

## SCHEDULE

### PART II

#### EXCHANGE OF NOTES

Vilnius

19th March 2001

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 Lithuania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains which has been signed today and to make on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland the following proposals for the purpose of applying:

#### *Article 2(3)(a)*

1. The United Kingdom takes note of the fact that the existing taxes as listed in the Convention are subject to a substantial programme of reform and wherever it is not possible to agree that a particular new tax satisfies the conditions of paragraph (4) of this Article the United Kingdom is ready to negotiate an amending Protocol to the Convention without delay.

#### *Article 4(3)*

2. Where a person other than an individual is a resident of both Contracting States and the competent authorities of the Contracting States endeavour to determine its status by mutual agreement, they shall have regard to such factors as the place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors.

#### *Article 5(6)*

3. The Contracting States agree that:

- (i) the second sentence of paragraph (6) shall not apply unless conditions have been made or imposed between the agent and the enterprise in their commercial or financial relations which differ from those which would have been made or imposed had the activities of the agent not been devoted wholly or almost wholly on behalf of the enterprise; and
- (ii) in considering whether the activities are devoted wholly or almost wholly on behalf of that enterprise, the Contracting States shall have regard to any relevant factors during any 12 month period commencing or ending in the fiscal year concerned. In particular, if the relevant activities are devoted wholly or almost wholly on behalf of that enterprise for a period exceeding 9 months within that period of 12 months, they will be considered to have been so devoted in that fiscal year.

#### *Article 6(3)*

4. The Contracting States understand that all income and gains arising from the alienation of immovable property in a Contracting State may be taxed in that Contracting State in accordance with Article 13 of this Convention.

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*Article 7(3)*

5. In determining the profits of a permanent establishment, it is understood that expenses to be allowed as deductions by a Contracting State include only expenses that are deductible under the domestic laws of that State.

*Article 12*

6. The Contracting States agree that where Lithuania agrees to a lower rate of tax than 5 per cent. in respect of the royalties specified in paragraph (2)(a) of Article 12 or 10 per cent. in respect of any other royalties in any Convention between Lithuania and a third State which is a member of the Organisation for Economic Co-operation and Development at the date of signature of this Convention, and that Convention enters into force either before or after the date of entry into force of this Convention, the competent authority of Lithuania shall notify the competent authority of the United Kingdom of the terms of the relevant paragraph in the Convention with that third State immediately after the entry into force of that Convention and such lower rate of tax shall be substituted in Article 12 of this Convention for 5 per cent. in respect of the royalties specified in paragraph (2)(a) or 10 per cent. in respect of any other royalties with effect from the date of entry into force of that Convention, or of this Convention, whichever is the later.

*Article 25(2)*

7. It is understood that incentives to promote foreign investment shall not include incentives promoting only domestic investment.

If the foregoing proposals are acceptable to the Government of the Republic of Lithuania, I have the honour to suggest that the present Note and Your Excellency's reply to that effect should 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 assurance of my highest consideration.

*Brian Wilson MP*

Minister of State for Foreign and Commonwealth Affairs, Foreign and Commonwealth Office,  
London

Vilnius 19th March 2001

Excellency

I am in receipt of your note dated 19th March 2001 which states as follows:

“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 Lithuania for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and Capital Gains which has been signed today and to make on behalf of the Government of the United Kingdom of Great Britain and Northern Ireland the following proposals for the purpose of applying:

Article 2(3)(a)

1. The United Kingdom takes note of the fact that the existing taxes as listed in the Convention are subject to a substantial programme of reform and wherever it is not possible to agree that a particular new tax satisfies the conditions of paragraph (4) of this Article the United Kingdom is ready to negotiate an amending Protocol to the Convention without delay.

#### Article 4(3)

2. Where a person other than an individual is a resident of both Contracting States and the competent authorities of the Contracting States endeavour to determine its status by mutual agreement, they shall have regard to such factors as the place of effective management, the place where it is incorporated or otherwise constituted and any other relevant factors.

#### Article 5(6)

3. The Contracting States agree that:

- (i) the second sentence of paragraph (6) shall not apply unless conditions have been made or imposed between the agent and the enterprise in their commercial or financial relations which differ from those which would have been made or imposed had the activities of the agent not been devoted wholly or almost wholly on behalf of the enterprise; and
- (ii) in considering whether the activities are devoted wholly or almost wholly on behalf of that enterprise, the Contracting States shall have regard to any relevant factors during any 12 month period commencing or ending in the fiscal year concerned. In particular, if the relevant activities are devoted wholly or almost wholly on behalf of that enterprise for a period exceeding 9 months within that period of 12 months, they will be considered to have been so devoted in that fiscal year.

#### Article 6(3)

4. The Contracting States understand that all income and gains arising from the alienation of immovable property in a Contracting State may be taxed in that Contracting State in accordance with Article 13 of this Convention.

#### Article 7(3)

5. In determining the profits of a permanent establishment, it is understood that expenses to be allowed as deductions by a Contracting State include only expenses that are deductible under the domestic laws of that State.

#### Article 12

6. The Contracting States agree that where Lithuania agrees to a lower rate of tax than 5 per cent. in respect of the royalties specified in paragraph (2)(a) of Article 12 or 10 per cent. in respect of any other royalties in any Convention between Lithuania and a third State which is a member of the Organisation for Economic Co-operation and Development at the date of signature of this Convention, and that Convention enters into force either before or after the date of entry into force of this Convention, the competent authority of Lithuania shall notify the competent authority of the United Kingdom of the terms of the relevant paragraph in the Convention with that third State immediately after the entry into force of that Convention and such lower rate of tax shall be substituted in Article 12 of this Convention for 5 per cent. in respect of the royalties specified in paragraph (2)(a) or 10 per cent. in respect of any other royalties with effect from the date of entry into force of that Convention, or of this Convention, whichever is the later.

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Article 25(2)

7. It is understood that incentives to promote foreign investment shall not include incentives promoting only domestic investment.

If the foregoing proposals are acceptable to the Government of the Republic of Lithuania, I have the honour to suggest that the present Note and Your Excellency's reply to that effect should 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."

The foregoing proposals being acceptable to the Government of the Republic of Lithuania, 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 assurance of my highest consideration.

*Antanas Valionis*

Minister of Foreign Affairs, The Ministry of Foreign Affairs of the Republic of Lithuania