
STATUTORY INSTRUMENTS

1995 No. 2707

INCOME TAX

**The Double Taxation Relief (Taxes
on Income) (Bolivia) Order 1995**

Made - - - - 18th October 1995

At the Court at Buckingham Palace, the 18th day of October 1995

Present,

The Queen's Most Excellent Majesty in Council

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

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

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Bolivia) Order 1995.

2. It is hereby declared—

- (a) that the arrangements specified in the Convention set out in Part I of the Schedule to this Order and in the Exchange of Notes constituting an Agreement set out in Part II of that Schedule have been made with the Government of the Republic of Bolivia 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 Bolivia;
- (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 Bolivia 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 277 of the Taxation of Chargeable Gains Act 1992 (c. 12).

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N. H. Nicholls
Clerk of the Privy Council

SCHEDULE

PART I

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

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

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

Have agreed as follows:

Article 1

Personal scope

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

Article 2

Taxes covered

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

(2) The taxes which are the subject of this Convention are:

(a) in the case of the United Kingdom:

- (i) the income tax;
- (ii) the corporation tax; and
- (iii) the capital gains tax.

(hereinafter referred to as “United Kingdom tax”);

(b) in the case of Bolivia:

- (i) the VAT complementary system (el régimen complementario al impuesto del valor agregado);
- (ii) the tax on companies' presumed income (el impuesto a la renta presunta de empresas);
- (iii) the tax on the presumed income of properties' owners (el impuesto a la renta presunta de propietarios de bienes);
- (iv) the tax on transactions (el impuesto a las transacciones); and
- (v) the tax on the profit obtained from the exploitation of hydrocarbons and/or minerals (el impuesto a las utilidades obtenidas en la explotación hidrocarburos y/o minerales)

(hereinafter referred to as “Bolivian tax”).

(3) 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,

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or in place of, the taxes of that Contracting State referred to in paragraph (2) of this Article. The competent authorities of the Contracting States shall notify each other of any substantial changes which have been made in their respective taxation laws.

Article 3

General definitions

- (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 “Bolivia” means the Republic of Bolivia and, when used in a geographical sense, the area in which the taxation laws of the Republic of Bolivia apply;
 - (c) the term “national” means:
 - (i) in relation to the United Kingdom, any British citizen, or any British subject not possessing the citizenship of any other Commonwealth country or territory, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;
 - (ii) in relation to Bolivia, any Bolivian national and any legal person, partnership and other association of persons established in accordance with the Constitution and laws in force in the Republic of Bolivia;
 - (d) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or Bolivia, as the context requires;
 - (e) the term “person” comprises an individual, a company and any other body of persons, but does not include a partnership;
 - (f) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (g) the terms “enterprise of a Contracting State” and “enterprise of the other Contracting State” mean respectively an enterprise carried on by a resident of a Contracting State and an enterprise carried on by a resident of the other Contracting State;
 - (h) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise of a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (i) the term “competent authority” means, in the case of the United Kingdom, the Commissioners of Inland Revenue or their authorised representative, and, in the case of Bolivia, the Ministry of Finance and Economic Development or its authorised representative.
- (2) As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

Article 4

Residence

(1) For the purposes of this Convention, the term “resident of a Contracting State” means any person who, under the laws of that State, is liable to tax therein by reason of his domicile, residence, place of management 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 no 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 through which the business of an enterprise is wholly or partly carried on.

(2) The term “permanent establishment” includes among other things:

- (a) a place of business administration or management;
- (b) a branch;
- (c) an office;
- (d) a factory, plant or industrial or assembly workshop or agricultural establishment;
- (e) a mine, an oil or gas well, a quarry or any other place of extraction of natural resources.

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

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

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

(6) An enterprise 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 State through a broker, general commission agent or any other agent of an independent status, provided that such persons are acting in the ordinary course of their business.

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

Article 6

Income from immovable property

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

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

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

Article 7

Business profits

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

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

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

(4) Insofar as it has been customary in a Contracting State to determine 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, the provisions of paragraph (2) shall not prevent the taxable profits from being determined in such manner by that Contracting State; 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 purpose of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

Article 8

Shipping and air transport

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

- (a) income from the rental on a bareboat basis of ships or aircraft; and
- (b) profits from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise;

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

(3) The provisions of paragraph (1) or (2) shall apply mutatis mutandis to participations of an enterprise operating ships or aircraft in international traffic in a pool, a joint business or other international operating agency.

(4) 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.

Article 9

Associated enterprises

(1) Where:

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- (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, may be included by a Contracting State in the profits of that enterprise and taxed accordingly.

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

Article 10

Dividends

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

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

(3) The term “dividends” as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from other corporate rights assimilated to income from shares by the taxation laws of the State of which the company making the distribution is a resident and also includes any other item which, under the laws of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

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

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

Article 11

Interest

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

(2) However, such interest may also be taxed in the Contracting State in which it arises and according to the laws of that State, but if the recipient is the beneficial owner of the interest the tax so charged shall not exceed 15 per cent of the gross amount of the interest.

(3) 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. The term “interest” shall not include any item which is treated as a distribution under the provisions of Article 10 of this Convention.

(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, carries on business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State independent personal services from a fixed base situated therein, and the debt-claim in respect of which the interest is paid is effectively connected with such permanent establishment or fixed base. In such case the provisions of Article 7 or Article 14 of this Convention, as the case may be, shall apply.

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

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

(7) The relief from tax provided for in paragraph (2) of this Article shall not apply if the beneficial owner of the interest:

- (a) is exempt from tax on such income in the Contracting State of which he is a resident; and
- (b) sells or makes a contract to sell the holding from which such interest is derived within three months of the date such beneficial owner acquired such holding.

(8) The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the debt-claim in respect of which the interest is paid to take advantage of this Article by means of that creation or assignment.

(9) Notwithstanding the provisions of paragraph (2) of this Article, interest arising in a Contracting State shall be exempt from tax in that State if it is derived and beneficially owned by the Government of the other Contracting State or a local authority thereof or any agency or instrumentality of that Government or local authority.

(10) Notwithstanding the provisions of Article 7 of this Convention and of paragraph (2) of this Article, interest arising in Bolivia will be exempt from tax when it is paid to and beneficially owned by a resident of the United Kingdom if it is paid in respect of a loan made, guaranteed or

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insured, or any other debt-claim or credit guaranteed or insured by the United Kingdom Export Credits Guarantee Department.

Article 12

Royalties

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

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the laws of that State, but if the recipient is the beneficial owner of the royalties the tax so charged 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, and films or tapes for radio or television broadcasting), any patent, trade mark, design or model, plan, secret formula or process, or for the use of, or the right to use, industrial, commercial or scientific equipment, or for information (know-how) concerning industrial, commercial or scientific experience.

(4) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the royalties, being a resident of a Contracting State, carries on business in the other Contracting State 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 of this Convention, as the case may be, shall apply.

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

(6) Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political subdivision or local authority thereof 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 the royalties are borne by such permanent establishment or fixed base, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment or fixed base is situated.

(7) The provisions of this Article shall not apply if it was the main purpose or one of the main purposes of any person concerned with the creation or assignment of the rights in respect of which the royalties are paid to take advantage of this Article by means of that creation or assignment.

Article 13

Capital gains

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

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

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- (a) shares, other than shares quoted on an approved Stock Exchange, deriving their value or the greater part of their value directly or indirectly from immovable property situated in the other Contracting State, or
- (b) an interest in a partnership or trust the assets of which consist principally of immovable property situated in the other Contracting State, or of shares referred to in sub-paragraph (a) above,

may be taxed in that other State.

(3) Gains from the alienation of movable property forming part of the business property of a permanent establishment which an enterprise of a Contracting State has in the other Contracting State 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 with the whole enterprise) or of such fixed base, may be taxed in that other State.

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

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

(6) The provisions of paragraph (5) 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 two years immediately preceding the alienation of the property.

Article 14

Independent personal services

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

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

Article 15

Dependent personal services

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

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

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

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

Article 16

Directors' fees

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

Article 17

Artistes and sportsmen

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

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

Article 18

Pensions

(1) Subject to the provisions of paragraph (2) of Article 19 of this Convention, 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 State.

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

Article 19

Government service

- (a) (1) (a) Remuneration, other than a pension, paid by a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, such remuneration shall be taxable only in the other Contracting State if the services are rendered in that State and the individual is a resident of that State who:
 - (i) is a national of that State; or

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

- (a) (2) (a) Any pension paid by, or out of funds created by, a Contracting State or a political subdivision or a local authority thereof to an individual in respect of services rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) Notwithstanding the provisions of sub-paragraph (a) of this paragraph, such pension shall be taxable only in the other Contracting State if the individual is a resident of and a national of that State.

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

Article 20

Students and other trainees

(1) Payments which a student or other 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 that first-mentioned State, provided that such payments arise from sources outside that State.

(2) The income derived by such a student 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 £3,500 (or the equivalent in Bolivian currency) 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

Other income

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

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

Article 22

Capital

(1) Capital represented by immovable property, as defined in paragraph (2) of Article 6 of this Convention, may be taxed in the Contracting State in which the property is situated.

(2) Capital represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the

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performance of an independent professional activity, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

(3) 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.

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

Article 23

Elimination of double taxation

(1) 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) Bolivian tax payable under the laws of Bolivia and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Bolivia (excluding in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid) shall be allowed as a credit against any United Kingdom tax computed by reference to the same profits, income or chargeable gains by reference to which the Bolivian tax is computed;
- (b) in the case of a dividend paid by a company which is a resident of Bolivia 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 Bolivian tax for which credit may be allowed under the provisions of sub-paragraph (a) of this paragraph) the Bolivian tax payable by the company in respect of the profits out of which such dividend is paid.

(2) In the case of a resident of the Republic of Bolivia, there shall be excluded from the basis on which the Bolivian tax is charged any type of income arising in the United Kingdom and any capital situated in the United Kingdom which may be taxed in the United Kingdom in accordance with this Convention. Nevertheless, the Republic of Bolivia retains the right to include the items of income and capital so excluded in determining the applicable tax.

(3) For the purposes of paragraphs (1) and (2) of this Article, profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.

Article 24

Non-discrimination

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

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

(3) Except where the provisions of paragraph (1) of Article 9, paragraph (6) of Article 11, or paragraph (5) of Article 12 of this Convention apply, interest, royalties and other disbursements paid by an enterprise of a Contracting State to a resident of the other Contracting State shall, for the

purpose of determining the taxable profits of such enterprise, be deductible under the same conditions as if they had been paid to a resident of the first-mentioned State.

(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 State to any taxation or any requirement connected therewith which is other or more burdensome than the taxation and connected requirements to which other similar enterprises of the first-mentioned State are or may be subjected.

(5) Nothing contained in this Article shall be construed as obliging either Contracting State to grant to individuals not resident in that State any of the personal allowances, reliefs and reductions for tax purposes which are granted to individuals so resident.

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

Article 25

Mutual agreement procedure

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

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

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

(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 26

Exchange of information

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

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

- (a) to carry out administrative measures at variance with the laws and 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 either Contracting State;

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- (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.

Article 27

Members of diplomatic or permanent missions and consular posts

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

Article 28

Entry into force

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. This 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 6th April in the calendar year next following that in which the Convention enters into force;
 - (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 Convention enters into force;
- (b) in Bolivia:

in respect of taxes levied for fiscal periods beginning on or after 1st January in the calendar year next following that in which the Convention enters into force.

Article 29

Termination

This Convention shall remain in force until terminated by one of the Contracting States. Either Contracting State may terminate the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year beginning after the expiry of five years from the date of entry into force of the Convention. 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 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;
- (b) in Bolivia:
 - (i) in respect of taxes imposed for annual periods, for any periods which end after the calendar year next following that in which the notice is given;
 - (ii) in respect of other taxes, on 31st December in the calendar year next following that in which the notice is given.

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

Done in duplicate at La Paz this 3rd day of November 1994 in the English and Spanish languages, both texts being equally authoritative.

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

R M Jackson

For the Government of the Republic of Bolivia:

Dr. Antonio Aranibar Q.

PART II

EXCHANGE OF NOTES

La Paz

3rd November 1994

Excellency

I have the honour to refer to the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Bolivia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital which has been signed today and to make on behalf of the Government of the United Kingdom the following proposals:

1. The Contracting States declare:

This Convention shall not be opposed to the respective tax systems of the Contracting States and in particular to the Bolivian tax system based on source and to the United Kingdom tax system based on residence and worldwide income.

2. With respect to Article 7:

- (a) There may only be attributed to a building site or construction or installation project in the Contracting State in which the permanent establishment is situated, the profits which are derived from such activities. Profits derived as a result of supplies of merchandise from the main permanent establishment or from another permanent establishment of the enterprise or a third person in connection with such activities or realised independently of such activities, shall not be attributed to the building site or construction or installation project;
- (b) Income derived as a result of planning, design, construction or research activities and technical services carried out in a Contracting State by a resident of that State in connection with a permanent establishment maintained in the other Contracting State shall not be attributed to that establishment.

3. With respect to Article 11:

It is assumed that the commission paid by a resident of Bolivia to a bank or other credit institution in relation to services provided by the bank or credit institution shall be regarded as interest in accordance with paragraph (3) of Article 11.

4. With respect to Articles 10, 11 and 12:

- (a) If the rates under the respective national law are lower than the rates determined in the Convention, the lower rates of the national legislation will apply, without affecting any future rulings.
- (b) If Bolivia has agreed in a Convention for the elimination of double taxation in force between it and any other member country of the Organisation for Economic Co-operation and Development to apply a lower rate of taxation to dividends, interest or royalties than

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that specified in Articles 10, 11 and 12 respectively, that lower rate shall be substituted for the rate specified in those Articles with effect from the date when that Convention enters into force.

I avail myself of this opportunity to extend to Your Excellency the assurance of my highest consideration.

R M Jackson

His Excellency the Ambassador of the United Kingdom of Great Britain and Northern Ireland.

La Paz

3rd November 1994

Excellency

I am in receipt of your Note of today which states as follows:

“I have the honour to refer to the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Bolivia for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital which was signed today and to make on behalf of the Government of the United Kingdom the following proposals:

1. The Contracting States declare:

This Convention shall not be opposed to the respective tax systems of the Contracting States and in particular to the Bolivian tax system based on source and to the United Kingdom tax system based on residence and worldwide income.

2. With respect to Article 7:

- (a) There may only be attributed to a building site or construction or installation project in the Contracting State in which the permanent establishment is situated, the profits which are derived from such activities. Profits derived as a result of supplies of merchandise from the main permanent establishment or from another permanent establishment of the enterprise or a third person in connection with such activities or realised independently of such activities, shall not be attributed to the building site or construction or installation project;
- (b) Income derived as a result of planning, design, construction or research activities and technical services carried out in a Contracting State by a resident of that State in connection with a permanent establishment maintained in the other Contracting State shall not be attributed to that establishment.

3. With respect to Article 11:

It is assumed that the commission paid by a resident of Bolivia to a bank or other credit institution in relation to services provided by the bank or credit institution shall be regarded as interest in accordance with paragraph (3) of Article 11.

4. With respect to Articles 10, 11 and 12:

- (a) If the rates under the respective national law are lower than the rates determined in the Convention, the lower rates of the national legislation will apply, without affecting any future rulings.
- (b) If Bolivia has agreed in a Convention for the elimination of double taxation in force between it and any other member country of the Organisation for Economic Co-operation and Development to apply a lower rate of taxation to dividends, interest or royalties than that specified in Articles 10, 11 and 12 respectively, that lower rate shall be substituted for the rate specified in those Articles with effect from the date when that Convention enters into force.”

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The foregoing proposals being acceptable to the Government of The Republic of Bolivia, I have the honour to confirm that Your Excellency's Note and this reply shall be regarded as constituting an agreement between the two Governments in this matter which shall enter into force at the same time as the entry into force of the Convention.

I take this opportunity to renew to Your Excellency the assurances of my highest consideration.

Dr Antonio Aranibar Q.

His Excellency the Minister of Foreign Affairs and Worship for the Republic of Bolivia.

EXPLANATORY NOTE

(This note is not part of the Order)

The Convention with Bolivia is set out in Part I of the Schedule to this Order.

The Convention provides for business profits not arising through a permanent establishment to be taxed only in the country of the taxpayer's residence. Profits attributable to a permanent establishment may be taxed in the country in which the permanent establishment is situated (Articles 5 and 7).

Income from immovable property, including income from agriculture or forestry, may be taxed by the country in which the property is situated (Article 6).

Shipping and air transport profits are generally to be taxed only by the country in which the place of effective management of the operator is situated (Article 8).

The Convention includes rules for determining taxable profits when a company in one country is related to a company in the other (Article 9).

Dividends paid by a resident of one state to a resident of the other may be taxed by the source state, but the rate imposed will not exceed 15 per cent (Article 10).

Interest paid by a resident of one country to a resident of the other may be taxed by the source state, but at a rate which will not exceed 15 per cent. Certain categories of interest (e.g. interest paid to the Government of the other country) will be exempt from tax in the source state (Article 11).

The rate of tax imposed in the source country on royalties is limited to 15 per cent where the beneficial owner is a resident of the other country (Article 12).

Each country may generally tax capital gains in accordance with its domestic law, although gains from the alienation of ships or aircraft operated in international traffic shall be taxable only in the country of residence of the operator (Article 13).

The earnings of temporary business visitors and some other individuals are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence (Articles 14 and 15). Fees received by a resident of one country in his capacity as a director of a company resident in the other country may be taxed in that other country (Article 16). Income derived from the activities of artistes and sportsmen may be taxed in the country in which those activities are performed (Article 17).

Occupational pensions, other than those paid in respect of government service, and annuities are to be taxed only in the recipient's country of residence (Article 18) while government service remuneration and pensions are normally to be taxed only by the paying Government (Article 19).

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Certain payments made to visiting students and business apprentices are generally exempt from tax in the country visited (Article 20). Other income (excluding income from trusts or estates) will generally be taxed only by the country of which the beneficial owner is a resident (Article 21).

Elements of capital may generally only be taxed by the country in which the owner is resident, but capital in the form of immovable property may also be taxed by the country in which it is situated (Article 22).

Where income continues to be taxable in both countries, relief from double taxation will be given, in effect, in accordance with the laws of each country. In the case of dividends, the United Kingdom will give credit for the underlying tax paid in Bolivia where the shareholder is a United Kingdom company which controls at least 10 per cent of the voting power in the company paying the dividends (Article 23).

There are also measures safeguarding nationals and enterprises of one country against discriminatory taxation in the other country (Article 24), for consultation to resolve difficulties in the application or interpretation of the Convention (Article 25), for exchanges of information between the taxation authorities of the two countries (Article 26) and for the treatment of diplomatic or consular officials (Article 27).

The Exchange of Notes comprising Part II of the Schedule clarifies the intended interpretation of certain parts of the Convention and includes an agreement that if Bolivia subsequently agrees in a convention with any other member of the Organisation for Economic Co-operation and Development to apply lower rates of taxes to dividends, interest or royalties, those lower rates will apply to this Convention.

The Convention will enter into force on the date of the later of the notifications by each country of the completion of its legislative procedures. It will take effect in the United Kingdom from April 1st (in respect of corporation tax) and from April 6th (for income tax and capital gains tax) in the following calendar year (Article 28). The date of entry into force will in due course be published in the *London, Edinburgh and Belfast Gazettes*.