "Trinidad and Tobago enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Trinidad and

Tobago, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Trinidad and Tobago enterprise, as the context requires.

ARTICLE 4

(1) For the purposes of this Agreement the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term "permanent establishment" shall include especially—

(*a*) a place of management;

(*b*) a branch;

(*c*) an office;

(*d*) a factory;

(*e*) a workshop;

(*f*) premises used as a sales outlet;

(*g*) a warehouse, in relation to a person providing storage facilities for others;

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

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

(3) The term "permanent establishment" shall not be deemed to include—

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

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

(*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 for collecting information, for the enterprise;

(*e*) 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.

(4) An enterprise of one of the territories shall be deemed to have a permanent establishment in the other territory if it carries on the activity of providing the services within that other territory of public entertainers or athletes referred to in Article 17.

(5) A person acting in one of the territories on behalf of an enterprise of the other territory—other than an agent of an independent status to whom paragraph (6) applies—shall be deemed to be a permanent establishment in the first-mentioned territory—

(*a*) if he has, and habitually exercises in that first-mentioned territory, 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

(*b*) if he maintains in that first-mentioned territory a stock of goods or merchandise belonging to the enterprise from which he habitually fills orders or makes deliveries on behalf of the enterprise.

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

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

ARTICLE 5

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

(2) The industrial or commercial profits of a Trinidad and Tobago 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.

(3) Where an enterprise of one of the territories carries on a trade or business in the other territory 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 territory 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.

(4) In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses of the enterprise 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 administration expenses so deductible and allocable, whether incurred in the territory in which the permanent establishment is situated or elsewhere.

(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) The term " industrial or commercial profits " means income derived by an enterprise from the conduct of a trade or business, but it does not include dividends, royalties, management charges (as defined in Articles 8, 10 and 11) interest or rents other than dividends, interest, royalties, rents or management charges effectively connected with a trade or business carried on through a permanent establishment which an enterprise of one of the territories has in the other territory; nor does the term include remuneration for personal (including professional) services.

ARTICLE 6

Where—

(*a*) an enterprise of one of the territories participates directly or indirectly in the management, control or capital of an enterprise of the other territory; or

(*b*) the same persons participate directly or indirectly in the management, control or capital of an enterprise of one of the territories and an enterprise of the other territory;

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 7

Notwithstanding the provisions of Articles 5 and 6 income from the operation of ships or aircraft in international traffic shall be taxable only in the territory in which the place of effective management of the enterprise is situated.

ARTICLE 8

(1) Dividends paid by a company which is a resident of one of the territories to a resident of the other territory may be taxed in that other territory.

(2) However, and subject to paragraphs (3), (4) and (5) of this Article, such dividends may be taxed in the territory of which the company paying the dividends is a resident and according to the law of that territory.

(3) Dividends which are derived from a company which is a resident of the United Kingdom and paid before 6 April, 1966, and which are beneficially owned by a resident of Trinidad and Tobago shall be exempt from United Kingdom surtax.

(4) The United Kingdom tax on dividends which are derived from a company which is a resident of the United Kingdom and paid after 5 April, 1966, and which are beneficially owned by a resident of Trinidad and Tobago shall not exceed the specified amount.

(5) The Trinidad and Tobago tax on dividends which are derived from a company which is a resident of Trinidad and Tobago and which are beneficially owned by a resident of the United Kingdom shall not exceed the specified amount.

(6) The term "specified amount" in paragraphs (4) and (5) of this Article means—

(*a*) 15 per cent. of the gross amount of the dividends if the recipient is a company which controls directly or indirectly at least 25 per cent. of the voting power of the company paying the dividends and, where the chief business of the company paying the dividends is not the making of loans, not more than 25 per cent. of the gross income of the company paying the dividends is derived from interest and dividends other than interest and dividends from companies in which it controls directly or indirectly at least 25 per cent. of the voting power;

(*b*) in all other cases, 25 per cent. of the gross amount of the dividends.

(7) The term "dividends"—

(*a*) in the case of Trinidad and Tobago includes any item which under the law of Trinidad and Tobago is treated as a distribution;

(*b*) in the case of the United Kingdom includes any item which under the law of the United Kingdom is treated as a distribution.

(8) The provisions of paragraphs (3), (4) and (5) shall not apply if the recipient of the dividends, being a resident of one of the territories, has in the other territory of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 5 shall apply.

(9) If the recipient of dividends owns 10 per cent. or more of the class of shares in respect of which the dividends are paid then paragraphs (3), (4) and (5) of this Article shall not apply to the dividends to the extent that they can have been paid only out of profits which the company paying the dividends earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this paragraph the term "relevant date" means the date on which the recipient of the dividends became the owner of 10 per cent. or more of the class of shares in question.

Provided that this paragraph shall not apply if the shares were acquired for bona fide commercial reasons and not primarily for the purpose of securing the benefit of this Article.

(10) Where a company which is a resident of one of the territories derives profits or income from the other territory that other territory may not impose any tax on the dividends paid by the company to persons who are not residents of that other territory, or subject the company's undistributed profits to a tax on undistributed profits even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other territory.

(11) Notwithstanding paragraph (10) of this Article where a company which is a resident of one of the territories, having a permanent establishment in the other territory, derives profits or income from that permanent establishment, any remittance of such profits by the permanent establishment to a resident of the first-mentioned territory may be taxed (in addition to the tax which would be chargeable on those profits if they were the profits of a company which was a resident of that other territory) in accordance with the law of the other territory, but the rate of tax so imposed shall not exceed 15 per cent. of the amount of those profits remitted or deemed to be remitted.

ARTICLE 9

(1) The tax imposed in one of the territories on interest which arises there and which is derived and beneficially owned by a resident of the other territory shall not exceed 15 per cent. of the gross amount of the interest.

(2) Notwithstanding paragraph (1) of this Article interest arising in one of the territories and received by any agency or instrumentality wholly owned by the Government of the other territory shall be exempt from tax in the first-mentioned territory.

(3) The provisions of paragraph (1) of this Article shall not apply if the person to whom the interest is paid or credited has in the territory in which the interest arises, a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case the provisions of Article 5 shall apply.

(4) Subject to paragraph (5) of this Article the provisions of paragraph (1) of this Article shall not apply to any payment of interest which under the law of either territory is treated as a distribution.

(5) Any provision in the law of either of the territories relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a company which is a resident of the other territory to be treated as a distribution of the company paying such interest. The preceding sentence shall not apply if—

(*a*) the interest is paid to a company which is a resident of one of the territories and more than 25 per cent. of the voting power in that company is controlled, directly or indirectly, by a person or persons resident in the other territory, or

(*b*) the interest is paid by a company of which the long term liabilities at any time in the year in which the interest was paid exceed the value of the issued share capital at that time, or

(*c*) the debt-claim in respect of which the interest is paid was created mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

(6) The provisions of paragraph (1) of this Article shall not apply to interest on any form of debt-claim dealt in on a stock exchange where the beneficial owner of the interest—

(*a*) is not subject to tax in respect thereof in the territory of which it is a resident; and

(*b*) sells (or makes a contract to sell) the debt-claim from which such interest is derived within three months of the date on which such beneficial owner acquired such debt-claim.

(7) Interest shall be deemed to arise in a territory when the payer is that territory itself, a political subdivision, a local authority or a resident of that territory. Where, however, the person paying the interest, whether he is a resident of a territory or not, has in a territory a permanent establishment in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment, then such interest shall be deemed to arise in the territory in which the permanent establishment is situated.

(8) 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.

ARTICLE 10

(1) The tax imposed in one of the territories on royalties which arise there and which are derived and beneficially owned by a resident of the other territory shall not exceed 15 per cent. of the gross amount of the royalties.

(2) The term " royalties " as used in this Article means payments of any kind received as a consideration for the use of, or the right to use copyrights, patents, trade marks, designs or models, plans, secret formulae or processes or other like property or rights, or for the use of, or the right to use industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, and includes any royalty or like payment in respect of motion picture films and films or video tapes for use in connection with television or tapes for use in connection with radio, but does not include royalties or other amounts paid in respect of the operations of mines or quarries or in respect of the extraction or removal of natural resources.

(3) Notwithstanding paragraph (1) of this Article copyright royalties and other like payments in respect of the production or reproduction of any literary, dramatic, musical or artistic work (excluding royalties and like payments in respect of motion picture films and films or video tapes for use in connection with television and tapes for use in connection with radio) arising in one of the territories and which are derived and beneficially owned by a resident of the other territory shall be exempt from tax in the first-mentioned territory.

(4) The provisions of paragraphs (1) and (3) of this Article shall not apply if the person to whom the royalties are paid or credited has in the territory in which the royalties arise a permanent establishment with which the right or property giving rise to the royalties is effectively connected. In such a case, the provisions of Article 5 shall apply.

(5) The provisions of paragraphs (1) and (3) of this Article shall not apply to any royalty which under the law of either territory is treated as a distribution.

(6) Royalties shall be deemed to arise in a territory when the payer is that territory itself, a political subdivision, a local authority or a resident of that territory. Where, however, the person paying the royalties, whether he is a resident of a territory or not, has in a territory a permanent establishment in connection with which the obligation to pay the royalties was incurred, and the royalties are borne by the permanent establishment, then the royalties shall be deemed to arise in the territory in which the permanent establishment is situated.

(7) 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 royalties paid or credited 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.

ARTICLE 11

(1) Subject to the provisions of Article 15 management charges paid or credited to a resident of one of the territories shall not be taxed in the other territory.

(2) The term "management charges" includes charges for the provision of personal services and technical and managerial skills.

(3) The provision of paragraph (1) of this Article shall not apply if the management charges are paid or credited to a resident of one of the territories who has in the other territory a permanent establishment through which the services giving rise to the management charges are performed. In such a case the provisions of Article 5 shall apply.

(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 management charges paid or credited 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 amounts.

ARTICLE 12

(1) Income from immovable property may be taxed in the territory in which such property is situated.

(2) (*a*) The term "immovable property" shall, subject to sub-paragraph (*b*) below, be defined in accordance with the laws of the territory in which the property in question is situated;

(*b*) the term "immovable property" shall in any case include property accessory to immovable property, livestock and equipment of agricultural and forestry enterprises, 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 mineral deposits, sources and other natural resources; ships and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraphs (1) and (2) of this Article shall apply to income derived from the direct use or from the letting of immovable property or the use in any other form of such property including income from agricultural or forestry enterprises.

(4) The provisions of paragraphs (1) to (3) of this Article shall also apply to the income from immovable property of any enterprises other than agricultural or forestry enterprises and to income from immovable property used for the performance of professional services.

ARTICLE 13

(1) Remuneration, other than pensions, paid by one of the Contracting Governments to any individual in respect of services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government, if the individual is not ordinarily resident in that other territory or is ordinarily resident in that other territory soley for the purpose of rendering those services.

(2) Pensions paid by one of the Contracting Governments to any individual in respect of services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government.

(3) The provisions of this Article shall not apply to payments in respect of services rendered in connexion with any trade or business carried on by either of the Contracting Governments for purposes of profit.

ARTICLE 14

(1) Any pension (other than a pension of the kind referred to in paragraph (2) of Article 13) and any annuity, derived from sources within Trinidad and Tobago

by an individual who is a resident of the United Kingdom shall be exempt from Trinidad and Tobago tax.

(2) Any pension (other than a pension of the kind referred to in paragraph (2) of Article 13) and any annuity, derived from sources within the United Kingdom by an individual who is a resident of Trinidad and Tobago shall be exempt from United Kingdom tax.

(3) The term "annuity" means a stated sum payable periodically at stated times, during 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.

ARTICLE 15

(1) Where a resident of one of the territories derives income from the other territory in respect of professional services or other independent activities of a similar character he shall be subject to tax in that other territory but only in respect of such part of that income as is attributable to his services in that other territory. In determining the income attributable to such services, there shall be allowed as a deduction expenses incurred in the performance of those services including reasonable administrative and general expenses so incurred, whether in the territory in which the services are performed or elsewhere.

(2) The term "professional services" includes especially independent scientific, literary, artistic, educational and teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

ARTICLE 16

(1) Subject to the provisions of Articles 13, 14 and 18, salaries, wages and other similar remuneration derived by a resident of one of the territories in respect of an employment shall be subjected to tax only in that territory unless the employment is exercised in the other territory. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other territory.

(2) Notwithstanding the provisions of paragraph (1) of this Article, remuneration derived by a resident of one of the territories in respect of an employment exercised in the other territory shall be subjected to tax only in the first-mentioned territory if—

(*a*) the recipient is present in the other territory for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and

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

(*c*) the remuneration is not deducted from the profits of a permanent establishment which the employer has in the other territory.

(3) In relation to remuneration of a director of a company derived from the company 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 references to employers were references to the company.

(4) Notwithstanding the preceding provisions of this Article remuneration for personal services performed aboard a ship or aircraft in international traffic may be taxed in the territory in which the place of effective management of the enterprise is situated.

ARTICLE 17

Notwithstanding anything contained in this Agreement income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the territory in which these activities are exercised.

ARTICLE 18

(1) A professor or teacher who visits one of the territories for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution in that territory and who immediately before that visit is a resident of the other territory shall be exempt from tax in the first-mentioned territory on any remuneration for such teaching in respect of which he is subject to tax in the other territory.

(2) Paragraph (1) of this Article shall not apply where there is an agreement between the Government of the territory visited, and either—

(*a*) the Government of the other territory, or

(*b*) the visiting professor or teacher,

which provides for the teaching services in the territory visited, of that professor or teacher.

ARTICLE 19

(1) An individual who is a resident of one of the territories immediately before his visit to the other territory and who is temporarily present in the other territory for the primary purpose of—

(*a*) studying in the other territory at a university or other full time educational institution,

(*b*) training required to qualify him to practise a profession or a professional specialty, or

(*c*) studying as a recipient of a grant, allowance, or award from a governmental, religious, charitable, scientific, literary or educational organization,

shall be exempt from tax by that other territory with respect to—

(i) gifts from abroad for the purposes of his maintenance, education, study or training,

(ii) the grant, allowance, or award, and

(iii) remuneration from employment in that other territory provided that the remuneration constitutes earnings reasonably necessary for his maintenance and education.

(2) The benefits under paragraph (1) of this Article shall only extend for such period of time as may be reasonably or customarily required to effectuate the purpose of the visit, but in no event shall any individual have the benefits of that paragraph for more than five taxable years.

(3) An individual who is, or was immediately before visiting one of the territories, a resident of the other territory, and who is present in the first-mentioned territory as a recipient of a grant, allowance or award for the primary purposes of research to be carried out in a period which does not exceed two years from a governmental, religious, charitable, scientific, literary or educational organisation established in that other territory, shall not be taxed in that first-mentioned territory in respect of that grant, allowance or award.

ARTICLE 20

(1) Subject to the provisions of the law of the United Kingdom regarding the allowance as a credit against United Kingdom tax of tax payable in a territory outside the United Kingdom (which shall not affect the general principle hereof), Trinidad and Tobago tax payable under the laws of Trinidad and Tobago and in accordance with this Agreement (excluding in the case of a dividend, tax payable on the profits or income of the company paying the dividend) whether by deduction from, or under a computation measured by reference to, profits or income from sources within Trinidad and Tobago shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits or income by reference to which the Trinidad and Tobago tax is computed. Where such income is a dividend paid by a company which is a resident of Trinidad

and Tobago to a company which is a resident of the United Kingdom and which controls directly or indirectly not less than 10 per cent. of the voting power in the Trinidad and Tobago company, the credit shall take into account (in addition to any Trinidad and Tobago tax payable in respect of the dividend) the Trinidad and Tobago tax payable by the company in respect of its profits.

(2) Subject to the provisions of the law of Trinidad and Tobago regarding the allowance as a credit against Trinidad and Tobago tax of tax payable in a territory outside Trinidad and Tobago (which shall not affect the general principle hereof), the United Kingdom tax payable under the laws of the United Kingdom and in accordance with this Agreement (excluding in the case of a dividend, tax payable on the profits or income of the company paying the dividend) whether by deduction from, or under a computation measured by reference to, profits or income from sources within the United Kingdom shall be allowed as a credit against any Trinidad and Tobago tax computed by reference to the same profits or income by reference to which the United Kingdom tax is computed. Where such income is a dividend paid by a company which is a resident of the United Kingdom to a company which is a resident of Trinidad and Tobago and which controls directly or indirectly not less than 10 per cent. of the voting power in the United Kingdom company, the credit shall take into account (in addition to any United Kingdom tax payable in respect of the dividend) the United Kingdom tax payable by the company in respect of its profits.

(3) For the purposes of this Article profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory and the services of an individual whose services are wholly or mainly performed in ships or aircraft shall be deemed to be performed in the territory in which the place of effective management of the enterprise is situated.

ARTICLE 21

The provisions of this Agreement shall not be construed to restrict in any manner any exemption, deduction, credit or other allowance accorded by the laws of one of the Contracting Governments in the determination of the tax imposed by such Government.

ARTICLE 22

The competent authorities of the Contracting Governments 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 this Agreement or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Agreement. Any information so exchanged shall be treated as secret but may be disclosed to persons (including a court or tribunal) concerned with the assessment or collection of, or enforcement or prosecution in relation to, the taxes which are the subject of this Agreement. No such information shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

ARTICLE 23

The competent authorities of the Contracting Governments may communicate with each other directly for the purpose of giving effect to the provisions of this Agreement and for resolving any difficulty or doubt as to the application or interpretation of the Agreement.

ARTICLE 24

(1) The nationals of one of the territories shall not be subjected in the other territory to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which the nationals of the latter territory in the same circumstances are or may be subjected.

(2) Subject to the provisions of Article 8 the taxation on a permanent establishment which an enterprise of one of the territories has in the other territory shall not be less favourably levied in that other territory than the taxation levied on enterprises of that other territory carrying on the same activities.

(3) Enterprises of one of the territories, the capital of which is wholly or partly owned or controlled, directly or indirectly, by one or more residents of the other territory, shall not be subjected in the first-mentioned territory 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 that first-mentioned territory are or may be subjected.

(4) In this Article the term "taxation" means taxes of every kind and description.

(5) Nothing contained in this Article shall be construed as obliging either of the Contracting Governments to grant to persons not resident in its territory those personal allowances and reliefs for tax purposes which are by law available only to persons who are so resident.

ARTICLE 25

(1) This Agreement 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 this Agreement, and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting Governments in Letters to be exchanged for this purpose.

(2) The termination in respect of the United Kingdom or Trinidad and Tobago of this Agreement under Article 27 shall, unless otherwise expressly agreed by both Contracting Governments, terminate the application of this Agreement to any territory to which the Agreement has been extended under this Article.

ARTICLE 26

This Agreement shall come into force on the date when the last of all such things shall have been done in the United Kingdom and Trinidad and Tobago as are necessary to give the Agreement the force of law in the United Kingdom and Trinidad and Tobago respectively, and shall thereupon have effect—

(*a*) In the United Kingdom—

(i) as respects income tax, for any year of assessment beginning on or after 6 April, 1966,

(ii) as respects surtax, for any year of assessment beginning on or after 6 April, 1965,

(iii) as respects corporation tax for any financial year beginning on or after 1 April, 1964;

(*b*) In Trinidad and Tobago—

(i) as respects tax withheld at the source on amounts paid, credited or remitted to non-residents on or after 1 January, 1966,

(ii) as respects other Trinidad and Tobago tax for the year of income commencing 1 January, 1966, and for subsequent years of income.

ARTICLE 27

This Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before the thirtieth day of June in any calendar year after the year 1969 give notice of termination to the other Contracting Government and, in such event, this Agreement shall cease to be effective—

(*a*) in the United Kingdom—

(i) as respects income tax and surtax for any year of assessment beginning on or after 6 April, in the calendar year next following that in which the notice is given, and

(ii) as respects corporation tax, for any financial year beginning on or after 1 April, in the calendar year next following that in which the notice is given;

(*b*) in Trinidad and Tobago—

(i) as respects tax withheld at the source on amounts paid, credited or remitted to non-residents on or after 1 January, in the calendar year next following that in which such notice is given,

(ii) as respects other Trinidad and Tobago tax for the year of income commencing 1 January, in the calendar year next following that in which such notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at Port of Spain this twenty-ninth day of December of the year one thousand nine hundred and sixty-six

For the Government of the United Kingdom of Great Britain and Northern Ireland:

P. G. HAMPSHIRE

For the Government of Trinidad and Tobago:

ARTHUR N. R. ROBINSON

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Agreement with Trinidad and Tobago scheduled to this Order replaces the Arrangement dating from 1947(a) which was terminated with effect, as regards United Kingdom income tax, from 6th April 1966.

As in the earlier Arrangement, shipping and air transport profits, certain trading profits not arising from a permanent establishment, copyright royalties, pensions (other than Government pensions), purchased annuities and earnings of temporary business visitors are (subject to certain conditions) to be taxed only in the country of the taxpayer's residence. Government salaries and pensions are normally to be taxed by the paying Government only. Remuneration of visiting teachers and professors and payments made for the maintenance of visiting students are (subject to certain conditions) to be exempt in the country visited.

The rates of tax on income flowing from one country to the other are, in general, not to exceed 15 per cent in the case of dividends from direct investment, interest and patent royalties, and 25 per cent in the case of dividends from portfolio investment. 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, and in the case of a dividend where the recipient is a company which holds not less than 10 per cent of the voting power in the paying company, the credit is also to take into account the tax on the profits out of which the dividend is paid.

There are provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country, and for the exchange

(a) S.R. & O. 1947/1779 (Rev. X, p. 520: 1947 I, p. 1185).

of information and consultation between the tax authorities of the two countries.

The Agreement is to take effect in the United Kingdom for corporation tax for all years and for income tax and surtax from the dates on which the 1947 Arrangement ceased to have effect.