
STATUTORY INSTRUMENTS

1984 No. 133**INCOME TAX****The Double Taxation Relief (Taxes on Income)
(Tunisia) Order 1984***Laid before the House of Commons in draft**Made - - - - 8th February 1984*

At the Court at Buckingham Palace, the 8th day of February 1984

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order was laid before the House of Commons in accordance with the provisions of section 497(8) of the Income and Corporation Taxes Act 1970 (a), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of that draft:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 497 of the said Income and Corporation Taxes Act 1970, and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (Tunisia) Order 1984.
2. It is hereby declared—
 - (a) that the arrangements specified in the Convention set out in the Schedule to this Order have been made with the Government of the Tunisian Republic 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 Tunisia; and
 - (b) that it is expedient that those arrangements should have effect.

N. E. Leigh,
Clerk of the Privy Council.

(a) 1970 c.10; section 497 was amended and extended by section 98(2) and 100(1) of the Finance Act 1972 (c.41) and section 10 of the Capital Gains Tax Act 1979 (c.14).

SCHEDULE

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

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

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

Have agreed as follows:

ARTICLE 1

Personal scope

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

ARTICLE 2

Taxes covered

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

(2) In this Article the term "the existing taxes" means:

(a) in relation to the United Kingdom of Great Britain and Northern Ireland:

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

(hereinafter referred to as "United Kingdom tax");

(b) in relation to Tunisia:

- (i) the trade tax (l'impôt de la patente);
- (ii) the tax on the profits of non-commercial professions (l'impôt sur les bénéfices des professions non-commerciales);
- (iii) the tax on salaries and wages (l'impôt sur les traitements et salaires);
- (iv) the agricultural tax (l'impôt agricole);
- (v) the tax on income from transferable securities (l'impôt sur le revenu des valeurs mobilières);
- (vi) the tax on income from debts, deposits, sureties and current accounts (IRC) (l'impôt sur le revenu des créances, dépôts, cautionnements et comptes courants (IRC));
- (vii) the capital gains tax on immovable property (l'impôt sur les plus-values immobilières);
- (viii) the special solidarity levy (la contribution exceptionnelle de solidarité); and

(ix) the State personal levy (la contribution personnelle d'Etat);

(hereinafter referred to as "Tunisian tax").

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

ARTICLE 3

General definitions

- (1) In this Convention, unless the context otherwise requires:
- (a) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or Tunisia, as the context requires;
 - (b) the term “person” comprises an individual, a company and any other body of persons;
 - (c) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (d) 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;
 - (e) 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 Tunisia, the Minister of Finance or his authorised representative;
 - (f) the term “international traffic” means any transport by a ship or aircraft operated by an enterprise which has its place of effective management in a Contracting State, except when the ship or aircraft is operated solely between places in the other Contracting State;
 - (g) 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;
 - (h) the term “Tunisia” used in a geographical sense, means the territory of the Tunisian Republic, including any area lying beyond the territorial waters of Tunisia which, under the laws of Tunisia and in accordance with international law, is an area within which Tunisia may exercise rights in respect of the sea bed and its sub-soil and their natural resources;
 - (i) the term “national” means:
 - (i) in relation to the United Kingdom, any individual who has under the law in the United Kingdom the status of United Kingdom national, provided he has the right of abode in the United Kingdom; and any legal person, partnership, association or other entity deriving its status as such from the law in force in the United Kingdom;
 - (ii) in relation to Tunisia, any individual possessing Tunisian nationality and any legal person, partnership, association or other entity deriving its status from the law in force in Tunisia.

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

ARTICLE 4

Fiscal domicile

(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 as follows:

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

him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);

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

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

ARTICLE 5

Permanent establishment

(1) For the purposes of this Convention, the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on, whether directly or through a participation in a joint venture (association en participation) or a partnership (société de fait).

(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, an oil or gas well, a quarry or any other place of extraction of natural resources;
- (g) an installation or structure used for the exploration of natural resources;
- (h) a building site or construction or assembly project or supervisory activities in connection therewith, where such site, project or activity continues for a period of more than six months, or where such project or activity, being incidental to the sale of machinery or equipment, continues for a period not exceeding six months and the charges payable for the project or activity exceed 10 per cent of the sale price of the machinery or equipment.

(3) 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 for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) A person acting in a Contracting State on behalf of an enterprise of the other Contracting State—other than an agent of an independent status to whom the provisions of paragraph (6) of this Article apply—shall be deemed to be a permanent establishment in the first-mentioned State if he has, and habitually exercises in that State, an authority to conclude contracts in the name of the enterprise, unless his activities are limited to the purchase of merchandise for the enterprise.

(5) An insurance enterprise of a Contracting State shall, except with regard to re-insurance, be deemed to have a permanent establishment in the other Contracting State if it collects premiums in the territory of that other State or insures risks situated therein through an employee or representative established therein who is not an agent of an independent status within the meaning of paragraph (6) of this Article.

(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, 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 from immovable property, including income from agriculture or forestry, may be taxed in the Contracting State in which such property is situated.

(2) The term “immovable property” shall be defined in accordance with the law of the Contracting State in which the property 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, 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 the determination of the profits of a permanent establishment, there shall be allowed as deductions expenses incurred for the purposes of the business of the permanent establishment, including management expenses and general administrative expenses so incurred, whether in the State in which the permanent establishment is situated or elsewhere. No deduction shall be allowed for sums which are paid (other than the reimbursement of expenses actually incurred) by the permanent establishment to the head office or to any other office of the enterprise as royalties, fees or other similar payments in respect of the use of licences, patents or other rights, as commission for services rendered or for management or, except in the case of a banking enterprise, as interest on sums loaned to the permanent establishment.

(4) Insofar as it has been customary in a Contracting State to determine the profits to be attributed to a permanent establishment on the basis of an apportionment of the total profits of the enterprise to its various parts, nothing in paragraph (2) of this Article shall preclude that Contracting State from determining the profits to be taxed by such an apportionment as may be customary; the method of apportionment adopted shall, however, be such that the result shall be in accordance with the principles contained in this Article.

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

(6) For the purposes of the preceding paragraphs, 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) The provisions of this Article shall apply to the profits derived by a resident of the United Kingdom in Tunisia in respect of his participation in a joint venture (association en participation) or a partnership (*société de fait*) with a Tunisian enterprise or Tunisian enterprises.

(8) Where profits include items of income 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, inland waterways transport 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) Profits from the operation of boats engaged in inland waterways transport shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(3) If the place of effective management of a shipping enterprise or of an inland waterways transport enterprise is aboard a ship or boat, then it shall be deemed to be situated in the Contracting State in which the home harbour of the ship or boat is situated, or, if there is no such home harbour, in the Contracting State of which the operator of the ship or boat is a resident.

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

ARTICLE 9

Associated enterprises

Where:

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

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

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

ARTICLE 10

Dividends

(1) Dividends derived from a company which is a resident of a Contracting State by 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 law of that State, but provided that the beneficial owner of the dividends is a resident of the other Contracting State the tax so charged shall not exceed:

(a) 12 per cent of the gross amount of the dividends if the beneficial owner is a company which controls directly at least 25 per cent of the voting power in the company paying the dividends;

(b) in all other cases 20 per cent of the gross amount of the dividends.

(3) The term "dividends" as used in this Article means income from shares, "jouissance" shares or "jouissance" rights, mining shares, founders' shares or other rights not being debt-claims, participating in profits, as well as income assimilated to or treated in the same way as income from shares by the taxation law of the State of which the company making the payment is a resident.

(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 a case the provisions of Article 7 or Article 14, 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.

(6) Notwithstanding the other provisions of this Convention, where a company which is a resident of a Contracting State has a permanent establishment in the other Contracting State it may be subjected therein to a tax on dividends of which the basis of assessment is determined according to the internal law of that other Contracting State but such tax shall not exceed 12 per cent of the distributed profits of the company deemed to be attributable to the permanent establishment.

ARTICLE 11

Interest

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

(2) However, such interest may also be taxed in the Contracting State in which it arises, and according to the law of that State, but the tax so charged shall not exceed 12 per cent of the gross amount of the interest except that the rate of tax is reduced to 10 per cent of the gross amount if the beneficial owner of the interest is a bank or other financial institution.

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

(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, 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 the 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. 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.

ARTICLE 12

Royalties

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

(2) However, such royalties may also be taxed in the Contracting State in which they arise and according to the law of that State, but the tax so charged shall not exceed 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, agricultural, industrial, commercial or scientific equipment, or for information concerning industrial, commercial or scientific experience, or for technical or economic studies.

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

(5) Royalties shall be deemed to arise in a Contracting State where the payer is that State itself, a political subdivision, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment 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 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 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.

ARTICLE 13

Capital gains

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

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

(3) Notwithstanding the provisions of paragraph (2) of this Article, capital gains derived by a resident of a Contracting State from the alienation of ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in that Contracting State.

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

ARTICLE 14

Independent personal services

(1) Subject to the provisions of Article 12 of this Convention, 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:

- (a) he has a fixed base regularly available to him in the other Contracting State for the purpose of performing his activities, in which case so much of the income may be taxed in that other Contracting State as is attributable to that fixed base; or
- (b) he is present in that other Contracting State for a period or periods exceeding in the aggregate 183 days in the fiscal year concerned, in which case so much of the income may be taxed in that other Contracting State as is attributable to the activities performed in that other Contracting State.

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

ARTICLE 15

Dependent personal services

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

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

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

(3) Notwithstanding the preceding provisions of this Article, remuneration in respect of an employment exercised aboard a ship or aircraft in international traffic or aboard a boat engaged in inland waterways transport 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 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 athletes

(1) Notwithstanding the provisions of Articles 14 and 15, income derived by public entertainers, such as theatre, motion picture, radio or television artistes, and musicians, and by athletes, from their personal activities as such may be taxed in the Contracting State in which those activities are exercised.

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

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

ARTICLE 18

Pensions and annuities

(1) Pensions and annuities which a resident of a Contracting State derives from the other Contracting State shall be exempt from tax in that other State provided that they are taxable under the internal law of the first-mentioned 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

Governmental functions

- (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 of a governmental nature rendered to that State or subdivision or authority shall be taxable only in that State.
- (b) However, 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
 - (ii) did not become a resident of that State solely for the purpose of rendering the services.
- (2) The provisions of Articles 15 and 16 shall apply to remuneration in respect of services rendered in connection with a business carried on by a Contracting State or a political subdivision or local authority thereof.

ARTICLE 20

Students and trainees

- (1) An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State and who is temporarily present in that other Contracting State for the primary purpose of:
- (a) studying at a university or other recognised educational institution in that other Contracting State; or
 - (b) securing training required to qualify him to practise a profession or a professional speciality; or
 - (c) studying or doing research as a recipient of a grant, allowance, or award (not including a salary or part salary) from a government, religious, charitable, scientific, literary or educational organisation;
- shall be exempt from tax in that other Contracting State on:
- (i) the amount of such grant, allowance or award;
 - (ii) remittances from abroad for the purpose of his maintenance, education, study, research or training; and
 - (iii) income from personal services rendered in that other Contracting State (other than any rendered by an articulated clerk or other person undergoing professional training to the person or partnership to whom he is articulated or who is providing the training) not exceeding the sum of £750 sterling in the case of the United Kingdom or the equivalent in Tunisian dinars in the case of Tunisia during any year of assessment or taxable year.
- (2) The exemptions from tax provided under paragraph (1) of this Article shall apply only for such period of time as may be reasonably or customarily required for the purpose of the individual's visit, but in no event shall any individual have the benefit of that paragraph for more than five consecutive years from the date of his first arrival in the other Contracting State.
- (3) An individual who is or was a resident of a Contracting State immediately before making a visit to the other Contracting State and who is present in the other Contracting State for a period not exceeding twelve months from the date of his first arrival in that other Contracting State in connection with that visit, as a participant in a programme sponsored by the Government of that other Contracting State for the purposes of training, research or study, or as an employee of or under contract with the Government or an enterprise of the first-mentioned Contracting State for the purpose of acquiring technical, professional or business experience from a person other than that Government or that enterprise, shall be exempt from tax in that other Contracting State on:
- (a) all remittances from abroad for the purposes of his maintenance, training, research or study; and

- (b) any remuneration so far as it does not exceed £1,200 sterling, or its equivalent in Tunisian dinars as the case may be, during any year of assessment or taxable year for personal services in that other Contracting State in connection with his studies or training.

ARTICLE 21

Income not expressly mentioned

Items of income of a resident of a Contracting State, wherever arising, which are not expressly mentioned in the preceding Articles of this Convention shall be taxable only in that State.

ARTICLE 22

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

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

- (a) (i) Article 10, paragraphs 1, 2 and 4 of Article 11, Article 14 (insofar as this extends the exemptions or reductions granted under the aforementioned paragraphs of Article 11) and, subject to the mutual agreement of the competent authorities in each case, paragraph 4 of Article 15 of Law No. 69-35 of 26 June 1969;
- (ii) Article 3, paragraphs 2, 4 and 9 of Article 4 of Law No. 72-38 of 27 April 1972;
- (iii) paragraph 2 of Article 11, Articles 12, 13, paragraph 2 of Article 14, paragraph 1 of Article 15 and, subject to the mutual agreement of the competent authorities in each case, Article 17 of Law No. 81-56 dated 23 June 1981 for the Encouragement of Investment in Manufacturing Industries and Industrial Decentralisation, as extended by Decree No. 81-861 dated 23 June 1981;

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

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

Provided:

- (c) that relief from United Kingdom tax shall not be given by virtue of this paragraph in respect of income from any source if the income arises in a period starting more than ten years after the exemption from, or reduction of, Tunisian tax was first granted in respect of that source;
 - (d) that where an exemption or reduction of tax is granted to an enterprise under Law No. 72-38 of 27 April 1972 the tax which would have been payable but for that exemption or reduction shall be taken into account for the purposes of this paragraph only where the exemption or reduction is certified by the competent authority of Tunisia as having been given with a view to promoting industrial, commercial, scientific or educational development in Tunisia.
- (3) Where a resident of Tunisia derives income or capital gains which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom, Tunisia shall deduct from the amount of tax which it levies on the income or capital gains of such resident an amount equal to the income or capital gains tax paid in the United Kingdom. However, the amount deducted may not exceed that part of the tax on income or capital gains, as computed before the deduction is given, which corresponds to the income or capital gains taxable in the United Kingdom.
- (4) For the purposes of paragraphs (1) and (3) of this Article profits, income and capital gains owned by a resident of a Contracting State which may be taxed in the other Contracting State in accordance with this Convention shall be deemed to arise from sources in that other Contracting State.
- (5) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other State and the profits so included are profits which would have accrued to that enterprise of the other State if the conditions made between the enterprises had been those which would have been made between independent enterprises dealing at arm's length, the amount included in the profits of both enterprises shall be treated for the purposes of this Article as income from a source in the other State of the enterprise of the first-mentioned State and relief shall be given accordingly under the provisions of paragraph (1) or paragraph (3) of this Article.

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.
- (5) In this Article the term "taxation" means taxes referred to in Article 2 of this Convention.

ARTICLE 24

Mutual agreement procedure

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

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

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

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

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 Convention 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 Convention. Any information so exchanged shall be treated as secret but may be disclosed to persons (including a court or administrative body) concerned with assessment, collection, enforcement or prosecution in respect of taxes which are the subject of this Convention. No information shall be exchanged which would disclose any trade, business, industrial or professional secret or any trade process.

ARTICLE 26

Diplomatic and consular officials

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

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

ARTICLE 27

Entry into force

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

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

(a) in the United Kingdom:

(i) in respect of income tax and capital gains tax, for any year of assessment beginning on or after 6 April in the calendar year next following that in which the instruments of ratification are exchanged; and

(a) Instruments of ratification were exchanged on 20 December 1983.

- (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the instruments of ratification are exchanged:
- (b) in Tunisia:
 - (i) in respect of taxes withheld at source on income paid or credited, from 1 January in the calendar year next following that in which the instruments of ratification are exchanged; and
 - (ii) in respect of other taxes on income, for taxable periods beginning on or after 1 January in the calendar year next following that in which the instruments of ratification are exchanged.

ARTICLE 28

Termination

This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through the diplomatic channel, by giving notice of termination at least six months before the end of any calendar year beginning after the expiration 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 6 April in the calendar year next following that in which the notice is given;
 - (ii) in respect of corporation tax, for any financial year beginning on or after 1 April in the calendar year next following that in which the notice is given;
- (b) in Tunisia:
 - (i) in respect of taxes withheld at source on income paid or credited, from 1 January in the calendar year next following that in which the notice is given; and
 - (ii) in respect of other taxes on income, for taxable periods beginning on or after 1 January in the calendar year next following that in which the notice is given.

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

Done in two originals at London this 15th day of December 1982 in the English, French and Arabic languages, each text being equally authoritative.

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

Douglas Hurd

For the Government of the Tunisian
Republic:

Mahmoud Mestiri.

EXPLANATORY NOTE

(This Note is not part of the Order.)

Under the Convention with Tunisia scheduled to this Order certain trading profits not arising through a permanent establishment are to be taxed only in the country of the taxpayer's residence. Profits attributable to a permanent establishment may be taxed in the country of the taxpayer's residence (Articles 5 and 7). Shipping and air transport profits are to be taxed only in the country in which the place of effective management of the enterprise is situated (Article 8).

The earnings of temporary business visitors are, subject to certain conditions, to be taxed only in the country of the taxpayer's residence (Articles 14 and 15).

Income derived by public entertainers from their personal activities may normally be taxed in the country in which those activities are exercised (Article 17). Pensions are normally to be taxed only in the country of the taxpayer's residence (Article 18). Remuneration for government service is normally to be taxed by the paying government only (Article 19). Some payments made to visiting students and business apprentices are to be exempt from tax in the country visited (Article 20).

Income from immovable property (Article 6) and capital gains (Article 13) arising from the disposal of such property may be taxed in the country in which the property is situated. Capital gains arising from the disposal of movable property are normally to be taxed only in the country of the taxpayer's residence but may also be taxed in the other country if they arise from the disposal of assets of a permanent establishment or a fixed base which the taxpayer has in the other country (Article 13).

The rate of tax in the country of source on dividends flowing to the other country is normally not to exceed 12 per cent where the dividend is paid to a company which controls at least 25 per cent of the voting power in the paying company, and is not to exceed 20 per cent in all other cases (Article 10). Tax on dividends paid by a resident of one country in respect of profits attributable to a branch in the other country shall not exceed 12 per cent of the attributable profits in the other country (Article 10).

The maximum rate of tax to be imposed by the source country upon interest paid to a resident of the other country is, in general, 12 per cent. However, it is not to exceed 10 per cent where the interest is derived by a bank or other financial institution (Article 11).

The rate of tax in the source country on royalties flowing to the other country is in general not to exceed 15 per cent (Article 12).

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

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

The Convention enters into force 30 days after the exchange of instruments of ratification and will have effect in the United Kingdom from April in the following calendar year (Article 27).

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