STATUTORY INSTRUMENTS

1984 No. 366

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Sweden) Order 1984

Laid before the House of Commons in draft

Made - - - - 14*th March* 1984

At the Court at Buckingham Palace, the 14th day of March 1984

Present,
The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the House of Commons in accordance with the provisions of section 497(8) of the Income and Corporation Taxes Act 1970 (**a**), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of that draft:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 497 of the said Income and Corporation Taxes Act 1970, 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) (Sweden) Order 1984.

2. It is hereby declared—

(a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of the Kingdom of Sweden 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 Sweden; and

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

N. E. Leigh,
Clerk of the Privy Council.

(**a**) 1970 c.10; section 497 was amended and extended by sections 98(2) and 100(1) of the Finance Act 1972 (c.41) and section 10 of the Capital Gains Tax Act 1979 (c.14).

SCHEDULE

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

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

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

Have agreed as follows:

ARTICLE 1

Personal scope

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

ARTICLE 2

Taxes covered

(1) 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;

(ii) the corporation tax;

(iii) the capital gains tax;

(iv) the petroleum revenue tax; and

(v) the development land tax;

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

(b) in the case of Sweden:

(i) the State income tax (statlig inkomstskatt), including sailors' tax (sjomansskatt) and coupon tax (kupongskatt);

(ii) the tax on undistributed profits of companies (ersättningsskatt);

(iii) the tax on distributed income of companies (utskiftningsskatt);

(iv) the tax on public entertainers (bevillningsavgift för vissa offentliga föreställningar);

(v) the communal income tax (kommunal inkomstskatt);

(hereinafter referred to as "Swedish tax").

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of substantial changes which have been made in their respective taxation laws.

ARTICLE 3

General definitions

(1) 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 in accordance with international law 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 subsoil and their natural resources may be exercised;

(b) the term "Sweden" means the Kingdom of Sweden and includes any area outside the territorial sea of Sweden within which under the laws of Sweden and in accordance with international law the rights of Sweden with respect to the exploitation and exploration of the natural resources on the sea-bed or in its subsoil may be exercised;

(c) the term "national" means:

(i) in relation to the United Kingdom, any individual who has under the law of the United Kingdom the status of United Kingdom national provided he has the right of abode in the United Kingdom, and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;

(ii) in relation to Sweden, any individual possessing the nationality of Sweden and any legal person, partnership or association deriving its status as such from the law in force in Sweden;

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

(e) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Sweden, 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 "international traffic" means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;

(j) the term "political subdivision", in relation to the United Kingdom, includes Northern Ireland;

(k) the term "competent authority" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and in the case of Sweden, the Minister of Finance or his authorised representative.

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

ARTICLE 4

Residence

(1) For the purpose of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated therein.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined as follows:

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

(b) if the State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

(d) if he is a national of both States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

(3) Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

ARTICLE 5

Permanent establishment

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

(2) The term "permanent establishment" includes especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

(f) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

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

(a) the use of facilities solely for the purpose of storage, 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 of collecting information, for the enterprise;

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

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

(5) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, where a person—other than an agent of an independent status to whom paragraph (6) of this

Article applies—is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts in the name of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

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

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

ARTICLE 6

Income from immovable property

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

(2) The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) of this Article 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) of this Article shall also apply to the income from immovable property of an enterprise and to income from immovable property used for the performance of independent personal services.

ARTICLE 7

Business profits

(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

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

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

(4) 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.

(5) 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.

(6) Where profits include items of income which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

Shipping and air transport

(1) Profits from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

(3) Where profits within paragraph (1) of this Article are derived by an enterprise from participation in a pool, a joint business or an international operating agency, the profits attributable to that enterprise shall be taxable only in the Contracting State in which the place of effective management of that enterprise is situated. For the purposes of this paragraph the expression "a pool, a joint business or an international operating agency" shall not include a person, as defined in Article 3 of this Convention.

(4) With respect to profits derived by the Danish, Norwegian and Swedish air transport consortium, known as the Scandinavian Airlines System (SAS), the provisions of paragraphs (1) and (3) of this Article shall only apply to such part of the profits as corresponds to the shareholding in the consortium held by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

ARTICLE 9

Associated enterprises

(1) Where

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

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

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

(2) Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the items so included comprise income, deductions, receipts or outgoings which would have been attributed to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then the competent authorities of the Contracting States may consult together with a view to reaching an agreement on the adjustment of profits or losses in both Contracting States.

ARTICLE 10

Dividends

(1) Dividends derived from a company which is a resident of Sweden by a resident of the United Kingdom shall be taxable only in the United Kingdom if the beneficial owner is a resident of the United Kingdom and is a company which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividends. In all other cases, dividends derived from a company which is a resident of Sweden by a resident of the United Kingdom may also be taxed in Sweden according to the laws of Sweden but, provided that the beneficial owner is a resident of the United Kingdom, the tax so charged shall not exceed 5 per cent.

(2) Dividends derived from a company which is a resident of the United Kingdom by a resident of Sweden shall be taxable only in Sweden if the beneficial owner is a resident of Sweden and is a company which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividends. In all other cases, dividends derived from a company which is a resident of the United Kingdom by a resident of Sweden may also be taxed in the United Kingdom according to the laws of the United Kingdom, but, provided that the beneficial owner is a resident of Sweden, the tax so charged shall not exceed 5 per cent.

(3) However, as long as an individual resident in the United Kingdom is entitled to a tax credit in respect of dividends paid by a company resident in the United Kingdom, the following provisions of this paragraph shall apply instead of the provisions of paragraph (2) of this Article:

(a) (i) Dividends derived from a company which is a resident of the United Kingdom by a resident of Sweden may be taxed in Sweden.

(ii) Where a resident of Sweden is entitled to a tax credit in respect of such a dividend under sub-paragraph *(b)* of this paragraph tax may also be charged in the United Kingdom, and according to the laws of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.

(iii) Where a resident of Sweden is entitled to a tax credit in respect of such a dividend under sub-paragraph *(c)* of this paragraph tax may also be charged in the United Kingdom, and according to the laws of the United Kingdom, on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 5 per cent.

(iv) Except as provided in sub-paragraphs *(a)* (ii) and *(a)* (iii) of this paragraph, dividends derived from a company which is a resident of the United Kingdom by a resident of Sweden who is the beneficial owner of those dividends shall be exempt from any tax which is chargeable in the United Kingdom on dividends.

(b) A resident of Sweden who receives a dividend from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph *(c)* of this paragraph and provided he is the beneficial owner of the dividend, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received that dividend, and to the payment of any excess of that tax credit over his liability to United Kingdom tax.

(c) The provisions of sub-paragraph *(b)* of this paragraph shall not apply where the beneficial owner of the dividend is, or is associated with, a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividend. In these circumstances a company which is a resident of Sweden and receives a dividend from a company which is a resident of the United Kingdom shall, provided it is the beneficial owner of the dividend, be entitled to a tax credit equal to one-half of the tax credit to which an individual resident in the United Kingdom would have been entitled had he received that dividend, and to the payment of any excess of that tax credit over its liability to United Kingdom tax. For the purpose of this sub-

paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company; and a company shall be deemed to be controlled by another company if the latter controls more than 50 per cent of the voting power in the first-mentioned company.

(4) The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the Contracting State of which the company making the distribution is a resident and also includes any other item, which under the law of the Contracting State of which the company paying the dividend is a resident is treated as a dividend or distribution of a company.

(5) The provisions of paragraphs (1), (2) and (3) of this Article shall not apply if the beneficial owner of the dividend, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

(6) Where the company paying a dividend is a resident of the United Kingdom and the beneficial owner of the dividend, being a resident of Sweden, owns 10 per cent or more of the class of shares in respect of which the dividend is paid, paragraphs (2) and (3) of this Article shall not apply to the dividend to the extent that it can have been paid only 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. For the purposes of this paragraph the term "relevant date" means the date on which the beneficial owner of the dividend 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.

(7) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company's undistributed profits to a tax on the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in such other State.

ARTICLE 11

Interest

(1) Interest arising in a Contracting State which is derived and beneficially owned by a resident of the other Contracting State shall be taxable only in that other State.

(2) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures but does not include income dealt with in Article 10. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article.

(3) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the

interest is paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(5) Any provision in the law of either Contracting State relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a resident of the other Contracting State to be treated as a distribution or dividend by the company paying such interest. The preceding sentence shall not apply to interest paid to a company of a Contracting State in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons who are residents of the other Contracting State.

ARTICLE 12

Royalties

(1) Royalties derived and beneficially owned by a resident of a Contracting State shall be taxable only in that State.

(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 (including cinematograph films, and films or tapes for radio or television broadcasting), 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) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case the provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13

Capital gains

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

(2) Gains derived by an individual who is a resident of a Contracting State from the alienation of shares in a company which is a resident of the other Contracting State may be taxed in that other Contracting State, but only if the individual is a national of the other Contracting State without also being a national of the first-mentioned

Contracting State and has been a resident of the other Contracting State at any time in a seven year period immediately preceding the alienation of the shares. The provisions of this paragraph shall also apply to gains from the alienation of other rights in such company which, for the purposes of capital gains taxation, are subjected to the same treatment as gains from the alienation of shares by the laws of that other Contracting State.

(3) 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 independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such a fixed base, may be taxed in that other State.

(4) Gains from the alienation of ships or aircraft operated in international traffic, or movable property pertaining to the operation of such ships or aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated. With respect to gains derived by the Swedish, Danish and Norwegian air transport consortium, known as Scandinavian Airlines System (SAS), the provisions of this paragraph shall only apply to such proportion of the gains as corresponds to the shareholding in that consortium held by AB Aerotransport (ABA), the Swedish partner of Scandinavian Airlines System (SAS).

(5) Gains from the alienation of ships or aircraft used for the transportation of supplies or personnel to a location where activities in connection with the exploration or exploitation of the sea-bed and subsoil and their natural resources are being carried on in a Contracting State or from the alienation of tugboats or anchor handling vessels operated in connection with such activities shall be taxable in the Contracting State in which the place of effective management of the enterprise is situated.

(6) Notwithstanding the preceding provisions of this Article, gains derived by a resident of a Contracting State from the alienation of rights to assets to be produced by the exploration or exploitation of the sea-bed and subsoil and their natural resources situated in the other Contracting State, including rights to interests in or to the benefit of such assets, or from the alienation of shares deriving their value or the greater part of their value directly or indirectly from such rights, may be taxed in that other Contracting State.

(7) Gains from the alienation of any property other than that referred to in paragraphs (1) to (6) of this Article, shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 14

Independent personal services

(1) Income derived by an individual who is a resident of a Contracting State in respect of professional services or other activities of an independent character may be taxed in that State. Such income may also be taxed in the other Contracting State if:

(a) the individual is present in that other State for a period or periods exceeding in the aggregate 183 days within any period of 12 months, but only so much thereof as is attributable to services performed in that State, or

(b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much thereof 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 15

Dependent personal services

(1) Subject to the provisions of Articles 16, 18, 19 and 20, 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) of this Article, 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 within any period of 12 months; 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 derived in respect of an employment exercised aboard a ship or aircraft operated in international traffic, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated. Where a resident of Sweden derives remuneration in respect of an employment exercised aboard an aircraft in international traffic by the Scandinavian Airlines System (SAS) consortium, such remuneration shall be taxable only in Sweden.

ARTICLE 16

Directors' fees

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

ARTICLE 17

Artistes and athletes

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

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

ARTICLE 18

Pensions and annuities

(1) Subject to the provisions of paragraph (3) of this Article and of paragraph (2) of Article 19, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment and annuities may be taxed in the Contracting State where they arise. However, in taxing such pensions, remuneration and annuities a deduction of one-fifth of their amount shall be allowed by that State.

(2) Subject to the provisions of paragraph (3) of this Article and of paragraph (2) of Article 19, payments made under the social security legislation of a Contracting State may be taxed in that State.

(3) Pensions and other similar remuneration paid in consideration of past employment, annuities and payments under the social security legislation of a Contracting State paid to a resident of the other Contracting State shall be taxable only in that other State if the beneficial owner is a national of that other State.

(4) 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 19

Government service

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

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

(i) is a national of that State; or

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

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

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

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

ARTICLE 20

Students

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

ARTICLE 21

Other income

(1) Items of income of a resident of a Contracting State, wherever arising, other than income paid out of trusts, which are not expressly mentioned in the foregoing Articles of this Convention shall be taxable only in that State.

(2) The provisions of paragraph (1) of this Article shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 6, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14, as the case may be, shall apply.

ARTICLE 22

Elimination of double taxation

(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):

(a) Swedish tax payable under the laws of Sweden and in accordance with the provisions of this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Sweden (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) 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 Swedish tax is computed;

(b) where such income is a dividend paid by a company which is a resident of Sweden to a company which is a resident of the United Kingdom and which controls directly or indirectly not less than one-tenth of the voting power in the former company, the credit shall take into account (in addition to any Swedish tax payable in respect of the dividend) the Swedish tax payable by that former company in respect of its profits.

(2) *(a)* Where a resident of Sweden derives income or chargeable gains which under the laws of the United Kingdom and in accordance with the provisions of this Convention may be taxed in the United Kingdom, Sweden shall allow, subject to the limitations of the law of Sweden (as it may be amended from time to time without changing the general principle hereof), as a deduction from the tax on such income or chargeable gains, an amount equal to the United Kingdom tax paid in respect of such income or chargeable gains.

(b) Where a resident of Sweden derives income or chargeable gains which shall be taxable only in the United Kingdom in accordance with the provisions of Article 8, paragraph (4) of Article 13 and of paragraphs (1) or (2) of Article 19, Sweden shall allow as a deduction from the Swedish tax that part of the Swedish tax which is appropriate to the income or chargeable gains derived from the United Kingdom.

(3) Notwithstanding the provisions of paragraph (2) of this Article, dividends paid by a company which is a resident of the United Kingdom to a company which is a resident of Sweden shall be exempt from Swedish tax, provided that in accordance with the laws of Sweden the dividends would be exempt from tax if both companies had been residents of Sweden.

(4) For the purposes of the preceding paragraphs of this Article, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

ARTICLE 23

Non-Discrimination

(1) Nationals of a Contracting State shall not be subjected in the other Contracting State to any taxation or any requirement connected therewith, which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

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

(3) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.

(4) Except where the provisions of paragraph (1) of Article 9, paragraphs (4) and (5) of Article 11, or paragraph (4) of Article 12, apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been contracted to a resident of the first-mentioned State.

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

(6) The provisions of this Article shall apply to taxes of every kind and description.

ARTICLE 24

Mutual agreement procedure

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

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with the Convention.

(3) 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 to consider measures to counteract improper use of the provisions of 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.

ARTICLE 25

Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or of the domestic laws of the Contracting States concerning taxes covered by the Convention insofar as the taxation thereunder is not contrary to the Convention. Any information received by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) involved in the assessment or collection of, the enforcement or prosecution in respect of, or the determination of appeals in relation to, the taxes covered by the Convention. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

(2) In no case shall the provisions of paragraph (1) of this Article be construed so as to impose on a Contracting State the obligation:

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

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;

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

ARTICLE 26

Diplomatic agents and consular officers

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

ARTICLE 27

Miscellaneous rules

(1) Where under any provision of this Convention income or chargeable gains are relieved from Swedish tax and, under the law in force in the United Kingdom, an individual, in respect of the said income or chargeable gains is subject to tax by reference to the amount thereof which is remitted to or received in the United Kingdom and not by reference to the full amount thereof, then the relief to be allowed under this Convention in Sweden shall apply only to so much of the income or chargeable gains as is remitted to or received in the United Kingdom.

(2) Where under the provisions of this Convention a resident of the United Kingdom is exempt or entitled to relief from Swedish tax, similar exemption or relief shall be applied to the undivided estate of a deceased person insofar as one or more of the beneficiaries is a resident of the United Kingdom.

(3) Swedish tax on the undivided estate of a deceased person shall, insofar as the income accrues to a beneficiary who is resident in the United Kingdom, be allowed as a credit under Article 22.

(4) Subject to the provisions of paragraph (6) of this Article, individuals who are residents of Sweden shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom taxation as British subjects not resident in the United Kingdom.

(5) Subject to the provisions of paragraph (6) 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 Swedish tax as Swedish nationals not resident in Sweden.

(6) Nothing in this Convention shall entitle an individual who is a resident of a Contracting State 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 28

Miscellaneous rules applicable to certain offshore activities

(1) The provisions of this Article shall apply notwithstanding any other provision of this Convention where activities (in this Article called "relevant activities") are carried on offshore in connection with the exploration or exploitation of the sea-bed and subsoil and their natural resources situated in a Contracting State.

(2) An enterprise of a Contracting State which carries on relevant activities in the other Contracting State shall, subject to paragraphs (3) and (5) of this Article, be deemed to be carrying on business in that other Contracting State through a permanent establishment situated therein.

(3) Relevant activities which are carried on by an enterprise of a Contracting State in the other Contracting State for a period or periods not exceeding in the aggregate 30 days in any 12 month period shall not constitute the carrying on of business through a permanent establishment situated therein. For the purposes of this paragraph:

(a) where an enterprise of a Contracting State carrying on relevant activities in the other Contracting State is associated with another enterprise carrying on substantially similar relevant activities there, the former enterprise shall be deemed to be carrying on all such activities of the latter enterprise, except to the extent that those activities are carried on at the same time as its own activities;

(b) an enterprise shall be regarded as associated with another enterprise if one participates directly or indirectly in the management, control or capital of the other or if the same persons participate directly or indirectly in the management, control or capital of both enterprises.

(4) A resident of a Contracting State who carries on relevant activities in the other Contracting State, which consist of professional services or other activities of an independent character, shall be deemed to be performing those activities from a fixed base in that other Contracting State. However, income derived by a resident of a Contracting State in respect of such activities performed in the other Contracting State shall not be taxable in that other Contracting State if the activities are performed in the other Contracting State for a period or periods not exceeding in the aggregate 30 days in any 12 month period.

(5) Profits derived by an enterprise of a Contracting State from the transportation of supplies or personnel by a ship or aircraft to a location where relevant activities are being carried on, or from the operation of tugboats or anchor handling vessels in connection with such activities, shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(6) *(a)* Subject to sub-paragraph *(b)* of this paragraph, salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment connected with relevant activities in the other Contracting State may, to the extent that the duties are performed offshore in that other Contracting State, be taxed in that other Contracting State.

(b) Salaries, wages and similar remuneration derived by a resident of a Contracting State in respect of an employment exercised aboard a ship or aircraft engaged in the transportation of supplies or personnel to a location where relevant activities are being carried on in a Contracting State, or in respect of any employment exercised aboard a tugboat or anchor handling vessel in connection with such activities, may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 29

Entry into force

(1) Each of the Contracting States shall notify to the other the completion of the procedure required by its law for the bringing into force of this Convention.

(2) The Convention shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect, subject to the provisions of paragraph (3) of this Article;

(a) in the United Kingdom:

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 April;

(iii) in respect of development land tax, for any realised development value accruing on or after 1 April; and

(iv) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January;

(b) in Sweden in respect of income or capital gains derived on or after 1 January;

in either case in the calendar year following that in which the later of these notifications is received.

(3) The provisions of Article 18 shall not have effect in Sweden in respect of income derived before 1 January 1985 and shall not have effect in the United Kingdom in respect of income tax before 6 April 1985.

(4) Subject to the provisions of paragraph (5) of this Article, the following Agreements between the United Kingdom and the Kingdom of Sweden shall terminate and cease to be effective from the date upon which this Convention has effect in respect of the taxes or income or capital gains to which this Convention, in accordance with the provisions of paragraphs (2) and (3) of this Article, applies:

(a) the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Kingdom of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income signed at London on 28 July 1960 (a), as amended by the Protocols signed at London on 25 March 1966 (b), 27 June 1968 (c), 27 September 1973 (d) and at Stockholm on 6 June 1979 (e);

(b) the Agreement dated 19 December 1924, for the Reciprocal Exemption from Income Tax in certain cases of Profits accruing from the Business of Shipping (f);

(c) the Agreement dated 6 July 1931, for the Reciprocal Exemption from Taxes in certain cases on income arising through Agencies (g).

(5) This Convention shall not affect any Agreement in force extending previous Conventions between the Contracting States to territories for whose foreign relations either State is responsible.

ARTICLE 30

Termination

(1) This Convention shall remain in force until denounced by a Contracting State. Either Contracting State may denounce the Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year after the year 1988. In such event, the Convention shall cease to have effect:

(a) in the United Kingdom:

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

(ii) in respect of corporation tax and development land tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given;

(iii) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1 January in the calendar year next following that in which the notice is given;

(b) in Sweden in respect of income assessable for the calendar year next following that in which the notice of termination is given, and subsequent years.

(2) The termination of this Convention shall not have the effect of reviving any treaty or arrangement abrogated by this Convention or by treaties previously concluded between the Contracting States.

(a) S.I. 1961/577. (b) S.I. 1968/1105. (c) S.I. 1968/2034.
(d) S.I. 1974/558. (e) S.I. 1980/1532.
(f) SR & O 1925 (No. 104) p. 602. (g) SR & O 1931 (No. 932) p. 485.

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

Done in duplicate at Stockholm this 30th day of August 1983 in the English and Swedish languages, both texts being equally authoritative.

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

Donald Murray

For the Government of the Kingdom of Sweden:

Lennart Bodström

EXPLANATORY NOTE

(This Note is not part of the Order.)

The Convention with Sweden set out in the Schedule to this Order replaces the Convention signed on 28 July 1960, as amended by the Protocols signed on 25 March 1966, 27 June 1968, 27 September 1975 and 6 June 1979.

Provision is made for business profits not arising through a permanent establishment to be taxed only in the country of the taxpayer's residence. Profits attributable to a permanent establishment may be taxed in the country in which the permanent establishment is situated (Articles 5 and 7). Shipping and air transport profits are to be taxed only in the country in which the place of effective management of the enterprise is situated (Article 8). The Convention includes rules for determining taxable profits when a company in one country is related to a company in the other (Article 9).

Interest and royalties are, in general, to be taxed only in the country of the taxpayer's residence (Articles 11 and 12). The earnings of temporary business visitors are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence (Articles 14 and 15). Payments made to visiting students and business apprentices are, in general, to be exempt from tax in the country visited (Article 20).

The Dividends Article (Article 10) takes account of the imputation system of company taxation in the United Kingdom. Where a United Kingdom company pays a dividend to a Swedish company controlling 10 per cent or more of its voting power, the Swedish corporate shareholders will receive a tax credit equal to one half of the tax credit which would be payable to a United Kingdom resident individual, less a sum of not more than 5 per cent of the aggregate amount of the dividend and the credit. Where the recipient is an individual resident in Sweden or a Swedish company controlling less than 10 per cent of the voting power of the United Kingdom company, the tax credit will be equal to the tax credit which would be payable to a United Kingdom resident individual less a sum not exceeding 15 per cent of the aggregate of the dividend and tax credit. Dividends paid by a Swedish company to a company which is a resident of the United Kingdom and controls at least 10 per cent of the voting power in the paying company are taxable only in the United Kingdom. In all other cases the rate of Swedish tax is not to exceed 5 per cent.

Income from immovable property and gains derived from such property may be taxed in the country in which the property is situated (Articles 6 and 13). Capital gains arising from the disposal of movable property are normally to be taxed only in the country of the taxpayer's residence. Gains derived by an individual resident of one state from the alienation of shares in a company resident in the other state may normally be taxed in the other state if the individual is a national of the other state. Gains arising from the disposal of assets of a permanent establishment or a fixed base which the taxpayer has in the other state may be taxed in the other state. Gains arising from the disposal of assets connected with the exploration or exploitation of the sea-bed or subsoil may be taxed in the country in which they are situated (Article 13). Fees received by a resident of one country in his capacity as a director of a company resident in the other may be taxed in the latter country (Article 16).

Pensions, other than public service pensions, may be taxed by the country in which they arise (Article 18). Public service salaries and pensions are

normally to be taxed by the paying country only (Article 19). Income derived from the activities of artistes and athletes may be taxed in the country in which these activities are exercised (Article 17).

Each country may tax the profits of residents of the other country which are derived from activities connected with the exploration or exploitation of the sea-bed and subsoil of the first country (Article 28).

Where income continues to be taxable in both countries, credit will be given by the country of the taxpayer's residence in respect of tax imposed by the other country. United Kingdom petroleum revenue tax is one of the taxes covered by the Convention (Article 22).

There are provisions safeguarding residents and enterprises of one country against discriminatory taxation in the other country (Article 23). Provision is made for consultation and exchange of information between the taxation authorities of the two countries (Articles 24 and 25).

The Convention will enter into force when the legislative procedures in both countries have been completed and will have effect in the United Kingdom in general from the next April following or the 1 January following for petroleum revenue tax.

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