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STATUTORY INSTRUMENTS

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**1991 No. 2879**

**INCOME TAX**

**The Double Taxation Relief (Taxes  
on Income) (Iceland) Order 1991**

*Made - - - - 19th December 1991*

At the Court at Buckingham Palace, the 19th day of December 1991

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the House of Commons in accordance with the provisions of section 788(10) of the Income and Corporation Taxes Act 1988(1), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of that draft:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 788 of the said Act, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Iceland) Order 1991.
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 Iceland 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 Iceland;
  - (b) that those arrangements include provisions with respect to the exchange of information necessary for carrying out the domestic laws of the United Kingdom and the laws of Iceland concerning taxes covered by the arrangements; and
  - (c) that it is expedient that those arrangements should have effect.

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

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G.I. de Deney  
Clerk of the Privy Council

SCHEDULE

CONVENTION

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

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

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

Have agreed as follows:

*ARTICLE 1*

***Personal scope***

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

*ARTICLE 2*

***Taxes covered***

- (1) The taxes which are the subject of this Convention are:
  - (a) in the United Kingdom of Great Britain and Northern Ireland:
    - (i) the income tax; and
    - (ii) the corporation tax,
    - (iii) the capital gains tax;(hereinafter referred to as “United Kingdom Tax”);
  - (b) in Iceland
    - (i) the national income tax;
    - (ii) the municipal income tax;(hereinafter referred to as “Icelandic tax”).

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the taxes of that Contracting State referred to in paragraph (1) of this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which 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

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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 “Iceland” means the Republic of Iceland, including any area adjacent to the territorial sea of Iceland within which under the laws of Iceland and in accordance with international law, Iceland has sovereign rights for the purpose of exploring and exploiting the natural resources of the sea bed and sub-soil;
- (c) the term “national” means:
  - (i) in relation to the United Kingdom, any British citizen, or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;
  - (ii) in relation to Iceland, any individual possessing Icelandic nationality and any legal person, partnership, association or other entity deriving its status as such from the law in force in Iceland;
- (d) the term “tax” means United Kingdom tax or Icelandic tax, as the context requires;
- (e) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or Iceland as the context requires;
- (f) the term “person” comprises an individual, a company and any other body of persons but does not include partnerships which are not treated as bodies corporate for tax purposes in either Contracting State;
- (g) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
- (h) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” means 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;
- (i) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
- (j) the term “political subdivision” in relation to the United Kingdom, includes Northern Ireland;
- (k) 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 Iceland, the Minister of Finance 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 law of that Contracting State concerning the taxes to which the Convention applies.

#### ARTICLE 4

##### *Fiscal domicile*

(1) In 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 or any other criterion of a similar nature. But this term does not include any person who is liable to tax in that State in respect only of income or capital gains from sources in that State.

(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 as follows:

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- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him; if he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
  - (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
  - (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
  - (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.
- (3) Where by reason of the provisions of paragraph (1) of this Article a person other than an individual is a resident of both Contracting States, then it shall be deemed to be a resident of the State in which its place of effective management is situated.

## *ARTICLE 5*

### ***Permanent establishments***

- (1) In 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;
  - (f) an installation or structure used for the exploration of natural resources;
  - (g) a mine, an oil or gas well, a quarry or any other place of extraction or exploitation of natural resources;
- (3) A building site or construction or installation project constitutes a permanent establishment only if it lasts for 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 display of goods or merchandise belonging to the enterprise;
  - (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, 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

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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 in the name 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 real property***

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

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

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

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

## ARTICLE 7

### ***Business profits***

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

(2) 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 State in which the permanent establishment is situated or elsewhere, and which are reasonably connected with profits attributable to the permanent establishment.

(4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) 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 a good and sufficient reason to the contrary.

(7) Where profits include items 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 from the operation of ships or aircraft in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

(3) Where profits within paragraph (1) of this Article profits are derived by an enterprise of a Contracting State from participation in a pool, a joint business or an international operating agency, the profits attributable to that enterprise shall be taxable only in the Contracting State in which the place of effective management of that enterprise is situated.

(4) Notwithstanding the provisions of Article 7 of this Convention profits of an enterprise of a Contracting State 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 shall be taxable only in the Contracting State in which the place of effective management of that enterprise is situated except insofar as those containers or trailers and related equipment are used for transport solely between places with the other Contracting State.

## 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;

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and in either case conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

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

## ARTICLE 10

### *Dividends*

- (a)
  - (i) Dividends derived from a company which is a resident of a the United Kingdom by a resident of Iceland may be taxed in Iceland.
  - (ii) Where a resident of Iceland is entitled to a tax credit in respect of such a dividend under sub-paragraph (b) of this paragraph, tax may also be charged in the United Kingdom and according to the laws of the United Kingdom on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.
  - (iii) Except as provided in sub-paragraph (a)(ii) of this paragraph dividends derived from a company which is a resident of the United Kingdom by a resident of Iceland who is the beneficial owner of the dividends shall be exempt from any tax in the United Kingdom which is chargeable on dividends.
- (b) A resident of Iceland who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (c) of this paragraph and provided he is the beneficial owner of the dividends, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received those dividends and to the payment of any excess of that tax credit over his liability to the United Kingdom tax.
- (c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the beneficial owner of the dividends is, or is associated with, a company which, either alone or together with one or more associated companies, controls, directly or indirectly, more than 50 per cent of the voting power in the other company, or a third company controls more than 50 per cent of the voting power in both of them.
- (d)
  - (i) Notwithstanding the provisions of sub-paragraphs (b) and (c) of this paragraph, no tax credit shall be payable where the beneficial owner of the dividends is a company other than a company whose shares are officially quoted on a stock exchange in Iceland unless the company shows that it is not controlled by a person or two or more associated or connected persons together, who or any of whom would not have been entitled to a tax credit if he had been the beneficial owner of the dividends.
  - (ii) For the purposes of this sub-paragraph a person or two or more associated or connected persons together shall be treated as having control of a company if under the laws of the United Kingdom relating to the taxes covered by this Convention he or they could be treated as having control of it for any purposes, and persons shall be treated as associated or connected if under these laws they could be so treated for any



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purpose. However, where an individual is treated as having control of a company by reason only of the fact that he holds ordinary shares in the company carrying full voting and dividend rights and that individual holds not more than 10 per cent of the total number of such shares in the company, the shares held by him shall be left out of account in determining whether the company is controlled by a person or two or more associated or connected persons together, who or any of whom would not have been entitled to a tax credit if he had been the beneficial owner of the dividends payable to the company, provided that not more than 25 per cent of the total of such shares in the company may be left out of account.

(2) Dividends derived from a company which is a resident of Iceland by a resident of Iceland by a resident of the United Kingdom may be taxed in the United Kingdom. Such dividends may also be taxed in Iceland and according to the laws of Iceland, but if the recipient is the beneficial owner of the dividends the tax so charged shall not exceed:

- (a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company (other than a partnership) which holds directly at least 10 per cent of the capital of the company paying the dividends;
- (b) in all other cases 15 per cent of the gross amount of the dividends.

(3) Notwithstanding the provisions of paragraph (2), sub-paragraph (a) of this Article, dividends derived from a company which is a resident of Iceland by a company which is resident of the United Kingdom may be taxed in Iceland at a rate not exceeding 15 per cent on that part of the dividends which have, according to the laws of Iceland, been allowed as a deduction from the profits of, or as a carry forward as an operating loss of, the Icelandic company paying the dividends.

(4) The term “dividends” for United Kingdom tax purposes includes any item which under the law of the United Kingdom is treated as a distribution and for Icelandic tax purposes includes any item which under the law of Iceland is treated as a distribution.

(5) The provisions of paragraphs (1) or as the case may be, (2) and (3) of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividends is a resident, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the holding in respect of which the dividends are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

(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, except insofar as such dividends are paid to a resident of that other State or insofar as the holding in respect of which the dividends are paid is effectively connected with a permanent establishment or a fixed base situated in that other State, nor subject the company’s undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

(7) If the beneficial owner of a dividend, being a resident of a Contracting State, owns 10 per cent or more of the class of shares in respect of which the dividend is paid then the provisions of paragraph (1) or, as the case may be, (2) and (3) 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 dividends earned or other income which it received in a period ending 12 months or more before the relevant date. For the purposes of this paragraph the term “relevant date” means the date on which the beneficial owner 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 beneficial owner of the dividend shows that the shares were acquired for bona fide commercial reasons and not primarily for the purposes of securing the benefit of this Article.

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## ARTICLE 11

### *Interest*

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

(2) The term “interest” for United Kingdom tax purposes includes any item which under the law of the United Kingdom is treated as interest and for Icelandic tax purposes includes any item which under the law of Iceland is treated as interest, but shall not include any item which is treated as a dividend under the provisions of this Convention.

(3) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

(4) 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.

(5) Any provision in the laws of either Contracting State relating only to interest paid to a non-resident company shall not operate so as to require such interest paid to a company which is a resident of the other Contracting State to be treated as a distribution or dividend by the company paying such interest. The preceding sentence shall not apply to interest paid to 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 who are residents of the other Contracting State.

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

(7) The provisions of paragraph (1) of this Article shall not apply where the beneficial owner of the interest is a company other than a quoted company, unless the company shows that it is not controlled by a person, or two or more associated or connected persons together, who or any of whom would not have been entitled to relief under paragraph (1) of this Article if he had been the beneficial owner of the interest.

(8) For the purposes of paragraph (7) of this Article:

- (a) a quoted company is any company the shares in which are officially quoted on a stock exchange in the Contracting State of which it is a resident;
- (b) subject to paragraph (9) of this Article, a person or two or more associated or connected persons together shall be treated as having control of a company if, under the laws of the Contracting State in which the interest arises relating to the taxes covered by this Convention, they could be treated as having control of it for any purpose and persons shall be treated as associated or connected if, under those laws, they could be so treated for any purpose.

(9) Where an individual is treated in paragraph (8)(b) of this Article as having control of a company by reason only of the fact that he holds ordinary shares in the company carrying full voting and dividend rights, and that individual holds not more than 10 per cent of the total number of such shares in the company, the shares held by him shall be left out of account in determining whether the company is controlled by a person or two or more associated or connected persons together,

provided that not more than 25 per cent of the total of such shares in the company may be left out of account in this manner.

## ARTICLE 12

### **Royalties**

(1) Royalties derived and beneficially owned by a resident of a Contracting State shall be taxable only in that State.

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

(3) The provisions of paragraphs (1) 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 through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

(4) 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 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.

(5) The provisions of this Article shall not apply if the right or property giving rise to the royalties was created or assigned mainly for the purpose of taking advantage of this Article and not for bona fide commercial reasons.

(6) The provisions of paragraph (1) of this Article shall not apply where the beneficial owner of the royalties is a company other than a quoted company, unless the company shows that it is not controlled by a person, or two or more associated or connected persons together, who or any of whom would not have been entitled to relief under paragraph (1) of this Article if he had been the beneficial owner of the royalties.

(7) For the purposes of paragraph (6) of this Article:

- (a) a quoted company is any company the shares in which are officially quoted on a stock exchange in the Contracting State of which it is a resident;
- (b) subject to paragraph (8) of this Article, a person or two or more associated or connected persons together shall be treated as having control of a company if, under the laws of the Contracting State in which the royalties arise relating to the taxes covered by this Convention, they could be treated as having control of it for any purpose and persons shall be treated as associated or connected if, under those laws, they could be so treated for any purpose.

(8) Where an individual is treated under paragraph (7)(b) of this Article as having control of a company by reason only of the fact that he holds ordinary shares in the company carrying full voting and dividend rights, and that individual holds not more than 10 per cent of the total number of such shares in the company, the shares held by him shall be left out of account in determining whether the company is controlled by a person or two or more associated or connected persons together,

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provided that not more than 25 per cent of the total of such shares in the company may be left out of account in this manner.

### ARTICLE 13

#### **Capital Gains**

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

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

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

(4) Gains derived by an enterprise of a Contracting State from the alienation of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise shall be taxable only in the Contracting State in which the place of effective management of that enterprise is situated except insofar as those containers or trailers and related equipment are used for transport solely between places within the other Contracting State.

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

### ARTICLE 14

#### **Independent personal services**

(1) Income derived by a resident of a Contracting State in respect of professional services or other activities of an independent character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other State but only so much of it as is attributable to that fixed base.

(2) The term “professional services” includes especially independent scientific, literary, artistic, educational or teaching activities as well as the independent activities of physicians, lawyers, engineers, architects, dentists and accountants.

### ARTICLE 15

#### **Dependent personal services**

(1) Subject to the provisions of Articles 16, 18, 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:

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- (a) the recipient is present in the other State for a period or periods not exceeding in the aggregate 183 days in any period of 12 months; and
- (b) the remuneration is paid by, or on behalf of, an employer who is not a resident of the other State; and
- (c) the remuneration is not borne by a permanent establishment or a fixed base which the employer has in the other State.

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

#### *ARTICLE 16*

##### ***Directors' fees***

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

#### *ARTICLE 17*

##### ***Artistes and athletes***

(1) Notwithstanding the provisions of Article 14 and Article 15 of this Convention, income derived by a resident of a Contracting State as an entertainer, such as a theatre, motion picture, radio or television artiste, or a musician, or as an athlete, from his personal activities as such exercised in the other Contracting State, may be taxed in that other State.

(2) Where income in respect of personal activities exercised by an entertainer or an athlete in his capacity as such accrues not to the entertainer or athlete himself but to another person, that income may, notwithstanding the provisions of Articles 7, 14 and 15 of this Convention, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

#### *ARTICLE 18*

##### ***Pensions, annuities, alimony and social security payments***

(1) Subject to the provisions of paragraph (2) of Article 19 of this Convention, pensions and other similar remuneration, alimony and annuities as well as pensions and other payments under the Social Security System paid to a resident of a Contracting State shall be taxable only in that State.

(2) The term "annuity" means a stated sum payable periodically at stated times during life or during a specified or ascertainable period of time under an obligation to make the payments in return for adequate and full consideration in money or money's worth.

(3) Notwithstanding the provisions of paragraph (1) of this Article, any alimony or other maintenance payment paid by a resident of one of the Contracting States to a resident of the other Contracting State, shall, if it is not allowable as a relief to the payer, be taxable only in the first mentioned State.

#### *ARTICLE 19*

##### ***Government service***

- (a) (1) (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered in

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the discharge of government functions to that State or subdivision or authority shall be taxable only in that State.

(b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State or:

(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.

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

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

(3) The provisions of Article 15, 16 and 18 of this Convention shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or a local authority thereof.

## ARTICLE 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, other than income paid out of trusts or the estates of deceased persons in the course of administration, which are not dealt with in the foregoing Articles of this Convention shall be taxable only in that State.

(2) Income paid out of trusts or the estates of deceased persons in the course of administration may be taxed in both Contracting States.

(3) The provisions of paragraph (1) of this Article shall not apply to income, other than income from immovable property as defined in paragraph (2) of Article (6) of this Convention, if the recipient of such income, being a resident of a Contracting State, carries on business in the other Contracting State through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the income is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

## ARTICLE 22

### ***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) Icelandic tax payable under the laws of Iceland and in accordance with the provisions of this Convention, whether directly or by deduction, on profits income or chargeable gains from sources within Iceland (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 Icelandic tax is computed;

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

(a) (2) (a) Where a resident of Iceland derives income which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom, Iceland shall, subject to the provisions of sub-paragraph (b) of this paragraph, exempt such income from tax but may, in calculating tax on the remaining income of that person, apply the rate of tax which would have been applicable if the exempted income had not been so exempted.

(b) Where a resident of Iceland derives income which, in accordance with the provisions of Articles 10, 16, 17 or paragraph (2) of Article 21 of this Convention may be taxed in the United Kingdom, Iceland shall allow as a deduction from the tax on the income of that person an amount equal to the tax paid in the United Kingdom. Such deduction shall not, however, exceed that part of the tax, as computed before the deduction is given, which is appropriate to the income derived from the United Kingdom.

(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 23

### ***Non-discrimination***

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

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

(3) Except where the provisions of paragraph (1) of Article 9, paragraphs (4) and (5) of Article 11, or paragraph (4) of Article 12 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.

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

(5) 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.

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

#### ARTICLE 24

##### ***Mutual agreement procedure***

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

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

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention. They may also consult together to consider measures to counteract improper use of the provisions 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 25

##### ***Exchange of information***

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

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

- (a) to carry out administrative measures at variance with the laws and administrative practice of that or of the other Contracting State;
- (b) to supply information which is not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State;



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

#### ARTICLE 26

##### ***Members of diplomatic or permanent missions and consular posts***

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

#### ARTICLE 27

##### ***Entry into force***

(1) Each of the Contracting States shall notify to the other the completion of the procedures required by its law for the bringing into force of this Convention.

(2) This Convention shall enter into force on the date of receipt of the later of these notifications and shall thereupon have effect:

- (a) in the United Kingdom:
  - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April;
  - (ii) in respect of corporation tax, for any financial year beginning on or after 1st April;
- (b) in Iceland: in respect of taxes on income and capital gains derived on or after 1st January, including any accounting periods ending in that period;

in either case in the calendar year following that in which the later of these notifications is received, and subsequent years.

(3) The Agreement between the United Kingdom and Iceland for the Exemption of Shipping Profits from Double Taxation signed at London on 27th April 1928 shall terminate and cease to be effective from the date upon which this Convention has effect in respect of the taxes to which this Convention applies in accordance with the provisions of paragraph (2) of this Article.

#### ARTICLE 28

##### ***Termination***

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate this Convention by giving notice of termination, through the diplomatic channel, at least six months before the end of any calendar year after the year 1995. In such event, this Convention shall cease to have effect:

- (a) in the United Kingdom:
  - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6th April in the calendar year next following that in which notice is given, and subsequent years;
  - (ii) in respect of corporation tax, for any financial year beginning on or after 1st April in calendar year next following that in which the notice is given, and subsequent years;
- (b) in Iceland: in respect of taxes on income and capital gains for any year of assessment of taxes chargeable on income and capital gains of the calendar year (including accounting periods ending in any such year) next following that in which the notice of termination is given, and subsequent years.

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

Done in duplicate at Reykjavik this 30th day of September 1991 in the English and Icelandic languages, both texts being equally authoritative.

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

*Patrick Wogan*

For the Government of the Republic of Iceland

*Sigurbjorn Thorbjornsson*

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

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

Provision is made for business profits not arising through a permanent establishment to be taxed only in the country of the taxpayer's residence. Profits attributable to a permanent establishment may be taxed in the country in which the permanent establishment is situated (Articles 5 and 7). Shipping and air transport profits are to be taxed only in the country in which the place of effective management is situated (Article 8). The Convention includes rules for determining taxable profits when a company in one country is related to a company in the other (Article 9).

The Dividends Article (Article 10) takes account of the imputation system of company taxation in the United Kingdom. Where the recipient is an individual resident of Iceland or an Icelandic company controlling less than 10 per cent of the voting power of the United Kingdom company, the tax credit payable will be equal to the tax credit which would be payable to a United Kingdom resident individual less a sum not exceeding 15 per cent of the aggregate of the dividend and the tax credit. The Article provides that entitlement to a tax credit may be withdrawn where the recipient of a dividend cannot show, if required to do so, that the shareholding was acquired for bona fide commercial reasons or in the ordinary course of making or managing investments and it was not the main object nor one of the main objects of that acquisition to obtain entitlement to the tax credit.

The Dividends Articles also provides that the rate of Icelandic withholding tax on dividends paid to a United Kingdom company controlling at least 10 per cent of the capital of the Icelandic company paying the dividend will be limited to a maximum of 5 per cent. In all other cases the Icelandic withholding tax will not be more than 15 per cent.

Subject to certain anti-abuse provisions the country of source will exempt from tax interest and royalties paid to a resident of the other country (Articles 11 and 12).

The earnings of temporary business visitors are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence (Articles 14 and 15). Fees received by a resident of one country in his capacity as a director of a company resident in the other may be taxed in the latter country (Article 16). Income derived from the activities of artistes and athletes may be taxed in the country in which these activities are exercised (Article 17). Government service salaries and pensions are normally to be taxed by the paying Government only (Article 19) while other pensions are to be taxed only in the country of the taxpayer's residence (Article 18). Payments made to visiting students and business apprentices are, in general, to be exempt from tax in the country visited (Article 20).

Income from immovable property and gains derived from such property may be taxed in the country in which the property is situated (Articles 6 and 13). Capital gains arising from the disposal of movable property are normally to be taxed only in the country of the taxpayer's residence. Gains arising from the disposal of assets of a permanent establishment or fixed base which the taxpayer has in the other country may be taxed in the other country.

Where income continues to be taxable in both countries, relief from double taxation will be given by the country of the taxpayer's residence in respect of tax imposed by the other country (Article 22). There are provisions safeguarding nationals and enterprises of one country (Article 23). Provision is made for consultation and exchange of information between the taxation authorities of the two countries (Articles 24 and 25).

The Convention will enter into force when the legislative procedures in both countries have been completed and will have effect in the United Kingdom from 6th April in the following calendar year (Article 27). The date of entry into force will in due course be published in the *London, Edinburgh & Belfast Gazettes*.