
STATUTORY INSTRUMENTS

1981 No. 1121

INCOME TAX

**The Double Taxation Relief (Taxes
On Income) (Mauritius) Order 1981**

Laid before the House of Commons in draft

Made - - - - 31st July 1981

At the Court at Buckingham Palace, on the 31st day of July 1981

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the House of Commons in accordance with the provisions of section 497(8) of the Income and Corporation Taxes Act 1970(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 497 of the Income and Corporation Taxes Act 1970, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Mauritius) Order 1981.
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 Mauritius 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 Mauritius; and
 - (b) that it is expedient that those arrangements should have effect.

N.E. Leigh
Clerk of the Privy Council

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

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SCHEDULE

“CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF MAURITIUS 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 Mauritius;

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:

Personal scope

ARTICLE 1. This Convention shall apply to persons who are residents of one or both of the Contracting States.

Taxes covered

ARTICLE 2.—(1) The existing taxes to which this Convention shall apply are:

- (a) in the United Kingdom of Great Britain and Northern Ireland:
 - (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the capital gains tax;
(hereinafter referred to as “United Kingdom tax”);
- (b) in Mauritius:
 - (i) the income tax;
 - (ii) the capital gains tax (*morcellement*);
(hereinafter referred to as “Mauritius tax”).

(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes.

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

General definitions

ARTICLE 3.—(1) For the purposes of this Convention, unless the context otherwise requires:

- (a) the term “United Kingdom” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;
- (b) the term “Mauritius” means all the territories, including all the islands, which, in accordance with the laws of Mauritius, constitute the State of Mauritius and includes:
 - (i) the territorial sea of Mauritius; and

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- (ii) any area outside the territorial sea of Mauritius which in accordance with international law has been or may hereafter be designated, under the laws of Mauritius concerning the Continental Shelf, as an area within which the rights of Mauritius with respect to the sea bed and sub-soil and their natural resources may be exercised;
 - (c) the term “national” means :
 - (i) in relation to the United Kingdom, any citizen of the United Kingdom and Colonies, or any British subject not possessing that citizenship or the citizenship of any other Commonwealth country or territory, provided that in either case 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 Mauritius, any individual who is a citizen of Mauritius and any legal person, partnership, association or other entity deriving its status as such from the law in force in Mauritius;
 - (d) the terms “a Contracting State” and “the other Contracting State” means the United Kingdom or Mauritius as the context requires;
 - (e) the term “person” comprises an individual, a company and any other body of persons, corporate or not corporate;
 - (f) the term “company” means any body corporate or any entity which is treated as a company or body corporate for tax purposes;
 - (g) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an industrial, mining, commercial, plantation or agricultural enterprise or similar undertaking carried on by a resident of a Contracting State and an industrial, mining, commercial, plantation or agricultural enterprise or similar undertaking carried on by a resident of the other Contracting State;
 - (h) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (i) the term “competent authority” means, in the case of the United Kingdom the Commissioners of Inland Revenue or their authorised representative, and in the case of Mauritius the Commissioner of Income Tax or his authorised representative;
 - (j) the term “tax” means United Kingdom tax or Mauritius tax as the context requires.
- (2) In the application of the provisions of this Convention by a Contracting State, any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

Residence

ARTICLE 4.—(1) For the purposes of this Convention, the term “resident of a Contracting State” means , subject to the provisions of paragraphs (2) and (3) of this Article, any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature. The terms “resident of the United Kingdom” and “resident of Mauritius” shall be construed accordingly.

(2) Where by reason of the provisions of paragraph (1) of this Article an individual is a resident of both Contracting States, then his status shall be determined in accordance with the following rules:

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting

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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 determine the question by mutual agreement.

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

Permanent establishment

ARTICLE 5.—(1) For the purposes of this Convention the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term “permanent establishment” shall include especially:

- (a) a place of management;
- (b) a branch;
- (c) an office;
- (d) a factory;
- (e) a workshop;
- (f) a warehouse, in relation to a person providing storage facilities for others;
- (g) a mine, oil or gas well, quarry or other place of extraction of natural resources;
- (h) an installation or structure used for the exploration of natural resources;
- (i) a farm or plantation.

(3) A building site or construction or assembly project, or supervisory activities in connection therewith, constitutes a permanent establishment only if the site, project or activity lasts more than six 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 advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

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

- (a) he has, and habitually exercises in that first-mentioned State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise; or
- (b) he has no such authority, but habitually maintains in that first-mentioned State a stock of goods or merchandise belonging to the enterprise from which he regularly delivers goods or merchandise on behalf of the enterprise.

(6) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, a general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business. An agent shall not be regarded as of an independent status if he acts exclusively or almost exclusively for the enterprise.

(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.

Income from immovable property

ARTICLE 6.—(1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

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

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

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

(5) Notwithstanding the preceding provisions of this Article profits derived by an agricultural, forestry or plantation enterprise shall be dealt with in accordance with the provisions of Article 7.

Business profits

ARTICLE 7.—(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.

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(2) Subject to the provisions of paragraph (3) of this Article, where an enterprise of a Contracting State carries on business in the other Contracting State through a permanent establishment situated therein, there shall in each Contracting State be attributed to that permanent establishment the profits which it might be expected to make if it were a distinct and separate enterprise engaged in the same or similar activities under the same or similar conditions and dealing at arm's length with the enterprise of which it is a permanent establishment.

(3) In determining the profits of a permanent establishment, there shall be allowed as deductions all expenses of the enterprise 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. However, no such deduction shall be allowed in respect of amounts, if any, paid (otherwise than towards reimbursement of actual expenses) by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the permanent establishment. Likewise no account shall be taken, in determining the profits of a permanent establishment, of amounts charged (otherwise than towards reimbursement of actual expenses), by the permanent establishment to the head office of the enterprise or any of its other offices, by way of royalties, fees or other similar payments in return for the use of patents or other rights, or by way of commission for specific services performed or for management, or, except in the case of a banking enterprise, by way of interest on moneys lent to the head office of the enterprise or any of its other offices.

(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) 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 of this Article, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

(7) Where profits include items which are dealt with separately in other Articles of this Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Shipping and air transport

ARTICLE 8.—(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 home harbour, in the Contracting State of which the operator of the ship is a resident.

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

Associated enterprises

ARTICLE 9. Where:

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

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

Dividends

- (a) **ARTICLE 10.** (1) (a) A dividend derived from a company which is a resident of the United Kingdom by a resident of Mauritius may be taxed in Mauritius;
 - (b) Where a resident of Mauritius is entitled to a tax credit in respect of such a dividend under paragraph (2) of this Article 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.
 - (c) Except as aforesaid a dividend derived from a company which is a resident of the United Kingdom by a resident of Mauritius who is subject to tax in Mauritius in respect thereof shall be exempt from any tax in the United Kingdom which is chargeable on dividends.
- (2) A resident of Mauritius who receives a dividend from a company which is a resident of the United Kingdom shall, subject to the provisions of paragraph (3) of this Article and provided he is subject to tax in Mauritius on the dividend, 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 that dividend, and to the payment of any excess of that tax credit over his liability to United Kingdom tax.
- (3) The provisions of paragraph (2) of this Article shall not apply where the recipient of the dividend is a company which either alone or together with one or more associated companies controls, directly or indirectly, 10 per cent or more of the voting power in the company paying the dividend. For the purposes of this paragraph two companies shall be deemed to be associated if one 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.
- (4) A dividend derived from a company which is a resident of Mauritius by a resident of the United Kingdom may be taxed in the United Kingdom. Where tax is charged in Mauritius in respect of the profits or income of the company represented by the dividend and the recipient of that dividend is subject to United Kingdom tax in respect thereof the dividend shall be exempt from tax in Mauritius.
- (5) The term “dividend” as used in this Article means income from shares, and also includes any other item which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.
- (6) The provisions of paragraphs (1), (2) and (4) of this Article shall not apply if the recipient of the dividend, being a resident of a Contracting State, carries on business in the other Contracting State of which the company paying the dividend 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 dividend is paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.
- (7) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State that other State may not impose any tax on the dividends paid by the company, except insofar as such dividends are paid to a resident of that other State or insofar as

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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 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.

Interest

ARTICLE 11.—(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, subject to the provisions of paragraph (3) of this Article, such interest may also be taxed in the Contracting State in which it arises and according to the law of that State.

(3) Interest arising in a Contracting State shall be exempt from tax in that State provided it is derived and beneficially owned by:

- (a) the Government or a local authority of the other Contracting State;
- (b) such agency or instrumentality of the Government of the other Contracting State as may be agreed in writing between the competent authorities of both Contracting States; or
- (c) a bank carrying on a bona fide banking business which is a resident of the other Contracting State.

(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. Penalty charges for late payment shall not be regarded as interest for the purpose of this Article. The term “interest” shall not include any item which is treated as a distribution 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 recipient 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, as the case may be, shall apply.

(6) Interest shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the interest, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the indebtedness on which the interest is paid was incurred and such interest is borne by that permanent establishment or fixed base, then such interest shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

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

(8) 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 purpose of taking advantage of this Article and not for bona fide commercial reasons.

Royalties

ARTICLE 12.—(1) Royalties arising in a Contracting State and derived by a resident of the other Contracting State may be taxed in that other State.

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the law of that Contracting State; but where such royalties are derived by a resident of the other Contracting State who is subject to tax there in respect thereof the tax so charged in the Contracting State in which the royalties arise shall not exceed 15 per cent of the gross amount of the royalties.

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

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the recipient of the royalties; being a resident of a Contracting State, carries on business in the other Contracting State in which the royalties arise through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the right or property in respect of which the royalties are paid is effectively connected with such permanent establishment or fixed base. In such case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a political sub-division, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment or a fixed base in connection with which the obligation to pay the royalties was incurred and such royalties are borne by that permanent establishment or fixed base, then such royalties shall be deemed to arise in the State in which the permanent establishment or fixed base is situated.

(6) Where, by reason of a special relationship between the payer and the recipient 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 recipient 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.

Capital gains

ARTICLE 13.—(1) Capital gains from the alienation of immovable property, as defined in paragraph (2) of Article 6, may be taxed in the Contracting State in which such property is situated.

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

(3) Notwithstanding the provisions of paragraph (2) of this Article, capital gains from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

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

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

Independent personal services

ARTICLE 14.—(1) Income derived by a resident of a Contracting State in respect of professional services or other independent activities of a similar character shall be taxable only in that State unless he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities. If he has such a fixed base, the income may be taxed in the other Contracting State but only so much of it as is attributable to that fixed base.

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

Dependent personal services

ARTICLE 15.—(1) Subject to the provisions of Articles 16, 18, 19, 20 and 21, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

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

Director's fees

ARTICLE 16. Director's 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.

Artistes and athletes

ARTICLE 17.—(1) Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes and musicians, and

by athletes, from their personal activities as such may be taxed in the Contracting State in which those activities are exercised.

(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, be taxed in the Contracting State in which the activities of the entertainer or athlete are exercised.

Pensions

ARTICLE 18.—(1) Subject to the provisions of paragraphs (1) and (2) of Article 19, pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in that Contracting State.

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

Governmental functions

ARTICLE 19.—(1) Remuneration and pensions paid out of public funds of the United Kingdom or Northern Ireland or of the funds of any local authority in the United Kingdom to an individual in respect of services rendered to the Government of the United Kingdom or Northern Ireland or a local authority in the United Kingdom, shall be taxable only in the United Kingdom unless the individual is a Mauritius national without also being a United Kingdom national.

(2) Remuneration and pensions paid by, or out of funds created by, Mauritius or a local authority or a public body thereof to an individual in respect of services rendered to the Government of Mauritius or a local authority or a public body thereof, shall be taxable only in Mauritius unless the individual is a United Kingdom national without also being a Mauritius national.

(3) The provisions of Articles 15 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with a business carried on by a Contracting State or a local authority or a public body thereof.

Students

ARTICLE 20.—(1) An individual who is or was a resident of one of the Contracting States immediately before making a visit to the other Contracting State and is temporarily present in that other Contracting State solely as a student at a university, college, school or other similar recognised educational institution in that other Contracting State or as a business or technical apprentice therein, shall be exempt from tax in that other Contracting State on:

- (a) all remittances for the purposes of his maintenance, education or training made to him from sources outside that other Contracting State; and
- (b) any income derived from the other Contracting State in respect of services rendered in that other Contracting State (other than services rendered by a business or technical apprentice to the person or partnership to whom he is apprenticed) with a view to supplementing the resources available to him for such purposes, not exceeding the sum of 1,000 pounds sterling or the equivalent in Mauritius rupees at the parity rate of exchange during any year of assessment.

Provided that the benefits of this sub-paragraph shall extend only for such period of time as may be reasonably or customarily required to complete the education or training

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undertaken but in no event shall an individual have the benefits of this sub-paragraph for more than five consecutive years of assessment.

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

- (a) the amount of such grant, allowance or award; and
- (b) any income derived from that other Contracting State in respect of services in that other Contracting State if the services are performed in connection with his study, research, training, or are incidental thereto.

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

- (a) all remittances for the purposes of his maintenance, education or training made to him from sources outside that other Contracting State; and
- (b) any remuneration not exceeding the sum of 1,000 pounds sterling or the equivalent in Mauritius rupees at the parity rate of exchange for personal services rendered in that other Contracting State, provided such services are in connection with his studies or training or are incidental thereto.

Teachers

ARTICLE 21.—(1) An individual who is a resident of a Contracting State at the time he becomes temporarily present in the other Contracting State, at the invitation of that other State or of a university, college, school or other recognised educational institution in the other State, for the primary purpose of teaching or engaging in research, or both, at a university, college, school or other recognised educational institution shall be exempt from tax by that other State on his income from personal services for teaching or research at such university, college, school or educational institution, for a period not exceeding two years from the date of his arrival in that other State.

(2) This Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

Income not expressly mentioned

ARTICLE 22.—(1) Subject to the provisions of paragraphs (2) and (3) of this Article items of income of a resident of a Contracting State, wherever arising, being income of a class or from sources not expressly mentioned in the foregoing Articles of this Convention in respect of which he is subject to tax in that State, shall be taxable only in that State.

(2) The provisions of paragraph (1) of this Article shall not apply if the person deriving the 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 14, as the case may be, shall apply.

(3) The provisions of paragraph (1) of this Article shall not apply to income paid out of trusts.

Limitation of relief

ARTICLE 23. Where under any provision of this Convention income is relieved from tax in one of the Contracting States and, under the law in force in the other Contracting State, a person, in respect of the said income, is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the relief to be allowed under this Convention in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in the other Contracting State.

Elimination of double taxation

ARTICLE 24.—(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) Mauritius tax payable under the laws of Mauritius and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Mauritius 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 Mauritius tax is computed.

Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.

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

(2) For the purposes of paragraph (1) of this Article the term “Mauritius tax payable” shall be deemed to include any amount which would have been payable as Mauritius tax for any year but for an exemption or reduction of tax granted for that year or any part thereof under any of the following provisions of Mauritius law:

(a) sections 33 and 34 of the Mauritius Income Tax Act 1974, so far as they were in force on, and have not been modified since, the date of the signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or

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

Provided:

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

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- (d) that where an exemption or reduction of tax is granted to an enterprise under section 33 or 34 of the Mauritius Income Tax Act 1974 or any substantially similar provision within sub-paragraph (b) of this paragraph the tax which would have been payable but for that exemption or reduction shall be taken into account for the purposes of this paragraph only where the exemption or reduction is certified by the competent authority of Mauritius as having been given with a view to promoting industrial, commercial, scientific or educational development in Mauritius.
- (3) Subject to the provisions of the law of Mauritius regarding the allowance as a credit against Mauritius tax of tax payable in a territory outside Mauritius (which shall not affect the general principle hereof):
- (a) United Kingdom tax payable under the laws of the United Kingdom and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within the United Kingdom shall be allowed as a credit against any Mauritius tax computed by reference to the same profits, income or chargeable gains by reference to which the United Kingdom tax is computed.
- Provided that in the case of a dividend the credit shall only take into account such tax in respect thereof as is additional to any tax payable by the company on the profits out of which the dividend is paid and is ultimately borne by the recipient without reference to any tax so payable.
- (b) Where a company which is a resident of the United Kingdom pays a dividend to a company which is a resident of Mauritius and which controls directly or indirectly at least 10 per cent of the voting power in the first-mentioned company, the credit shall take into account (in addition to any United Kingdom tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the United Kingdom tax payable by that first-mentioned company in respect of the profits out of which such dividend is paid.
- (4) For the purposes of paragraphs (1) and (3) of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.
- (5) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other Contracting State and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount included in the profits of both enterprises shall be treated for the purposes of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under the provisions of paragraph (1) or paragraph (3) of this Article.

Personal allowances

ARTICLE 25.—(1) Subject to the provisions of paragraph (3) of this Article, individuals who are residents of Mauritius shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

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

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

Non-discrimination

ARTICLE 26.—(1) The nationals of a Contracting State shall not be subject in the other Contracting State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which nationals of that other State in the same circumstances are or may be subjected.

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

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

(4) Nothing contained in this Article shall be considered as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident, nor as obliging Mauritius to grant to a company which is not a resident of Mauritius any deduction in the computation of its chargeable income in respect of dividends paid by the company.

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

Mutual agreement procedure

ARTICLE 27.—(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with this Convention, he may, notwithstanding the remedies provided by the national laws of those States, present his case to the competent authority of the Contracting State of which he is a resident.

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

(3) The competent authorities of the Contracting State shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention, with the object of facilitating any appropriate adjustment of liability.

(4) The competent authorities of the Contracting State may communicate with each other directly for the purpose of reaching an agreement in the sense of the preceding paragraphs.

Exchange of information

ARTICLE 28. The competent authorities of the Contracting States shall exchange such information (being information which is at their disposal under their respective taxation laws in the normal course of administration) as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or for the administration of statutory provisions against legal avoidance in relation to the taxes which are the subject of this Convention. Any information so exchanged shall be treated as secret but may be disclosed to persons (including a court or administrative body) concerned with assessment, collection, enforcement or prosecution in respect of the taxes which are the subject of this Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

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Diplomats

ARTICLE 29.—(1) Nothing in this Convention shall affect the fiscal privileges of members of diplomatic or consular missions under the general rules of international law or under the provisions of special agreements.

(2) Notwithstanding the provisions of paragraph (1) of Article 4, an individual who is a member of the diplomatic, consular or permanent mission of a Contracting State or any third State which is situated in the other Contracting State and who is subject to tax in that other State only if he derives income from sources therein, shall not be deemed to be a resident of that other State.

Entry into force

ARTICLE 30.—(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. The Convention shall enter into force on the date 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 6 April 1981;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April 1981;
- (b) in Mauritius:
 - (i) in respect of income tax for any year of assessment beginning on or after 1 July 1981;
 - (ii) in respect of capital gains tax (*morcellement*) for any financial year beginning on or after 1 July 1981.

(2) Subject to the provisions of paragraph (3) of this Article, the Arrangement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which was made in 1947 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Mauritius⁽²⁾ shall terminate and cease to have effect in respect of taxes to which this Convention in accordance with paragraph (1) of this Article applies.

(3) Where any provision of the Arrangement referred to in paragraph (2) of this Article would have afforded any greater relief from tax than is afforded by this Convention any such provision as aforesaid shall continue to have effect for any year of assessment or financial year beginning before the entry into force of this Convention.

Termination

ARTICLE 31.—(1) This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year after the year 1986. In such event, the Convention shall cease to have effect:

- (a) in the United Kingdom:
 - (i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given;
- (b) in Mauritius:

(2) S.R. & O. 1947/1775.

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- (i) in respect of income tax for any year of assessment beginning on or after 1 July in the calendar year next following that in which the notice is given;
- (ii) in respect of capital gains tax (*morcellement*) for any financial year beginning on or after 1 July in the calendar year next following that in which the notice is given.

(2) The termination of this Convention shall not have the effect of reviving the Arrangement for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income which was made in 1947 between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Mauritius.

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

Done in duplicate at London this eleventh day of February 1981.

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

RICHARD LUCE

For the Government of Mauritius:

V. RINGADOO

EXPLANATORY NOTE

The Convention with Mauritius scheduled to this Order replaces the Arrangement which is scheduled to the Double Taxation Relief (Taxes on Income) (Mauritius) Order 1947. It provides that certain trading profits not arising through a permanent establishment, pensions (other than Government pensions) and the earnings of temporary business visitors are (subject to certain conditions) to be taxed only in the country of the taxpayer's residence. Shipping and air transport profits are to be taxed only in the country in which the place of effective management is situated. Government salaries and pensions are normally to be taxed by the paying Government only. The remuneration of visiting teachers and certain payments made to visiting students are (subject to certain conditions) to be exempt in the country visited.

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

Where a United Kingdom company pays a dividend to a resident of Mauritius controlling less than 10 per cent of the voting power in the United Kingdom company, the recipient of the dividend will be entitled to the tax credit which would be payable to a United Kingdom resident individual less a sum of not more than 15 per cent of the aggregate amount of the dividend and the credit. Dividends paid by Mauritian companies to residents of the United Kingdom will be exempt from any Mauritius tax

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which might be charged in addition to tax charged on the company's income or profits represented by the dividends.

Interest derived by the Government of one of the Contracting State, by a Government agency or by a bank will be exempt from tax in the source country. The rate of tax in the source country on royalties flowing to the other country is, in general, not to exceed 15 per cent.

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

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

The Convention is to take effect in the United Kingdom for the tax year or financial year beginning in April 1981 and subsequent years.