STATUTORY INSTRUMENTS

1980 No. 713

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Sri Lanka) Order 1980

Laid before the House of Commons in draft

Made - - - - - 21*st May* 1980

At the Court at Buckingham Palace, the 21st day of May 1980

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 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) (Sri Lanka) Order 1980.

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 Democratic Socialist Republic of Sri Lanka 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 Sri Lanka; and

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

N. E. Leigh,
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 DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA 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 Democratic Socialist Republic of Sri Lanka;

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) The 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 Sri Lanka:

the income tax;

(hereinafter referred to as "Sri Lanka 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 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) In this Convention, unless the context otherwise requires:

(*a*) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and the natural resources may be exercised;

(*b*) the term "Sri Lanka" means the Democratic Socialist Republic of Sri Lanka;

(*c*) the term "national" means:

(i) in relation to the United Kingdom, any citizen of the United Kingdom and Colonies, or any British subject not possessing that citizenship or the citizenship of any other Commonwealth country or territory, provided in either case he has the right of abode in the United Kingdom, and any legal person, partnership and association deriving its status as such from the law in force in the United Kingdom;

(ii) in relation to Sri Lanka, any natural person who, under the law in force in Sri Lanka, is a citizen of Sri Lanka, and any legal person, partnership and association deriving its status as such from the law in force in Sri Lanka;

(*d*) the term "tax" means United Kingdom tax or Sri Lanka tax, as the context requires;

(*e*) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Sri Lanka, as the context requires;

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

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

(*h*) the term "international traffic" includes traffic between places in one Contracting State in the course of a voyage which extends over more than one Contracting State;

(*i*) 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;

(*j*) 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 Sri Lanka the Commissioner General of Inland Revenue or his authorised representative.

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

ARTICLE 4

Residence

(1) For the purposes of this Convention the term "resident of a Contracting State" means, subject to the provisions of paragraphs (2) and (3) of this Article, any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature; this term does not include any person who is liable to tax in that Contracting State in respect only of 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 not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode.

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

(*d*) If he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall endeavour to 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 the 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, oil well, quarry or other place of extraction of natural resources;

(*g*) an installation or structure used for the exploration of natural resources;

(*h*) a building site or construction or assembly project which exists for more than 183 days;

(*i*) an agricultural or farming estate or plantation.

(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 for collecting information, for the enterprise;

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

(4) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom the provisions of paragraph (5) of this Article apply—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 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 from immovable property may be taxed in the Contracting State in which such property is situated.

(2) (*a*) The term "immovable property" shall, subject to the provisions of sub-paragraph (*b*) below, be defined in accordance with the law of the Contracting State in which the property in question is situated.

(*b*) The term "immovable property" 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 professional services.

ARTICLE 7

Business profits

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

(2) 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 at arm's length 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 of the enterprise (other than expenses which would not be deductible if the permanent establishment were a separate enterprise) which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred whether in the State in which the permanent establishment is situated or elsewhere.

(4) Insofar 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 income 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 is in accordance with the principles embodied in this Article.

(5) 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.

(6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

(7) 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) A resident of one of the Contracting States shall be exempt from tax in the other Contracting State on profits from the operation of ships or aircraft in international traffic.

(2) The provisions of paragraph (1) of this Article shall likewise apply to profits derived from participation in a pool, a joint business or 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) A dividend 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) A dividend derived and beneficially owned by a resident of Sri Lanka from a company which is a resident of the United Kingdom may also be taxed in the United Kingdom, and according to the laws of the United Kingdom, but the tax so charged shall not exceed 15 per cent of the gross amount of the dividend.

(3) A dividend derived and beneficially owned by a company which is a resident of the United Kingdom from a company which is a resident of Sri Lanka shall be exempt from Sri Lanka tax other than the Sri Lanka tax on the company which pays the dividend and also the additional tax imposed by Section 26(4) of the Sri Lanka Inland Revenue Act No. 4 of 1963 and by Section 37 of the Sri Lanka Inland Revenue Act No. 28 of 1979 insofar as these provisions are in force on the date of signature of this Convention or have been modified only in minor respects so as not to affect their general character.

(4) Notwithstanding the provisions of paragraph (3) of this Article, where any new contribution is made after the date of signature of this Convention by a company which is a resident of the United Kingdom to the capital of a company which is a resident of Sri Lanka, the amount of tax deducted at source in respect of a dividend paid by the last-mentioned company relating to the said "new contribution" including the additional tax referred to in paragraph (3) of this Article, shall not exceed 15 per cent of the gross amount of that dividend.

(5) The term "dividend" as used in this Article means any item which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

(6) The provisions of this Article shall not apply where a resident of a Contracting State has in the other Contracting State a permanent establishment and the holding by virtue of which the dividend is paid is effectively connected with the business carried on through that permanent establishment. In such a case, the provisions of Article 7 shall apply.

(7) 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 and beneficially owned by persons who are not residents of the other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

ARTICLE 11

Interest

(1) Interest arising in a Contracting State which is derived and beneficially owned by a resident of the other Contracting State may be taxed in that other State.

(2) However, subject to the provisions of paragraphs (3), (4), (5) and (6) of this Article, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State; but, where the interest

is paid in respect of a debt-claim which was first created after the date of signature of this Convention the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of Article 7, interest arising in Sri Lanka which is derived and beneficially owned by a resident of the United Kingdom shall be exempt from Sri Lanka tax if it is paid in respect of a loan made, guaranteed or insured, or any other debt-claim or credit guaranteed or insured, by the United Kingdom Export Credits Guarantee Department.

(4) Interest derived from Sri Lanka by the Government of the United Kingdom either directly or through an agency of that Government shall be exempt from Sri Lanka tax.

(5) Interest accruing to any company, partnership, or other body of persons which is a resident of the United Kingdom from any loan granted by that company, partnership or body of persons to the Government of Sri Lanka or to a State Corporation, or to any Government institution, or to any other institution to the capital of which the Government of Sri Lanka has made any contribution, or to a credit agency or an undertaking in Sri Lanka with the approval of the Government of Sri Lanka, shall be exempt from Sri Lanka tax.

(6) Interest derived and beneficially owned by a banking or financial institution of a Contracting State from a resident of the other Contracting State shall be exempt from tax in that other State.

(7) 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 other 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.

(8) 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, has in the other Contracting State in which the interest arises a permanent establishment and the debt-claim from which the interest arises is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 7 shall apply.

(9) 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 in connection with which the indebtedness on which the interest is paid was incurred, and such interest is borne by that permanent establishment, then such interest shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(10) Where, owing to a special relationship between the payer and the person deriving the interest 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 paid in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the

law of each Contracting State, due regard being had to the other provisions of this Convention.

(11) The provisions of this Article shall not apply if the loan or other indebtedness in respect of which the interest paid was created or assigned mainly for the purpose of taking advantage of this Article and not for *bona fide* commercial reasons.

ARTICLE 12

Royalties

(1) Royalties arising in a Contracting State which are derived and beneficially owned by 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, where royalties are paid in respect of a right or property which was granted after the date of signature of this Convention 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 payment 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) Notwithstanding paragraph (2) of this Article, copyright royalties and other like payments in respect of the production or reproduction of any literary, artistic or scientific work (including royalties and like payments in respect of cinematograph films and films or tapes for radio or television broadcasting) arising in a Contracting State and which are derived and beneficially owned by a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State.

(5) The provisions of paragraphs (1), (2) and (4) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, has in the other Contracting State in which the royalties arise a permanent establishment and the right or property giving rise to the royalties is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 7 shall apply.

(6) Royalties shall be deemed to arise in a Contracting State where 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 in connection with which the obligation to pay the royalties was incurred and the royalties are borne by that permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(7) Where, owing to a special relationship between the payer and the person deriving the royalties 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 paid in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

ARTICLE 13

Capital gains

(1) Capital gains from the alienation of immovable property, as defined in paragraph (2) of Article 6, may be taxed in the Contracting State in which such property is situated.

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

(3) Notwithstanding the provisions of paragraph (2) of this Article, capital gains derived by a resident of a Contracting State from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that Contracting State.

(4) Capital gains from the alienation of any property other than those 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 14

Independent personal services

(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar 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 Contracting 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

Employments

(1) Subject to the provisions of Articles 17, 18, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

(2) Notwithstanding the provisions of paragraph (1) of this Article, remuneration derived by a resident of a Contracting State in respect of an employment exercised in the other Contracting State shall be taxable only in the first-mentioned State if:

(*a*) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned; and

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

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

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic may be taxed in the Contracting State of which the person deriving the profits from the operation of the ship or aircraft is a resident.

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

ARTICLE 16

Artistes and athletes

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers (such as theatre, motion picture, radio or television artistes, musicians and athletes) from their personal activities as such may be taxed in the Contracting State in which those activities are exercised.

(2) Where income in respect of personal activities as such of a public entertainer accrues not to that entertainer himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15, be taxed in the Contracting State in which the activities of the entertainer are exercised.

ARTICLE 17

Pensions and annuities

(1) Any pension (other than a pension to which Article 18 applies) or annuity derived from sources within one of the Contracting States by an individual who is a resident of the other Contracting State and subject to tax in that other State in respect thereof shall be exempt from tax in the first-mentioned 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.

(3) Notwithstanding any other provisions of this Convention, alimony and similar payments arising in a Contracting State and paid to a resident of the other Contracting State who is the beneficial owner thereof, shall be taxable only in that other State.

ARTICLE 18

Government functions

(1) Remuneration or pensions paid out of public funds of the United Kingdom or Northern Ireland or of the funds of any local authority in the United Kingdom to any individual in respect of services rendered to the Government of the United Kingdom or Northern Ireland or a local authority in the United Kingdom in the discharge of functions of a governmental nature shall be taxable only in the United Kingdom unless the individual is a Sri Lanka national without also being a United Kingdom national.

(2) Remuneration or pensions paid by, or out of funds created by Sri Lanka or a political subdivision or a local authority thereof to any individual in respect of services rendered to the Government of Sri Lanka or a political subdivision or a local authority thereof, in the discharge of functions of a governmental nature, shall be taxable only in Sri Lanka unless the individual is a United Kingdom national without also being a Sri Lanka national.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to remuneration or pensions in respect of services rendered in connection with any trade or business.

ARTICLE 19

Students

(1) An individual who is or was a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as a student at a university, college, school or other similar recognised educational institution in that other Contracting State or as a business or technical apprentice therein, shall be exempt from tax in that other Contracting State on:

(*a*) all remittances from the first-mentioned Contracting State for the purposes of his maintenance, education or training; and

(*b*) any income derived from the other Contracting State in respect of services rendered in that other Contracting State (other than any rendered by a business or technical apprentice to the person or partnership to whom he is apprenticed), with a view to supplementing the resources available to him for such purposes, not exceeding the sum of 750 pounds sterling or the equivalent in Sri Lanka rupees at the parity rate of exchange during any year of assessment.

(2) An individual who is or was a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State for the purposes of study, research or training solely as a recipient of a grant, allowance or award from the Government of either of the Contracting States or from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of either of the Contracting States for a period not exceeding two years from the date of his first arrival in that other Contracting State in connection with that visit shall be exempt from tax in that other Contracting State on:

(*a*) the amount of such grant, allowance or award; and

(*b*) any income derived from that other Contracting State in respect of services in that other Contracting State if the services are performed in connection with his study, research, training, or are incidental thereto.

(3) An individual who is or was a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as an employee of, or under contract with, the Government or an enterprise of the first-mentioned Contracting State for the purpose of acquiring technical, professional or business experience for a period not exceeding twelve months from the date of his first arrival in that other Contracting State in connection with that visit shall be exempt in that other Contracting State on:

(*a*) all remittances from the first-mentioned Contracting State for the purposes of his maintenance, education or training; and

(*b*) any remuneration, so far as it is not in excess of 1200 pounds sterling or the equivalent in Sri Lanka rupees at the parity rate of exchange, for personal services rendered in that other Contracting State, provided such services are in connection with his studies or training or are incidental thereto.

(4) In this Article, references to a Government shall include references to a statutory body established in a Contracting State in order to carry on a public utility undertaking under national control.

ARTICLE 20

Teachers

A professor or teacher who visits a Contracting State for a period not exceeding two years for the purpose of teaching at a university, college, school or other recognised educational institution in that Contracting State and who

was, immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching for a period not exceeding two years from the date he first visits that State for such purpose.

ARTICLE 21

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*) Sri Lanka tax payable under the law of Sri Lanka and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Sri Lanka (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 Sri Lanka tax is computed.

(*b*) In the case of a dividend paid by a company which is a resident of Sri Lanka 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 Sri Lanka tax creditable under the provisions of sub-paragraph (*a*) of this paragraph) the Sri Lanka tax payable by the company in respect of the profits out of which such dividend is paid.

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

(*a*) any of the following provisions, that is to say Sections 6(2)(v), 6(2)(vi), 6(3), 6B, 6C, 6D, 7A(2)(a), 7A(4) and 73A of the Sri Lanka Inland Revenue Act No. 4 of 1963 and Sections 11(b), 16, 17, 18, 20, 21 and 85 of the Sri Lanka Inland Revenue Act No. 28 of 1979 so far as they were in force on, and have not been modified since, the date of the signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or

(*b*) any agreement entered into under Section 17 of the Greater Colombo Economic Commission Law No. 4 of 1978 which provides

(i) for an exemption from tax provided that the enterprise qualifying for that exemption could have qualified for exemption under any of the provisions referred to in sub-paragraph (*a*) of this paragraph and that the amount of the credit allowed against United Kingdom tax shall not exceed the credit which could have been given if the exemption from Sri Lanka tax had been granted under those provisions;

(ii) for a reduction of tax, subject to the mutual agreement of the competent authorities in each case, or

(*c*) any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities 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 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, Sri Lanka tax was first granted in respect of that source.

(3) Subject to the provisions of the law of Sri Lanka regarding the allowance as a credit against Sri Lanka tax of tax payable in a territory outside Sri Lanka (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 Sri Lanka tax computed by reference to the same profits, income or chargeable gains by reference to which the United Kingdom tax is computed.

(*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 Sri Lanka and which controls directly or indirectly at least 10 per cent of the voting power in the United Kingdom company, the credit shall take into account (in addition to any United Kingdom tax creditable 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.

(5) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other Contracting State and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount included in the profits of both enterprises shall be treated for the purposes of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under the provisions of paragraph (1) or paragraph (3) of this Article.

(6) Where under any provision of this Convention income is relieved from Sri Lanka tax, and, under the law in force in the United Kingdom, an individual in respect of the said income is subject to tax by reference to the amount thereof which is remitted to or received in the United Kingdom and not by reference to the full amount thereof, then the relief to be allowed under this Convention in Sri Lanka shall apply only to so much of the income as is remitted to or received in the United Kingdom.

ARTICLE 22

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 Contracting State to any taxation or any requirements 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) The additional rate of tax chargeable under subsection (4) of Section 26 of the Sri Lanka Inland Revenue Act No. 4 of 1963 and Section 37 of the Sri Lanka Inland Revenue Act No. 28 of 1979 (insofar as these provisions are in force on the date of signature of this Convention or have been modified only in minor respects so as not to affect their general character) shall not, in the case of companies which are residents of the United Kingdom, exceed 6 per cent in respect of any year of assessment commencing before 1 April 1979 and 5 per cent in respect of any year of assessment commencing on or after 1 April 1979.

(6) In this Article the term "taxation" means taxes which are the subject of this Convention.

ARTICLE 23

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 national laws 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 24

Exchange of information

The competent authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret but may be disclosed to persons (including a court or administrative body) concerned with assessment, collection, enforcement or prosecution in respect of taxes which are the subject of this Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

ARTICLE 25

Entry into force

This Convention shall come into force on the date on which the last of all such things shall have been done in the United Kingdom and Sri Lanka, as are necessary to give the Convention the force of law in the United Kingdom and Sri Lanka respectively, and shall thereupon have effect:

(*a*) in the United Kingdom:

(i) as respects income tax and capital gains tax for any year of assessment beginning on or after 6th April, 1977;

(ii) as respects corporation tax, for any financial year beginning on or after 1st April, 1977;

(*b*) in Sri Lanka:

as respects Sri Lanka tax, for the year of assessment commencing on 1st April, 1977, and subsequent years of assessment.

ARTICLE 26

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 after the year 1982. In such event, the Convention shall cease to have effect:

(*a*) in the United Kingdom:

(i) as respects 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) as respects corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which the notice is given;

(*b*) in Sri Lanka:

as respects Sri Lanka tax, for the year of assessment beginning on 1st April in the calendar year next following that in which the notice is given and subsequent years of assessment.

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

Done in duplicate at London, this 21st day of June 1979, in the English and Sinhala languages, both texts being equally authoritative.

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

P A R BLAKER

For the Government of the Democratic Socialist Republic of Sri Lanka:

N WIMALASENA

EXPLANATORY NOTE

(This Note is not part of the Order.)

Under the Convention with the Democratic Socialist Republic of Sri Lanka scheduled to this Order shipping and air transport profits, certain trading profits not arising through a permanent establishment, pensions (other than Government pensions) and the earnings of temporary business visitors are (subject to certain conditions) to be taxed only in the country of residence of the taxpayer. Government salaries and pensions are normally to be taxed by the paying Government only. The remuneration of visiting teachers and certain payments made to visiting students are (subject to certain conditions) to be exempt in the country visited.

Where income continues to be taxable in both countries, relief from double taxation is to be given by the country of residence of the taxpayer. The credit to be given in the United Kingdom for tax payable in Sri Lanka is to include credit for tax spared under certain provisions of Sri Lankan law.

The rate of tax on dividends flowing from one country to the other is normally not to exceed 15 per cent but in the case of dividends paid by Sri Lankan companies this limitation will only apply to dividends paid in respect of new investments made after the date of signature of the Convention.

The rate of tax in the source country on interest and royalties flowing from one country to the other is, in general, not to exceed 10 per cent in the case of loans made or rights granted after signature of the Convention. Interest derived by a financial institution and copyright royalties are to be exempt from tax in the country of source. Exemption from Sri Lankan tax is also provided for interest paid by the Sri Lankan Government and bodies controlled or approved by it, for interest received by the United Kingdom Government and for interest on loans guaranteed by the United Kingdom Export Credits Guarantee Department.

There is provision for the taxation of capital gains on immovable property by the country in which the property is situated. Capital gains arising from the disposal of movable property are normally to be taxed only in the country of residence of the taxpayer unless they arise from the disposal of assets of a permanent establishment or fixed base which the taxpayer has in the other country.

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

The Convention is to take effect in the United Kingdom for income tax and capital gains tax for the tax year 1977–78 and subsequent years and for corporation tax for the financial year beginning on 1 April 1977 and subsequent years.