STATUTORY INSTRUMENTS

1987 No. 2054

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Bulgaria) Order 1987

Made - - - - 26th November 1987

At the Court at Buckingham Palace, the 26th day of November 1987

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) (Bulgaria) Order 1987.

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 People's Republic of Bulgaria 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 Bulgaria;

(b) that those arrangements include provisions with respect to the exchange of information necessary for carrying out the domestic laws of the United Kingdom and the laws of Bulgaria concerning taxes covered by the arrangements; and

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

G. I. de Deney
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), section 10 of the Capital Gains Tax Act 1979 (c.14) and section 70 of the Finance Act 1987 (c.16).

SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE PEOPLE'S REPUBLIC OF BULGARIA FOR THE AVOIDANCE OF DOUBLE TAXATION 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 People's Republic of Bulgaria;

Confirming their desire to extend and promote economic co-operation to their mutual benefit;

Desiring to conclude a Convention for the avoidance of double taxation 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:

(i) the income tax;

(ii) the corporation tax; and

(iii) the capital gains tax;

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

(b) in Bulgaria:

(i) tax on total income (*danak varhu obshtiya dohod*);

(ii) tax on income of single males and females, widows and widowers, divorced persons and families without children (*danak varhu dohoda na heozheneni, neomazheni, ovdoveli, razvedeni i semeyni bez detsa*);

(iii) tax on profits (*danak varhu pechalbi*);

(hereinafter referred to as "Bulgarian 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 taxes of that Contracting State referred to in paragraph (1) of this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which are 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 sub-soil and their natural resources may be exercised;

(b) the term "Bulgaria" means the People's Republic of Bulgaria and when used in a geographical sense the territory over which the People's Republic of Bulgaria exercises its State sovereignty as well as the Continental Shelf and exclusive economic zone within which the People's Republic of Bulgaria exercises sovereign rights in accordance with international law;

(c) the term "national" means:

(i) in relation to the United Kingdom, any British citizen or any British subject not possessing the citizenship of any other Commonwealth country or territory, 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 Bulgaria, any individual who has under the law of Bulgaria the status of Bulgarian national and any legal person, partnership or other entity deriving its status as such from the law in force in Bulgaria;

(d) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Bulgaria as the context requires;

(e) the term "person" means an individual, and:

(i) in the case of the United Kingdom, a body corporate (including companies or any other entity which is treated as a body corporate for tax purposes) and any other body of persons;

(ii) in the case of Bulgaria, a legal person or any joint venture established in accordance with Bulgarian law, and any other body of persons;

but does not include a partnership which is not a legal person.

(f) 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;

(g) the term "international traffic" means any transport by a ship, aircraft or road vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when the ship, aircraft or road vehicle is operated solely between places in the other Contracting State;

(h) 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 Bulgaria the Minister of Finance or his authorised representative.

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

ARTICLE 4

Residence

(1) For the purposes of this Convention, the term "resident of a Contracting State" means:

(a) in the case of the United Kingdom, any person who, under the law of the United Kingdom, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature;

(b) in the case of Bulgaria, any individual who is a national of Bulgaria, as well as any legal person which has its head office in Bulgaria or is registered therein.

(2)(a) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then 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 Contracting State in which he has his centre of vital interests cannot be determined, 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;

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

(g) an installation or structure used for the exploration or exploitation 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, for example goods or merchandise that are exhibited at any trade fair or sold after the trade fair is ended;

(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 advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) of this paragraph, 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 that 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 has a majority participation in 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, aircraft and road vehicles 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 professional 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) 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) 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

International traffic

(1) Profits from the operation of ships, aircraft or road vehicles 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 Contracting State of which the operator of the ship is resident.

(3) The provisions of paragraph (1) of this Article shall also apply to profits derived from participation in a pool, a joint business or an international operating agency.

ARTICLE 9

Dividends

(1) Dividends derived from a company which is a resident of a Contracting State by a resident of the other Contracting State may be taxed in that other State.

(2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the laws of that State, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed 10 per cent of the gross amount of the dividends. However, the provisions of this paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the dividends, 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 professional 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 13 of this Convention, as the case may be, shall apply.

(5) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State that other State may not impose any tax on the dividends paid by the company, 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 undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

ARTICLE 10

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. 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 professional 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 13 of this Convention, as the case may be, shall apply.

(4) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid 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 such a case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 11

Royalties

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

(2) The term "royalties" as used in this Article means payments of any kind for the sale of, the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films, films or tapes for radio or television broadcasting and tapes for the production of gramophone records and other means of sound reproduction). This term also includes payments of any kind for the sale of, the use of, or the right to use, any patent (certificate of invention), trade mark, service mark, design or model, secret formula or process, industrial, commercial or scientific equipment including any computer program or for information concerning industrial, commercial or scientific experience or knowledge or for the provision of technical services connected with such sale, use or right of use.

(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 professional 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 13 of this Convention, as the case may be, shall apply.

(4) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid exceeds, for whatever reasons, 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 such a case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 12

Capital gains

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

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that other State.

(3) Gains from the alienation of ships, aircraft or road vehicles operated in international traffic or movable property pertaining to the operation of such ships, aircraft or road vehicles shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

ARTICLE 13

Professional services

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

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

ARTICLE 14

Salaries and similar remuneration of individuals

(1) Subject to the provisions of Articles 15, 17 and 18 of this Convention, 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 in the fiscal year concerned; and

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

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

(3) Notwithstanding the preceding provisions of this Article, salaries and other similar remuneration derived by a resident of a Contracting State in respect of an employment exercised or services rendered in the other Contracting State shall not be taxable in that other State if the employment is exercised or the services are rendered directly:

(a) for a permanent establishment in that other State of an air transport undertaking or of a National Tourist Office whose place of effective management is situated in the first-mentioned State;

(b) aboard a ship, aircraft, railway or road vehicle in international traffic provided the place of effective management of the person operating the ship, aircraft, railway or road vehicle is situated in the first-mentioned State; or

(c) as a press, radio or television reporter or correspondent and the remuneration is derived from a source outside that other State.

ARTICLE 15

Directors' fees

Directors' fees and other similar payment derived by a resident of a Contracting State in his capacity as a member of the management or supervisory board or 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 16

Artistes and athletes

(1) Notwithstanding the provisions of Articles 13 and 14 of this Convention, 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, 13 and 14 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

(3) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, income derived from activities referred to in paragraph (1) which are performed under a cultural agreement or arrangement between the Contracting States shall be exempt from tax in the Contracting State in which the activities are exercised.

ARTICLE 17

Pensions

Subject to the provisions of paragraph (2) of Article 18 of this Convention, pensions and other similar remuneration paid to a resident of a Contracting State in consideration of past employment shall be taxable only in that State.

ARTICLE 18

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 14, 15 and 17 of this Convention 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 19

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 20

Teachers, etc

(1) An individual who visits one of the Contracting States for a period not exceeding two years for the purpose of teaching or engaging in research at a university, college or other recognised educational institution in that Contracting State and who was immediately before that visit a resident of the other Contracting State, shall be exempted from tax by the first-mentioned Contracting State on any remuneration for such teaching or research for a period not exceeding two years from the date he first visits that State for such purpose.

(2) This Article shall only apply to income from research if such research is undertaken by the individual in the public interest and not primarily for the benefit of some other private person or persons.

ARTICLE 21

Income not expressly mentioned

Items of income of a resident of a Contracting State, wherever arising, other than income paid out of trusts or the estates of deceased persons in the course of administration, which are not dealt with in the foregoing Articles of this Convention shall be taxable only in that 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) Bulgarian tax payable under the laws of Bulgaria and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Bulgaria (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 Bulgarian tax is computed;

(b) in the case of a dividend paid by a company which is a resident of Bulgaria to a company which is a resident of the United Kingdom and which owns directly or indirectly at least 10 per cent of the capital in the company paying the dividend, the credit shall take into account (in addition to any Bulgarian tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Bulgarian tax payable by the company in respect of the profits out of which such dividend is paid.

(2) In Bulgaria double taxation of income and capital gains shall be eliminated as follows:

(a) where a resident of Bulgaria derives income or capital gains which in accordance with the provisions of this Convention may be taxed in the United Kingdom such income or capital gains shall be exempted from taxation in Bulgaria;

(b) where a resident of Bulgaria derives dividends which in accordance with the provisions of Article 9 of this Convention may be taxed in the United Kingdom, Bulgaria shall allow as a deduction from the tax on the income of that resident an amount equal to the tax paid on those dividends in the United Kingdom. The deduction however shall not exceed that part of the tax, as computed before the deduction is given, which is attributable to the dividends derived from the United Kingdom;

(c) where in accordance with any provision of this Convention income and capital gains derived by a resident of Bulgaria is exempt from tax in Bulgaria, Bulgaria may nevertheless, in calculating the amount of tax on the remaining income and capital gains of such resident, take into account the exempted income and capital gains.

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

(a) the provisions specified in paragraph (4) of this Article, so far as these provisions were in force on, and have not been modified since, the date of signature of this Convention, 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 or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character to the provisions specified in paragraph (4) of this Article, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character;

Provided:

(c) that relief from United Kingdom tax shall not be given by virtue of this paragraph unless the exemption or reduction of tax is certified by the competent authority of Bulgaria as being for the purpose of promoting development in Bulgaria;

(d) 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, Bulgarian tax was first granted in respect of that source.

(4) The provisions referred to in paragraph (3)(a) of this Article are:

Decree No.535 of 1980, Article 38.

(5) 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, as defined in Article 3 of this Convention, 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) Except where the provisions of paragraph (4) of Article 10 or paragraph (4) of Article 11 of this Convention 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.

(4) Enterprises of a Contracting State, the capital of which is wholly or partly owned, 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 that first-mentioned State are or may be subjected.

(5) 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.

(6) In this Article the term "taxation" means the taxes covered by this Convention.

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 or, if his case comes under paragraph (1) of Article 23 of this Convention, to that of the Contracting State of which he is a national. The case must be presented within three years from the first notification of the action resulting in taxation not in accordance with the provisions of the Convention.

(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 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.

(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 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 the competent authority of either Contracting State the obligation:

(a) to carry out administrative measures at variance with laws and administrative practice prevailing in either Contracting State;

(b) to supply information which is not obtainable under the laws or in the normal course of the administration of either 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

Members of diplomatic and consular missions

(1) Nothing in this Convention shall affect the fiscal privileges of members of diplomatic or consular missions under the general rules of international law or under the provisions of special agreements.

(2) Notwithstanding the provisions of paragraph (1) of Article 4 of this Convention, an individual who is a member of the diplomatic, consular or permanent mission of a Contracting State or of any third State which is situated in the other Contracting State and who is subject to tax in that other Contracting State only if he derives income from sources therein, shall not be deemed to be a resident of that other State.

ARTICLE 27

Entry into force

Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention. The Convention shall enter into force on the date of the later of these notifications:

(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 Convention enters into force;

(ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the Convention enters into force; and

(b) in Bulgaria:
in respect of income and capital gains arising for any tax year beginning on or after 1 January in the calendar year next following that in which the Convention enters into force.

ARTICLE 28

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of five years from the date of entry into force of the Convention. 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, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given; and

(b) in Bulgaria:

in respect of income and capital gains arising for any tax year beginning on or after 1 January in the calendar year next following that in which the notice is given.

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

Done in duplicate at London this 16th day of September 1987 in the English and Bulgarian languages, both texts being equally authoritative.

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

For the Government of the People's Republic of Bulgaria:
P. Mladenov

EXPLANATORY NOTE

(This note is not part of the Order)

The Convention with the People's Republic of Bulgaria is set out in the Schedule to this Order.

The Convention provides 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). Profits arising from the operation of ships, aircraft or road vehicles in international traffic are to be taxed only in the country in which the place of effective management of the enterprise is situated (Article 8).

The rate of tax imposed in the country of source on dividends derived by a resident of the other country is not to exceed 10 per cent. of the gross amount of dividends (Article 9).

The country of source will exempt from tax interest and royalties paid to a resident of the other country (Articles 10 and 11).

Provision is made for income arising from immovable property and gains from the alienation of that property to be taxed in the country in which the property is situated (Articles 6 and 12).

The earnings of temporary business visitors and some other individuals are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence (Articles 13 and 14).

Income derived in respect of the personal activities of entertainers and athletes may normally be taxed in the country in which those activities are exercised (Article 16). The income of visiting teachers and researchers (Article 20) and certain payments made to visiting students and trainees (Article 19) are, subject to certain conditions, to be exempt from tax in the country visited.

Government service salaries and pensions are normally to be taxed by the paying Government only (Article 18) while other pensions are to be taxed only in the country of the taxpayer's residence (Article 17).

Where income continues to be taxable in both countries relief from double taxation will be given, in effect, in accordance with the laws of each country. In the case of dividends, the United Kingdom will give credit for underlying tax paid in Bulgaria while the United Kingdom company receiving the dividend owns at least 10 per cent. of the capital in the Bulgarian company. The United Kingdom will also give credit for tax spared under certain provisions of Bulgarian law designed to promote development there (Article 22).

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

The Convention will enter into force when the legislative procedures in both countries have been completed and will have effect in the United Kingdom from April in the following calendar year (Article 27).