1968 No. 1100

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Luxembourg) Order 1968

Laid before the House of Commons in draft

Made - - - 12*th July* 1968

At the Court at Buckingham Palace, the 12th day of July 1968

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 39 and 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) (Luxembourg) Order 1968.

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 Grand Duchy of Luxembourg with a view to affording relief from double taxation in relation to income tax, corporation tax or capital gains tax and taxes of a similar character imposed by the laws of Luxembourg; 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

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

The United Kingdom of Great Britain and Northern Ireland and the Grand Duchy of Luxembourg;

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

Have agreed as follows:

ARTICLE I

This Convention shall apply to persons who are residents of one or both of the Contracting States.

ARTICLE II

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

(*a*) In the United Kingdom of Great Britain and Northern Ireland:

(i) the income tax (including surtax);

(ii) the corporation tax; and

(iii) the capital gains tax

(hereinafter referred to as " United Kingdom tax ").

(*b*) In Luxembourg:

(i) the income tax on individuals (*l'impôt sur le revenu des personnes physiques*);

(ii) the tax on fees of directors of companies (*l'impôt sur les tantièmes*);

(iii) the corporation tax (*l'impôt sur le revenu des collectivités*);

(iv) the capital tax (*l'impôt sur la fortune*); and

(v) the communal trade tax on profits and capital (*l'impôt commercial communal d'après les bénéfice et capital d'exploitation*)

(hereinafter referred to as " Luxembourg tax ").

(2) The Convention shall also apply to any identical or substantially similar taxes which are subsequently imposed in addition to, or in place of, the existing taxes.

ARTICLE III

(1) In this Convention, 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 sea bed and sub-soil and their natural resources may be exercised;

(*b*) the term " Luxembourg " means the Grand Duchy of Luxembourg;

to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;

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

(*d*) if he is a national of both Contracting 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 Contracting State in which its place of effective management is situated.

ARTICLE V

(1) For the purposes of this Convention, 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*) a mine, quarry or other place of extraction of natural resources;

(*g*) 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) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom paragraph (5) applies—shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

(*c*) the terms " a Contracting State " and " the other Contracting State " mean the United Kingdom or Luxembourg, as the context requires;

(*d*) the term " competent authority " means, in the case of Luxembourg, the *Ministre du Trésor* or his authorised representative; in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; and, in the case of any territory to which the Convention is extended under Article XXXI, the competent authority for the administration in such territory of the taxes to which the Convention applies;

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

(*f*) the term " person " comprises an individual, a company and any other body of persons;

(*g*) the term " company " means any body corporate or any entity which is treated as a body corporate for tax purposes;

(*h*) 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;

(*i*) the term " profits of an enterprise " includes rents or royalties in respect of cinematograph including television films;

(*j*) the term " international traffic " includes traffic between places in any State in the course of a voyage which extends over two or more States.

(2) Where under the Convention a person is entitled to exemption or relief from tax in a Contracting State on certain income if (with or without further conditions) he is subject to tax in the other Contracting State in respect thereof and he is subject to tax there by reference to the amount of that income which is remitted to, or received in, that other Contracting State, the amount of that income on which exemption or relief is to be allowed in the first-mentioned Contracting State shall be limited to the amount so remitted or received.

(3) As regards the application of the Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of the Convention.

ARTICLE IV

(1) For the purposes of this Convention, the term " resident of a Contracting State " means any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

(2) Where by reason of the provisions of paragraph (1) an individual is a resident of both Contracting States, then this case shall be determined in accordance with the following rules:

(*a*) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permament home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (centre of vital interests);

(*b*) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permament home available

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

(6) 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 VI

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

(2) The term " immovable property " shall be defined in accordance with 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, boats 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 VII

(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 but only so much of them as is attributable to that permanent establishment and in particular Luxembourg shall not impose tax on the basis of minimum taxable income.

(2) 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 the determination of 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 laid down 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) 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 VIII

(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) Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(3) If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

ARTICLE IX

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.

ARTICLE X

(1) Dividends paid by a company which is a resident of the United Kingdom to a resident of Luxembourg who is subject to tax there in respect thereof may be taxed in the United Kingdom, but the tax so charged shall not exceed:

(*a*) 5 per cent of the gross amount of the dividends if the recipient is a company which controls directly at least 25 per cent of the voting power in the company paying the dividends;

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

(2) Dividends paid by a company which is a resident of Luxembourg to a resident of the United Kingdom who is subject to tax there in respect thereof may be taxed in Luxembourg, but the tax so charged shall not exceed:

(*a*) 5 per cent of the gross amount of the dividends if the recipient is a company which controls directly at least 25 per cent of the voting power in the company paying the dividends;

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

(3) Subject to the provisions of paragraph (5) of Article XI and of paragraph (4) of Article XII of this Convention the term " dividends " as used in this Article means income from shares or *jouissance* rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as any item which under the law of the State of which the paying company is a resident is treated as a distribution of the company and, in the case of Luxembourg, the income derived by a sleeping partner from his participation as such.

(4) The provisions of paragraphs (1) and (2) shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, 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.

(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 to persons who are not residents of that other State, 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 State.

(6) The condition in paragraph (1) that the recipient of the dividends shall be subject to tax in Luxembourg shall not apply in relation to dividends exempt from Luxembourg tax under the provisions of sub-paragraph (2)(*b*) of Article XXV.

(7) Where a dividend is paid by a company which is a resident of the United Kingdom to a company which is a resident of Luxembourg which controls at least 25 per cent of the voting power in the company paying the dividend and which is exempted from Luxembourg tax in respect thereof under sub-paragraph (2)(*b*) of Article XXV, the limitations on the rate of tax for which paragraph (1) of this Article provides shall not apply to so much of the dividend as was paid out of profits which the company paying the dividend earned or other income which it received in a period ending twelve months or more before the relevant date, and for this purpose dividends shall be treated as having been paid out of later rather than earlier profits or income. For the purposes of this paragraph the term " relevant date " means the date on which the recipient of the dividend acquired control of 25 per cent or more of the voting power in the company paying the dividend. 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.

ARTICLE XI

(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State who is subject to tax there in respect thereof shall be taxable only in that other State.

(2) The term " interest " as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

(3) The provisions of paragraph (1) shall not apply if the recipient of the interest, being a resident of a Contracting State, has in the other Contracting State 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 VII 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 by a company where, under the law of the Contracting State of which the company is a resident, that payment is treated as a distribution.

(5) Any provision in the law of either of the Contracting States 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 State to be treated as a distribution of the company paying such interest. The preceding sentence shall not apply to interest paid to a company which is a resident of one of the Contracting States in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons resident in the other State.

(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 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 Contracting State 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 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 law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE XII

(1) Where royalties arising in a Contracting State are paid to a resident of the other Contracting State who is subject to tax there in respect thereof, the rate of tax imposed thereon in the first-mentioned Contracting State shall not exceed 5 per cent.

(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, any copyright

of literary, artistic or scientific work, any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(3) The provisions of paragraph (1) shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State 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 VII shall apply.

(4) Royalties paid by a company which is a resident of one of the Contracting States to a resident of the other Contracting State shall not be treated as a distribution by such company. The preceding sentence shall not apply to royalties paid to a company which is a resident of one of the Contracting States where

(*a*) the same persons participate directly or indirectly in the management or control of the company paying the royalties and the company deriving the royalties, and

(*b*) more than 50 per cent of the voting power in the company deriving the royalties is controlled, directly or indirectly, by a person or persons resident in the other Contracting State.

(5) Royalties shall be deemed to arise in a Contracting State where 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 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 Contracting State in which the permanent establishment is situated.

(6) 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, 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 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 law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE XIII

(1) Gains from the alienation of immovable property, as defined in paragraph (2) of Article VI, may be taxed in the Contracting State in which such property is situated.

(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, or of 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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, gains from the alienation of movable property of the kind referred to in paragraph (3) of Article XXIII shall be taxable only

in the Contracting State in which such movable property is taxable according to the said Article.

(3) Gains from the alienation of any property other than those mentioned in paragraphs (1) and (2) shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE XIV

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

(2) 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 XV

(1) Subject to the provisions of Articles XVI, XVIII, XIX and XX, 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 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 State, and

(*c*) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic, or aboard a boat engaged in inland waterways transport, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

(4) 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 " employer " were references to the company.

ARTICLE XVI

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors of a company which is a resident of the other Contracting State may be taxed in that other State.

ARTICLE XVII

Notwithstanding the provisions of Articles XIV and XV, 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 Contracting State in which these activities are exercised.

ARTICLE XVIII

Subject to the provisions of paragraphs (1) and (2) of Article XIX, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment or payments received by such a resident under the social security legislation in force in the other Contracting State shall, if he is subject to tax in respect thereof in the first-mentioned Contracting State, be taxable only in that State.

ARTICLE XIX

(1) 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 to the government of the United Kingdom or Northern Ireland or a local authority in the United Kingdom in the discharge of functions of a governmental nature shall be taxable only in the United Kingdom.

(2) Remuneration, including pensions, paid by, or out of funds created by, Luxembourg or a political subdivision or a local authority thereof to any individual in respect of services rendered to that State or subdivision or local authority thereof in the discharge of functions of a governmental nature shall be taxable only in Luxembourg.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to remuneration or pensions in respect of services rendered in connection with any trade or business. The provisions of Articles XV, XVI and XVIII shall apply to such remuneration or pensions.

ARTICLE XX

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

ARTICLE XXI

Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting 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 other State, provided that such payments are made to him from sources outside that other State.

ARTICLE XXII

Items of income of a resident of a Contracting State who is subject to tax there in respect thereof which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.

ARTICLE XXIII

(1) Capital represented by immovable property, as defined in paragraph (2) of Article VI, may be taxed in the Contracting State in which such property is situated.

(2) Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

(3) Ships and aircraft operated in international traffic and boats engaged in inland waterways transport, and movable property pertaining to the operation of such ships, aircraft and boats, 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 shall be taxable only in that State.

ARTICLE XXIV

(1) Subject to paragraph (3) of this Article, individuals who are residents of Luxembourg shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

(2) Subject to paragraph (3) of this Article, individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Luxembourg tax as those to which Luxembourg nationals not resident in Luxembourg may be entitled.

(3) Nothing in this Convention shall entitle an individual who is a resident of one of the Contracting States and whose income from the other Contracting State consists solely of dividends, interest or royalties (or solely of any combination thereof) to the personal allowances, reliefs and reductions of the kind referred to in this Article for the purposes of taxation in that other Contracting State.

ARTICLE XXV

(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), Luxembourg tax payable under the laws of Luxembourg and in accordance with this Convention (excluding, in the case of a dividend, any tax payable on the profits, income or chargeable gains of the company paying the dividend) whether directly or by deduction, on profits, income or chargeable gains from sources within Luxembourg shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Luxembourg tax is computed. In the case of a dividend paid by a company which is a resident of Luxembourg to a company which is a resident of the United Kingdom and which controls directly not less than 25 per cent of the voting power in the Luxembourg company, the credit shall take into account (in addition to any Luxembourg tax payable in respect of the dividend) the Luxembourg tax payable by the company in respect of its profits. For the purpose of this paragraph:

(*a*) the term " Luxembourg tax " shall not include capital tax (*l'impôt sur la fortune*) or communal trade tax (*l'impôt commercial communal*) computed on a basis other than profits;

(*b*) income which under the Convention may be taxed in Luxembourg shall be deemed to be income from sources in Luxembourg.

(2) (*a*) Where a resident of Luxembourg derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom, Luxembourg shall, subject to the provisions of sub-paragraphs (*b*), (*c*) and (*d*) of this paragraph, exempt such income or capital from tax but may, in calculating tax on the remaining income or capital of that person, apply the rate of tax which would have been applicable if the exempted income or capital had not been so exempted.

(*b*) Dividends paid by a company which is a resident of the United Kingdom to a company which is a resident of Luxembourg shall be exempt from Luxembourg tax if the company receiving the dividends controls directly not less than 25 per cent of the voting power in the company paying the dividends.

(c) Dividends paid on or before 5th April, 1966 by a company which is a resident of the United Kingdom to a resident of Luxembourg, not being a company which is exempt from Luxembourg tax under the provisions of sub-paragraph (*b*) of this paragraph, may be taxed in Luxembourg, but such tax shall not be charged on an amount which exceeds the net amount of the dividend after deduction of United Kingdom tax, and the amount of Luxembourg tax charged on that net amount shall be reduced by a sum equal to 15 per cent of that net amount.

(*d*) Dividends and other income taxable in accordance with Article X paid after 5th April, 1966 by a company which is a resident of the United Kingdom to a resident of Luxembourg, not being a company which is exempt from Luxembourg tax under the provisions of sub-paragraph (*b*) of this paragraph may be taxed in Luxembourg, but the amount of Luxembourg tax charged shall be reduced by the amount of the tax charged in the United Kingdom in accordance with Article X.

(3) Where profits on which an enterprise of one of the Contracting States has been charged to tax in that Contracting State are also included in the profits of an enterprise of the other Contracting State and the profits so included are profits which would have accrued to that enterprise of the other Contracting State if the conditions made between each of the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount of such profits included in the profits of both enterprises shall be treated for the purpose of this Article as income from a source in the other Contracting State of the enterprise of the first-mentioned Contracting State and relief shall be given accordingly under paragraph (1) or paragraph (2) of this Article.

ARTICLE XXVI

(1) The 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 are or may be subjected.

(2) The term " nationals " means:

(*a*) in relation to the United Kingdom, all British subjects and British protected persons

(i) residing in the United Kingdom or any territory to which this Convention is extended under Article XXXI, or

(ii) deriving their status as such from connection with the United Kingdom or any territory to which the Convention is extended under Article XXXI,

and all legal persons, partnerships and associations deriving their status as such from the law in force in the United Kingdom or in any territory to which the Convention is extended under Article XXXI;

(*b*) in relation to Luxembourg, all individuals possessing the nationality of Luxembourg and all legal persons, partnerships and associations deriving their status as such from the law in force in Luxembourg.

(3) 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.

(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 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 that first-mentioned State are or may be subjected.

(5) This Article shall not be construed as entitling a resident of one of the Contracting States to any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities which the law of the other Contracting State grants only to residents of that other Contracting State or as restricting the taxation of dividends paid by a company which is a resident of one of the Contracting States to a company which is a resident of the other Contracting State.

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

ARTICLE XXVII

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

(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 an appropriate 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 not in accordance with the Convention.

(3) 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. They may also consult together for the elimination of double taxation in cases not provided for in the Convention.

(4) The competent authorities of the Contracting States may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs or for the purpose of giving effect to the provisions

of the Convention and for resolving any difficulty or doubt as to the application or interpretation of the Convention.

ARTICLE XXVIII

The competent 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 this Convention 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 the Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court) concerned with the assessment or collection of, or the determination of appeals in relation to, the taxes which are the subject of the Convention. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

ARTICLE XXIX

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

ARTICLE XXX

This Convention shall not apply to holding companies entitled to any special tax benefit under the Luxembourg laws of 31st July, 1929, or 27th December, 1937, or any similar law enacted by Luxembourg after the signature of the Convention.

ARTICLE XXXI

(1) This Convention may be extended, either in its entirety or with any necessary modifications, to any territory for whose international relations the United Kingdom is responsible, which imposes taxes substantially similar in character to those to which the Convention applies. 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 States in notes to be exchanged through diplomatic channels.

(2) Unless otherwise agreed by both Contracting States, the denunciation of the Convention by one of them under Article XXXIII shall terminate, in the manner provided for in that Article, the application of the Convention to any territory to which it has been extended under this Article.

ARTICLE XXXII

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged at Luxembourg as soon as possible.

(2) The Convention shall enter into force upon the exchange of instruments of ratification(**a**) and its provisions shall have effect:

(*a*) in the United Kingdom:

(i) as respects income tax (including surtax) for any year of assessment beginning on or after 6th April, 1966 other than income tax in respect of dividends paid before 6th April, 1966;

(**a**) Instruments of ratification were exchanged on 3rd July 1968.

(ii) as respects corporation tax for any financial year beginning on or after 1st April, 1966; and

(iii) as respects capital gains tax for any year of assessment beginning on or after 6th April, 1966;

(*b*) in Luxembourg:

for periods of assessment beginning after 31st December, 1965.

ARTICLE XXXIII

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1970. In such event, the Convention shall cease to have effect:

(*a*) in the United Kingdom:

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

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

(iii) as respects capital gains tax for any year of assessment beginning on or after 6th April in the calendar year next following that in which the notice is given;

(*b*) in Luxembourg:

for periods of assessment beginning after the end of the calendar year in which the notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at London, this 24th day of May, 1967, in the English and French languages, both texts being equally authoritative.

For the United Kingdom of Great Britain and Northern Ireland:

FRED MULLEY

For the Grand Duchy of Luxembourg:

A. J. CLASEN

EXPLANATORY NOTE

(This Note is not part of the Order.)

Under the Convention with Luxembourg scheduled to this Order shipping and air transport profits, certain trading profits not arising through a permanent establishment, interest, certain pensions and the earnings of temporary business visitors are (subject to certain conditions) to be taxed only in the country of the taxpayer's residence. Capital gains arising from the disposal of movable property are to be taxed only in the country of the taxpayer's residence unless they arise from the disposal of the assets of a permanent establishment which the taxpayer has in the other country. Salaries and pensions for governmental service are normally to be taxed by the paying Government only. Remuneration of visiting professors and teachers and payments made for the maintenance, etc., of visiting students and business apprentices are (subject to certain conditions) to be exempt in the country visited.

The rate of tax in the source country on dividends paid to residents of the other country is, in general, not to exceed 15 per cent in the case of portfolio investment and 5 per cent in the case of direct investment. The rate of tax in the source country on royalties paid to residents of the other is not to exceed 5 per cent.

Where income continues to be taxable in both countries, relief from double taxation is to be given by the country of the taxpayer's residence. In the case of a dividend paid by a Luxembourg company, credit for the tax on the profits out of which the dividend is paid is to be given for United Kingdom tax purposes where the recipient of the dividend is a United Kingdom company which controls not less than 25 per cent of the voting power of the paying company.

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

The Convention is in general to take effect in the United Kingdom for 1966/67 and subsequent years.

STATUTORY INSTRUMENTS

1968 No. 1100

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Luxembourg) Order 1968

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