

## INCOME TAX

*Laid before the House of Commons in draft*

Made - - - 18th March 1969

## Present,

**The Queen's Most Excellent Majesty in Council**

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 347(1) of the said Income Tax Act 1952, as amended by section 39 and section 64 of the Finance Act 1965(b), 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) (Swaziland) Order 1969.

**2. It is hereby declared—**

(a) that the arrangements specified in the Agreement set out in the Schedule to this Order have been made with the Government of the Kingdom of Swaziland 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 Swaziland; and

(b) that it is expedient that those arrangements should have effect.

*W. G. Agnew.*

## SCHEDULE

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

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

Desiring to conclude an Agreement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income ;

Have agreed as follows :

## ARTICLE 1

**Persons Covered**

This Agreement 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 Agreement are—

(a) in the United Kingdom of Great Britain and Northern Ireland—

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

(b) in Swaziland—

- (i) the normal tax ;
- (ii) the non-resident shareholders' tax ; and
- (iii) the non-residents' tax on interest.

(2) This Agreement shall also apply to any identical or substantially similar taxes which are imposed by either Contracting State after the date of signature of this Agreement in addition to, or in place of, the existing taxes. The competent authorities of the Contracting States shall notify to each other any changes which are made in their respective taxation laws.

## ARTICLE 3

**General Definitions**

(1) In this Agreement, 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 "Swaziland" means the Kingdom of Swaziland ;

(c) the term "nationals" means—

(i) in relation to the United Kingdom, all citizens of the United Kingdom and Colonies who derive their status as such from their connection with the United Kingdom and all legal persons, partnerships and associations deriving their status as such from the law in force in the United Kingdom ;

(ii) in relation to Swaziland, all Swaziland citizens and all legal persons, partnerships and associations deriving their status as such from the law in force in Swaziland ;

- (d) the term "United Kingdom tax" means tax imposed by the United Kingdom being tax to which this Agreement applies by virtue of Article 2 ; the term "Swaziland tax" means tax imposed by Swaziland being tax to which this Agreement applies by virtue of Article 2 ;
- (e) the term "tax" means United Kingdom tax or Swaziland tax, as the context requires ;
- (f) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom or Swaziland, as the context requires ;
- (g) the term "person" comprises an individual, a company and any other body of persons ;
- (h) the term "company" means any body corporate or any entity which is treated as a body corporate for tax purposes ;
- (i) 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 ;
- (j) 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 Swaziland, the Collector of Income Tax or his authorised representative.

(2) As regards the application of this Agreement 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 Agreement.

#### ARTICLE 4

##### Fiscal Domicile

(1) For the purposes of this Agreement, the term "resident of a Contracting State" means, subject to paragraphs (2) and (3) of this Article, any person who, under the law of that State, is liable to taxation therein by reason of his domicile, residence, place of management or any other criterion of a similar nature ; the term does not include any individual who is liable to tax in that Contracting State only if he derives income from sources therein. The terms "resident of the United Kingdom" and "resident of Swaziland" shall be construed accordingly.

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

- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closest (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 Agreement, the term "permanent establishment" means a fixed place of business in which the business of the enterprise is wholly or partly carried on.
- (2) The term "permanent establishment" shall include especially—
- (a) a place of management ;
  - (b) a branch ;
  - (c) an office ;
  - (d) a factory ;
  - (e) a workshop ;
  - (f) a mine, quarry or other place of extraction of natural resources ;
  - (g) a building site or construction or assembly project which exists for more than twelve months.
- (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 ;
  - (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) An enterprise of a Contracting State shall be deemed to have a permanent establishment in the other Contracting State if it carries on the activity of providing the services within that other Contracting State of public entertainers or athletes referred to in Article 15.
- (5) 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 paragraph (6) of this Article applies—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.
- (6) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where 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

**Limitation of Relief**

Where under any provision of this Agreement income is relieved from tax in

one of the Contracting States and, under the law in force in the other Contracting State, an individual, in respect of the said income is subject to tax by reference to the amount thereof which is remitted to or received in that other Contracting State and not by reference to the full amount thereof, then the relief to be allowed under this Agreement in the first-mentioned Contracting State shall apply only to so much of the income as is remitted to or received in that other Contracting State.

## ARTICLE 7

### Income from Immovable Property

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

(2)—(a) The term "immovable property" shall, subject to sub-paragraph (b) below, be defined in accordance with the law of the Contracting State in which the property in question is situated ;

(b) the term "immovable property" shall in any case include property accessory to immovable property, livestock and equipment used in agriculture and forestry, rights to which the provisions of general law respecting landed property apply, usufruct of immovable property and rights to variable or fixed payments as consideration for the working of, or the right to work, mineral deposits, sources and other natural resources ; ships, boats and aircraft shall not be regarded as immovable property.

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

(4) The provisions of paragraphs (1) and (3) of this Article shall also apply to the income from immovable property of any enterprises other than agricultural or forestry enterprises and to income from immovable property used for the performance of professional services.

## ARTICLE 8

### 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 at arm's length 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 executive and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere.

(4) In so far as it has been customary in a Contracting State, according to its law, to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total income of the enterprise to its various parts, nothing in paragraph (2) of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be

customary ; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles of this Article.

(5) No profits shall be attributed to a permanent establishment by reason of the mere purchase by that permanent establishment of goods or merchandise for the enterprise.

(6) For the purposes of the preceding paragraphs, the profits to be attributed to the permanent establishment shall be determined by the same method year by year unless there is good and sufficient reason to the contrary.

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

## ARTICLE 9

### Shipping and Air Transport

A resident of a Contracting State shall be exempt from tax in the other Contracting State on profits from the operation of ships or aircraft other than profits from voyages of ships or aircraft confined solely to places in the other Contracting State.

## ARTICLE 10

### 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 11

### Dividends

(1) Dividends paid by a company being a resident of a Contracting State which are beneficially owned by a resident of the other Contracting State may be taxed in that other Contracting 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 law of that State, but 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 law of the Contracting State of which the company making the distribution is a resident and also includes any other item (other than royalties relieved from tax under Article 12 of this Agreement) which, under the law of the Contracting State of which the company paying the dividend is a resident, is treated as a dividend or distribution of a company.

(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, has in the other Contracting State, of which the company paying the dividends is a resident, a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 8 shall apply.

(5) If the beneficial owner of a dividend being a resident of a Contracting State owns 10 per cent. or more of the class of shares in respect of which the dividend is paid then the relief from tax provided for in paragraph (2) of this Article shall not apply to the dividend to the extent that it can have been paid only out of profits which the company paying the dividend earned or other income which it received in a period ending twelve months or more before the relevant date. For the purposes of this paragraph the term "relevant date" means the date on which the beneficial owner of the dividend became the owner of 10 per cent. or more of the class of shares in question. Provided that this paragraph shall not apply if the beneficial owner of the dividend shows that the shares were acquired for *bona fide* commercial reasons and not primarily for the purpose of securing the benefit of this Article.

(6) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company and beneficially owned by persons who are not residents of that other State, or 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 12

### Royalties

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

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

(3) The provisions of paragraph (1) 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 a permanent establishment and the right or property giving rise to the royalties is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 8 shall apply.

(4) Any provision of the law of a Contracting State which requires royalties paid by a company to be left out of account as a deduction in computing the company's taxable profits as being a distribution shall not operate in relation to royalties paid to a resident of the other Contracting State. The preceding sentence shall not however apply to royalties derived and beneficially owned by a company which is a resident of that other Contracting State where—

- (a) the same persons participate directly or indirectly in the management or control of the company paying the royalties and the company beneficially owning the royalties; and
- (b) more than 50 per cent. of the voting power in the company beneficially owning the royalties is controlled directly or indirectly by a person or persons resident in the Contracting State in which the company paying the royalties is resident.

(5) 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, having regard to the use, right or information for which they are 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 Agreement.

### ARTICLE 13

#### Independent Personal Services

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

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

### ARTICLE 14

#### Employments

(1) Subject to the provisions of Articles 16, 17 and 19, 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.

(4) In relation to remuneration of a director of a company derived from the company the preceding provisions of this Article shall apply as if the remuneration were remuneration of an employee in respect of an employment and as if references to "employer" were references to the company.

### ARTICLE 15

#### Artistes and Athletes

Notwithstanding the provisions of Articles 13 and 14, 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.

**ARTICLE 16****Pensions**

(1) Subject to the provisions of paragraph (1) of Article 17, 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 17****Governmental Functions**

(1) Remuneration, including pensions, paid by one of the Contracting Governments to any individual in respect of services rendered to that Government in the discharge of governmental functions shall be exempt from tax in the territory of the other Contracting Government, if the individual is not ordinarily resident in that other territory or (where the remuneration is not a pension) is ordinarily resident in that other territory solely for the purpose of rendering those services.

(2) The provisions of this Article shall not apply to payments in respect of services rendered in connection with any trade or business carried on by either of the Contracting Governments for purposes of profit.

**ARTICLE 18****Students**

Payments which a student or business apprentice who is or was immediately before visiting a Contracting State a resident of the other Contracting State and who is present in the first-mentioned Contracting 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.

**ARTICLE 19****Teachers**

A professor or teacher who visits a Contracting State for a period not exceeding two years for the purpose of teaching at a university, college, school or other educational institution in that Contracting State and who is, or was immediately before that visit, a resident of the other Contracting State shall be exempt from tax in the first-mentioned Contracting State on any remuneration for such teaching in respect of which he is subject to tax in the other Contracting State.

**ARTICLE 20****Income not Expressly Mentioned**

Items of income of a resident of a Contracting State being income of a class or from sources not expressly mentioned in the foregoing Articles of this Agreement shall be taxable only in that State. Provided that this Article shall not apply to interest derived by a resident of one of the Contracting States from sources in the other Contracting State.

**ARTICLE 21****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) Swaziland tax payable under the laws of Swaziland and in accordance with this Agreement, whether directly or by deduction, on profits, income or chargeable gains from sources within Swaziland (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 Swaziland tax is computed ;
- (b) in the case of a dividend paid by a company which is a resident of Swaziland 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 Swaziland tax creditable under sub-paragraph (a) of this paragraph) the Swaziland tax payable by the company in respect of the profits out of which such dividend is paid.

(2) Where United Kingdom tax is payable under the laws of the United Kingdom and in accordance with this Agreement, whether directly or by deduction, in respect of profits, income or chargeable gains derived from sources within the United Kingdom by a resident of Swaziland, and that tax is borne by him, Swaziland shall either impose no tax on such profits, income or chargeable gains or, subject to such provisions (which shall not affect the general principle hereof) as may be enacted in Swaziland, shall allow the United Kingdom tax as a credit against any Swaziland tax payable in respect of such profits, income or chargeable gains. Where such income is a dividend paid by a company which is a resident of the United Kingdom to a company which is a resident of Swaziland and which controls directly or indirectly at least 10 per cent. of the voting power in the United Kingdom company, any such credit shall take into account (in addition to any United Kingdom tax creditable under the preceding provisions of this paragraph) the United Kingdom tax payable by the company in respect of the profits out of which such dividend is paid.

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

(4) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other Contracting State and the profits so included are profits which would have accrued to that enterprise of the other Contracting State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount included in the profits of both enterprises shall be treated for the purposes of this Article as income from a source in the other Contracting State of the enterprise of the first-mentioned State and relief shall be given accordingly under paragraph (1) or paragraph (2) of this Article.

## ARTICLE 22

### Personal Allowances

(1) Individuals who are residents of Swaziland shall be entitled to the same personal allowances, reliefs and reductions for the purposes of United Kingdom tax as British subjects not resident in the United Kingdom.

(2) Individuals who are residents of the United Kingdom shall be entitled to the same personal allowances, reliefs and reductions for the purposes of Swaziland tax as those to which Swaziland citizens not resident in Swaziland may be entitled.

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

(4) Nothing contained in this Article shall be 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, nor as conferring any exemption from tax in a Contracting State in respect of dividends paid to a company which is a resident of the other Contracting State.

(5) In this Article the term "taxation" means the taxes which are the subject of this Agreement.

#### 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 Agreement, 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 Agreement.

(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 Agreement.

(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**

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

## ARTICLE 26

**Territorial Extension**

(1) This Agreement may be extended, either in its entirety or with modifications, to any territory for whose international relations the United Kingdom is responsible and which imposes taxes substantially similar in character to those to which this Agreement applies. Any such extension shall take effect from such date and subject to such modifications and conditions, including conditions as to termination, as may be specified and agreed between the Contracting States in letters to be exchanged through diplomatic channels.

(2) Unless otherwise agreed by both Contracting States, the termination of this Agreement shall terminate the application of this Agreement to any territory to which it has been extended under this Article.

## ARTICLE 27

**Entry into Force**

(1) This Agreement shall come into force on the date when the last of all such things shall have been done in the United Kingdom and Swaziland as are necessary to give the Agreement the force of law in the United Kingdom and Swaziland respectively, and shall thereupon have effect—

(a) in the United Kingdom—

- (i) as respects income tax (including surtax) and capital gains tax, for any year of assessment beginning on or after 6 April, 1968; and
- (ii) as respects corporation tax, for any financial year beginning on or after 1 April, 1968;

(b) in Swaziland—

- (i) as respects normal tax, for any year of assessment ending after 30 June, 1968;
- (ii) as respects non-resident shareholders' tax on dividends declared after 30 June, 1968; and
- (iii) as respects non-residents' tax on interest, on interest payable after 30 June, 1968.

(2) Subject to paragraphs (3) and (4) of this Article the Arrangement for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income which was made in 1949(a) between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Swaziland shall cease to have effect as respects taxes to which this Agreement in accordance with paragraph (1) of this Article applies.

(3) Subject to paragraph (4) of this Article, where any provision of the Arrangement referred to in paragraph (2) of this Article would have afforded any greater relief from tax any such provision as aforesaid shall continue to have effect for any year of assessment or financial year beginning before the entry into force of this Agreement.

(4) Where any greater relief from Swaziland tax would have been afforded by sub-paragraph (1) of paragraph 6 of the Arrangement referred to in paragraph (2) of this Article than is afforded by Article 11 of this Agreement, the aforesaid sub-paragraph (1) of paragraph 6 shall continue to have effect in respect of dividends declared on or before the day following the date of signature of this Agreement.

(5) The Arrangement referred to in paragraph (2) of this Article shall terminate on the last date on which it has effect in accordance with the foregoing provisions of this Article.

## ARTICLE 28

## Termination

This Agreement shall remain in force until denounced by one of the Governments. Either Government may denounce the Agreement, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1971. In such event, the Agreement shall cease to have effect—

## (a) in the United Kingdom—

- (i) as respects income tax (including surtax) and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the notice is given ; and
- (ii) as respects corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given ;

## (b) in Swaziland—

- (i) as respects taxes on income, for any year of assessment ending after 30 June in the calendar year next following that in which the notice is given ;
- (ii) as respects non-resident shareholders' tax, on dividends declared after 30 June in the calendar year next following that in which the notice is given ; and
- (iii) as respects non-residents' tax on interest, on interest payable after 30 June in the calendar year next following that in which the notice is given.

IN WITNESS WHEREOF the undersigned, duly authorised thereto, have signed this Agreement.

DONE in duplicate at London this 26th day of November 1968.

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

For the Government of the  
Kingdom of Swaziland:  
L. LOVELL

## EXPLANATORY NOTE

*(This Note is not part of the Order.)*

The Agreement with Swaziland scheduled to this Order replaces the Arrangement made in 1949. As in the earlier Arrangement, shipping and air transport profits, certain trading profits not arising through a permanent establishment, royalties, pensions (other than Government pensions), purchased annuities and earnings of temporary business visitors are (subject to certain conditions) to be taxed only in the country of the taxpayer's residence. Government salaries are to be taxed in general by the paying Government only. Remuneration of visiting professors and teachers and payments made for the maintenance of visiting students are (subject to certain conditions) to be exempt in the country visited.

There are a number of new or substantially different provisions. Dividends may now be taxed in the country of which the paying company is a resident, but subject to a maximum of 15 per cent of the gross amount of the dividends. Where income is taxable in both countries, credit continues to be given by the country of the taxpayer's residence for the tax payable in the country of origin of the income, but in the case of dividends credit for the tax on the profits out of which the dividends are paid is to be given only where the recipient of the dividends is a company which holds not less than 10 per cent

of the voting power in the paying company. Residents of Swaziland are to be entitled to the same personal allowances and reliefs for United Kingdom tax purposes as British subjects not resident in the United Kingdom, and residents of the United Kingdom to the same personal allowances and reliefs for Swaziland tax purposes as Swaziland citizens not resident in Swaziland.

In addition to a provision for exchange of information between the tax authorities of the two countries, which is similar to that in the earlier Arrangement, the Agreement includes provisions for consultation between those authorities to implement the provisions of the Agreement. There is also a new provision safeguarding residents and enterprises of one country against discriminatory taxation in the other country.

The Agreement is in general to take effect in the United Kingdom for 1968/69 and subsequent years.