STATUTORY INSTRUMENTS

1990 No. 2590

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Italy) Order 1990

Made - - - - 19th December 1990

At the Court at Buckingham Palace, the 19th day of December 1990

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 788(10) of the Income and Corporation Taxes Act 1988(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 788 of the said Act, 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) (Italy) Order 1990.

2. It is hereby declared–

(a) that the arrangements specified in the Convention set out in Part I of the Schedule to this Order and in the Exchange of Notes constituting an Agreement set out in Part II of that Schedule have been made with the Government of the Italian Republic 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 Italy;

(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 Italy concerning taxes covered by the arrangements including, in particular, provisions about the prevention of fiscal evasion with respect to those taxes; and

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

G. I. de Deney
Clerk of the Privy Council

(a) 1988 c.1; section 788 is extended by section 10 of the Capital Gains Tax Act 1979 (c.14).

SCHEDULE

PART I

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE ITALIAN REPUBLIC 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 the Italian Republic;

Desiring to conclude a new Convention for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income;

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 existing taxes to which the Convention shall apply are:

(a) in the case of the United Kingdom:

(i) the income tax;

(ii) the corporation tax;

(iii) the capital gains tax;

(iv) the petroleum revenue tax;

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

(b) in the case of Italy:

(i) the personal income tax (l'imposta sul reddito delle persone fisiche);

(ii) the corporate income tax (l'imposta sul reddito delle persone giuridiche);

(iii) the local income tax (l'imposta locale sui redditi);

whether or not collected by withholding at source (hereinafter referred to as "Italian 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 have been made in their respective taxation laws.

ARTICLE 3

General definitions

(1) For the purposes of 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 "Italy" means the Italian Republic and includes any area beyond the territorial waters of Italy which, in accordance with the laws of Italy concerning the exploration and exploitation of natural resources, may be designated as an area within which the rights of Italy with respect to the sea bed and sub-soil and their natural resources may be exercised;

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

(d) the term "person" comprises an individual, a company and any other body of persons, but does not include partnerships which are not treated as bodies corporate for tax purposes in either Contracting State;

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

(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 "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 Italy, any individual possessing the citizenship of Italy and any legal person, partnership and association deriving its status as such from the law in force in Italy;

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

(i) 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 Italy, the Ministry of Finance;

(j) the term "tax" means United Kingdom tax or Italian tax, as the context requires.

(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 the Convention.

ARTICLE 4

Fiscal domicile

(1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws 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. But this term does not include any person who is liable to tax in that Contracting State only if he derives income from sources therein.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined 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 closer (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 no permanent home available to him in either Contracting State, he shall be deemed to be a resident of the State in which he has an habitual abode;

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

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

(3) Where by reason of the provisions of paragraph (1) 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 5

Permanent establishment

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

(2) The term "permanent establishment" shall include especially:

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop;

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

(g) a building site or construction or assembly project which exists for more than twelve months.

(3) The term "permanent establishment" shall not be deemed to include:

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

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

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

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or 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.

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

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

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

ARTICLE 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 shall also be considered as "immovable property". Ships, boats and aircraft shall not be regarded as immovable property.

(3) The provisions of paragraph (1) of this Article shall apply to income derived from the direct use, letting, or use in any other form of immovable property.

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

ARTICLE 7

Business profits

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

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

(3) In the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses which are directly connected with the activity of the permanent establishment, including executive and general administrative expenses 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

Shipping and air transport

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

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

ARTICLE 9

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 10

Dividends

(1) Dividends paid by a company which is a resident of a Contracting State to 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:

(a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which controls, directly or indirectly, at least 10 per cent of the voting power in the company paying the dividends;

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

This paragraph shall not affect the taxation of the company in respect of the profits out of which the dividends are paid.

(3) As long as an individual resident in the United Kingdom is entitled under United Kingdom law to a tax credit in respect of dividends paid by a company which is resident in the United Kingdom, paragraph (2) of this Article shall not apply to dividends paid by a company which is a resident of the United Kingdom to a resident of Italy. In these circumstances the following provisions of this paragraph shall apply:

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

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

(iii) Except as provided in sub-paragraphs (a)(i) and (a)(ii) of this paragraph dividends paid by a company which is a resident of the United Kingdom to a resident of Italy who is the beneficial owner of the dividends shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

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

(c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the beneficial owner of the dividend is, or is associated with, a company which, either alone or together with one or more associated companies, controls, directly or indirectly, 10 per cent or more of the voting power in the company paying the dividend. In these circumstances a company which is a resident of Italy and receives dividends from a company which is a resident of the United Kingdom shall, provided it is the beneficial owner of the dividends, be entitled to a tax credit equal to one half of the tax credit to which an individual resident in the United Kingdom would have been entitled had he received those dividends, and to the payment of any excess of that tax credit over its liability to tax in the United Kingdom. For the purposes of this sub-paragraph, two companies shall be deemed to be associated if one controls, directly or indirectly, more than 50 per cent of the voting power in the other company, or a third company controls more than 50 per cent of the voting power in both of them.

(d) This paragraph shall not apply if the recipient of the dividend and of the tax credit is not subject to Italian tax in respect thereof.

(4) (a) A resident of the United Kingdom who receives dividends from a company which is a resident of Italy shall—subject to the provisions of sub-paragraph (b) of this paragraph—be entitled, if he is the beneficial owner of the dividends, to the tax credit in respect thereof to which an individual resident in Italy would have been entitled had he received those dividends, subject to the deduction of the tax provided for in sub-paragraph (b) of paragraph (2) of this Article. This provision shall not apply if the recipient of the dividend and of the tax credit is not subject to United Kingdom tax in respect thereof.

(b) The provisions of sub-paragraph (a) of this paragraph shall not apply where the beneficial owner of the dividend is a company which either alone or together with one or more associated companies controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividend. In these circumstances a company which is a resident of the United Kingdom and receives dividends from a company which is a resident of Italy shall, provided it is the beneficial owner of the dividends, be entitled to a tax credit equal to one half of the tax credit to which an individual resident in Italy would have been entitled had he received those dividends, subject to the deduction of the tax provided for in sub-paragraph (a) of paragraph (2) of this Article and provided that the company receiving the dividend and the tax credit is subject to United Kingdom tax in respect thereof. For the purposes of this sub-paragraph, two companies shall be deemed

to be associated if one controls, directly or indirectly, more than 50 per cent of the voting power in the other company, or a third company controls more than 50 per cent of the voting power in both of them.

(c) Tax credits provided for under sub-paragraphs (a) and (b) of this paragraph shall be deemed to be dividends for the purposes of this Article.

(5) The provisions of neither sub-paragraph (b) nor (c) of paragraph (3) and neither sub-paragraph (a) nor (b) of paragraph (4) of this Article shall apply unless the recipient of a dividend shows (if required to do so by the competent authority of the United Kingdom or Italy respectively on receipt of a claim by the recipient to have the tax credit set against United Kingdom or Italian income tax respectively chargeable on him or to have the excess of the credit over that income tax paid to him) that the shareholding in respect of which the dividend was paid was acquired by the recipient for bona fide commercial reasons or in the ordinary course of making or managing investments and it was not the main object nor one of the main objects of that acquisition to obtain entitlement to the tax credit referred to in sub-paragraph (b) or sub-paragraph (c) of paragraph (3) or in sub-paragraph (a) or sub-paragraph (b) of paragraph (4) of this Article, as the case may be.

(6) 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.

(7) The provisions of paragraph (1) and of paragraphs (2), (3) or (4) 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 independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such a case the dividends are taxable in that other Contracting State according to its own law.

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

(9) If the beneficial owner of a dividend, being a resident of a Contracting State, owns 10 per cent or more of the class of shares in respect of which the dividend is paid then the provisions of paragraphs (2), (3) or, as the case may be, (4) of this Article shall not apply to the dividend to the extent that:

(a) 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; and

(b) the shares in respect of which the dividend was paid have not been held for twelve months continuously ending on the date the dividend was declared.

For the purposes of this paragraph the term "relevant date" means the date on which the beneficial owner of the dividends 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 purposes of securing the benefit of this Article.

ARTICLE 11

Interest

(1) Interest arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

(2) However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph (2) of this Article, the interest referred to in paragraph (1) of this Article shall be taxable only in the Contracting State of which the person who receives the interest is a resident, if that person is the beneficial owner of the interest and it is paid:

(a) in connection with the sale on credit of industrial, commercial or scientific equipment; or

(b) in connection with the sale on credit of goods delivered by one enterprise to another enterprise.

(4) Notwithstanding the provisions of paragraph (2) of this Article, the interest referred to in paragraph (1) of this Article shall be taxable only in the Contracting State of which the person who receives the interest is a resident, if that person is the beneficial owner of the interest and:

(a) the payer of the interest is the first Contracting State referred to in paragraph (1) of this Article or one of its political or administrative subdivisions or local authorities (in the case of Italy) or one of its local authorities or agencies or instrumentalities of the Government or a local authority (in the case of the United Kingdom); or

(b) the interest is paid in consideration of a loan made, guaranteed or insured by the second Contracting State referred to in paragraph (1) of this Article ("the second Contracting State"), including the Export Credits Insurance Company (Società di Assicurazione ai Crediti per l'Esportazione), or one of its political or administrative subdivisions or local authorities (in the case of Italy) or one of its local authorities or by the United Kingdom Export Credits Guarantee Department (in the case of the United Kingdom) or a public establishment of the second Contracting State.

(5) The term "interest" as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises, but does not include income dealt with in Article 10 of this Convention.

(6) The provisions of paragraphs (1), (2), (3) or (4), as the case may be, of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such a case the interest is taxable in that other Contracting State according to its own law.

(7) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by such permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

(9) The provisions of this Article shall not apply if the debt-claim in respect of which the interest is paid was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

(10) The reliefs from tax provided for in paragraphs (2), (3) or (4), as the case may be, of this Article shall not apply if the beneficial owner of the interest is exempt from tax on such income in the Contracting State of which he is a resident and such recipient sells or makes a contract to sell the holding from which such interest is derived within three months of the date such recipient acquired such holding.

ARTICLE 12

Royalties

(1) Royalties arising in a Contracting State and paid to a resident of the other Contracting State may be taxed in that other State.

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 8 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work

(including cinematograph films, and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such a case, the royalties are taxable in that other Contracting State according to its own law.

(5) Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political or administrative subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or fixed base in connection with which the obligation to pay the royalties was incurred, and such royalties are borne by such permanent establishment or fixed base, then such royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(6) 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 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 case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13

Capital gains

(1) Gains derived by a resident of a Contracting State from the alienation of immovable property referred to in Article 6 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 independent personal services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such fixed base, may be taxed in the other State.

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

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

(5) The provisions of paragraph (4) of this Article shall not affect the right of a Contracting State to levy according to its law a tax on gains from the alienation of any property derived by an individual who:

(a) is a resident of the other Contracting State; and

(b) has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation of the property; and

(c) is not subject to tax on those gains in the other Contracting State.

ARTICLE 14

Independent personal 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 15

Dependent personal services

(1) Subject to the provisions of Articles 16, 18, 19, 20 and 21 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 any fiscal year; and

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

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

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

ARTICLE 16

Directors' fees

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

ARTICLE 17

Artistes and athletes

(1) Notwithstanding the provisions of Articles 14 and 15 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, 14 and 15 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

ARTICLE 18

Pensions

(1) Subject to the provisions of paragraph (2) of Article 19 of this Convention, pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in that State.

(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 19

Government service

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

(b) Notwithstanding the provisions of sub-paragraph (1)(a) of this Article, such remuneration

shall be taxable only in the other Contracting State if the services are rendered in that State and the recipient is a resident of that other Contracting State who:

(i) is a national of that State not being a national of the first-mentioned State; or

(ii) not being a national of the first-mentioned State did not become a resident of that other State solely for the purpose of performing the services.

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

(b) Notwithstanding the provisions of sub-paragraph (2)(a) of this Article, such pension shall be taxable only in the other Contracting State if the individual is a national of and a resident of that State.

(3) The provisions of Articles 15, 16 and 18 of this Convention shall apply to remuneration or pensions in respect of services rendered in connection with any trade or business carried on by one of the Contracting States or a political or an administrative subdivision or a local authority thereof.

ARTICLE 20

Teachers

(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 is or was immediately before that visit a resident of the other Contracting State, shall be exempt 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

Students and business apprentices

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 that first-mentioned State, provided that such payments arise from sources outside that State.

ARTICLE 22

Other income

(1) 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.

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

ARTICLE 23

Miscellaneous rules applicable to certain offshore activities

(1) The provisions of this Article shall apply notwithstanding any other provision of this Convention.

(2) In this Article the term "offshore activities" means activities which are carried on offshore in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources situated in a Contracting State.

(3) An enterprise of a Contracting State which carries on offshore activities in the other Contracting State shall be deemed to be carrying on business in that other State through a permanent establishment situated therein.

(4) The provisions of paragraph (3) of this Article shall not apply where offshore activities are carried on in the other State for a period or periods not exceeding in the aggregate 30 days in any period of twelve months. For the purposes of this paragraph:

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

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

(5) A resident of a Contracting State who carries on offshore activities in the other Contracting State, which consist of professional services or other activities of an independent character, shall be deemed to be performing those activities from a fixed base in that other Contracting State. However, this paragraph shall not apply where such activities are carried on in the other Contracting State for a period or periods not exceeding in the aggregate 30 days in any period of twelve months.

(6) Salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment connected with offshore activities in the other Contracting State may, to the extent that the employment is exercised offshore in that other State, be taxed in that other State. However, this paragraph shall not apply where such an employment is exercised in the other Contracting State for a period or periods not exceeding in the aggregate 30 days in any period of twelve months.

ARTICLE 24

Elimination of double taxation

(1) Double taxation of income shall be avoided in accordance with the following paragraphs of this Article.

(2) 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) Italian tax payable under the laws of Italy and in accordance with this Convention, whether directly or by deduction, on profits or incomes from sources within Italy (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 or income by reference to which the Italian tax is computed;

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

(3) Where a resident of Italy owns items of income which are taxable in the United Kingdom, Italy, in determining its income taxes specified in Article 2 of this Convention, may include, unless specific provisions of this Convention otherwise provide, such items of income in the base upon which such taxes are imposed. In such a case, Italy shall deduct from the taxes so calculated the United Kingdom tax paid on the income, but in an amount not exceeding that proportion of the aforesaid Italian tax which such items of income bear to the entire income. However no deduction

will be granted if the item of income is subjected in Italy to a final withholding tax by request of the recipient of the said income in accordance with the Italian law.

(4) For the purpose of paragraphs (2) and (3) of this Article, profits and income 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 25

Non-discrimination

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

(2) The taxation on a permanent establishment which an enterprise of a Contracting State has in the other Contracting State shall not be less favourably levied in that other State than the taxation levied on enterprises of that other State carrying on the same activities. This provision shall not be construed as obliging a Contracting State to grant to residents of the other Contracting State any personal allowances, reliefs and reductions for taxation purposes on account of civil status or family responsibilities or any other personal circumstances which it grants to its own residents.

(3) Except where the provisions of Article 9, paragraph (8) of Article 11, or paragraph (6) of Article 12 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 or controlled, directly or indirectly, by one or more residents of the other Contracting State, shall not be subject in the first-mentioned State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

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

ARTICLE 26

Mutual agreement procedure

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

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation 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 27

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 this Convention insofar as the taxation thereunder is not contrary to this Convention, in particular, to prevent fiscal evasion or fraud and to facilitate the administration of statutory provisions against legal avoidance. 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 this 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 one of the Contracting States the obligation:

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

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

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

ARTICLE 28

Members of diplomatic or permanent missions and consular posts

Nothing in this Convention shall affect any fiscal privileges accorded to members of diplomatic or permanent missions or consular posts under the general rules of international law or under the provisions of special agreements.

ARTICLE 29

Refunds

(1) Tax withheld at source in a Contracting State shall be refunded on application by or on behalf of the taxpayer or by the State of which he is a resident if such resident is entitled to a refund of that tax under the provisions of this Convention.

(2) Applications for refund shall be made within the time limit fixed by the law of the Contracting State in which the tax has been withheld and shall be accompanied by a certificate of the Contracting State of which the taxpayer is a resident certifying that the conditions required for entitlement to the refund have been fulfilled.

(3) The competent authorities of the Contracting States shall by mutual agreement settle the mode of application of this Article, in accordance with the provisions of Article 26 of this Convention.

ARTICLE 30

Entry into force

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

(2) This Convention shall enter into force after the expiration of thirty days following the date on which the instruments of ratification are exchanged and shall thereupon 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 6th April in the calendar year next following that in which the instruments of ratification are exchanged;

(ii) in respect of corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the instruments of ratification are exchanged;

(iii) in respect of petroleum revenue tax, for any chargeable period beginning on or after 1st January in the calendar year next following that in which the instruments of ratification are exchanged;

(b) in Italy:

in respect of income for taxable periods beginning on or after 1st January in the calendar year next following that in which the instruments of ratification are exchanged.

(3) The existing Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed at London on 4th July 1960, and the Protocol amending the said Convention, signed at London on 28th April 1969, shall terminate and cease to be effective in respect of the taxes to which this Convention applies in accordance with the provisions of paragraph (2) of this Article.

ARTICLE 31

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate this Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year. In such event, this 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 6th 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 1st April in the calendar year next following that in which the notice is given;

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

(b) in Italy:

in respect of income of taxable periods beginning on or after 1st January in the year 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 Pallanza this 21st day of October 1988 in the English and Italian 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 Italian Republic:

Giulio Andreotti

PART II

EXCHANGE OF NOTES

Pallanza
21st October 1988

Your Excellency,

I have the honour to refer to the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Italian Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which has been signed today and to propose on behalf of the Government of the United Kingdom that for the purpose of that Convention it shall be understood that:

(1) Notwithstanding the provisions of Article 30 (Entry into force), Article 8 (Shipping and air transport) shall have effect as respects profits derived during any taxable period beginning on or after the 1st January 1974.

(2) With reference to paragraph (1) of Article 26 (Mutual agreement procedure), the expression "irrespective of the remedies provided by the domestic law" shall not be understood to mean that the time limits prescribed by domestic law shall not be observed; a claim under Article 26 shall not be entertained where the taxpayer has not taken the appropriate action under domestic law to prevent such time limits from expiring.

(3) With further reference to paragraph (1) of Article 26 (Mutual agreement procedure), nothing herein contained shall reduce any longer time limit available to such resident for this purpose under the law of the Contracting State of which he is a resident.

(4) With reference to paragraph (3) of Article 29 (Refunds), the provisions herein contained shall not be construed as preventing the competent authorities of the Contracting States from mutually agreeing upon a different procedure for the granting of tax benefits provided by the Convention.

(5) If, in accordance with Article 9 (Associated enterprises) of the Convention, a redetermination has been made by one Contracting State with respect to a person, the other Contracting State shall, to the extent it agrees that such redetermination reflects

arrangements or conditions which would be made between independent persons, make the appropriate adjustments with respect to persons who are related to such person and are subject to the taxing jurisdiction of that State. Any such adjustment shall be made only in accordance with the mutual agreement procedure in Article 26 (Mutual agreement procedure) of the Convention and with paragraph (6) of this Exchange of Notes.

(6) With respect to Article 26 (Mutual agreement procedure) of the Convention, it is understood that an adjustment of taxes pursuant to that Article may be made only prior to the final determination of such taxes. It is further understood that, in the case of Italy, the preceding sentence means that invoking the mutual agreement procedure does not relieve a taxpayer of the obligation to initiate the procedures of domestic law for solving tax disputes.

(7) With regard to paragraph (7) of Article 10 (Dividends), paragraph (6) of Article 11 (Interest), paragraph (4) of Article 12 (Royalties) and paragraph (2) of Article 22 (Other income), the last sentence appearing therein cannot be construed as failing to take account of the principles set out in Articles 7 (Business profits) and 14 (Independent personal services) of the Convention.

If the foregoing proposal is acceptable to the Government of the Italian Republic, I have the honour to suggest that the present Note and Your Excellency's reply to that effect shall be regarded as constituting an Agreement between the two Governments in this matter which shall enter into force on the same date as the Convention.

Please accept, Your Excellency, the assurance of my highest consideration.

Geoffrey Howe

His Excellency the Minister of
Foreign Affairs of
the Italian Republic.

Pallanza
21st October 1988

Your Excellency,

I have the honour to acknowledge receipt of your Excellency's Note of today which reads as follows:

"I have the honour to refer to the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Italian Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which has been signed today and to propose on behalf of the Government of the United Kingdom that for the purpose of that Convention it shall be understood that:

(1) Notwithstanding the provisions of Article 30 (Entry into force), Article 8 (Shipping and air transport) shall have effect as respects profits derived during any taxable period beginning on or after the 1st January 1974.

(2) With reference to paragraph (1) of Article 26 (Mutual agreement procedure), the expression "irrespective of the remedies provided by the domestic law" shall not be understood to mean that the time limits prescribed by domestic law shall not be observed; a claim under Article 26 shall not be entertained where the taxpayer has not taken the appropriate action under domestic law to prevent such time limits from expiring.

(3) With further reference to paragraph (1) of Article 26 (Mutual agreement procedure), nothing herein contained shall reduce any longer time limit available to such resident for this purpose under the law of the Contracting State of which he is a resident.

(4) With reference to paragraph (3) of Article 29 (Refunds), the provisions herein contained shall not be construed as preventing the competent authorities of the Contracting States from mutually agreeing upon a different procedure for the granting of tax benefits provided by the Convention.

(5) If, in accordance with Article 9 (Associated enterprises) of the Convention, a redetermination has been made by one Contracting State with respect to a person, the other Contracting State shall, to the extent it agrees that such redetermination reflects arrangements or conditions which would be made between independent persons, make

the appropriate adjustments with respect to persons who are related to such person and are subject to the taxing jurisdiction of that State. Any such adjustment shall be made only in accordance with the mutual agreement procedure in Article 26 (Mutual agreement procedure) of the Convention and with paragraph (6) of this Exchange of Notes.

(6) With respect to Article 26 (Mutual agreement procedure) of the Convention, it is understood that an adjustment of taxes pursuant to that Article may be made only prior to the final determination of such taxes. It is further understood that, in the case of Italy, the preceding sentence means that invoking the mutual agreement procedure does not relieve a taxpayer of the obligation to initiate the procedures of domestic law for solving tax disputes.

(7) With regard to paragraph (7) of Article 10 (Dividends), paragraph (6) of Article 11 (Interest), paragraph (4) of Article 12 (Royalties) and paragraph (2) of Article 22 (Other income), the last sentence therein cannot be construed as failing to take account of the principles set out in Articles 7 (Business profits) and 14 (Independent personal services) of the Convention.

If the foregoing proposal is acceptable to the Government of the Italian Republic, I have the honour to suggest that the present Note and Your Excellency's reply to that effect shall be regarded as constituting an Agreement between the two Governments in this matter which shall enter into force on the same date as the Convention."

In reply, I have the honour to state that the Italian Government accept the proposal made therein and agree that Your Excellency's Note and the present reply shall constitute an Agreement between the Italian Government and the United Kingdom Government in this matter.

Please accept, Your Excellency, the assurances of my highest consideration.

Giulio Andreotti

His Excellency the Secretary of State
for Foreign and Commonwealth Affairs
of the United Kingdom of
Great Britain and Northern Ireland.

EXPLANATORY NOTE

(This Note is not part of the Order)

The Convention with Italy set out in the Schedule to this Order ("the new Convention") replaces the Convention signed on 4th July 1960 and set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Italy) Order 1962 (S.I. 1962/2787), as amended by the Protocol signed on 28th April 1969 and set out in the Schedule to the Double Taxation Relief (Taxes on Income) (Italy) Order 1973 (S.I. 1973/1763).

The new 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). Shipping and air transport profits are to be taxed only in the country in which the place of effective management is situated (Article 8). The new Convention includes rules for determining taxable profits when a company in one country is related to a company in the other (Article 9).

The Dividends Article (Article 10) takes account of the imputation systems of company taxation in the United Kingdom and Italy. Where a company resident in one country pays a dividend to a company resident in the other country which controls 10 per cent or more of its voting power, the company receiving the dividend will be entitled to a tax credit equal to one half of the tax credit which would be payable to an individual resident in the other country less a sum of not more than 5 per cent of the aggregate amount of the dividend and the half tax credit. Where the recipient is an individual or a company controlling less than 10 per cent of the voting power of the paying company, the tax credit payable will be equal to the tax credit which would be payable to an individual resident in the other country less a sum not exceeding 15 per cent of the aggregate of the dividend and the tax credit. The Article provides that entitlement to the tax credit may

be withdrawn where the recipient of a dividend cannot show, if required to do so, that the shareholding in question was acquired for bona fide commercial reasons or in the ordinary course of making or managing investments and it was not the main object nor one of the main objects of that acquisition to obtain entitlement to the tax credit.

In general, interest (Article 11) may be taxed in the country in which it arises, but the rate will be limited to 10 per cent where the beneficial owner of the interest is a resident of the other country. For various categories of interest (eg where the interest is paid by the Government of the source country) the country of source will exempt from tax interest paid to a resident of the other country.

The rate of tax on royalties in the source country is not to exceed 8 per cent of the gross amount flowing to the other country (Article 12).

Income from immovable property and gains derived from such property may be taxed in the country in which the property is situated (Articles 6 and 13).

The earnings of temporary business visitors are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence (Articles 14 and 15). Fees received by a resident of one country in his capacity as a director of a company resident in the other may be taxed in the latter country (Article 16). Income derived from the activities of artistes and athletes may be taxed in the country in which these activities are exercised (Article 17). The remuneration of visiting teachers (Article 20) and certain payments made to visiting students and business apprentices are, in general, to be exempt from tax in the country visited (Article 21).

Government service salaries and pensions are normally to be taxed by the paying government only (Article 19) while other pensions are to be taxed only in the country of the taxpayer's residence (Article 18).

Special rules are included to cover income and profits from activities connected with offshore oil and gas exploration or exploitation (Article 23). Trading profits arising from such activities are normally deemed to arise through a permanent establishment or a fixed base and may therefore be taxed in the country in which the activities are carried on. Employees are, in general, to be taxed only in the country in which the employment is exercised.

Where income continues to be taxable in both countries, relief from double taxation will be given by the country of the taxpayer's residence in respect of tax imposed by the other country (Article 24). In the case of dividends, the United Kingdom will give credit for underlying tax paid in Italy if the United Kingdom company receiving the dividends owns at least 10 per cent of the capital in the Italian company.

There are provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country (Article 25) and for consultation and exchange of information between the taxation authorities of the two countries (Articles 26 and 27).

The new Convention will enter into force thirty days after the date on which instruments of ratification are exchanged and will have effect, in the case of shipping and air transport profits for taxable periods beginning on or after 1st January 1974 (under the Exchange of Notes) and, in all other cases, in the calendar year next following that in which the instruments of ratification are exchanged (Article 30). The date of entry into force will in due course be published in the *London, Edinburgh* and *Belfast Gazettes.*