
STATUTORY INSTRUMENTS

1977 No. 1719

INCOME TAX

**The Double Taxation Relief (Taxes On Income)
(the Democratic Republic of the Sudan) Order 1977**

Laid before the House of Commons in draft

Made - - - - 25th October 1977

At the Court of Saint James, the 25th day of October 1977

Present,

The Counsellors of State in Council

Whereas Her Majesty, in pursuance of the Regency Acts 1937 to 1953, was pleased, by Letters Patent dated the 10th day of October 1977, to delegate to the six Counsellors of State therein named or any two or more of them full power and authority during the period of Her Majesty's absence from the United Kingdom to summon and hold on Her Majesty's behalf Her Privy Council and to signify thereat Her Majesty's approval for anything for which Her Majesty's approval in Council is required:

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

Now, therefore, Her Majesty Queen Elizabeth The Queen Mother and His Royal Highness The Duke of Gloucester, being authorised thereto by the said Letters Patent, and in pursuance of the powers conferred by section 497 of the said Income and Corporation Taxes Act 1970, section 98(2) of the Finance Act 1972 and section 39 of the Finance Act 1965, as amended, and all other powers enabling Her Majesty, and by and with the advice of Her Majesty's Privy Council, do on Her Majesty's behalf order, and it is hereby ordered, as follows:—

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (The Democratic Republic of the Sudan) Order 1977.

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 Democratic Republic of the Sudan 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 the Democratic Republic of the Sudan; and
- (b) that it is expedient that those arrangements should have effect.

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N. E. Leigh
Clerk of the Privy Council

SCHEDULE

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

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

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

Have agreed as follows:

Personal scope

ARTICLE 1. This Convention shall apply to persons who are residents of one or both of the Contracting States.

Taxes covered

ARTICLE 2.—(1) The taxes which are the subject of this Convention are:

- (a) in the United Kingdom of Great Britain and Northern Ireland:
 - (i) the income tax;
 - (ii) the corporation tax; and
 - (iii) the capital gains tax;
- (b) in the Sudan:
 - (i) the income tax
 - (ii) the capital gains tax.

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

General definitions

ARTICLE 3.—(1) In this Convention, unless the context otherwise requires:

- (a) the term “United Kingdom” means Great Britain and Northern Ireland, including any area outside the territorial sea of the United Kingdom which in accordance with international law has been or may hereafter be designated, under the laws of the United Kingdom concerning the Continental Shelf, as an area within which the rights of the United Kingdom with respect to the sea bed and sub-soil and their natural resources may be exercised;
- (b) the term “the Sudan” means the Democratic Republic of the Sudan, including any area outside the territorial sea of the Democratic Republic of the Sudan which in accordance with international law has been or may hereafter be designated, under the laws of the Democratic Republic of the Sudan concerning the Continental Shelf, as an area within which the rights of the Democratic Republic of the Sudan with respect to the sea bed and sub-soil and their natural resources may be exercised;
- (c) the term “national” means:

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- (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 the Sudan, all citizens of the Democratic Republic of the Sudan who derive their status as such from their connection with the Democratic Republic of the Sudan and all legal persons, partnerships and associations deriving their status as such from the law in force in the Democratic Republic of the Sudan.
- (d) the term “United Kingdom tax” means tax imposed by the United Kingdom, being tax to which this Convention applies by virtue of the provisions of Article 2; the term “Sudan tax” means tax imposed by the Sudan, being tax to which this Convention applies by virtue of the provisions of Article 2;
 - (e) the term “tax” means United Kingdom tax or Sudan tax, as the context requires;
 - (f) the terms “a Contracting State” and “the other Contracting State” mean the United Kingdom or the Sudan, as the context requires;
 - (g) the term “person” comprises an individual, a company and any other body or 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 the Sudan the Director of Taxation or his authorised representative.
- (2) As regards the application of this Convention by a Contracting State any term not otherwise defined shall, unless the context otherwise requires, have the meaning which it has under the laws of that Contracting State relating to the taxes which are the subject of this Convention.

Fiscal domicile

ARTICLE 4.—(1) For the purposes of this Convention, the term “resident of a Contracting State” means, subject to the provisions of 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 terms. “resident of the United Kingdom” and “resident of the Sudan” 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.

Permanent establishment

ARTICLE 5.—(1) For the purposes of this Convention, the term “permanent establishment” means a fixed place of business in which the business of the enterprise is wholly or partly carried on.

(2) The term “permanent establishment” shall include 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;
- (h) a farm or plantation;
- (i) a warehouse in relation to persons providing storage facilities for others.

(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 16.

(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

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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.

Income from immovable property

ARTICLE 6.—(1) Income from immovable property may be taxed in the Contracting State in which such property is situated.

- (a) (2) (a) The term “immovable property” shall, subject to the provisions of subparagraph (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.

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

(5) Notwithstanding the preceding provisions of this Article profits derived by an agricultural, forestry or plantation enterprise shall be dealt with in accordance with the provisions of Article 7.

Business profits

ARTICLE 7.—(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 Convention, then the provisions of those Articles shall not be affected by the provisions of this Article.

Shipping and air transport

ARTICLE 8.—(1) Profits derived from the operation of ships or aircraft in international traffic by an enterprise of a Contracting State shall be exempt from tax in the other Contracting State.

(2) The provisions of paragraph (1) of this Article shall likewise apply to the share in respect of participation in shipping or aircraft pools of any kind by such an enterprise engaged in shipping or air transport.

(3) Profits from voyages of ships or aircraft confined solely to places within a Contracting State may be taxed in that State.

Associated enterprises

ARTICLE 9. 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 enterprise, but, by reason of those conditions have not so accrued, may be included in the profits of that enterprise and taxed accordingly.

Dividends

ARTICLE 10.—(1) Dividends paid by a company which is a resident of one of the Contracting States to a resident of the other Contracting State may be taxed in that other State.

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

(3) Notwithstanding the provisions of paragraph (2) of this Article, so long as dividends paid by a company which is a resident of the Sudan are exempt from Sudan tax when paid to a recipient who is not resident in the Sudan then a recipient of such dividends who is a resident of the United Kingdom shall be exempt from any tax in the Sudan which is chargeable on dividends.

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(4) Notwithstanding also the provisions of paragraph (2) of this Article, so long as an individual resident in the United Kingdom is entitled to a tax credit in respect of dividends paid by a company resident in the United Kingdom, the following provisions of this paragraph shall apply instead to the provisions of paragraph (2) of this Article:—

- (a) (i) where a resident of the Sudan is entitled to a tax credit in respect of such a dividend under sub-paragraph (b) of this paragraph tax may also be charged in the United Kingdom, and according to the laws of the United Kingdom on the aggregate of the amount or value of that dividend and the amount of that tax credit at a rate not exceeding 15 per cent.
- (ii) Except as provided in sub-paragraph (a) (i) of this paragraph dividends derived from a company which is a resident of the United Kingdom by a resident of the Sudan who is the beneficial owner of the dividends shall be exempt from any tax which is chargeable in the United Kingdom on dividends.
- (b) A resident of the Sudan who receives a dividend from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (c) of this paragraph and provided that he is the beneficial owner of the dividend, be entitled to the tax credit in respect thereof to which an individual resident in the United Kingdom would have been entitled had he received that dividend, and to the payment of any excess of such credit over his liability to United Kingdom tax.
- (c) The provisions of sub-paragraph (b) of this paragraph shall not apply where the recipient of the dividend is a company which either alone or together with one or more associated companies controls directly or indirectly 10 per cent or more of the voting power in the company paying the dividend. For the purpose of this sub-paragraph two companies shall be deemed to be associated if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third company.

(5) In this Article the term “dividends” 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 State of which the company making the distribution is a resident and also includes any other item (other than interest relived from tax under the provisions of Article 11 of this Convention) 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.

(6) If the recipient 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 paragraphs (2), (3) and (4) 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 is 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 recipient 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 recipient shows that the shares were acquired for *bona fide* commercial reasons and not primarily for the purpose of securing the benefit of this Article.

(7) The provisions of paragraphs (2), (3) and (4) of this Article shall not apply if the recipient of the dividends, being a resident of a Contracting State, carries on a trade or 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 professional 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.

(8) 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 the company's undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in the other State.

Interest

ARTICLE 11.—(1) Interest arising in a Contracting State which is derived 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 where such interest is derived by a resident of the other Contracting State who is subject to tax there in respect thereof the tax so charged in the Contracting State in which the interest arises shall not exceed 15 per cent of the gross amount of the interest.

(3) The term “interest” as used in this Article means income from 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 recipient of the interest, being a resident of a Contracting State, has in the other Contracting State a permanent establishment and the debt-claim from which the interest arises is effectively connected with a business carried on through that permanent establishment. In such a case, the provisions of Article 7 shall apply.

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

(6) Any provision of the law of one of the Contracting States which relates only to interest paid to a non-resident company with or without any further requirement, or which relates only to interest payments between inter-connected companies with or without any further requirement, shall not operate so as to require such interest paid to a company which is a resident of the other Contracting State to be left out of account as a deduction in computing the taxable profits of the company paying the interest as being a dividend or distribution.

(7) Where, owing to a special relationship between the payer and the recipient or between both of them and some other person, the amount of the interest paid, having regard to the debt-claim for which it is paid, exceeds the amount which would have been agreed upon by the payer and the recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

(8) The provisions of this Article shall not apply if the debt-claim in respect of which the interest is paid was created or assigned mainly for the purpose of taking advantage of this Article and not for *bona fide* commercial reasons.

Royalties

ARTICLE 12.—(1) Royalties arising in a Contracting State which are derived 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 where such royalties are derived by a resident of the other

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Contracting State who is subject to tax there in respect thereof the tax so charged in the Contracting State in which the royalties arise shall not exceed 10 per cent of the gross amount of the royalties.

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

(4) The provisions of paragraphs (1) and (2) of this Article shall not apply if the recipient 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 7 shall apply.

(5) Royalties shall be deemed to arise in a Contracting State when the payer is that State itself, a local authority or a resident of that State. Where, however, the person paying the royalties, whether he is a resident of a Contracting State or not, has in a Contracting State a permanent establishment in connection with which the obligation to pay the royalties was incurred, and the royalties are borne by that permanent establishment, then the royalties shall be deemed to arise in the Contracting State in which the permanent establishment is situated.

(6) Where, owing to a special relationship between the payer and the recipient 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 recipient in the absence of such relationship, the provisions of this Article shall apply only to the last-mentioned amount. In that case, the excess part of the payments shall remain taxable according to the law of each Contracting State, due regard being had to the other provisions of this Convention.

Capital gains

ARTICLE 13.—(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 professional services, including such gains from the alienation of such a permanent establishment (alone or together with the whole enterprise) or of such a fixed base, may be taxed in the other State.

(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.

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

Independent personal services

ARTICLE 14.—(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.

Employments

ARTICLE 15.—(1) Subject to the provisions of Articles 17, 18 and 20, salaries, wages and other similar remuneration derived by a resident of a Contracting State in respect of an employment shall be taxable only in that State unless the employment is exercised in the other Contracting State. If the employment is so exercised, such remuneration as is derived therefrom may be taxed in that other State.

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

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

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

(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.

Artistes and athletes

ARTICLE 16. 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.

Pensions

ARTICLE 17.—(1) Subject to the provisions of paragraphs (1) and (2) of Article 18, 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 under a retirement benefit scheme contributed to by a former employer shall be taxable only in that Contracting State.

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

Governmental functions

ARTICLE 18.—(1) Remuneration or pensions paid out of public funds of the United Kingdom or Northern Ireland or of the funds of any local authority in the United Kingdom to any individual in respect of services rendered to the Government of the United Kingdom or Northern Ireland or a local authority in the United Kingdom in the discharge of functions of a governmental nature, shall be taxable only in the United Kingdom unless the individual is a Sudan national without also being a United Kingdom national.

(2) Remuneration or pensions paid by, or out of funds created by the Sudan or a local authority thereof to any individual in respect of services rendered to the Government of the Sudan or a local authority thereof, in the discharge of functions of a governmental nature, shall be taxable only in the Sudan unless the individual is a United Kingdom national without also being a Sudan national.

(3) The provisions of paragraphs (1) and (2) of this Article shall not apply to remuneration or pensions in respect of services rendered in connection with any trade or business.

Students

ARTICLE 19. 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.

University teaching

ARTICLE 20. An individual who visits a Contracting State for a period not exceeding two years at the invitation of a university, college or other similar higher educational establishment for the purposes of teaching 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.

Income not expressly mentioned

ARTICLE 21. 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 Convention shall be taxable only in that State.

Capital

ARTICLE 22.—(1) Capital represented by 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 represented by movable property forming part of the business property of a permanent establishment of an enterprise, or by movable property pertaining to a fixed base used for the performance of professional services, may be taxed in the Contracting State in which the permanent establishment or fixed base is situated.

(3) Notwithstanding the provisions of paragraph (2) of this Article, ships and aircraft operated in international traffic and movable property pertaining to the operation of such ships and aircraft shall be taxable only in the Contracting State of which the operator is a resident.

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

Elimination of double taxation

ARTICLE 23.—(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) Sudan tax payable under the laws of the Sudan and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within the Sudan (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 Sudan tax is computed;
- (b) in the case of a dividend paid by a company which is a resident of the Sudan 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 Sudan tax creditable under the provisions of subparagraph (a) of this paragraph) the Sudan 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, Sudan tax payable shall be deemed to include any amount which would have been payable as Sudan tax but for an exemption or reduction of tax which is certified by the competent authority for the Sudan as having been given with a view to encouraging industrial, commercial, agricultural, scientific or educational development under:

- (i) The Development and Promotion of Industrial Investment Act, 1974 of the Sudan, or the Organisation and Encouragement of Investment in Economic Services Act, 1972 of the Sudan insofar as they were in force on and have not been modified since the date of signature of the present Convention or have been modified only in minor respects so as not to affect their general character; or
- (ii) any other provision which may subsequently be made granting an exemption or reduction of tax which is agreed by the competent authorities of the Contracting States to be of a substantially similar character, if it has not been modified thereafter or has been modified only in minor respects so as not to affect its general character.

(3) Where a resident of the Sudan derives profits income or capital gains from sources within the United Kingdom, which may be taxable in the United Kingdom in accordance with the provisions of this Convention, the amount of the United Kingdom tax payable in respect of those profits income or capital gains shall be allowed as a credit against Sudan tax imposed on that resident provided

- (i) that the amount of credit shall not exceed that part of the Sudan tax which is appropriate to those profits or income or as the case may be those capital gains and
- (ii) that in the case of a dividend, tax payable in respect of the profits out of which the dividend is paid, shall be so allowed only if the dividend is paid to a company which controls directly or indirectly at least ten per cent of the voting power in the company paying the dividend.

(4) For the purposes of paragraphs (1), (2) and (3) 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 Convention shall be deemed to arise from sources in that other Contracting State.

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(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 paragraphs (1), (2) or (3) of this Article.

(6) The competent authorities of the Contracting State shall consult together if necessary to consider how any tax charged on capital by one Contracting State may be allowed as a credit against tax charged on capital by the other Contracting State.

Diplomatic and consular officials

ARTICLE 24. 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.

Non-discrimination

ARTICLE 25.—(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 of every kind and description.

Mutual agreement procedure

ARTICLE 26.—(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.

Exchange of information

ARTICLE 27.—(1) The competent authorities of the Contracting States shall exchange such information as is necessary for carrying out the provisions of this Convention or for the prevention of fraud or 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.

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

- (a) to carry out administrative measures at variance with the laws or administrative practice of that or of the other Contracting State.
- (b) to supply particulars which are not obtainable under the laws or in the normal course of the administration of that or of the other Contracting State.
- (c) to supply information which would disclose any trade, business, industrial, commercial or professional secret or trade process, or information, the disclosure of which would be contrary to public policy.

Territorial extension

ARTICLE 28.—(1) This Convention may be extended, either in its entirety or with modifications, to any territory for whose international relations either Contracting Party is responsible and which imposes taxes substantially similar in character to those to which this Convention 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 notes to be exchanged through diplomatic channels.

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

Entry into force

ARTICLE 29.—(1) This Convention shall be ratified and the instruments of ratification shall be exchanged at Khartoum 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⁽¹⁾ and shall there upon have effect:

- (a) in the United Kingdom:
 - (i) as respects income tax and capital gains tax, for any year of assessment beginning on or after 6 April 1975; and
 - (ii) as respects corporation tax, for any financial year beginning on or after 1 April 1975;
- (b) in the Sudan:

as respects income tax and capital gains tax for any year of assessment beginning on or after 1 January 1975.

(1) Instruments of ratification were exchanged on 7 September 1977.

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Termination

ARTICLE 30. This Convention shall remain in force until denounced by one of the Contracting States. Either Contracting State may denounce the Convention, through diplomatic channels, by giving notice of termination at least six months before the end of any calendar year after the year 1980. In such event, the Convention shall cease to have effect:

(a) in the United Kingdom:

- (i) as respects 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) 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 the Sudan:

as respects income tax and capital gains tax for any year of assessment 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 duplicate at Khartoum this eighth day of March 1975.

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

JOHN PHILLIPS

For the Government of the Democratic Republic of the Sudan:

E. E. MOHAMED

EXPLANATORY NOTE

Under the Convention with the Sudan scheduled to this Order, shipping and air transport profits, certain trading profits not arising through a permanent establishment, pensions (other than Government pensions) and the earnings of temporary business visitors are (subject to certain conditions) to be taxed only in the country of the taxpayer's residence. Government salaries and pensions are normally to be taxed by the paying Government only. The remuneration of certain visiting teachers and payments made for the maintenance and training of visiting students are (subject to certain conditions) to be exempt in the country visited.

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 the Sudan is to include credit for tax spared under certain provisions of Sudanese law.

The rate of tax on dividends flowing from one country to the other is normally not to exceed 15 per cent. The Convention also makes specific provision for dividends paid by a United Kingdom company to a resident of the Sudan as long as under United Kingdom law an individual resident in the United Kingdom is entitled to a tax credit in respect of dividends paid by a company resident in the United Kingdom. It prescribes that where a United Kingdom company pays a dividend to a resident of the Sudan other than a company which controls directly or indirectly 10 per cent or more of the voting power in the paying company, the recipient is, subject to certain conditions, to receive the tax credit to which an individual resident in the United Kingdom and in receipt of such a dividend would be entitled, less income tax at a rate not exceeding 15 per cent on the aggregate of the dividend and the tax credit.

The rate of tax in the source country on interest and royalties flowing from one country to the other is, in general, not to exceed 15 per cent and 10 per cent respectively.

There is provision for the taxation of capital gains on immovable property by the country in which the property is situated. Capital gains arising from the disposal of movable property are normally to be taxed only in the country of the taxpayer's residence unless they arise from the disposal of assets of a permanent establishment or fixed base which the taxpayer has in the other country.

There are also provisions safeguarding nationals and enterprises of one country against discriminatory taxation in the other country and for the exchange of information and consultation between the taxation authorities of the two countries.

The Convention is to take effect in the United Kingdom as respects income tax and capital gains tax for the tax year 1975/76 and subsequent years and as respects corporation tax for the financial year commencing on 1st April 1975 and subsequent years.