1972 No. 1721

INCOME TAX

The Double Taxation Relief (Taxes on Income) (Zambia) Order 1972

Laid before the House of Commons in draft

Made - - - 14th November 1972

At the Court at Buckingham Palace, the 14th day of November 1972

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the Commons House of Parliament 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 this Order:

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 section 39 of the Finance Act 1965(b), as amended, 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) (Zambia) Order 1972.

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 Zambia 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 Zambia; and

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

W. G. Agnew.

(a) 1970 c. 10.

(b) 1965 c. 25.

SCHEDULE

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

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Zambia,

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,

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 (including surtax);

(ii) the corporation tax; and

(iii) the capital gains tax;

(*b*) in Zambia:

(i) the Income Tax;

(ii) the Mineral Tax; and

(iii) the Personal Levy.

(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.

(3) The competent authorities of the Contracting States shall notify to each other any changes which are made in their respective taxation laws.

ARTICLE 3

General Definitions

(1) In this Convention, unless the context otherwise requires—

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

(*b*) the term "Zambia" means the Republic of Zambia;

(*c*) the term "nationals" means—

(i) in relation to the United Kingdom, all citizens of the United Kingdom and Colonies who derive their status as such from their connection with the United Kingdom and all legal persons, partnerships and associations deriving their status as such from the law in force in the United Kingdom;

(ii) in relation to Zambia, all citizens of Zambia and all legal persons, partnerships and associations deriving their status as such from the law in force in Zambia;

(*d*) the term "United Kingdom tax" means tax imposed by the United Kingdom being tax to which this Convention applies by virtue of the provisions of Article 2; the term "Zambia tax" means tax imposed by Zambia being tax to which this Convention applies by virtue of the provisions of Article 2;

(*e*) the term "tax" means United Kingdom tax or Zambia tax, as the context requires;

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

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

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

(*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 Zambia, the Commissioner of Taxes 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, 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. The terms "resident of the United Kingdom" and "resident of Zambia" shall be construed accordingly.

(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 closest (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 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, quarry or other place of extraction of natural resources;

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

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

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

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

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

(*d*) the maintenance of a fixed place of business soley 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) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if—

(*a*) it carries on the activity of providing the services within that other Contracting State of public entertainers or athletes referred to in Article 18; or

(*b*) it carries on supervisory activities in that other Contracting State for more than six months in connection with a construction, installation or assembly project which is being undertaken in that other Contracting State.

(5) 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 (6) 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.

(6) An enterprise of 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.

(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

Limitation of Relief

Where under any provision of this Convention any person is relieved from tax in a Contracting State on certain income if (with or without other conditions) that person is subject to tax in the other Contracting State in respect of that income and that person is subject to tax in respect of that income in that other State by reference to the amount thereof which is remitted to or received in that other State, the relief from tax to be allowed under this Convention in the first-mentioned Contracting State shall apply only to the amounts so remitted or received.

ARTICLE 7

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.

(5) Notwithstanding the preceding provisions of this Article profits derived by an agricultural, forestry or plantation enterprise shall be dealt with in accordance with the provisions of Article 8.

ARTICLE 8

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 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) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(5) Where profits include items 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 9

Shipping and air transport

Profits derived from the operation of ships or aircraft in international traffic by an enterprise of a Contracting State shall be exempt from tax in the other Contracting State.

ARTICLE 10

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 11

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 be taxed in the Contracting State of which the company paying the dividends is a resident and according to the law of that State; but where such dividends are paid to a resident of the other Contracting State who is subject to tax there in respect thereof the tax so charged in the Contracting State of which the company paying the dividends is a resident, being tax which is charged in addition to the tax chargeable in respect of the profits of the company, shall not exceed—

(*a*) 5 per cent of the gross amount of the dividends if the recipient is a company which controls directly or indirectly at least 25 per cent of the voting power of the company paying the dividends;

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

(3) The term "dividends" as used in this Article means income from shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation law of the State of which the company making the distribution is a resident and also includes any other

item (other than interest or royalties relieved from tax under the provisions of Article 12 or the provisions of Article 13 of this Convention) 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.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the recipient of the dividends, being a resident of a Contracting State, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 8 shall apply.

(5) If the recipient of a dividend owns 10 per cent or more of the class of shares in respect of which the dividend is paid then the relief from tax provided for in paragraph (2) of this Article shall not apply to the dividend to the extent that it can have been paid only out of profits which the company paying the dividend earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this paragraph the term "relevant date" means the date on which the recipient of the dividend became the owner of 10 per cent or more of the class of shares in question. Provided that this paragraph shall not apply if the shares were acquired for *bona fide* commercial reasons and not primarily for the purpose of securing the benefit of this Article.

(6) 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 to persons who are not residents of that 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 12

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 be taxed in the Contracting State in which it arises, and according to the law of that State; but where such interest is paid to a resident of the other Contracting State who is subject to tax there in respect thereof the tax so charged in the Contracting State in which the interest arises shall not exceed 10 per cent of the gross amount of the interest.

(3) 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.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the recipient 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 8 shall apply.

(5) 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.

(6) Any provision of the law of one of the Contracting States which relates only to interest paid to a non-resident company with or without any further requirement, shall not operate so as to require such interest paid to a company which is a resident of the other Contracting State to be left out of account as a deduction in computing the taxable profits of the company paying the interest as being a dividend or distribution. The preceding sentence shall not however apply to interest received by a company which is a resident of one of the Contracting States in which more than 50 per cent of the voting power is controlled, directly or indirectly, by a person or persons resident in the other Contracting State.

(7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient 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

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 be taxed in the Contracting State in which they arise and in accordance with the law of that Contracting State; but where such royalties are paid to a resident of the other Contracting State who is subject to tax there in respect thereof the tax so charged in the Contracting State in which the royalties arise 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 coypright of literary, artistic or scientific work (including cinematograph films, and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience.

(4) The provisions of paragraph (2) of this Article shall not apply if the recipient of the royalties, being a resident of a Contracting State, has in the other Contracting State 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 8 shall apply.

(5) Any provision of the law of a Contracting State which requires royalties paid by a company to be left out of account as a deduction in computing the company's taxable profits as being a dividend or distribution shall not operate in relation to royalties paid to a resident of the other Contracting State. The preceding sentence shall not however apply to royalties derived by a company which is a resident of that other Contracting State where—

(*a*) the same persons participate directly or indirectly in the management or control of the company paying the royalties and the company deriving the royalties; and

(*b*) more than 50 per cent of the voting power in the company deriving the royalties is controlled directly or indirectly by a person or persons resident in the Contracting State in which the company paying the royalties is resident.

(6) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the royalties paid, 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 recipient 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 14

Capital gains

(1) Capital gains from the alienation of any 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 any 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.

(2) Notwithstanding the provisions of paragraph (1) 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.

(3) Capital gains from the alienation of any property other than those mentioned in paragraph (1) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

(4) The provisions of paragraph (3) of this Article shall not affect the right of a Contracting State to levy according to its own law a tax on capital gains from the alienation of any property derived by an individual who is a resident of the other Contracting State and has been a resident of the first-mentioned Contracting State at any time during the five years immediately preceding the alienation of the property.

ARTICLE 15

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 16

Employments

(1) Subject to the provisions of Articles 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 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.

ARTICLE 17

Directors' fees

Directors' fees and 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 Contracting State.

ARTICLE 18

Artistes and athletes

Notwithstanding the provisions of Articles 15 and 16, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which those activities are exercised.

ARTICLE 19

Pensions

(1) Any pension (other than a pension of the kind referred to in paragraph (2) or paragraph (4) of Article 20) and any annuity derived from sources within a Contracting State 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 Contracting 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

Governmental functions

(1) Remuneration (other than pensions) paid by the Government of a Contracting State to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the other Contracting State if the individual is not ordinarily resident in that other Contracting State or is ordinarily resident in that other Contracting State solely for the purpose of rendering those services.

(2) Any pension paid by the Government of a Contracting State to any individual for services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the other Contracting State if immediately prior to the cessation of the services to which the pension relates the remuneration therefor was exempt from tax in that other Contracting State (whether under paragraph (1) of this Article or otherwise).

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by the Government of either Contracting State for purposes of profit.

(4) Any pension paid to an individual for services rendered in the discharge of governmental functions which would have been exempt from tax in a Contracting State if the existing Agreement had continued in force shall be exempt from tax in that Contracting State under this Convention. In this paragraph the term "the existing Agreement" has the same meaning as in paragraph (7) of Article 29 of this Convention.

ARTICLE 21

Research personnel and students

(1) An individual who immediately before visiting one of the Contracting States is a resident of the other Contracting State and is temporararily present in the first-mentioned Contracting State for a period not exceeding two years for the purpose of research, solely as a recipient of a grant, allowance or award from a scientific, educational, religious or charitable organisation or under a technical assistance programme entered into by the Government of one of the Contracting States shall be exempt from tax in the first-mentioned Contracting State on—

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

(*b*) any remuneration for personal services rendered in the first-mentioned Contracting State provided such services are in connection with his research or are incidental thereto.

(2) Payments which a student or business apprentice who is or was formerly a resident of a Contracting State and who is present in the other Contracting State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training, shall not be taxed in that other Contracting State provided that such payments are made to him from sources outside that other Contracting State.

(3) Remuneration which a student or business apprentice who is or was formerly a resident of a Contracting State derives from an employment which he exercises in the other Contracting State shall not be taxed in that other Contracting State provided that such employment is directly related to his studies or training or the remuneration constitutes earnings reasonably necessary for his maintenance and education.

(4) The benefits of paragraphs (2) and (3) of this Article shall extend only for such period of time as may be reasonably or customarily required to complete the education or training undertaken but in no event shall any individual have the benefits of this Article for more than three consecutive years of assessment or charge years.

ARTICLE 22

Income not expressly mentioned

Items of income of a resident of a Contracting State being income of a class or from sources not expressly mentioned in the foregoing Articles of this Convention in respect of which he is subject to tax in that State shall be taxable only in that State. Provided that this Article shall not be construed as affecting the taxation of income attributable to a permanent establishment which a resident of one Contracting State has in the other Contracting 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*) Zambia tax payable under the laws of Zambia and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Zambia 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 Zambia tax is computed. Provided that in the case of a dividend the credit shall take into account only such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

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

(2) Subject to the provisions of the law of Zambia regarding the allowance as a credit against Zambia tax of tax payable in a territory outside Zambia (which shall not affect the general principal 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 shall be allowed as a credit against any Zambia tax computed by reference to the same profits, income or chargeable gains by reference to which the United Kingdom tax is computed. Provided that in the case of a dividend the credit shall take into account only such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

(*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 Zambia 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 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.

(3) For the purposes of paragraphs (1) and (2) 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

Personal allowances

(1) Subject to the provisions of paragraph (3) of this Article, individuals who are residents of Zambia shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

(2) Subject to the provisions of paragraph (3) of this Article, individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Zambia tax as Zambia citizens not resident in Zambia.

(3) Nothing in this Convention shall entitle an individual who is a resident of a Contracting State and whose income from the other Contracting State consists solely of dividends, interest or royalties (or solely of any combination thereof) to the personal allowances, reliefs and reductions of the kind referred to in this Article for the purposes of taxation in that other Contracting State.

ARTICLE 25

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 that 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 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, nor as obliging Zambia to grant to non-nationals the relief available to Zambian nationals under section 42C of the Zambian Income Tax Act, 1966, nor as conferring any exemption from tax in a Contracting State in respect of dividends paid to a company which is a resident of the other Contracting State.

(5) In this Article the term "taxation" means taxes of every kind and description.

ARTICLE 26

Mutual agreement procedure

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with 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 27

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 28

Territorial extension

(1) This Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those to which this Convention applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in notes to be exchanged for this purpose.

(2) Unless otherwise agreed by both Contracting States, the termination of this Convention shall terminate the application of this Convention to any territory to which it has been extended under the provisions of this Article.

ARTICLE 29

Entry into force

(1) This Convention shall come into force on the date when the last of all such things shall have been done in the United Kingdom and Zambia as are necessary to give the Convention the force of law in the United Kingdom and Zambia respectively, and shall thereupon have effect—

(*a*) in the United Kingdom—

(i) as respects income tax, surtax and capital gains tax, for any year of assessment beginning on or after 6th April, 1972;

(ii) as respects corporation tax, for any financial year beginning on or after 1st April, 1972;

(*b*) in Zambia—

as respects income for any charge year beginning on or after 1st April, 1972.

(2) The Governments of the Contracting States shall, as soon as possible, inform one another in writing of the date when the last of all such things shall have been done as are necessary to give the Convention the force of law in the United Kingdom and Zambia respectively. The date specified by the last Government to fulfil this requirement, being the date on which the Convention shall come into force in accordance with paragraph (1), shall be confirmed in writing by the Government so notified.

(3) Subject to the provisions of paragraph (4) of this Article the existing Agreement shall cease to have effect as respects taxes to which this Convention in accordance with the provisions of paragraph (1) of this Article applies.

(4) Where any provision of the existing Agreement would have afforded any greater relief from tax any such provision as aforesaid shall continue to have effect for any year of assessment or financial year or charge year beginning before the entry into force of this Convention.

(5) The existing Agreement shall terminate on the last date on which it has effect in accordance with the foregoing provisions of this Article.

(6) The termination of the existing Agreement as provided in paragraph (5) of this Article shall not revive the Arrangement made in 1947 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Northern Rhodesia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income. Upon the entry into force of this Convention that Arrangement shall terminate.

(7) In this Article the term "the existing Agreement" means the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Zambia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, that is to say the continuation, with effect from the dissolution of the Federation of Rhodesia and Nyasaland on 1st January, 1964, in force subject to certain modifications between the Government of the United Kingdom and the Government of Northern Rhodesia and from the 24th October, 1964, when Northern Rhodesia became an independent Republic under the name of Zambia, between the Government of the United Kingdom and the Government of Zambia, of the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the former Federation of Rhodesia and Nyasaland for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on 25th November, 1955(**a**), as amended by the Supplementary Agreement between the Government of the United Kingdom and the Government of Zambia which was signed at Lusaka on 6th April, 1968(**b**).

ARTICLE 30

Termination

(1) This Convention shall continue in effect indefinitely but the Government of either Contracting State may, on or before the thirtieth day of September in any calendar year after the year 1972, give notice of termination to the Government of the other Contracting State and, in such event, the Convention shall cease to be effective—

(*a*) in the United Kingdom—

(i) as respects income tax, surtax 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 Zambia—

as respects income for any charge year beginning on or after 1st April in the calendar year next following that in which the notice is given.

(2) The termination of this Convention shall not have the effect of reviving any agreement or arrangement terminated by this Convention.

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

DONE in duplicate at Lusaka this 22nd day of March 1972

FOR THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

J. S. R. DUNCAN

FOR THE GOVERNMENT OF THE REPUBLIC OF ZAMBIA

J. M. MWANAKATWE

(**a**) S.I. 1956/619 (1956 I, p. 1072). (**b**) S.I. 1968/1106 (1968 II, p. 3060).

EXPLANATORY NOTE

(This Note is not part of the Order.)

Under the Convention with Zambia scheduled to this Order (which is to replace the Agreement made with Zambia in 1964 for the continuation, with effect from the dissolution of the Federation of Rhodesia and Nyasaland, of the Agreement signed in London on 25th November 1955) shipping and air transport profits, certain trading profits not arising through a permanent establishment, pensions (other than Government pensions) and the earnings of temporary visitors are (subject to certain conditions) to be taxed only in the country of the taxpayer's residence. Government salaries and pensions are normally to be taxed by the paying government only. The remuneration of, and certain payments made to, visiting research personnel and students are (subject to certain conditions) to be exempt in the country visited. Capital gains are normally to be taxed only in the country of the taxpayer's residence unless they arise from the disposal of the assets of a permanent establishment which the taxpayer has in the other country.

The rate of tax in the source country on income flowing from one country to another is, in general, not to exceed 15 per cent in the case of dividends from portfolio investment, 10 per cent in the case of interest and royalties, and 5 per cent in the case of dividends from direct investment.

Where income continues to be taxable in both countries, relief from double taxation is to be given by the country of the taxpayer's residence. In the case of dividends credit for the tax on the profits out of which the dividends are paid is to be given where the recipient of the dividends is a company which controls at least 10 per cent of the voting power in the paying company.

There are provisions safeguarding residents 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 in general to take effect in the United Kingdom for 1972-73 and subsequent years.

SI 1972/1721
ISBN 0-11-021721-7

