
STATUTORY INSTRUMENTS

1991 No. 2881

INCOME TAX

**The Double Taxation Relief (Taxes
on Income) (Morocco) 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 Income and Corporation Taxes Act 1988, 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) (Morocco) 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 Kingdom of Morocco 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 Morocco;
 - (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 Morocco concerning taxes covered by the arrangements including, in particular, provisions about the prevention of fiscal evasion with respect to those taxes; and
 - (c) that it is expedient that those arrangements should have effect.

(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 KING- DOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE KINGDOM OF MOROCCO 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 Kingdom of Morocco;

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 Kingdom of Morocco:

- (i) the business profits tax and the investment reserve (l'impôt sur les bénéfices professionnels et la réserve d'investissement);
 - (ii) the tax on public and private salaries, emoluments, fees, wages, pensions and life annuities (le prélèvement sur les traitements publics et privés, les indemnités et émoluments, les salaires, les pensions et les rentes viagères);
 - (iii) the tax on urban real property and taxes related thereto (la taxe urbaine et les taxes qui y sont rattachées);
 - (iv) the agricultural tax (l'impôt agricole);
 - (v) the complementary tax on the total income of individuals (la contribution complémentaire sur le revenu global des personnes physiques);
 - (vi) the tax on income from shares or corporate rights and assimilated income (la taxe sur les produits des actions ou parts sociales et revenus assimilés);
 - (vii) the tax on gains from real property (la taxe sur les profits immobiliers);
 - (viii) the tax on urban land (l'impôt sur les terrains urbains); and
 - (ix) the national solidarity tax (la participation à la solidarité nationale);
- (hereinafter referred to as "Moroccan tax");

(b) 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").

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(2) This Convention shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Convention in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify each other of any 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 “Morocco” means the Kingdom of Morocco and, where used in a geographical sense, the territory of Morocco as well as any area adjacent to the territorial waters of Morocco and designated a national area for tax purposes, and in which Morocco may exercise, in accordance with international law, its rights with respect to the sea bed and sub-soil and their natural resources (Continental Shelf);
 - (b) 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;
 - (c) the term “national” means:
 - (i) in relation to the Kingdom of Morocco, any individual possessing Moroccan nationality in accordance with the Moroccan Nationality Code, published on 6th September 1958, as well as any legal person, partnership or other association or entity deriving its status from the law in force in the Kingdom of Morocco;
 - (ii) in relation to the United Kingdom, any individual who has under the law in the United Kingdom the status of United Kingdom national, 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;
 - (d) the term “tax” means United Kingdom or Moroccan tax, as the context requires;
 - (e) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or the Kingdom of Morocco, as the context requires;
 - (f) the term “person” comprises an individual, a company and any other body of persons;
 - (g) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (h) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (i) the term “competent authority” means, in the case of Morocco, the Minister of Finance or his representative duly delegated or authorised, and in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative;
 - (j) the term “international traffic” includes any voyage of a ship or aircraft other than a voyage solely between places in the Contracting State which is not the Contracting State of which a person deriving the profits of the operation of a ship or aircraft is a resident.

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

ARTICLE 4

Fiscal residence

(1) For the purposes of this Convention and subject to the provisions of Article 26 the term “resident of a Contracting State” means 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.

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

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
- (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has not a permanent home available to him in either Contracting State, he shall be deemed to be a resident of the Contracting State in which he has an habitual abode;
- (c) if he has an habitual abode in both Contracting States or in neither of them, he shall be deemed to be a resident of the Contracting State of which he is a national;
- (d) if he is a national of both Contracting States or of neither of them, the competent authorities of the Contracting States shall settle the question by mutual agreement.

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

ARTICLE 5

Permanent establishment

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

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

- (a) a place of management;
- (b) a branch;
- (c) premises used as a sales outlet;
- (d) an office;
- (e) a factory;
- (f) a workshop;
- (g) a mine, oil well, quarry or other place of extraction of natural resources;
- (h) an installation or structure used for the exploration of natural resources;
- (i) a building site or construction or assembly project which exists for more than 183 days.

(3) The term “permanent establishment” shall not be deemed to include:

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

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- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom the provisions of paragraph (5) of this Article apply—shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of goods or merchandise for the enterprise.

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

(6) The fact that a company which is a resident of a Contracting State controls or is controlled by a company which is a resident of the other Contracting State, or which carries on business in that other State (whether through a permanent establishment or otherwise), shall not of itself constitute either company a permanent establishment of the other.

ARTICLE 6

Income from immovable property

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

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

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

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

ARTICLE 7

Business profits

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

(2) 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses of the enterprise (other than expenses which would not be deductible if the permanent establishment were a separate enterprise) which are incurred for the purposes of the permanent establishment, including general administrative expenses relating to services rendered to that permanent establishment, whether in the State in which the permanent establishment is situated or elsewhere.

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

ARTICLE 8

Shipping and air transport

Profits which an enterprise of one of the Contracting States derives from the operation of ships or aircraft in international traffic shall be taxable only in that State.

ARTICLE 9

Associated enterprises

Where:

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

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

ARTICLE 10

Dividends

(1) Dividends derived from a company which is a resident of the United Kingdom by a resident of Morocco may be taxed in Morocco but, where the dividends are beneficially owned by a resident of Morocco, they shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

(2) Dividends derived from a company which is a resident of Morocco by a resident of the United Kingdom may be taxed in the United Kingdom. Such dividends may also be taxed in Morocco but where the dividends are beneficially owned by a resident of the United Kingdom the Moroccan tax so charged shall not exceed:

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- (a) 10 per cent of the gross amount of the dividends if the beneficial owner is a company which controls at least 10 per cent of the capital of the company paying the dividends;
- (b) in all other cases 25 per cent of the gross amount of the dividends.

(3) The provisions of paragraph (1) and (2) of this Article shall not apply if the beneficial owner of the dividends, being a resident of a Contracting State, has in the other Contracting State of which the company paying the dividends is a resident, a permanent establishment with which the holding by virtue of which the dividends are paid is effectively connected. In such a case, the provisions of Article 7 shall apply.

(4) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company to persons who are not residents of that other State, nor subject the undistributed profits of the company to a tax on undistributed profits, even if the dividend paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

(5) The term “dividends” as used in this Article means income from shares, jouissance shares or jouissance rights, mining shares, founder’s shares or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights treated as a distribution by the taxation law of the State of which the company making the distribution is a resident.

ARTICLE 11

Interest

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

(2) However, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the interest.

(3) The term “interest” as used in this Article means income from Government securities, bonds or debentures, whether or not secured by mortgage and whether or not carrying a right to participate in profits, and other debt-claims of every kind as well as all other income assimilated to income from money lent by the taxation law of the State in which the income arises but shall not include any income which is within the provisions of Article 10.

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, has in the other Contracting State in which the interest arises a permanent establishment with which the debt-claim from which the interest arises is effectively connected. In such a case, the provisions of Article 7 shall apply.

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

(6) Where, owing to 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 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 that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

(7) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, interest arising in a Contracting State and received by or on behalf of the other Contracting State shall be exempt from tax in the first-mentioned State.

ARTICLE 12

Royalties

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

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the law of that State, but the tax so charged shall not exceed 10 per cent of the gross amount of the royalties.

(3) The term “royalties” as used in this Article means:

- (a) payment of any kind received as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work (including cinematograph films, and films or tapes for radio or televised broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, agricultural, industrial, commercial, or scientific equipment, not comprising immovable property within Article 6, or for information concerning agricultural, industrial, commercial or scientific experience;
- (b) payment of any kind to any person, other than to an employee of the person making the payment, in consideration for services of a managerial, technical or consultancy nature, provided that a resident of one of the Contracting States who receives payments of this nature which arise in the other Contracting State may elect, for any taxable period, for the tax chargeable in respect of them in the Contracting State in which they arise to be calculated as if he had a permanent establishment in the last-mentioned Contracting State and as if they were taxable in accordance with Article 7 as profits attributable to the permanent establishment, but in no such case shall the expenses deductible in calculating the tax so chargeable exceed 70 per cent of the gross amount of the payments. The tax payable in the Contracting State in which the payment arises may be deducted from the gross amount of the payment.

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

(5) Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the contract giving rise to the payment of the royalties was concluded and the royalties are borne by that permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(6) Where, owing to a special relationship between the payer and the beneficial owner or between both of them and some other person, the amount of the royalties paid exceeds 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 that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

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ARTICLE 13

Capital gains

(1) Capital gains from the alienation of immovable property, as defined in paragraph (2) of Article 6, or from the alienation of shares or comparable interests in a real property co-operative or in a company of which the assets consist principally of such property may be taxed in the Contracting State in which such property is situated.

(2) Capital gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State or of movable property pertaining to a fixed base available to a resident of a Contracting State in the other Contracting State for the purpose of performing professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State. However, capital gains derived by a resident of a Contracting State from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that Contracting State.

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

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

ARTICLE 14

Independent personal services

(1) Income derived by an individual who is a resident of one of the Contracting States from the performance of professional services in an independent capacity may be taxed in that State. Such income may also be taxed in the other Contracting State if:

- (a) the individual is present in that other State for a period or periods amounting in the aggregate to at least 90 days in the tax year concerned, but only so much thereof as is attributable to services performed in that State; or
- (b) the individual has a fixed base regularly available to him in that other State for the purpose of performing his activities, but only so much thereof as is attributable to services performed in that State.

(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, 19 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the

employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

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

ARTICLE 16

Directors' fees

Directors' fees and similar payments derived by a resident of a Contracting State in his capacity as a member of the board of directors, supervisory board or similar body 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 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. The above-mentioned rule shall also apply to income derived by persons profiting from or organising such activities.

(2) The provisions of paragraph (1) of this Article shall not apply if the visit to a Contracting State of the entertainer or the athlete is supported, wholly or partly, from the public funds of the other Contracting State, including a political subdivision or local authority of that other State, nor shall they apply to income from activities carried on in a Contracting State by non-profit making organisations of the other Contracting State or by their members, except where the latter are acting on their own behalf.

ARTICLE 18

Pensions and annuities

(1) Subject to the provisions of paragraphs (1) and (2) of Article 19 any pension 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 State.

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

ARTICLE 19

Governmental remuneration and pensions

- (a) (1) (a) Subject to the provisions of sub-paragraph (b) of this paragraph, remuneration or pensions paid out of public funds of the United Kingdom or Northern Ireland or of the funds of any local authority in the United Kingdom to any individual in respect of services rendered to the Government of the United Kingdom or Northern Ireland or a local authority in the United Kingdom in the discharge of functions of a governmental nature shall be taxable only in the United Kingdom.
- (b) Where the individual is a Moroccan national without also being a United Kingdom national, sub-paragraph (a) of this paragraph shall not apply, but the remuneration or pension shall, for the purposes of Article 22, be deemed to be income from a source within the United Kingdom.
- (a) (2) (a) Subject to the provisions of sub-paragraph (b) of this paragraph, remuneration or pensions paid by or out of the funds created by Morocco or a local authority thereof to any individual in respect of services rendered to the Government of Morocco or a local authority thereof, in the discharge of functions of a governmental nature shall be taxable only in Morocco.
- (b) Where the individual is a national of the United Kingdom without also being a Moroccan national, sub-paragraph (a) of this paragraph shall not apply, but the remuneration or pension shall, for the purposes of Article 22, be deemed to be income from a source within Morocco.
- (3) The provisions of paragraphs (1) and (2) of this Article shall not apply to remuneration or pensions in respect of services rendered in connection with any trade or business.

ARTICLE 20

Students, apprentices and trainees

- (1) Payments which a student, apprentice or trainee 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 the first-mentioned State, provided that such payments are made to him from sources outside that State.
- (2) The income derived by such a student, apprentice or trainee in respect of activities exercised in the first-mentioned Contracting State shall not be taxable in that State unless it exceeds the sum of £250 sterling (or the equivalent in Moroccan dirhams) for any year of assessment in addition to any exemption or allowance provided under the law of that State.
- (3) In no event shall any person have the benefit of the provisions of paragraph (2) of this Article for more than five fiscal years.

ARTICLE 21

Income not expressly mentioned

Items of income of a resident of a Contracting State who is subject to tax there in respect thereof, being income of a class or from sources not expressly mentioned in the foregoing Articles of this Convention shall, if the right or holding from which the income arises is not effectively connected with a permanent establishment in the other Contracting State, be taxable only in the first-mentioned State.

ARTICLE 22

Elimination of double taxation

(1) In the case of residents of the United Kingdom, double taxation shall be avoided as follows:

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) Moroccan tax payable under the laws of Morocco and in accordance with this Convention, whether directly or by deduction, on profits or income from sources within Morocco (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 or income by reference to which the Moroccan tax is computed.
- (b) In the case of a dividend paid by a company which is a resident of Morocco to a company which is a resident of the United Kingdom and which controls 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 Moroccan tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Moroccan tax payable by the company in respect of the profits out of which such dividend is paid.

Provided that residents of the United Kingdom deriving income from Morocco may add to the Moroccan tax payable the amount which they are required to invest in Moroccan equipment bonds in accordance with Article 37 of Royal Decree No. 1010—65 of 8 Ramadan 1385 (31st December 1965) on the 1966 Finance Law; in this case, any subsequent repayment of the bonds by the Moroccan Government shall be deducted from the amount of the Moroccan tax creditable against United Kingdom tax for the year in which the repayment is made.

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

- (a) Dahir on Law No. 1—73—408 of 13 Rejeb 1393 (13th August 1973) in so far as it affects new enterprises;

Dahir on Law No. 1—73—409 of 13 Rejeb 1393 (13th August 1973);

Dahir on Law No. 1—73—410 of 13 Rejeb 1393 (13th August 1973);

Dahir on Law No. 1—73—411 of 13 Rejeb 1393 (13th August 1973);

Dahir on Law No. 1—73—412 of 13 Rejeb 1393 (13th August 1973);

Dahir on Law No. 1—73—413 of 13 Rejeb 1393 (13th August 1973);

so far as they were in force on, and have not been modified since, the date of signature of this Convention, or have been modified only in minor respects so as not to affect their general character; or

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- (b) any other provision which may subsequently be made granting an exemption or reduction of tax 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 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, Moroccan tax was first granted in respect of that source.

- (3) In the case of residents of Morocco, double taxation shall be avoided as follows:
 - (a) Where a resident of Morocco derives income not covered by sub-paragraph (b) of this paragraph and which may be taxed in the United Kingdom in accordance with the provisions of this Convention, Morocco shall exempt such income from tax but may, in calculating the taxes 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) In the case of income covered by Articles 10, 11 and 12, Morocco may, in accordance with the provisions of its domestic law, include such income in the bases of the taxes covered by Article 2; however Morocco shall allow against the amount of the taxes on such income and only to the extent of that amount, a deduction equal to the amount of the taxes levied by the United Kingdom.

(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.

ARTICLE 23

Non-discrimination

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

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

(3) 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 it grants to its own residents.

(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 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.

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

ARTICLE 24

Mutual agreement procedure

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

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

(3) The competent authorities of the Contracting States shall endeavour to resolve by mutual agreement any difficulties or doubts arising as to the interpretation or application of the Convention.

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

ARTICLE 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 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 the Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a court or administrative body) concerned with the assessment or collection of, or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention.

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

- (a) to carry out administrative measures at variance with the laws or administrative practice prevailing in either 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; or
- (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

Diplomatic and consular officials

(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 Article 4, an individual who is a member of a diplomatic, consular or permanent mission of a Contracting State which is situated in the other Contracting State or in a third State shall be deemed for the purposes of this Convention to be a resident of the sending State if he is liable in the sending State to the same obligations in relation to tax on his total world income as are residents of that sending State.

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(3) This Convention shall not apply to international organizations, to organs or officials thereof and to persons who are members of a diplomatic, consular or permanent mission of a third State, being present in a Contracting State and who are not liable in that State to the same obligations in relation to tax on their total world income as are residents of that State.

ARTICLE 27

Entry into force

(1) This Convention shall be ratified and the instruments of ratification shall be exchanged at Rabat as soon as possible⁽²⁾.

(2) This Convention shall enter into force immediately after the expiration of thirty days following the date on which the instruments of ratification are exchanged and shall thereupon have effect:

(a) in Morocco:

- (i) in respect of taxes withheld at source on income which accrues or becomes payable, on or after the first day of the month following that in which the exchange of instruments of ratification took place;
- (ii) in respect of other taxes on income, for taxable periods ending on or after the first day of January of the year in which such exchange took place;

(b) 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, 1981; and
- (ii) in respect of corporation tax, for any financial year beginning on or after 1st April, 1981.

ARTICLE 28

Termination

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 on or before 30th June in any calendar year. In such event, the Convention shall cease to have effect:

(a) in Morocco:

- (i) in respect of taxes withheld at source on income paid or credited, from 1st January in the calendar year next following that in which the notice is given;
- (ii) in respect of other taxes on income, for taxable periods beginning on or after 1st January in the calendar year next following that in which the notice is given;

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

(2) Instruments of ratification were exchanged on 29th October 1990.

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

Done in duplicate at London, this eighth day of September, 1981 AD, corresponding to 9 Al Qida 1400H in the English and Arabic languages, each text being equally authoritative.

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

The Rt Hon the Lord Carrington
Secretary of State for Foreign and
Commonwealth Affairs

For the Government of the Kingdom of Morocco

Maître M'hamed Boucetta
Minister of State for Foreign Affairs and Co-
operation

EXPLANATORY NOTE

(This note is not part of the Order)

Under the Convention with Morocco scheduled to this Order shipping and air transport profits (Article 8), certain trading profits not arising through a permanent establishment (Article 7), non-governmental pensions (Article 18) and the earnings of temporary business visitors (Articles 14 and 15) are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence. Where an enterprise which is a resident of one country carries on business through a permanent establishment in the other, the profits of the enterprise which are attributable to that permanent establishment may be taxed in that other country (Articles 5 and 7).

Income derived by public entertainers from their personal activities may normally be taxed in the country in which those activities are exercised (Article 17). Governmental remuneration and pensions are normally to be taxed by the paying Government only (Article 19). Certain payments made to visiting students, apprentices and trainees are, subject to certain conditions, to be exempt in the country visited (Article 20).

Income from immovable property (Article 6) and capital gains (Article 13) arising from the disposal of such property or from shares in a company whose assets consist mainly of such property may be taxed in 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 a fixed base which the taxpayer has in the other country (Article 13).

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Where income continues to be taxable in both countries relief from double taxation is to be given by the country of the taxpayer's residence. The credit to be given in the United Kingdom for tax payable in Morocco is to include credit for tax spared under certain provisions of Moroccan law (Article 22).

Dividends paid by a United Kingdom company to a resident of Morocco are to be exempt from any tax in the United Kingdom which is chargeable on dividends. (Under the imputation system of company taxation in the United Kingdom there is no tax withheld from dividends). Where dividends are paid by a Moroccan company to a resident of the United Kingdom the tax charged in Morocco is not to exceed 10 per cent where the dividends are paid to a company which controls at least 10 per cent of the capital of the company paying the dividend and 25 per cent in all other cases (Article 10).

The rate of tax to be imposed by the country of source on interest paid to a resident of the other country is, in general, not to exceed 10 per cent. Interest received by or on behalf of a Contracting State is to be exempt from tax in the country of source (Article 11).

The rate of tax in the country of source on royalties (including management, technical or consultancy fees) paid to a resident of the other country is not to exceed 10 per cent (Article 12).

There are also provisions for safeguarding residents of one country from discriminatory taxation in the other country (Article 23) and for the exchange of information and consultation between the competent authorities of the two countries (Articles 24 and 25).

The Convention takes effect in the United Kingdom for years of assessment beginning on or after 6th April 1981 and financial years beginning on or after 1st April 1981 (Article 27).