Draft Order laid before the House of Commons under section 788(10) of the Income and Corporation Taxes Act 1988 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2008 No.

CAPITAL GAINS TAX

CORPORATION TAX

INCOME TAX

The Double Taxation Relief and International Tax Enforcement (Taxes on Income and Capital) (Slovenia) Order 2008

Made - - - - 2008

At the Court at Buckingham Palace, the *** day of ***

Present,

The Queen's Most Excellent Majesty in Council

A draft of this Order was laid before the House of Commons in accordance with section 788(10) of the Income and Corporation Taxes Act 1988(**a**) and section 173(7) of the Finance Act 2006(**b**) and approved by a resolution of that House.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by section 788(1) of the Income and Corporation Taxes Act 1988 and section 173(1) of the Finance Act 2006, by and with the advice of Her Privy Council, orders as follows—

Citation

1. This Order may be cited as the Double Taxation Relief and International Tax Enforcement (Taxes on Income and Capital) (Slovenia) Order 2008.

Double taxation arrangements to have effect

2. It is declared that—

(**a**) 1988 c. 1: section 788 was extended by section 277 of the Taxation of Chargeable Gains Act 1992 (c. 12). It has also been amended. The relevant amendments are as follows: Subsection (1) was amended by section 88(1) of the Finance Act 2002 (c. 23). Subsection (10) was substituted by section 176 of the Finance Act 2006 (c. 25).

(**b**) 2006 c. 25.

(a) the arrangements specified in the Convention set out in Part 1 of the Schedule to this Order and in the Protocol set out in Part 2 of that Schedule have been made with the Government of the Republic of Slovenia with a view to affording relief from double taxation in relation to income tax, corporation tax and capital gains tax and taxes of a similar character imposed by the laws of the Republic of Slovenia;

(b) those arrangements include provisions with respect to the exchange of information foreseeably relevant to the administration, enforcement or recovery of the taxes, and debts relating to the taxes, covered by the arrangements including, in particular, provisions about the prevention of fiscal evasion with respect to those taxes; and

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

Clerk of the Privy Council

SCHEDULE

Article 2

PART 1

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

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

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

Have agreed as follows:

ARTICLE 1

Persons covered

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

ARTICLE 2

Taxes covered

(1) This Convention shall apply to taxes on income and on capital imposed on behalf of a Contracting State or of its political subdivisions or local authorities, irrespective of the manner in which they are levied.

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

(3) The existing taxes to which this Convention shall apply are in particular:

(a) in the case of the Republic of Slovenia:

(i) the tax on income of legal persons;

(ii) the tax on income of individuals; and

(iii) the tax on property;

(hereinafter referred to as "Slovenian tax");

(b) in the case of the United Kingdom:

(i) the income tax;

(ii) the corporation tax; and

(iii) the capital gains tax;

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

(4) The Convention shall apply also to any identical or substantially similar taxes that are imposed 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 significant changes that have been made in their taxation laws.

ARTICLE 3

General definitions

(1) For the purposes of this Convention, unless the context otherwise requires:

(a) the term "Slovenia" means the Republic of Slovenia, and, when used in a geographical sense, the territory of Slovenia, including the sea area, sea bed and subsoil adjacent to the territorial sea, over which Slovenia may exercise its sovereign rights and jurisdiction in accordance with its domestic legislation and international law;

(b) the term "United Kingdom" means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom designated under its laws concerning the Continental Shelf and in accordance with international law as an area within which the rights of the United Kingdom with respect to the sea bed and subsoil and their natural resources may be exercised;

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

(d) the term "person" includes an individual, a company and any other body of persons, but subject to paragraph (2) of this Article does not include a partnership;

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

(f) the term "enterprise" applies to the carrying on of any business;

(g) the terms "enterprise of a Contracting State" and "enterprise of the other Contracting State" mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;

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

(i) the term "competent authority" means:

(i) in the case of Slovenia, the Ministry of Finance of the Republic of Slovenia or its authorised representative;

(ii) in the case of the United Kingdom, the Commissioners for Her Majesty's Revenue and Customs or their authorised representative;

(j) the term "national" means:

(i) in relation to Slovenia:

(aa) any individual possessing the nationality of Slovenia ;

(bb) any legal person, partnership or association deriving its status as such from the law in force in Slovenia;

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

(k) the term "business" includes the performance of professional services and of other activities of an independent character.

(2) A partnership deriving its status from Slovenian law which is treated as a taxable unit under the law of Slovenia shall be treated as a person for the purposes of this Convention.

(3) As regards the application of this Convention at any time by a Contracting State, any term not defined therein shall, unless the context otherwise requires, have the meaning that it has at that time under the laws of that State for the purposes of the taxes to which this Convention applies, any meaning under the applicable tax laws of that State prevailing over a meaning given to the term under other laws of that State.

ARTICLE 4

Residence

(1) For the purposes of this Convention, the term "resident of a Contracting State" means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management, place of incorporation or any other criterion of a similar nature, and also includes that State and any political subdivision or local authority thereof. This term, however, does not include any person who is liable to tax in that State in respect only of income from sources in that State or capital situated 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 only of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both States, he shall be deemed to be a resident only of the 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 does not have a permanent home available to him in either State, he shall be deemed to be a resident only of the State in which he has an habitual abode;

(c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident only of the 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 only of the State in which its place of effective management is situated.

ARTICLE 5

Permanent establishment

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

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

(a) a place of management;

(b) a branch;

(c) an office;

(d) a factory;

(e) a workshop; and

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

(3) A building site or construction or installation project constitutes a permanent establishment only if it lasts more than twelve months.

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

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

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

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

(d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or of collecting information, for the enterprise;

(e) the maintenance of a fixed place of business solely for the purpose of carrying on, for the enterprise, any other activity of a preparatory or auxiliary character;

(f) the maintenance of a fixed place of business solely for any combination of activities mentioned in sub-paragraphs (a) to (e) of this paragraph, provided that the overall activity of the fixed place of business resulting from this combination is of a preparatory or auxiliary character.

(5) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, where a person – other than an agent of an independent status to whom paragraph (6) of this Article applies – is acting on behalf of an enterprise and has, and habitually exercises, in a Contracting State an authority to conclude contracts on behalf of the enterprise, that enterprise shall be deemed to have a permanent establishment in that State in respect of any activities which that person undertakes for the enterprise, unless the activities of such person are limited to those mentioned in paragraph (4) of this Article which, if exercised through a fixed place of business, would not make this fixed place of business a permanent establishment under the provisions of that paragraph.

(6) An enterprise shall not be deemed to have a permanent establishment in a Contracting State merely because it carries on business in that State through a broker, general commission agent or any other agent of an independent status, provided that such 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

Income from immovable property

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

(2) The term "immovable property" shall have the meaning which it has under the law of the Contracting State in which the property in question is situated. The term shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources; ships 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.

ARTICLE 7

Business profits

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

(2) Subject to the provisions of paragraph (3) of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent

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

(3) In determining the profits of a permanent establishment, there shall be allowed as deductions expenses which are incurred for the purposes of the permanent establishment, including executive and general administrative expenses so incurred, whether in the Contracting State in which the permanent establishment is situated or elsewhere.

(4) Insofar as it has been customary in a Contracting State to determine according to its law the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained 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 of income or capital gains which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

ARTICLE 8

Shipping and air transport

(1) Profits of an enterprise of a Contracting State from the operation of ships or aircraft in international traffic shall be taxable only in that State.

(2) For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include:

(a) profits from the rental on a bareboat basis of ships or aircraft; and

(b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

where such rental or such use, maintenance or rental, as the case may be, is incidental to the operation of ships or aircraft in international traffic.

(3) The provisions of paragraph (1) of this Article shall also apply to profits from the participation in a pool, a joint business or an international operating agency, but only to so much of the profits so derived as is attributable to the participant in proportion to its share in the joint operation.

ARTICLE 9

Associated enterprises

(1) Where:

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

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

and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the

enterprises, but, by reason of those conditions, have not so accrued, may be included by a Contracting State in the profits of that enterprise and taxed accordingly.

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

ARTICLE 10

Dividends

(1) Dividends paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

(2) (a) Dividends mentioned in paragraph (1) of this Article may also be taxed in the Contracting State of which the company paying the dividends is a resident and according to the laws of that State, but if the beneficial owner of the dividends is a resident of the other Contracting State, the tax so charged shall not exceed 15 per cent of the gross amount of the dividends.

(b) Notwithstanding the provisions of subparagraph (a) above, dividends shall not be taxed in the Contracting State of which the company paying the dividends is a resident if the beneficial owner of the dividends is a resident of the other Contracting State and is a company which holds directly at least 20 per cent of the capital of the company paying the dividends.

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

(3) The term "dividends" as used in this Article means income from shares, founders' shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights which is subjected to the same taxation treatment as income from shares by the laws of the Contracting State of which the company making the distribution is a resident and also includes any other item which, under the laws of the 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 beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 of this Convention shall apply.

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

(6) No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the shares or other rights in respect of which the dividend is paid to take advantage of this Article by means of that creation or assignment.

ARTICLE 11

Interest

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

(2) However, such interest may also be taxed in the Contracting State in which it arises, and according to the laws of that State, but if the beneficial owner of the interest is a resident of the other Contracting State the tax so charged shall not exceed 5 per cent of the gross amount of the interest.

(3) Notwithstanding the provisions of paragraph (2) of this Article, interest arising in a Contracting State and paid to a resident of the other Contracting State shall be taxable only in that other State if such resident is the beneficial owner of the interest and:

(a) the payer or the recipient of the interest is the Government of a Contracting State, a political subdivision or a local authority thereof; or

(b) the interest is paid in respect of a loan made, guaranteed or insured, or any other debt-claim or credit guaranteed or insured, by the institution in Slovenia which is authorised to act in accordance with national law on insurance and financing of international business transactions, or by the United Kingdom Export Credits Guarantee Department; or

(c) the interest is paid in respect of a loan made, guaranteed or insured by The Bank of England or The Bank of Slovenia (Banka Slovenije); or

(d) the payer and the recipient are both companies and either company owns directly at least 20 per cent of the capital of the other company, or a third company, being a resident of a Contracting State, holds directly at least 20 per cent of the capital of both the paying company and the recipient company.

(4) The term "interest" as used in this Article means income from debt-claims of every kind, whether or not secured by mortgage and whether or not carrying a right to participate in the debtor's profits, and in particular, income from government securities and income from bonds or debentures, including premiums and prizes attaching to such securities, bonds or debentures. The term shall not include any item which is treated as a dividend under the provisions of Article 10 of this Convention.

(5) The provisions of paragraphs (1), (2) and (3) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 of this Convention shall apply.

(6) Interest shall be deemed to arise in a Contracting State where the payer is 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 such permanent establishment, then such interest shall be deemed to arise in the State in which the permanent establishment is situated.

(7) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the interest paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(8) No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

ARTICLE 12

Royalties

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

(2) However, such royalties may also be taxed in the Contracting State in which they arise, and according to the laws of that State, but if the beneficial owner of the royalties is a resident of the other Contracting State the tax so charged shall not exceed 5 per cent of the gross amount of such royalties.

(3) The term "royalties" as used in this Article means payments of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films, and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for information (know-how) concerning industrial, commercial or scientific experience.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 of this Convention shall apply.

(5) Royalties shall be deemed to arise in a Contracting State where the payer is 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 liability to pay the royalties was incurred, and such royalties are borne by such permanent establishment, then such royalties shall be deemed to arise in the State in which the permanent establishment is situated.

(6) Where, by reason of a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid exceeds, for whatever reason, the amount which would have been agreed upon by the payer and the beneficial owner in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such case, the excess part of the payments shall remain taxable according to the laws of each Contracting State, due regard being had to the other provisions of this Convention.

(7) No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

ARTICLE 13

Capital gains

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

(2) Gains derived by a resident of a Contracting State from the alienation of:

(a) shares or other comparable rights, other than shares listed on an approved Stock Exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or

(b) an interest in a partnership or trust, the assets of which consist principally of immovable property situated in the other Contracting State, or of shares or rights referred to in sub-paragraph (a) of this paragraph,

may be taxed in that other State.

(3) 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, including such gains from the alienation of such a permanent establishment (alone or with the whole enterprise), may be taxed in that other State.

(4) Gains derived by a resident of a Contracting State from the alienation of ships or aircraft operated in international traffic by an enterprise of that Contracting State or movable property pertaining to the operation of such ships or aircraft, shall be taxable only in that State.

(5) Gains from the alienation of any property other than that referred to in paragraphs (1), (2), (3) and (4) of this Article shall be taxable only in the Contracting State of which the alienator is a resident.

(6) The provisions of this Article shall not affect the right of a Contracting State to levy, according to its law, a tax chargeable in respect of gains from the alienation of any property on a person who is a resident of that State at any time during the fiscal year in which the property is alienated, or has been so resident at any time during the six fiscal years immediately preceding that year.

ARTICLE 14

Income from employment

(1) Subject to the provisions of Articles 15, 17, 18 and 19 of this Convention, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

(a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any twelve month period commencing or ending 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 which the employer has in the other State.

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

ARTICLE 15

Directors' fees

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

ARTICLE 16

Artistes and sportsmen

(1) Notwithstanding the provisions of Articles 7 and 14 of this Convention, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as a sportsman, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

(2) Where income in respect of personal activities exercised by an entertainer or a sportsman in his capacity as such accrues not to the entertainer or sportsman himself but to another person, that

income may, notwithstanding the provisions of Articles 7 and 14 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or sportsman are exercised.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to income derived from activities exercised in a Contracting State by an entertainer or sportsman if the visit to that State is wholly or mainly supported by public funds of the other Contracting State or a political subdivision or a local authority thereof. In such a case, the income shall be taxable only in the Contracting State of which the entertainer or sportsman is a resident.

ARTICLE 17

Pensions

Subject to the provisions of paragraph (2) of Article 18 of this Convention, pensions and other similar remuneration paid to an individual who is a resident of a Contracting State shall be taxable only in that State.

ARTICLE 18

Government service

(1) (a) Salaries, wages and other similar remuneration paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

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

(i) is a national of that State; or

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

(2) (a) Notwithstanding the provisions of paragraph (1) of this Article, pensions and other similar remuneration paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.

(b) However, such pensions and other similar remuneration shall be taxable only in the other Contracting State if the individual is a resident of, and a national of, that State.

(3) The provisions of Articles 14, 15, 16 and 17 of this Convention shall apply to salaries, wages, pensions, and other similar remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

ARTICLE 19

Professors, teachers and researchers

(1) An individual who visits one of the Contracting States, for a period not exceeding two years, for the purpose of teaching, or engaging in research at a university, college, school or other recognised educational institution in that Contracting State, and who immediately before that visit was a resident of the other Contracting State, shall, for a period not exceeding two years from the date of his first arrival in that first-mentioned State for that purpose, be exempt from tax in that Contracting State on the remuneration for such teaching or research.

(2) No exemption shall be granted under paragraph (1) of this Article with respect to any remuneration for research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 20

Students

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned State solely for the purpose of his education or training receives for the purpose of his maintenance, education or training shall not be taxed in that first-mentioned State, provided that such payments arise from sources outside that State.

ARTICLE 21

Other income

(1) Items of income beneficially owned by a resident of a Contracting State, wherever arising, which are not dealt with in the foregoing Articles of this Convention, other than income paid out of trusts or the estates of deceased persons in the course of administration, shall be taxable only in that State.

(2) The provisions of paragraph (1) of this Article shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article 6 of this Convention, if the beneficial owner of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment. In such case the provisions of Article 7 of this Convention shall apply.

(3) Where, by reason of a special relationship between the resident referred to in paragraph (1) of this Article and some other person, or between both of them and some third person, the amount of the income referred to in that paragraph exceeds the amount (if any) which would have been agreed upon between them in the absence of such a relationship, the provisions of this Article shall apply only to the last-mentioned amount. In such a case, the excess part of the income shall remain taxable according to the laws of each Contracting State, due regard being had to the other applicable provisions of this Convention.

(4) No relief shall be available under this Article if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the income is paid to take advantage of this Article by means of that creation or assignment.

ARTICLE 22

Capital

(1) Capital represented by immovable property referred to in Article 6 of this Convention, owned by a resident of a Contracting State and situated in the other Contracting State, may be taxed in that other State.

(2) Capital represented by 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 may be taxed in that other State.

(3) Capital represented by ships and aircraft operated in international traffic, and by movable property pertaining to the operation of such ships and aircraft, shall be taxable only in the Contracting State in which the profits are taxable in accordance with Article 8 of this Convention.

(4) All other elements of capital of a resident of a Contracting State shall be taxable only in that State.

ARTICLE 23

Elimination of double taxation

(1) In Slovenia:

(a) Where a resident of Slovenia derives income or owns capital which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom, Slovenia shall allow:

(i) as a deduction from the tax on the income of that resident, an amount equal to the income tax, tax on chargeable gains or corporation tax paid in the United Kingdom;

(ii) as a deduction from the tax on the capital of that resident, an amount equal to the capital tax paid in the United Kingdom.

Such deduction in either case shall not, however, exceed that portion of the income tax or capital tax, as computed before the deduction is given, which is attributable, as the case may be, to the income, profits, chargeable gains or capital which may be taxed in the United Kingdom.

(b) Where in accordance with any provision of the Convention income derived or capital owned by a resident of Slovenia is exempt from tax in Slovenia, Slovenia may nevertheless, in calculating the amount of tax on the remaining income or capital of such resident, take into account the exempted income or capital.

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

(a) Slovenian tax payable under the laws of Slovenia and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Slovenia (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 Slovenian tax is computed;

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

(3) For the purposes of paragraph (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 State.

(4) Notwithstanding the provisions of paragraphs (1) and (2) of this Article:

(a) where gains may be taxed by a Contracting State by reason only of paragraph (6) of Article 13 of this Convention, that State and not the other Contracting State shall eliminate double taxation in accordance with the methods set out in this Article as if the gains arose from sources in that other State;

(b) where gains may be taxed by a Contracting State by reason of paragraphs (1), (2) or (3) of Article 13 of this Convention, the other Contracting State and not the first-mentioned State shall eliminate double taxation in accordance with the methods set out in this Article.

ARTICLE 24

Partnerships

Where, under any provision of this Convention, a partnership is entitled, as a resident of Slovenia, to relief from tax in the United Kingdom on any income or capital gains, that provision shall not be construed as restricting the right of the United Kingdom to tax any member of the partnership who is a resident of the United Kingdom on his share of such income or capital gains; but any such income or gains shall be treated for the purposes of Article 23 of this Convention as income or gains from sources in Slovenia.

ARTICLE 25

Limitation of relief

Where under any provision of this Convention any income or gains are relieved from tax in a Contracting State and, under the law in force in the other Contracting State a person, in respect of that income or those gains, is subject to tax by reference to the amount thereof which is remitted to or received in that other State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned State shall apply only to so much of the income or gains as is taxed in the other State.

ARTICLE 26

Non-discrimination

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

(2) Stateless persons who are residents of a Contracting State shall not be subjected in either 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 the State concerned in the same circumstances, in particular with respect to residence, are or may be subjected.

(3) 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.

(4) Except where the provisions of paragraph (1) of Article 9, paragraph (7) or (8) of Article 11, paragraph (6) or (7) of Article 12, or paragraph (3) or (4) of Article 21 of this Convention apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State. Similarly, any debts of an enterprise of a Contracting State owed to a resident of the other Contracting State shall, for the purpose of determining the taxable capital of such enterprise, be deductible under the same conditions as if they had been owed to a resident of the first-mentioned State.

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

(6) (a) Contributions borne by an individual who exercises employment in a Contracting State to a pension scheme recognised for tax purposes in the other Contracting State shall be deducted, in the first-mentioned State, in determining the individual's taxable income, and treated in that State, in the same way and subject to the same conditions and limitations as contributions made to a pension scheme that is recognised for tax purposes in that first-mentioned State, provided that :

(i) the competent authority of the first-mentioned State agrees that the pension scheme corresponds to a pension scheme recognised for tax purposes by that State; and

(ii) the individual was not a resident of that State, and was contributing to the pension scheme, before he started to exercise employment in the first-mentioned State.

(b) For the purposes of sub-paragraph (a) of this paragraph:

(i) the term "a pension scheme" means an arrangement in which the individual participates in order to secure retirement benefits payable in respect of the employment referred to in sub-paragraph (a);

(ii) a pension scheme is "recognised for tax purposes" in a Contracting State if contributions to the scheme borne by the individual referred to in sub-paragraph (a) of this paragraph would qualify for tax relief in that State.

(7) 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.

(8) The provisions of this Article shall apply to the taxes which are the subject of this Convention.

ARTICLE 27

Mutual agreement procedure

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with the provisions of this Convention, he may, irrespective of the remedies provided by the domestic law of those States, present his case to the competent authority of the Contracting State of which he is a resident or, if his case comes under paragraph (1) of Article 26 of this Convention, to that of the Contracting State of which he is a national.

(2) The competent authority shall endeavour, if the objection appears to it to be justified and if it is not itself able to arrive at a satisfactory solution, to resolve the case by mutual agreement with the competent authority of the other Contracting State, with a view to the avoidance of taxation which is not in accordance with this 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 this Convention. They may also consult together for the elimination of double taxation in cases not provided for in this 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 28

Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is foreseeably relevant for carrying out the provisions of this Convention or to the administration or enforcement of the domestic laws of the Contracting States concerning taxes of every kind and description imposed on behalf of the Contracting States, or of their political subdivisions or local authorities, insofar as the taxation thereunder is not contrary to this Convention, in particular, to prevent fraud and to facilitate the administration of statutory provisions against tax avoidance. The exchange of information is not restricted by Articles (1) and (2) of this Convention.

(2) Any information received under paragraph (1) of this Article by a Contracting State shall be treated as secret in the same manner as information obtained under the domestic laws of that State and shall be disclosed only to persons or authorities (including courts and administrative bodies) concerned with the assessment or collection of, the enforcement or prosecution in respect of, the determination of appeals in relation to, the taxes referred to in paragraph (1) of this Article, or the oversight of the above. Such persons or authorities shall use the information only for such purposes. They may disclose the information in public court proceedings or in judicial decisions.

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

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

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

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

(4) If information is requested by a Contracting State in accordance with this Article, the other Contracting State shall use its information gathering measures to obtain the requested information, even though that other State may not need such information for its own tax purposes. The obligation contained in the preceding sentence is subject to the limitations of paragraph (3) of this Article but in no case shall such limitations be construed to permit a Contracting State to decline to supply information solely because it has no domestic interest in such information.

(5) In no case shall the provisions of paragraph (3) of this Article be construed to permit a Contracting State to decline to supply information solely because the information is held by a bank, other financial institution, nominee or person acting in an agency or a fiduciary capacity or because it relates to ownership interests in a person.

ARTICLE 29

Members of diplomatic or permanent missions and consular posts

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

ARTICLE 30

Entry into force

(1) Each Contracting State shall notify the other Contracting State, through diplomatic channels, of the completion of the procedures required by its law for the bringing into force of this Convention. This Convention shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect:

(a) in Slovenia:

(i) in respect of taxes withheld at source, to income derived on or after 1st January of the calendar year next following the year in which this Convention enters into force;

(ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1st January of the calendar year next following the year in which this Convention enters into force.

(b) in the United Kingdom:

(i) in respect of taxes withheld at source, to income derived on or after 1st January in the calendar year next following the year in which this Convention enters into force;

(ii) subject to sub-paragraph (b)(i) above:

in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which this Convention enters into force;

(iii) in respect of corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which this Convention enters into force;

(2) The Convention between the Socialist Federal Republic of Yugoslavia and the United Kingdom of Great Britain and Northern Ireland for the Avoidance of Double Taxation with Respect to Taxes on Income, signed in London on 6th November 1981, shall cease to be effective with respect to any Slovenian or United Kingdom tax on the date upon which the present Convention becomes effective in relation to that tax in accordance with the provisions of paragraph (1) of this Article.

ARTICLE 31

Termination

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

(a) in Slovenia:

(i) in respect of taxes withheld at source, to income derived on or after 1st January of the calendar year next following that in which the notice is given;

(ii) in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1st January of the calendar year next following that in which the notice is given;

(b) in the United Kingdom:

(i) in respect of taxes withheld at source, to income derived on or after 1st January in the calendar year next following the year in which the notice is given;

(ii) subject to sub-paragraph (b)(i) above:

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

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

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

Done in duplicate at London this 13th day of November 2007 in the English and Slovenian languages, both texts being equally authoritative.

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

Kitty Usher

For the Government of the Republic of Slovenia:

Iztok Mirosic

PART 2

PROTOCOL

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

At the moment of signing the Convention for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income and on capital, this day concluded between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Slovenia, the Governments have agreed upon the following provisions which shall be an integral part of the Convention.

Paragraph 1: Investment Schemes

(1) An investment scheme constituted under the law of, and established in, a Contracting State which:

(a) is not a body corporate;

(b) receives income arising in the other Contracting State;

(c) is treated as a body corporate for the purpose of taxing that income in the Contracting State under the law of which it is constituted; and

(d) is subject to tax on that income in that State, shall be treated for the purposes of Articles 10, 11 and 21 of this Convention as:

(i) a resident of that State;

(ii) the beneficial owner of that income; and

(iii) an individual.

(2) Subject to subparagraph (4) of this Paragraph, an investment scheme constituted under the law of, and established in, a Contracting State which, irrespective of whether it is a body corporate under that law:

(a) receives income arising in the other Contracting State;

(b) is not treated as a body corporate for the purpose of taxing that income in the Contracting State under the law of which it is constituted; and

(c) is not subject to tax on that income in that State, shall, subject to any conditions imposed by the law of the Contracting State in which the income arises, be treated for the purposes of Articles 10, 11 and 21 of this Convention as:

(i) a resident of the State in which it is established;

(ii) the beneficial owner of the aggregate amount of that income on which residents of that State are subject to tax therein; and

(iii) an individual.

(3) Where an investment scheme constituted under the law of, and established in, a Contracting State is treated by virtue of subparagraph (2) of this Paragraph as the beneficial owner of any income for the purposes of Article 10, 11 or 21 of this Convention then, notwithstanding anything in the Article concerned, that income shall not be regarded for the purposes of any of those Articles as the income of persons participating in the scheme who are residents of that Contracting State and subject to tax there on that income.

(4) The competent authorities of the Contracting States may agree on the conditions for the application of subparagraph (2) of this Paragraph in the case of an investment scheme and, in calculating the aggregate amount of income falling within Articles 10, 11 and 21 respectively of this Convention, shall have regard to the extent to which persons participating in the scheme

would have been entitled to the benefit of those Articles but for the provisions of subparagraph (3) of this Paragraph.

(5) Where subparagraph (2) of this Paragraph applies to an investment scheme, nothing in this Paragraph shall prevent the Contracting State in which income of an investment scheme arises from recovering from a person participating in the scheme any repayment of tax which that person should not have received by reason of the provisions of subparagraph (3) of this Paragraph.

(6) For the purposes of this Paragraph:

(a) "investment scheme" means, in the case of the United Kingdom, a collective investment scheme within the meaning of the Financial Services Act 1986 or the Financial Services and Markets Act 2000 (other than a charitable unit trust scheme or a limited partnership scheme) and, in the case of Slovenia an investment fund (*investicijski sklad*); and includes any other investment fund or company of either Contracting State which the competent authorities of the Contracting States agree to regard as an investment scheme;

(b) a person participating in an investment scheme means a person who is entitled to participate in or receive profits or income from the acquisition, holding, management or disposal of any part of the property (including money) which is subject to the arrangements constituting the investment scheme or sums paid out of such profits or income.

Paragraph 2: Pension Schemes

(1) Notwithstanding the provisions of subparagraph (a) of paragraph (2) of Article 10, dividends shall not be taxed in the Contracting State of which the company paying the dividends is a resident if the beneficial owner of the dividends is a pension scheme.

(2) The term "pension scheme" as used above means any plan, scheme, fund, trust or other arrangement established in a Contracting State which

(a) is generally exempt from income taxation in that State; and

(b) operates principally to administer or provide pension or retirement benefits or to earn income for the benefit of one or more such arrangements.

(3) A pension scheme established in a Contracting State which is not treated as a body corporate for tax purposes in that State will nevertheless be regarded for the purposes of this Protocol as a resident of that State and as the beneficial owner of those dividends.

Paragraph 3: Directors

It is understood that in the case of a Slovenian company the term "a member of the board of directors" means a member of a board of directors (*član uprave in član upravnega odbora*) or of a supervisory board (*član nadzornega sveta*).

Done in duplicate at London this 13th day of November 2007 in the English and Slovenian languages, both texts being equally authoritative.

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

Kitty Usher

For the Government of the Republic of Slovenia:

Iztok Mirosic

EXPLANATORY NOTE

(This note is not part of the Order)

A Convention dealing with the avoidance of double taxation and fiscal evasion between the United Kingdom and the Republic of Slovenia ("the Convention") is set out in the Schedule to this Order.

Article 2 makes a declaration as to the effect and content of arrangements set out in the Convention contained in Part 1 of the Schedule to the Order and in the Protocol contained in Part 2 of that Schedule and that it is expedient that those arrangements should have effect.

A detailed explanation of the Convention can be found in the Explanatory Memorandum published with the Convention and which may be accessed on the web site of the Office of Public Sector Information at http://www.opsi.gov.uk/stat.htm

The Convention will enter into force on the date of receipt of the later of the notifications by each country of the completion of its legislative procedures.

It will take effect in the United Kingdom—

in respect of taxes withheld at source, to income derived on or after 1st January in the calendar year next following the year in which this Convention enters into force; and

in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which this Convention enters into force; and

in respect of corporation tax, for any financial year beginning on or after 1st April in the calendar year next following that in which this Convention enters into force.

It will take effect in the Republic of Slovenia—

in respect of taxes withheld at source, to income derived on or after 1st January of the calendar year next following the year in which this Convention enters into force; and

in respect of other taxes on income, and taxes on capital, to taxes chargeable for any taxable year beginning on or after 1st January of the calendar year next following the year in which this Convention enters into force (see Article 30 of the Convention).

The date of entry into force will, in due course, be published in the *London, Edinburgh* and *Belfast Gazettes*.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.

Draft Order laid before the House of Commons under section 788(10) of the Income and Corporation Taxes Act 1988 and section 173(7) of the Finance Act 2006, for approval by resolution of that House.

DRAFT STATUTORY INSTRUMENTS

2008 No.

CAPITAL GAINS TAX

CORPORATION TAX

INCOME TAX

The Double Taxation Relief and International Tax Enforcement (Taxes on Income and Capital) (Slovenia) Order 2008

£4.00

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