Dividends are to be exempt from any tax which is additional to the tax charged on the profits represented by the dividend.

Where income continues to be taxable in both countries, full credit is to be given by the country of the taxpayer's residence for the tax payable in the country of origin of the income.

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

The Arrangement is expressed to take effect for the fiscal year 1950-51.

The Double Taxation Relief (Taxes on Income) (Ceylon) Order, 1950

1950 No. 1978

Made - - - - 8th December, 1950

At the Court at Buckingham Palace, the 8th day of December, 1950

Present,

The King's Most Excellent Majesty in Council

Whereas it is provided by subsection (1) of section fifty-one of the Finance (No. 2) Act, 1945(a), that if His Majesty by Order in Council declares that arrangements specified in the Order have been made with the Government of any territory outside the United Kingdom with a view to affording relief from double taxation in relation to income tax or profits tax and any taxes of a similar character imposed by the laws of that territory, and that it is expedient that those arrangements should have effect, the arrangements shall have effect to the extent specified in that subsection:

And Whereas under certain other provisions of Part V of the said Act certain other consequences ensue on the making of any such Order:

And Whereas a draft of this Order was laid before the Commons House of Parliament in accordance with the provisions of subsection (2) of section fifty-six of the said Act and an Address has been presented to His Majesty by that House praying that an Order may be made in the terms of this Order:

Now, therefore, His Majesty, in exercise of the powers conferred on Him by subsection (1) of the said section fifty-one and of all other powers enabling Him in that behalf, is pleased, by and with the advice of His 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) (Ceylon) Order, 1950.

2. It is hereby declared—

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

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

E. C. E. Leadbitter.

(a) 9 & 10 Geo. 6. c. 13.

SCHEDULE

AGREEMENT BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM AND THE GOVERNMENT OF CEYLON FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME.

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ceylon, desiring to conclude an agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, have agreed as follows:—

ARTICLE I

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

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

The income tax (including sur-tax) and the profits tax (hereinafter referred to as "United Kingdom tax").

(*b*) In Ceylon:

The income tax and the profits tax (hereinafter referred to as "Ceylon tax").

(2) The present Agreement shall also apply to any other taxes of a substantially similar character imposed in the United Kingdom or Ceylon subsequently to the date of signature of the present Agreement.

ARTICLE II

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

(*a*) The term "United Kingdom" means Great Britain and Northern Ireland, excluding the Channel Islands and the Isle of Man;

(*b*) The terms "one of the territories" and "the other territory" mean the United Kingdom or Ceylon, as the context requires;

(*c*) The term "tax" means United Kingdom tax or Ceylon tax, as the context requires;

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

(*e*) The term "company" means any body corporate wherever constituted;

(*f*) The terms "resident of the United Kingdom" and "resident of Ceylon" mean respectively any person who is resident in the United Kingdom for the purposes of United Kingdom tax and not resident in Ceylon for the purposes of Ceylon tax, and any person who is resident in Ceylon for the purposes of Ceylon tax and not resident in the United Kingdom for the purposes of United Kingdom tax; a company shall be regarded as resident in the United Kingdom if its business is managed and controlled in the United Kingdom and as resident in Ceylon if its business is managed and controlled in Ceylon;

(*g*) The terms "resident of one of the territories" and "resident of the other territory" mean a person who is a resident of the United Kingdom or a person who is a resident of Ceylon, as the context requires;

(*h*) The terms "United Kingdom enterprise" and "Ceylon enterprise" mean respectively an industrial or commercial enterprise or undertaking carried on by a resident of the United Kingdom and an industrial or commercial enterprise or undertaking carried on by a resident of Ceylon, and the terms "enterprise of one of the territories" and "enterprise of the other territory" mean a United Kingdom enterprise or a Ceylon enterprise, as the context requires;

(*i*) The term " industrial or commercial profits " includes, in particular, profits from the business of agriculture, mining, banking, insurance, life insurance or dealing in investments, and profits from rents or royalties in respect of cinematograph films, but does not include income in the form of dividends, interest, rents, royalties (other than rents or royalties in respect of cinematograph films), management charges, or remuneration for personal services ;

(*j*) The term " permanent establishment ", when used with respect to an enterprise of one of the territories, means a branch, management, factory, agricultural or farming estate, mine, or fixed place of business, and includes an agent through whom an enterprise habitually enters into business transactions in that other territory. In this connection—

(i) An enterprise of one of the territories shall not be deemed to have a permanent establishment in the other territory merely because it carries on business dealings in that other territory through a *bona fide* broker acting in the ordinary course of his business as such ;

(ii) The fact that an enterprise of one of the territories maintains in the other territory a fixed place of business exclusively for the purchase of goods or merchandise shall not of itself constitute that fixed place of business a permanent establishment of the enterprise ;

(iii) The fact that a company which is a resident of one of the territories has a subsidiary company which is a resident of the other territory or which carries on a trade or business in that other territory (whether through a permanent establishment or otherwise) shall not of itself constitute that subsidiary company a permanent establishment of its parent company.

(2) Where under this Agreement any income is exempt from tax in one of the territories if (with or without other conditions) it is subject to tax in the other territory, and that income is subject to tax in that other territory by reference to the amount thereof which is remitted to or received in that other territory, the exemption to be allowed under this Agreement in the first-mentioned territory shall apply only to the amount so remitted or received.

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

ARTICLE III

(1) The industrial or commercial profits of a United Kingdom enterprise shall not be subject to Ceylon tax unless the enterprise carries on a trade or business in Ceylon through a permanent establishment situated therein. If it carries on a trade or business as aforesaid, tax may be imposed on those profits by Ceylon but only on so much of them as is attributable to that permanent establishment ; provided that nothing in this paragraph shall affect the taxation of income from the business of insurance under the provisions of the law of Ceylon at the date of signature of this Agreement.

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

(3) Where an enterprise of one of the territories carries on a trade or business in the other territory through a permanent establishment situated therein, there shall be attributed to that permanent establishment the industrial or commercial profits which it might be expected to derive in that other territory if it were an independent enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

Provided that nothing in this paragraph shall affect the computation of the profits derived by a United Kingdom enterprise from the production of tea in Ceylon in accordance with the provisions of the law of Ceylon at the date of signature of this Agreement.

(4) No portion of any profits arising to an enterprise of one of the territories shall be attributed to a permanent establishment situated in the other territory by reason of the mere purchase of goods or merchandise within that other territory by the enterprise.

ARTICLE IV

Where

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

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

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

ARTICLE V

Notwithstanding the provisions of Articles III and IV, profits which a resident of one of the territories derives from operating ships or aircraft shall be exempt from tax in the other territory.

ARTICLE VI

Where a company which is a resident of one of the territories derives profits or income from sources within the other territory, there shall not be imposed in that other territory any form of taxation on dividends paid by the company to persons not resident in that other territory, or any form of taxation chargeable in connection with or in lieu of the taxation of dividends, or any tax in the nature of an undistributed profits tax on undistributed profits of the company, whether or not those dividends or undistributed profits represent, in whole or in part, profits or income so derived.

ARTICLE VII

Any royalty or other amount which is payable as consideration for the use of, or for the privilege of using, any copyright, and which is derived from sources within one of the territories by a resident of the other territory who is subject to tax in that other territory in respect thereof and does not carry on a trade or business in the first mentioned territory through a permanent establishment situated therein, shall be exempt from tax in that first mentioned territory.

ARTICLE VIII

A resident of one of the territories who does not carry on a trade or business in the other territory through a permanent establishment situated therein shall be exempt from tax in that other territory on gains from the sale transfer or exchange of capital assets.

ARTICLE IX

The additional rate of tax chargeable under Section 20 (7) of the Ceylon Income Tax Ordinance on companies whose shares are not movable property situate in Ceylon for the purposes of the law relating to estate duty shall not, in the case of companies which are residents of the United Kingdom, exceed 6 per cent.

ARTICLE X

(1) Remuneration, including pensions, paid by one of the Contracting Governments to any individual for services rendered to that Contracting Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government, if the individual is not ordinarily resident in that territory or (where the remuneration is not a pension) is ordinarily resident in that territory solely for the purposes 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 Governments for purposes of profit.

ARTICLE XI

(1) An individual who is a resident of the United Kingdom shall be exempt from Ceylon tax on profits or remuneration in respect of personal (including professional) services performed within Ceylon in any year of assessment, if

(*a*) he is present within Ceylon for a period or periods not exceeding in the aggregate 183 days during that year, and

(*b*) the services are performed for or on behalf of a resident of the United Kingdom, and

(*c*) the profits or remuneration are subject to United Kingdom tax.

(2) An individual who is a resident of Ceylon shall be exempt from United Kingdom tax on profits or remuneration in respect of personal (including professional) services performed within the United Kingdom in any year of assessment, if

(*a*) he is present within the United Kingdom for a period or periods not exceeding in the aggregate 183 days during that year, and

(*b*) the services are performed for or on behalf of a resident of Ceylon, and

(*c*) the profits or remuneration are subject to Ceylon tax.

(3) The provisions of this Article shall not apply to the profits or remuneration of public entertainers such as theatre, motion picture or radio artists, musicians and athletes.

ARTICLE XII

(1) Any pension (other than a pension to which Article X applies) or annuity derived from sources within one of the territories by an individual who is a resident of the other territory and subject to tax in that other territory in respect thereof shall be exempt from tax in the first-mentioned territory.

(2) 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 XIII

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

ARTICLE XIV

A student or business apprentice from one of the territories who is receiving full-time education or training in the other territory shall be exempt from tax in that other territory on payments made to him by persons in the first-mentioned territory for the purposes of his maintenance, education or training.

ARTICLE XV

(1) Nothing in this Agreement shall be construed as affecting relief from United Kingdom income tax under the provisions of Section 24 of the United Kingdom Finance Act, 1920.

(2) Nothing in this Agreement shall be construed as affecting relief from Ceylon income tax under the provisions of Section 45 (2) of the Ceylon Income Tax Ordinance.

ARTICLE XVI

(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, Ceylon tax payable, whether directly or by deduction, in respect of income from sources within Ceylon shall be allowed as a credit against any United Kingdom tax payable in respect of that income.

Where such income is an ordinary dividend paid by a company which is a resident of Ceylon, the credit shall take into account (in addition to any Ceylon tax appropriate to the dividend) the Ceylon tax payable in respect of its profits by the company paying the dividend, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits the Ceylon tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(2) Subject to such provisions (which shall not affect the general principle hereof) as may be enacted in Ceylon United Kingdom tax payable, whether directly or by deduction, in respect of income from sources within the United Kingdom shall be allowed as a credit against any Ceylon tax payable in respect of that income.

Where such income is an ordinary dividend, paid by a company which is a resident of the United Kingdom, the credit shall take into account (in addition to any United Kingdom income tax appropriate to the dividend) the United Kingdom profits tax payable in respect of its profits by the company paying the dividend, and where it is a dividend paid on participating preference shares and representing both a dividend at the fixed rate to which the shares are entitled and an additional participation in profits, the United Kingdom profits tax so payable by the company shall likewise be taken into account in so far as the dividend exceeds that fixed rate.

(3) Where tax is imposed by both Contracting Governments on income derived from sources outside both Ceylon and the United Kingdom by a person who is resident in Ceylon for the purposes of Ceylon tax and is also resident in the United Kingdom for the purposes of United Kingdom tax, there shall be allowed against the tax imposed by each Contracting Government a credit which bears the same proportion to the amount of that tax (as reduced by any credit allowed in respect of tax payable in the territory from which the income is derived) or to the amount of tax imposed by the other Contracting Government (reduced as aforesaid), whichever is the less, as the former amount (before any such reduction) bears to the sum of both amounts (before any such reduction).

(4) For the purposes of this Article, profits or remuneration for personal (including professional) services performed in one of the territories shall be deemed to be income from sources within that territory, and the services of an individual whose services are wholly or mainly performed in ships or aircraft operated by a resident of one of the territories shall be deemed to be performed in that territory.

(5) Where Ceylon income tax is payable for a year for which this Agreement has effect in respect of any income in respect of which United Kingdom income tax is payable for a year prior to the year beginning on the 6th April, 1950, then—

(*a*) in the case of a person resident in Ceylon, the Ceylon income tax shall, for the purposes of paragraph (2) of this Article, be deemed to be reduced by the amount of any relief allowable in respect thereof under the provisions of Section 27 of the United Kingdom Finance Act, 1920; and

(*b*) in the case of a person resident in the United Kingdom, the provisions of Section 45 (1) of the Ceylon Income Tax Ordinance shall apply for the purposes of the allowance of relief from Ceylon income tax.

ARTICLE XVII

(1) The taxation authorities of the Contracting Governments shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of the present 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 the present 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 the present Agreement. No information as aforesaid shall be exchanged which would disclose any trade, business, industrial or professional secret or trade process.

(2) As used in this Article, the term " taxation authorities " means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative ; in the case of Ceylon, the Commissioner of Income Tax or his authorised representative ; and, in the case of any territory to which the present Agreement is extended under Article XIX, the competent authority for the administration in such territory of the taxes to which the present Agreement applies.

ARTICLE XVIII

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

(2) The enterprises of one of the territories shall not be subjected in the other territory, in respect of profits attributable to their permanent establishments in that other territory, to any taxation which is other, higher or more burdensome than the taxation to which the enterprises of that other territory, and, in the case of companies, to which enterprises of that other territory incorporated in that other territory, are or may be subjected in respect of the like profits.

(3) In this Article the term " taxation " means taxes of every kind and description levied on behalf of any authority whatsoever.

(4) Nothing in this Article shall be construed as—

(*a*) obliging either of the Contracting Governments to grant, to persons not resident in its territory, those personal allowances, reliefs and reductions for tax purposes which are, by law, available only to persons who are so resident.

(*b*) affecting the additional rate of tax with which Article IX is concerned.

ARTICLE XIX

(1) The present Agreement may be extended, either in its entirety or with modifications, to any territory to which this Article applies and which imposes taxes substantially similar in character to those which are the subject of the present Agreement and any such extension shall take affect from such date and subject to such modifications and conditions (including conditions as to termination) as may be specified and agreed between the Contracting Governments in notes to be exchanged for this purpose.

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

(3) The territories to which this Article applies are—

(*a*) in relation to the United Kingdom;

Any territory other than the United Kingdom for whose international relations the United Kingdom is responsible:

(*b*) in relation to Ceylon;

Any territory other than Ceylon for whose international relations Ceylon is responsible.

ARTICLE XX

The present Agreement shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and Ceylon as are necessary to give the Agreement the force of law in the United Kingdom and Ceylon respectively, and shall thereupon have effect—

(*a*) In the United Kingdom:

as respects income tax, for any year of assessment beginning on or after the 6th April, 1950;

as respects sur-tax for any year of assessment beginning on or after the 6th April, 1949; and

as respects profits tax in respect of the following profits—

(i) profits arising in any chargeable accounting period beginning on or after the 1st April, 1950;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is, or but for the present Agreement would be, chargeable for any year of assessment beginning on or after 6th April, 1950;

(*b*) In Ceylon:

as respects income tax, for any year of assessment beginning on or after the 1st April, 1950;

as respects profits tax, in respect of the following profits—

(i) profits arising in any accounting period beginning on or after the 1st April, 1950;

(ii) profits attributable to so much of any accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is, or but for the present Agreement would be, chargeable for any year of assessment beginning on or after the 1st April, 1950.

ARTICLE XXI

The present Agreement shall continue in effect indefinitely but either of the Contracting Governments may, on or before the 30th June in any calendar year not earlier than the year 1954, give to the other Contracting Government written notice of termination and, in such event, the present Agreement shall cease to be effective—

(*a*) In the United Kingdom:

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

as respects sur-tax for any year of assessment beginning on or after the 6th April in the calendar year in which the notice is given; and

as respects profits tax in respect of the following profits—

(i) profits arising in any chargeable accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given;

(ii) profits attributable to so much of any chargeable accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after the 6th April in that next following calendar year;

(*b*) In Ceylon:

as respects income tax for any year of assessment beginning on or after the 1st April in the calendar year next following that in which the notice is given;

as respects profits tax, in respect of the following profits—

(i) profits arising in any accounting period beginning on or after the 1st April in the calendar year next following that in which the notice is given;

(ii) profits attributable to so much of any accounting period falling partly before and partly after that date as falls after that date;

(iii) profits not so arising or attributable by reference to which income tax is chargeable for any year of assessment beginning on or after the 1st April in that next following calendar year.

In witness whereof the undersigned, duly authorised thereto, have signed the present Agreement and have affixed thereto their seals.

Done at London in duplicate, on the twenty-sixth day of July, one thousand nine hundred and fifty.

For the Government of the United Kingdom:

(L.S.) *R. Stafford Cripps.*

For the Government of Ceylon:

(L.S.) *O. E. Goonetilleke.*

EXPLANATORY NOTE

(This Note is not part of the Order, but is intended to indicate its general purport.)

The Finance (No. 2) Act, 1945, provides for double taxation arrangements with other countries to be given statutory effect by Order in Council. Any such Order is required to be laid before the House of Commons in draft.

Under the Arrangement with Ceylon which is scheduled to this Order, certain classes of income derived from one country by a resident of the other country are (subject to certain conditions) to be exempt from tax in the former country; these classes are shipping and air transport profits, certain trading profits not arising through a "permanent establishment", copyright royalties, pensions other than Government pensions, purchased annuities and earnings of temporary business visitors. Government salaries are normally to be taxed by the paying Government only. Remuneration of visiting professors and teachers is to be exempt in the country visited.

Where income continues to be taxable in both countries, full credit is to be given by the country of the taxpayer's residence for the tax payable in the country of origin of the income.

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

The Arrangement is expressed to take effect for the fiscal year 1950-51.