STATUTORY INSTRUMENTS

1987 No. 169

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Ivory Coast) Order 1987

Made - - - 10th February 1987

At the Court at Buckingham Palace, the 10th day of February 1987

Present

The Queen's Most Excellent Majesty in Council

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

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 497 of the said Income and Corporation Taxes Act 1970, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Ivory Coast) Order 1987.

2. It is hereby declared—

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

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

G. I. de Deney
Clerk of the Privy Council

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

SCHEDULE

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of the Ivory Coast;

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

Have agreed as follows:

ARTICLE 1

Personal scope

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

ARTICLE 2

Taxes covered

(1) This Convention shall apply to taxes on income and on capital gains imposed by a Contracting State irrespective of the manner in which they are levied.

(2) There shall be regarded as taxes on income and on capital gains all taxes imposed on total income, on total capital gains, or on elements of income or of capital gains, including taxes on gains from the alienation of movable or immovable property, as well as taxes on capital appreciation.

(3) The existing taxes which are the subject of this Convention are:

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

(i) the income tax;

(ii) the corporation tax; and

(iii) the capital gains tax;

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

(b) in the Republic of the Ivory Coast:

(i) the tax on industrial and commercial profits and on agricultural profits (l'impôt sur les bénéfices industriels et commerciaux et sur les bénéfices agricoles);

(ii) the tax on non-commercial profits (l'impôt sur les bénéfices non commerciaux);

(iii) the tax on salaries and wages (l'impôt sur les traitements et salaires);

(iv) the tax on income from movable capital (l'impôt sur le revenu des capitaux mobiliers); and

(v) the general income tax (l'impôt général sur le revenu);

(hereinafter referred to as "Ivory Coast tax").

(4) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of 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 subsoil and their natural resources may be exercised;

(b) the term "the Ivory Coast" means the national territory of the Republic of the Ivory Coast including any area outside the territorial sea of the Ivory Coast which in accordance with international law has been or may hereafter be designated, under the laws of the Ivory Coast concerning the Continental Shelf, as an area within which the rights of the Ivory Coast with respect to the sea bed and subsoil and their natural resources may be exercised;

(c) the term "national" means:

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

(ii) in relation to the Ivory Coast, any individual who possesses Ivory Coast nationality and any legal person, partnership, association or other entity deriving its status as such from the law in force in the Ivory Coast;

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

(e) the term "person" comprises an individual, a company and any other body of persons;

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

(g) 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;

(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 the Ivory Coast the Minister of Finance (Ministre des Finances) or his authorised representative.

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

ARTICLE 4

Fiscal domicile

(1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the law of that State, is liable to tax therein by reason of his domicile, residence, place of management or any other criterion of a similar nature.

(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 States, he shall be deemed to be a resident of the State with which his personal and economic relations are closer (centre of vital interests);

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

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

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

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

ARTICLE 5

Permanent establishment

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

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

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a shop;

(f) a workshop;

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

(h) a building site or temporary construction or assembly project or supervisory activities in connection therewith, where such site, temporary project or activities continue for a period of more than six months, or where such temporary project or activities, being incidental to the sale of machinery or equipment, continue for a period not exceeding six months and the charges payable for the temporary project or activities exceed 10 per cent of the sale price of the machinery or equipment.

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

(a) the use of facilities solely for the purpose of storage or display 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 or display;

(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 carrying on, for the enterprise, any other activity of a preparatory character.

(4) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, where a person, other than an agent of an independent status to whom paragraph (6) of this Article applies, is acting in a Contracting State on behalf of an enterprise of the other Contracting State, that enterprise shall be deemed to have a permanent establishment in the first-mentioned State if the person:

(a) has and habitually exercises in that State an authority to conclude contracts on behalf of the enterprise; or

(b) has no such authority, but habitually maintains in the first-mentioned State a stock of goods or merchandise from which he regularly delivers goods or merchandise on behalf of the enterprise.

(5) An insurance enterprise of a Contracting State shall, except with regard to reinsurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated in that territory through an employee or representative who does not enter into the category of persons referred to in paragraph (6) of this Article.

(6) An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such a person is acting in the ordinary course of his business. However if such an agent is required to devote the whole or substantially the whole of his time to the business of the enterprise he shall not be considered as an independent agent within the meaning of this paragraph.

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

ARTICLE 6

Income from immovable property

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

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

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

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

ARTICLE 7

Business profits

(1) The profits of an enterprise of a Contracting State shall be taxable only in that State unless the enterprise carries on business in the other Contracting

State through a permanent establishment situated therein. If the enterprise carries on business as aforesaid, the profits of the enterprise may be taxed in the other State but only so much of them as is attributable to that permanent establishment.

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

(3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including an allocation of executive and general administrative expenses incurred for the purposes of the enterprise as a whole, whether in the State in which the permanent establishment is situated or elsewhere, calculated in proportion to the turnover realised in each of the establishments of the enterprise or according to any other acceptable criterion.

(4) In so far as it has been customary in a Contracting State, according to its law, to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles of this Article.

(5) Where profits include items 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 or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

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

With respect to profits derived by the air transport company Air-Afrique the provisions of this paragraph and of paragraph (1) of this Article shall only apply to the share of profits attributed to the Ivory Coast.

ARTICLE 9

Associated enterprises

(1) Where

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

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any 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.

(2) Where a Contracting State includes in the profits of an enterprise of that State—and taxes accordingly—profits on which an enterprise of the other Contracting State has been charged to tax in that other State and the profits so included are profits which would have accrued to the enterprise of the first-mentioned State if the conditions made between the two enterprises had been those which would have been made between independent enterprises, then that other State shall make an appropriate adjustment to the amount of the tax charged therein on those profits. In determining such adjustment, due regard shall be had to the other provisions of this Convention and the competent authorities of the Contracting States shall if necessary consult each other.

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) 18 per cent of the gross amount of the dividends where these are paid by a company which is a resident of the Ivory Coast and which is exempt from tax on its profits or does not pay tax on its profits at the normal rates;

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

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

(3) The term "dividends" as used in this Article means income from shares, jouissance shares or jouissance rights, mining shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from

other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the State of which the company making the distribution is a resident.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State 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 case, the provisions of Article 7 or of Article 15, as the case may be, shall apply.

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

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 law of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph (2) of this Article, interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by the Government of the other Contracting State or a local authority thereof or any agency or instrumentality wholly owned by that Government or local authority.

(4) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage, and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises.

(5) The provisions of paragraphs (1) and (2) 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 case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that state itself, a political 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 that 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.

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

ARTICLE 12

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 law of that State, but if the recipient is the beneficial owner of the royalties the tax so charged shall not exceed 10 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 agricultural, industrial, commercial or scientific equipment.

(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 case, the provisions of Article 7 or Article 15, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political 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 a fixed base in connection with which the contract giving rise

to the payment of the royalties was concluded and the royalties are borne by that permanent establishment or fixed base, then the royalties shall be deemed to arise in the 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, having regard to the use, right or information for which they are paid, exceeds 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

Management fees

(1) Management fees 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 management fees may also be taxed in the Contracting State in which they arise, and according to the law of that State, but if the recipient is the beneficial owner of the management fees the tax so charged shall not exceed 10 per cent of the gross amount of the management fees.

(3) The term "management fees" as used in this Article means payments of any kind to any person, other than to an employee of the person making the payments, in consideration for any services of a managerial, technical or consultancy nature.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the management fees, being a resident of a Contracting State, carries on business in the other Contracting State in which the management fees arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the obligation in respect of which the management fees are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 15, as the case may be, shall apply.

(5) A resident of one of the Contracting States who derives and beneficially owns management fees which arise in the other Contracting State may elect, for any year of assessment or financial year, that the tax chargeable in respect of those management fees in the Contracting State in which they arise shall be calculated as if he had a permanent establishment or fixed base in the last-mentioned Contracting State and as if those management fees were taxable in accordance with Article 7 or Article 15, as the case may be, as profits attributable to that permanent establishment or fixed base.

(6) Management fees shall be deemed to arise in a Contracting State when the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the management fees, 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 obligation to pay the management fees was incurred, and where such management fees are borne by such permanent establishment or fixed base, then such management fees shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(7) 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 management fees 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 law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 14

Capital gains

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

(2) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing independent personal services, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise) or of such fixed base, may be taxed in that 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 mentioned in paragraphs (1), (2) and (3) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

ARTICLE 15

Independent personal services

(1) Subject to the provisions of Article 13, 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:

(a) has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities; or

(b) carries on such professional services or such other activities of independent character in the other Contracting State for a period or

periods exceeding in the aggregate 183 days in any period of 12 months.

In these cases the income shall be taxable in that other State but only so much of it as is attributable to the activities carried on through the fixed base or for the said period or periods.

(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 16

Dependent personal services

(1) Subject to the provisions of Articles 17, 19, 20 and 21, 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, including normal interruptions in work, in any period of 12 months; and

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

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

(3) For the purpose of paragraph (2)*(a)* of this Article, "normal interruptions in work" means any period or periods during the twelve months in question for which the recipient is temporarily absent from that other State for purposes relating to his duties in that State, including any period or periods of leave, provided the recipient was exercising an employment in that State both before and after any such absence.

(4) Notwithstanding the preceding provisions of this Article, remuneration 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 17

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 18

Artistes and athletes

(1) Notwithstanding the provisions of Articles 15 and 16, 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, 15 and 16, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to profits, remunerations, wages, salaries and similar income derived from activities performed in a Contracting State by entertainers or athletes if the visit of such entertainers or athletes to that State is wholly or substantially supported by public funds of the other Contracting State.

ARTICLE 19

Pensions

(1) Subject to the provisions of paragraphs (1) and (2) of Article 20, 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 20

Government remuneration and pensions

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

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

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

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

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

(b) However, such pension shall be taxable only in the other Contracting State if the individual is a resident of that State and is not a national of the first-mentioned State.

(3) The provisions of Articles 16, 17 and 19 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 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 State solely for the purpose of his education or training or to carry out research receives for the purpose of his maintenance, education, training or research shall not be taxed in that State, provided that such payments arise from sources outside that State.

ARTICLE 22

Income not expressly mentioned

Items of income of a resident of a Contracting State, wherever arising, not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

ARTICLE 23

Elimination of double taxation

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

(a) Ivory Coast tax payable under the laws of the Ivory Coast and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within the Ivory Coast (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Ivory Coast tax is computed; and

(b) in the case of a dividend paid by a company which is a resident of the Ivory Coast 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 Ivory Coast tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Ivory Coast tax payable by the company in respect of the profits out of which such dividend is paid.

Provided that this paragraph shall not apply to a company which is a resident of the United Kingdom and is a Petroleum Company as defined for the purposes of Schedule 9 to the Oil Taxation Act 1975.

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

(a) paragraphs IIA2(a), (b) and (c) and IIA4(1), (2) and (3) of the Annex to Law No 59–134 of 3 September 1959 so far as they were in force on, and have not been modified since, the date of signature of this Convention or have been modified only in minor respects so as not to affect their general character, or

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

Provided that:

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

(d) where an exemption or reduction of tax is granted to any enterprise under paragraph IIA2(c)(i) or paragraph IIA4(1) of the Annex to Law No 59–134 of 3 September 1959 the tax which would have been payable but for that exemption or reduction shall be taken into account for the purposes of this paragraph only where the exemption or reduction is certified by the competent authority of the Ivory Coast as having been given with a view to promoting industrial, commercial, scientific or educational development in the Ivory Coast.

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

(a) United Kingdom tax payable under the laws of the United Kingdom and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within the United Kingdom (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 Ivory Coast tax computed by reference to the same profits, income or chargeable gains by reference to which the United Kingdom tax is computed; and

(b) in the case of a dividend paid by a company which is a resident of the United Kingdom to a company which is a resident of the Ivory Coast 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 United Kingdom tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the United Kingdom tax payable by the company in respect of the profits out of which such dividend is paid.

(4) For the purposes of paragraphs (1) and (3) of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

ARTICLE 24

Non-discrimination

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

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

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

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

(5) Notwithstanding the provisions of this Article the period of exemption from tax on profits, under any relief referred to in paragraph (2)*(a)* of Article 23 or any relief of a substantially similar character under paragraph (2)*(b)* of that Article, from which a United Kingdom enterprise established in the Ivory Coast could benefit in the Ivory Coast, shall not under any circumstances exceed 10 years.

(6) In this Article the term "taxation" means taxes referred to in Article 2 of this Convention.

ARTICLE 25

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 this Convention, he may, notwithstanding 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 an appropriate 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 26

Exchange of information

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

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

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

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

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

ARTICLE 27

Diplomatic agents and consular officials

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

(2) Insofar as, by reason of the fiscal privileges from which members of diplomatic or consular missions benefit under the general rules of international law or under the provisions of special international agreements, income is not taxable in the accredited State, the right of assessment shall be retained by the accrediting State.

(3) For the purposes of this Convention the members of a diplomatic or consular mission of a Contracting State accredited in the other Contracting State or in a third State who are nationals of the accrediting State, shall be considered as residents of the accrediting State if they are subject to the same obligations there, regarding income taxes, as residents of the said State.

(4) This Convention shall not apply to international organisations, their organs and officials nor to persons who, as members of a diplomatic or consular mission of a third State, are present in a Contracting State and are not deemed to be residents of either Contracting State in respect of taxes on income.

ARTICLE 28

Entry into force

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

(2) This Convention shall enter into force immediately after the expiration of thirty days following the date on which the instruments of ratification are exchanged(**a**) 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 6 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 1 April in the calendar year next following that in which the instruments of ratification are exchanged;

(b) in the Ivory Coast:

(i) in respect of taxes on industrial, commercial and agricultural profits levied for any taxable period commencing on or after 1 October in the calendar year next following that in which the instruments of ratification are exchanged;

(ii) in respect of other taxes on income levied for any taxable period beginning on or after 1 January in the calendar year next following that in which the instruments of ratification are exchanged;

(**a**) Instruments of ratification were exchanged on 24th December 1986.

(iii) in respect of taxes deducted at source on income credited or paid, on or after 1 January in the calendar year next following that in which the instruments of ratification are exchanged.

ARTICLE 29

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration of five years from the date of entry into force of the Convention. In such event, the Convention shall cease to have effect:

(a) in the United Kingdom:

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

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

(b) in the Ivory Coast:

(i) in respect of taxes on industrial, commercial and agricultural profits assessed on income of taxable periods beginning on or after 1 October in the calendar year next following that in which the notice is given;

(ii) in respect of other taxes on income assessed on income of taxable periods commencing on or after 1 January in the calendar year next following that in which the notice is given;

(iii) in respect of taxes payable at source on income credited or paid, on or after 1 January in the calendar year next following that in which the notice is given.

In witness whereof the undersigned, duly authorised thereto, have signed this Convention.

Done in duplicate at Abidjan this 26th day of June 1985, in the English and French languages, both texts being equally authoritative.

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

J. M. Willson

For the Government of the Republic of the Ivory Coast:

Simeon Aké

EXPLANATORY NOTE

(This note is not part of the Order)

The Convention with the Republic of the Ivory Coast is set out in the Schedule to this Order.

The Convention provides for business profits not arising through a permanent establishment to be taxed only in the country of the taxpayer's residence. Profits attributable to a permanent establishment may be taxed in the country in which the permanent establishment is situated (Articles 5 and 7). Profits arising from the operation of ships and aircraft are to be taxed only in the country in which the place of effective management of the enterprise is situated (Article 8).

Provision is made for income arising from immovable property and gains from the alienation of that property to be taxed in the country in which the property is situated (Articles 6 and 14).

The rate of tax imposed in the country of source on dividends derived by a resident of the other country is not to exceed 15% of the gross amount of the dividends. Where the company paying the dividend is a resident of the Ivory Coast and is exempt from tax on its profits or does not pay tax on its profits at the normal rate, then the rate of tax is not to exceed 18% of the gross amount of the dividends (Article 10).

The rate of tax imposed in the source country on interest is not to exceed 15%. However, the country of source will exempt from tax interest payable to the Government or a local authority of the other country or any agency or instrumentality wholly owned by that Government or local authority (Article 11).

The rate of tax in the source country on royalties flowing to the other country is not to exceed 10% (Article 12).

The rate of tax in the source country on management fees flowing to the other country is not to exceed 10% of the gross amount, but the payee may elect that the tax chargeable on those fees be calculated as if he had a permanent establishment in the source state i.e. net of expenses (Article 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 15 and 16).

Government service salaries and pensions are normally to be taxed by the paying Government only (Article 20) while other pensions are to be taxed only in the country of the taxpayer's residence (Article 19). Income derived by artistes and athletes may be taxed in the country where the activities are exercised. Where the activities exercised in one country are supported by public funds of the other country the income is taxable only in that other country (Article 18). Some payments made to visiting students and business apprentices are to be exempt from tax in the country visited (Article 21).

Where income continues to be taxable in both countries credit will be given by the country of the taxpayer's residence in respect of tax imposed by the other country. The credit to be given in the United Kingdom for tax payable in the Ivory Coast includes credit for tax spared under certain provisions of Ivorian law (Article 23).

There are provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country (Article 24) and for consultation and exchange of information between the taxation authorities of the two countries (Articles 25 and 26).

The Convention will enter into force thirty days after the date on which instruments of ratification are exchanged and shall have effect in the calendar year next following that in which the instruments of ratification are exchanged (Article 28).