1970 No. 952

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Barbados) Order 1970

Laid before the House of Commons in draft

Made - - - *26th June* 1970

At the Court at Buckingham Palace, the 26th day of June 1970

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 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 this Order:

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 section 39 of the Finance Act 1965(**b**), as amended, and of all other power 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 (Barbados) Order 1970.

2. It is hereby declared—

(*a*) that the arrangements specified in the Agreement set out in the Schedule to this Order have been made with the Government of Barbados 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 Barbados; and

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

W. G. Agnew.

(**a**) 1970 c. 10. (**b**) 1965 c. 25.

SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF BARBADOS 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 Barbados;

Desiring to conclude an agreement 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

Taxes covered

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

(i) the income tax;

(ii) the petroleum winning operations tax; and

(iii) the trade tax

(hereinafter referred to as "Barbados tax").

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes.

ARTICLE 2

General definitions

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

(*a*) "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 sub-soil and their natural resources may be exercised;

(*b*) "Barbados" means the island of Barbados and the territorial waters thereof including any area outside such territorial waters which in accordance with international law and the laws of Barbados is an area within which the rights of Barbados with respect to the sea bed and sub-soil and their natural resources may be exercised;

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

(*d*) "a Contracting State" and "the other Contracting State" mean the United Kingdom or Barbados, as the context requires;

(*e*) "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;

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

(*g*) "national" means:

(i) in relation to the United Kingdom:

(*aa*) any citizen of the United Kingdom and Colonies who derives his status as such from connection with the United Kingdom;

(*bb*) any legal person, association or other entity deriving its status as such from the law of the United Kingdom;

(ii) in relation to Barbados:

(*aa*) any individual who is a citizen of Barbados;

(*bb*) any legal person, partnership or association deriving its status as such from the law of Barbados;

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

(*i*) "tax" means United Kingdom tax or Barbados tax, as the context requires;

(*j*) "taxation authorities" means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative; in the case of Barbados, the Commissioner of Inland Revenue or his authorised representative.

(2) In the application of the provisions of this Agreement 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 this Agreement.

ARTICLE 3

Fiscal domicile

(1) For the purposes of this Agreement, "resident of a Contracting State" means, subject to the provisions of paragraphs (2) and (3) of this Article, 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; the term does not include any individual who is liable to tax in that Contracting State only if he derives income from sources therein. The terms "resident of the United Kingdom" and "resident of Barbados" shall be construed accordingly.

(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 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 permanent 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 (hereinafter referred to as his "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 permanent home available 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 taxation authorities of the Contracting States shall determine 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 Contracting State in which its place of effective management is situated.

ARTICLE 4

Permanent establishment

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

(2) A 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;

(*h*) a farm or plantation.

(3) "Permanent establishment" shall not be deemed to include:

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

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

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

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

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

(4) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if:

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

(*b*) it carries on a business which consists of providing the services within that other State of public entertainers or athletes referred to in Article 18.

(5) 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 the provisions of paragraph (6) of this Article apply) shall be deemed to be a permanent establishment in the former Contracting State if:

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

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

(6) 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, a general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

(7) The fact that a company which is a resident of 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 5

Limitation of relief

Where under any provision of this Agreement any income is exempt from tax or is taxed at a reduced rate in a Contracting State if (with or without other conditions) it is subject to tax in the other Contracting State and that income is subject to tax in that other State by reference to the amount thereof which is remitted to or received in that other State, the exemption or reduction of tax to be allowed under this Agreement in the first-mentioned Contracting State shall apply only to the amounts so remitted or received.

ARTICLE 6

Business profits

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

(2) Where an enterprise of a Contracting State carries on a trade or 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 industrial or commercial profits which it might be expected to make if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(3) In determining the industrial or commercial profits of a permanent establishment, there shall be allowed as deductions all expenses of the enterprise which are incurred for the purposes of the permanent establishment, including executive and general administration expenses so incurred, whether incurred in the Contracting State in which the permanent establishment is situated or elsewhere (other than expenses which would not be deductible if the permanent establishment were a separate enterprise).

(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) Nothing in this Article shall apply to either Contracting State to prevent the operation in the State of any provisions of its law relating specifically to the taxation of any person who carries on a business of any form of insurance. Provided that if the law in force in either Contracting State at the date of signature of this Agreement relating to the taxation of such persons is varied (otherwise than in minor respects so as not to affect its general character, or by this Agreement) the Contracting Government's shall consult with each other with a view to agreeing to such amendment of this paragraph as may be necessary.

ARTICLE 7

Associated enterprises

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 8

Shipping and air transport

A resident of a Contracting State shall be exempt from tax in the other Contracting State on profits from the operation of ships or aircraft other than profits from voyages of ships or aircraft confined solely to places in that other State.

ARTICLE 9

Dividends

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State who is subject to tax in that other State in respect thereof shall be exempt from any tax in that first-mentioned Contracting State which is chargeable on dividends in addition to the tax chargeable in respect of the profits or income of the company.

(2) The provisions of paragraph (1) of this Article shall not apply where a resident of a Contracting State has a permanent establishment in the other Contracting State and the holding giving rise to the dividends is effectively connected with that permanent establishment ; in such event the dividends shall be treated as if they were industrial or commercial profits to which the provisions of Article 6 are applicable.

(3) Where a company which is a resident of a Contracting State derives profits or income from sources within the other Contracting State, that other State shall not impose any form of taxation on dividends paid by the company to persons not resident in that other State, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, by reason of the fact that those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

(4) Subject to the provisions of paragraph (5) of Article 10 and paragraph (5) of Article 11 the term "dividends" includes any item which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a distribution of a company.

(5) If the recipient of a dividend is a company which owns 10 per cent or more of the class of shares in respect of which the dividend is paid then the provisions of paragraph (1) 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 beneficial owner of the dividend shows that the shares were acquired for bona fide commercial reasons and not primarily for the purpose of securing the benefit of this Article.

ARTICLE 10

Interest

(1) Where interest is derived from sources within a Contracting State by a resident of the other Contracting State who is subject to tax in that other State in respect thereof, the rate of tax imposed thereon in the first-mentioned Contracting State shall not exceed 15 per cent.

(2) The provisions of paragraph (1) of this Article shall not apply where a resident of a Contracting State has a permanent establishment in the other Contracting State and such interest is attributable to that permanent establishment; in such event such interest as is attributable to that permanent establishment shall be treated as if it were industrial or commercial profits to which the provisions of Article 6 are applicable.

(3) In this Article, the term "interest" means income from Government securities, from bonds or debentures, whether or not secured by mortgage, or from any other form of indebtedness, as well as all other income assimilated to income from money lent by the taxation law of the Contracting State in which the income arises.

(4) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the indebtedness in respect of 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 laws of each Contracting State, due regard being had to the other provisions of this Agreement.

(5) Any provision of the law of a Contracting State which relates 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 Contracting State to be left out of account as a deduction in computing the taxable profits of the company paying the interest as being a dividend or distribution.

(6) The provisions of this Article shall not apply if the form of indebtedness in respect of which the interest is payable was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

ARTICLE 11

Royalties

(1) Any royalty derived from sources within a Contracting State by a resident of the other Contracting State who is subject to tax in that other State in respect thereof, shall be exempt from tax in that first-mentioned Contracting State. Provided that, where any such royalty is in respect of cinematograph or television films, tax may be imposed thereon in the Contracting State from which the royalty is derived, but the tax so imposed shall not exceed tax at the rate applicable to companies on 15 per cent of the gross amount of the royalty.

(2) In this Article, the term "royalty" means any royalty or other amount paid as consideration for the use of, or for the privilege of using, any copyright, patent, design, secret process or formula, trade-mark, or other like property, and includes any rental or like payment in respect of cinematograph or television films, but does not include any royalty or other amount paid in respect of the operation of a mine or quarry or of any other extraction of natural resources.

(3) The provisions of paragraph (1) of this Article shall not apply where a resident of a Contracting State has a permanent establishment in the other Contracting State and the royalty is attributable to that permanent establishment; in such event the royalty shall be treated as if it were industrial or commercial profits to which the provisions of Article 6 are applicable.

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

(5) Royalties paid by a company which is a resident of a Contracting State to a resident of the other Contracting State shall not be treated as a distribution of that company. The preceding sentence shall not apply to royalties paid to a company 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 first-mentioned Contracting State.

ARTICLE 12

Immovable property

(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 laws 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 of agricultural and forestry enterprises, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of mineral deposits, sources and other natural resources; ships, 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 or from the letting of immovable property or the use in any other form of such property, including income from agricultural or forestry enterprises.

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

ARTICLE 13

Capital gains

(1) Capital gains from the alienation of immovable property, as defined in paragraph (2) of Article 12, may be taxed in the Contracting State in which such property is situated.

(2) Capital 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.

(3) Notwithstanding the provisions of paragraph (1) of this Article, capital gains derived by a resident of a Contracting State from the alienation of ships and aircraft operated in international traffic and of movable property pertaining to the operation of such ships and aircraft shall be taxable only in that State.

(4) Capital gains from the alienation of any property other than those mentioned in paragraphs (1) and (2) of this Article which are subject to tax in the Contracting State of which the alienator is a resident shall be taxable only in that State.

(5) The provisions of paragraph (4) of this Article shall not affect the right of a Contracting State to levy according to its own law a tax on capital gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation of the property.

ARTICLE 14

Governmental functions

(1) Remuneration, including pensions, paid by a Contracting State to an individual for services rendered to that State in the discharge of governmental functions shall be exempt from tax in the other Contracting State if the individual is not ordinarily resident in that other State or (where the remuneration is not a pension) is ordinarily resident in that other State solely for the purpose of rendering those services.

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

ARTICLE 15

Pensions

(1) Any pension (other than a pension of the kind referred to in paragraph (of Article 14) and any annuity, derived from sources within a Contracting Sta by an individual who is a resident of the other Contracting State and subject t tax in that other State in respect thereof, shall be exempt from tax in the firs mentioned Contracting State.

(2) The term "annuity" means a stated sum payable periodically at stated time 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 mon or money's worth.

ARTICLE 16

Independent personal services

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

(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 17

Employments

(1) Subject to the provisions of Articles 14, 15 and 19, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be subjected to tax 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 subjected to tax 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 deducted from the profits of a permanent establishment or a fixed base which the employer has in the other State.

(3) In relation to remuneration of a director of a company derived from the company the preceding provisions of this Article shall apply as if the remuneration were remuneration of an employee in respect of an employment, and as if references to employers were references to the company.

(4) Notwithstanding the preceding provisions of this Article, remuneration for personal services performed aboard a ship or aircraft in international traffic may be taxed in the Contracting State of which the person deriving the profits from the operation of the ship or aircraft is a resident.

ARTICLE 18

Artistes and athletes

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

ARTICLE 19

Teachers

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

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 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 the first-mentioned State, provided that such payments are made to him from sources outside that State.

ARTICLE 21

Income not expressly mentioned

Items of income of a resident of a Contracting State being income of a class or from sources not expressly mentioned in the foregoing Articles of this Agreement in respect of which he is subject to tax in that State shall be taxable only in that State. Provided that this Article shall not be construed as affecting the taxation of income attributable to a permanent establishment which a resident of one Contracting State has in the other Contracting State.

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*) Barbados tax payable under the laws of Barbados and in accordance with this Agreement, whether directly or by deduction, on profits or income from sources within Barbados shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits or income by reference to which the Barbados tax is computed. Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

(*b*) Where a company which is a resident of Barbados pays a dividend to a company resident in the United Kingdom which controls directly or indirectly at least 10 per cent of the voting power in the first-mentioned company, the credit shall take into account (in addition to any Barbados tax for which credit may be allowed under the provisions of sub-paragraph (*a*) of this paragraph) the Barbados tax payable by that first-mentioned company in respect of the profits out of which such dividend is paid.

(2) For the purposes of paragraph (1) of this Article, the term "Barbados tax payable" shall be deemed to include any amount which would have been payable as Barbados tax for any year but for an exemption or reduction of tax granted for that year or any part thereof under—

(*a*) any of the following provisions, that is to say:

(i) Sections 14(2), 15(2), 19(2) and 20 of the Pioneer Industries Act, 1954, as amended;

(ii) Sections 10, 15(2) and 16(1) of the Industrial Development (Export Industries) Act, 1969-43;

(iii) Sections 12, 14(2), 17(2) and 18(1) of the Industrial Incentives Act 1963-31;

(iv) Sections 12, 14(2) and 15(1) of the Industrial Incentives (Factory Construction) Act, 1965-29;

(v) Sections 3 and 5 of the Hotel Aids Act, 1967-25;

(vi) Sections 21 and 46 of the Income Tax Act, 1968-51 ;
so far as they were in force on, and have not been modified since, the date when this Agreement was signed, or have been modified only in minor respects so as not to affect their general character ; or

(*b*) any other provision which may subsequently be made granting an exemption which is agreed by the taxation authorities of the United Kingdom and Barbados to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

Provided:

(i) that relief from United Kingdom tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from, or reduction of, Barbados tax was first granted in respect of that source ;

(ii) that where the relief is a relief accorded by the Industrial Development (Export Industries) Act, 1969-43, it shall be taken into account for the purposes of this Article if, and only if, the company qualifying for the relief could have been declared to be a company either:

(*aa*) which was engaging in a pioneer industry under the provisions of Section 3 of the Pioneer Industries Act, 1958-54, as amended ; or

(*bb*) which was an approved enterprise under the provisions of Section 4 of the Industrial Incentives Act, 1963-31.

(3) Subject to the provisions of the law of Barbados regarding the allowance as a credit against Barbados tax of tax payable in a territory outside Barbados (which shall not affect the general principle hereof):

(*a*) United Kingdom tax payable under the laws of the United Kingdom and in accordance with this Agreement, whether directly or by deduction, on profits or income from sources within the United Kingdom shall be allowed as a credit against any Barbados tax computed by reference to the same profits or income by reference to which the United Kingdom tax is computed. Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

(*b*) Where a company which is a resident of the United Kingdom pays a dividend to a company resident in Barbados which controls directly or indirectly at least 10 per cent of the voting power in the first-mentioned company, the credit shall take into account (in addition to any United Kingdom tax for which credit may be allowed under the provisions of subparagraph (*a*) of this paragraph) the United Kingdom tax payable by that first-mentioned company in respect of the profits out of which such dividend is paid.

(4) For the purposes of this Article:

(*a*) profits or remuneration for personal (including professional) services performed in a Contracting State shall be deemed to be income from sources within that State ;

(*b*) the services of an individual whose services are wholly or mainly performed in ships or aircraft shall be deemed to be performed in the Contracting State of which the person deriving the profits from the operation of the ships or aircraft is a resident ;

(*c*) any amount which is included, for the purposes of tax in a Contracting State, in the chargeable profits or taxable income of a person who is a resident of the other Contracting State, and which is so included under any provision of the law of the first-mentioned Contracting State for the time being in force regarding taxation of income of a business of any form of insurance shall be treated as having a source in that first-mentioned Contracting State.

ARTICLE 23

Excluded companies

This Agreement shall not apply to companies entitled to any special tax benefit under the Barbados International Business Companies (Exemption from Income Tax) Act 1965-50 as in effect on 26th July 1965 or any substantially similar law enacted by Barbados after that date.

ARTICLE 24

Exchange of information

The taxation authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Agreement or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Agreement. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than those concerned with the assessment and collection of the taxes which are the subject of this Agreement No information as aforesaid shall be exchanged which would disclose any trade business, industrial or professional secret or trade process.

ARTICLE 25

Consultation

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

ARTICLE 26

Non-discrimination

(1) The residents 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 the residents of that other State in the same circumstances are or may be subjected.

(2) Subject to the provisions of paragraph (5) of Article 6 of this Agreement 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) 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.

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

(5) Nothing contained in this Article shall be construed as obliging either of the Contracting States to grant to persons not resident in that State those personal allowances and reliefs for tax purposes which are by law available only to persons who are so resident, nor as restricting the taxation of dividends paid to a company which is a resident of the other Contracting State.

ARTICLE 27

Territorial extension

(1) This Agreement may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible, and which imposes taxes substantially similar in character to those which are the subject of this Agreement, and any such extension shall take effect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting States in letters to be exchanged for this purpose.

(2) The termination in respect of the United Kingdom or Barbados of this Agreement under Article 29 shall, unless otherwise expressly agreed by both Contracting States, terminate the application of this Agreement to any territory to which the Agreement has been extended under this Article.

ARTICLE 28

Entry into force

(1) This Agreement shall come into force(a) on the date when the last of all such things shall have been done in the United Kingdom and Barbados as are necessary to give the Agreement the force of law in the United Kingdom and Barbados respectively, and shall thereupon have effect:

(*a*) in the United Kingdom:

(i) as respects income tax, surtax and capital gains tax, for any year of assessment beginning on or after 6th April, 1969;

(ii) as respects corporation tax, for any financial year beginning on or after 1st April, 1969;

(*b*) in Barbados:

(i) as respects income tax, for any year of assessment beginning on or after 1st January, 1969;

(ii) as respects petroleum winning operations tax, for any accounting period beginning on or after 1st January, 1969;

(iii) as respects trade tax, for any taxing period beginning on or after 1st April, 1969.

(2) Subject to the provisions of paragraph (3) of this Article, the Arrangement which was made in 1949 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Barbados(b), shall terminate and cease to be effective as respects taxes to which this Agreement in accordance with paragraph (1) of this Article applies.

(3) Where any provision of the Arrangement referred to in paragraph (2) of this Article would have afforded any greater relief from tax than is afforded by this Agreement any such provision as aforesaid shall continue to have effect for the first year of assessment or financial year for which this Agreement has effect in accordance with paragraph (1) of this Article.

ARTICLE 29

Termination

(1) This Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before the thirtieth day of June in any calendar year after the year 1974, give notice of termination to the other Contracting

(a) The Agreement came into force on 26th June 1970. (b) S.I. 1949/358 (1949 I, p. 2236).

Government and, in such event, the Agreement shall cease to be effective:

(*a*) in the United Kingdom:

(i) as respects income tax, surtax and 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;

(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;

(*b*) in Barbados:

(i) as respects income tax, for any year of assessment beginning on or after 1st January in the calendar year next following that in which such notice is given;

(ii) as respects petroleum winning operations tax, for any accounting period beginning on or after 1st January in the calendar year next following that in which such notice is given;

(iii) as respects trade tax, for any taxing period beginning on or after 1st April in the calendar year next following that in which such notice is given.

(2) The termination of this Agreement shall not have the effect of reviving any agreement or arrangement abrogated by this Agreement.

In Witness Whereof the undersigned, duly authorised thereto, have signed this Agreement.

Done in duplicate at Bridgetown, this 26th day of March one thousand nine hundred and seventy.

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

JOHN S. BENNETT,
High Commissioner.

For the Government of Barbados:

ERROL W. BARROW,
Prime Minister and
Minister of Finance.

EXPLANATORY NOTE

(This Note is not part of the Order.)

Under the Agreement with Barbados scheduled to this Order (which is to replace the Arrangement made in 1949), shipping and air transport profits, certain trading profits not arising through a permanent establishment, dividends, royalties (other than royalties in respect of cinematograph or television films), pensions (other than Government pensions) purchased annuities and the earnings of temporary business visitors are (subject to certain conditions) to be taxed only in the country of the taxpayer's residence. Government salaries and pensions are normally to be taxed by the paying Government. The remuneration of visiting professors and teachers and payments made for the maintenance of visiting students are (subject to certain conditions) to be exempt in the country visited. Capital gains arising from the disposal of movable property are normally to be taxed only in the country of the taxpayer's residence unless they arise from the disposal of assets of a permanent establishment which the taxpayer has in the other country.

The rate of tax in the source country on interest paid to residents of the other country is, in general, not to exceed 15 per cent.

Where income continues to be taxable in both countries, the country of the taxpayer's residence will relieve the double taxation by giving a credit for the other country's tax. In the case of dividends credit for the tax on the profits out of which the dividends are paid is to be given where the recipient of the dividends is a company which controls at least 10 per cent of the voting power in the paying company. The credit to be given by the United Kingdom includes credit for Barbados tax which would have been payable but for relief granted under certain provisions of Barbados law in order to encourage development there.

The Agreement is not to apply to companies entitled to certain special tax benefits under Barbados law.

There are provisions safeguarding residents and enterprises of one country against discriminatory taxation in the other country and for the exchange of information and consultation between the taxation authorities of the two countries.

The Agreement is in general to take effect in the United Kingdom for 1969-70 and subsequent years.

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