

1978 No. 282

INCOME TAX

**The Double Taxation Relief (Taxes on Income) (Poland)
Order 1978**

Laid before the House of Commons in draft

Made - - - - 1st March 1978

At the Court at Buckingham Palace, the 1st day of March 1978

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 this Order:

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 497 of the said Income and Corporation Taxes Act 1970, section 98(2) of the Finance Act 1972(b) and section 39 of the Finance Act 1965(c), as amended, 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) (Poland) Order 1978.

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 Polish People's 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 Poland; and
- (b) that it is expedient that these arrangements should have effect.

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

(a) 1970 c. 10.

(b) 1972 c. 41.

(c) 1965 c. 25.

SCHEDULE

CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE POLISH PEOPLE'S REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION 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 Polish People's Republic;

Desiring further to develop their economic co-operation;

Having decided to conclude a Convention for the avoidance of double taxation 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) 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;
- (hereinafter referred to as "United Kingdom tax");

(b) in Poland:

- (i) the income tax (*podatek dochodowy*);
 - (ii) the tax on wages or salaries (*podatek od wynagrodzen*); and
 - (iii) the surcharge on the income tax or on the tax on wages or salaries (*podatek wyrównawczy*);
- (hereinafter referred to as "Polish 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 substantial changes which have been made in their respective taxation laws.

ARTICLE 3

General definitions

(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 is 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 "Poland" means the Polish People's Republic and includes any area outside the territorial sea of Poland which in accordance with international law is an area within which the rights of Poland with respect to the sea bed and sub-soil and their natural resources may be exercised;
- (c) the terms "a Contracting State" and "the other Contracting State" mean the United Kingdom, or Poland, as the context requires;
- (d) the term "person" comprises an individual, a company and any other body of persons;

- (e) the term “company” means any body corporate or any entity which is treated as a body corporate for tax purposes;
 - (f) 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;
 - (g) 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 Poland the Minister of Finance or his authorised representative;
 - (h) the term “national” means:
 - (i) in relation to the United Kingdom, any individual possessing the national status of citizen under the law of the United Kingdom by virtue of his connection with the United Kingdom and any legal person, association or other entity deriving its status as such from the law in force in the United Kingdom;
 - (ii) in relation to Poland, any individual having the nationality of Poland and any legal person or association or other entity created under the law in force in Poland;
 - (i) the term “international traffic” means any transport by a ship or aircraft or a railway or road vehicle operated by an enterprise which has its place of effective management in a Contracting State, except when such transport is made solely between places in the other Contracting State;
 - (j) the term “tax” means United Kingdom tax or Polish tax, as the context requires.
- (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, 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 term does not include any individual who is liable to tax in that Contracting State only if he derives income from sources therein. The terms “resident of the United Kingdom” and “resident of Poland” 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 this case shall be determined in accordance with the following rules:
- (a) he shall be deemed to be a resident of the Contracting State in which he has a permanent home available to him. If he has a permanent home available to him in both Contracting States, he shall be deemed to be a resident of the Contracting State with which his personal and economic relations are closer (centre of vital interests);
 - (b) if the Contracting State in which he has his centre of vital interests cannot be determined, or if he has 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 if he has not an habitual abode in either Contracting State, he shall be deemed to be a resident of the Contracting State of which he is a national;
 - (d) if the question of residence cannot be determined according to the provisions of sub-paragraphs (a), (b) and (c) of this paragraph, 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.

(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, oil well, quarry or 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 which exists for more than twelve months.

(3) The term “permanent establishment” shall not be deemed to include:

- (a) the use of facilities solely for the purpose of storage, display or delivery of goods or merchandise belonging to the enterprise;
- (b) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of storage, display or delivery;
- (c) the maintenance of a stock of goods or merchandise belonging to the enterprise solely for the purpose of processing by another enterprise;
- (d) the maintenance of a fixed place of business solely for the purpose of purchasing goods or merchandise, or for collecting information, for the enterprise;
- (e) the maintenance of a fixed place of business solely for the purpose of advertising, for the supply of information, for scientific research or for similar activities which have a preparatory or auxiliary character, for the enterprise.

(4) 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 (5) 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 goods or merchandise for the enterprise.

(5) An enterprise of a Contracting State shall not be deemed to have a permanent establishment in the other Contracting State merely because it carries on business in that other State through a broker, general commission agent or any other agent of an independent status, where such persons are acting in the ordinary course of their business.

(6) 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 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 professional 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 of the 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. Nothing in this paragraph shall, however, authorise a deduction for expenses which would not be deductible if the permanent establishment were a separate enterprise.

(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 embodied 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) 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.

ARTICLE 8

International transport

(1) Profits from the operation of ships, aircraft, or railway and road vehicles in international traffic shall be taxable only in the Contracting State in which the place of effective management of the enterprise is situated.

(2) If the place of effective management of an enterprise carrying on shipping in international traffic is aboard a ship, then it shall be deemed to be situated in the

Contracting State in which the home harbour of the ship is situated, or, if there is no such home harbour, in the Contracting State of which the operator is a resident.

(3) (a) For the purposes of this Article, profits from the operation of ships or aircraft in international traffic include profits derived from the rental on a bareboat basis of ships or aircraft operated in international traffic if such rental income is incidental to other income described in paragraph (1) of this Article.

(b) Notwithstanding the provisions of Article 7 (Business profits), profits of an enterprise of a Contracting State from the use, maintenance or rental of containers (including trailers and related equipment for the transport of containers) used for the transport of goods or merchandise in international traffic shall be taxable only in that State.

(4) The provisions of this Article shall also apply to profits derived from the participation in a pool, a joint business or in 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 paid by a company which is a resident of a Contracting State to a resident of the other Contracting State may be taxed in that other State.

(2) However, such dividends may also be taxed in the Contracting State of which the company paying the dividends is a resident, and according to the law of that State, but the tax so charged shall not exceed:—

(a) 5 per cent of the gross amount of the dividends if the beneficial owner is a company which controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividends;

(b) in all other cases 15 per cent of the gross amount of the dividends.

(3) However, as 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 of the provisions of paragraph (2) of this Article:

(a) Dividends derived from a company which is a resident of the United Kingdom by a resident of Poland may be taxed in Poland.

(b) Where a resident of Poland is entitled to a tax credit in respect of such a dividend under the provisions of sub-paragraph (d) 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.

(c) Except as provided in sub-paragraph (b) of this paragraph, dividends derived from a company which is a resident of the United Kingdom and which are beneficially owned by a resident of Poland shall be exempt from any tax in the United Kingdom which is chargeable on dividends.

(d) A resident of Poland who receives dividends from a company which is a resident of the United Kingdom shall, subject to the provisions of sub-paragraph (e) of this paragraph and provided he is the beneficial owner of the dividends, 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 those dividends and to the payment of any excess of such credit over his liability to United Kingdom tax.

(e) The provisions of sub-paragraph (d) of this paragraph shall not apply where the beneficial owner of the dividends is a company which either alone or together with one or more associated companies controls directly or indirectly at least 10 per cent of the voting power in the company paying the dividends. For the purpose of this paragraph two companies shall be deemed to be associated if one controls directly or indirectly more than 50 per cent of the voting power in the other company, or a third company controls more than 50 per cent of the voting power in both of them.

(4) The term "dividends" as used in this Article means income from shares, or other rights, not being debt-claims, participating in profits, as well as income from 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 relieved 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.

(5) The provisions of paragraph (1), or as the case may be paragraphs (2) or (3), of this Article shall not apply where the beneficial owner of the dividends, being a resident of one of the Contracting States has in the other Contracting State a permanent establishment and the holding by virtue of which the dividends are paid is effectively connected with the business carried on through such permanent establishment. In such a case the provisions of Article 7 shall apply.

(6) Where a company which is a resident of a Contracting State derives profits or income from the other Contracting State, that other State may not impose any tax on the dividends paid by the company and beneficially owned by persons who are not residents of the other State, or subject the company's undistributed profits to a tax on undistributed profits, even if the dividends paid or the undistributed profits consist wholly or partly of profits or income arising in that other State.

ARTICLE 11

Interest

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

(2) 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.

(3) The provisions of paragraph (1) of this Article shall not apply if the beneficial owner of the interest, being a resident of a Contracting State, carries on a trade or business in the other Contracting State in which the interest arises, through a permanent establishment situated therein, or performs in that other State professional 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 a case, the provisions of Article 7 or Article 14, as the case may be, shall apply.

(4) Where, owing to a special relationship between the payer and the person deriving the interest 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 paid 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.

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 10 per cent of the gross amount of the royalties.

(3) The term "royalties" as used in this Article means payment 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 or knowledge (know-how); the term "royalties" does not include payments made for independent personal services mentioned in Article 14 or dependent personal services mentioned in Article 15.

(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 a trade or business in the other Contracting State in which the royalties arise, through a permanent establishment situated therein, or performs in that other State professional 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 a 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 sub-division, 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 person deriving the royalties 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 paid 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.

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 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.

ARTICLE 14

Independent personal services

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

(2) For the purposes of this Article, the term "professional services" includes especially independent scientific, literary, artistic, educational or teaching activities; and the term "other independent activities of a similar character" means activities which are regarded as such by the Contracting State where they are performed.

ARTICLE 15

Dependent personal services

(1) Subject to the provisions of Articles 16, 18, 19, 20 and 21 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, aircraft or railway or road vehicle in international traffic may be taxed in the Contracting State in which the place of effective management of the enterprise is situated.

ARTICLE 16

Directors' fees

Directors' fees and 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 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 these 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) Notwithstanding the provisions of paragraphs (1) and (2) of this Article, income derived from such activities as defined in paragraph (1) performed under a cultural agreement or arrangement between the Contracting States, shall be exempt from tax in the Contracting State in which these activities are exercised.

ARTICLE 18

Pensions and annuities

(1) Subject to the provisions of Article 19 pensions and other similar remuneration paid in consideration of past employment to a resident of a Contracting State and any annuity paid to such a resident shall be taxable only in that State.

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

ARTICLE 19

Government service

(1) Remuneration, other than a pension, 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, shall be taxable only in the United Kingdom. However, such remuneration shall be taxable only in Poland if the services are rendered in Poland and the recipient is a resident of Poland who:

- (a) is a national of Poland; or
- (b) did not become a resident of Poland solely for the purpose of performing the services.

(2) Remuneration, other than a pension, paid by Poland or a political subdivision or a local authority thereof to any individual in respect of services rendered to the Government of Poland or a political subdivision or a local authority thereof, shall be taxable only in Poland. However, such remuneration shall be taxable only in the United Kingdom if the services are rendered in the United Kingdom and the recipient is a resident of the United Kingdom who:

- (a) is a national of the United Kingdom; or
- (b) did not become a resident of the United Kingdom solely for the purpose of performing the services.

(3) Any pension paid by, or out of the funds created by, the United Kingdom or Northern Ireland or a 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 shall be taxable only in the United Kingdom. However, such a pension shall be taxable only in Poland if the recipient is a national of and a resident of Poland.

(4) Any pension paid by, or out of funds created by, Poland or a political subdivision or a local authority thereof to any individual in respect of services rendered to the Government of Poland or a political subdivision or a local authority thereof shall be taxable only in Poland. However, such a pension shall be taxable only in the United Kingdom if the recipient is a national of and a resident of the United Kingdom.

(5) The provisions of Articles 15, 16 and 18 shall apply to remuneration and pensions in respect of services rendered in connection with any business carried on by a Con-

tracting State (including in the case of the United Kingdom, any business carried on by the Government of Northern Ireland) or a political subdivision or a local authority thereof.

ARTICLE 20

Professors, teachers and research workers

(1) An individual who, at the invitation of a university, college, school or other similar recognised educational institution in one of the Contracting States, visits that Contracting State, solely for the purpose of teaching or research at such educational institution 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 or research for a period not exceeding two years from the date of his arrival in that State.

(2) The provisions of paragraph (1) of this Article shall not apply to income from research if such research is undertaken not in the public interest but primarily for the private benefit of a specific person or persons.

ARTICLE 21

Students

(1) A student, business apprentice or a trainee who is present in a Contracting State solely for the purpose of his education or training and who is, or was immediately before his stay in that State, a resident of the other Contracting State, shall be exempt from tax in the first-mentioned State in respect of payments received for the purpose of his maintenance, education or training provided that such payments are made to him from sources outside that first-mentioned State.

(2) A student at a university or other recognised educational institution in a Contracting State, who during a temporary stay in the other Contracting State holds an employment in that State for a period or periods not exceeding in the aggregate 183 days in the fiscal year concerned for the purpose of obtaining practical experience in connection with his studies, shall not be taxable in that other Contracting State in respect of earnings from such employment.

(3) In no event shall any person have the benefit of the provisions of this Article for more than 5 years.

ARTICLE 22

Other income

Items of income of a resident of a Contracting State, wherever arising, 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.

ARTICLE 23

Elimination of double taxation

(1) Polish tax payable under the laws of Poland and in accordance with this Convention, whether directly or by deduction, on profits, income or chargeable gains from sources within Poland (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 Polish tax is computed. Such credit shall be allowed in accordance with the existing 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 and any subsequent modification of those provisions which, however, shall not affect the principle hereof.

(2) Where a resident of Poland derives income or capital gains which, in accordance with the provisions of this Convention, may be taxed in the United Kingdom,

Poland shall allow as a deduction from the Polish tax on the income or capital gains respectively of that person an amount equal to the tax paid in the United Kingdom on that income or capital gains, as the case may be. Such deduction shall not, however, exceed that part of the Polish tax which is appropriate to the income or capital gains which may be taxed in the United Kingdom.

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

(4) Where profits on which an enterprise of a Contracting State has been charged to tax in that State are also included in the profits of an enterprise of the other 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 wholly independently, 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 (2) of this Article.

ARTICLE 24

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 of every kind and description other than the Polish residence-registration fee (*Oplata Skarbowa za Zameldowanie*) and the Polish fee for a permit to open an enterprise (*Oplata Skarbowa za Zezwolenie*).

(6) The taxes on income and capital and payments from profits to the budget (*Wplaty z Zysku*) which under Polish law are chargeable on Polish socialised enterprises (*Jednostki Gospodarki Usposiecznionej*) shall be chargeable only on such enterprises and shall not be treated as "taxation" for the purposes of this Article.

ARTICLE 25

Mutual agreement procedure

(1) Where a resident of a Contracting State considers that the actions of one or both of the Contracting States result or will result for him in taxation not in accordance with 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.

ARTICLE 26

Exchange of information

(1) The competent authorities of the Contracting States shall exchange such information as is necessary for the carrying out of this Convention and of the domestic laws of the Contracting States concerning taxes covered by this Convention insofar as the taxation thereunder is in accordance with this Convention. Any information so exchanged shall be treated as secret and shall not be disclosed to any persons other than persons (including a Court or administrative body) concerned with the assessment or collection of, or prosecution in respect of, or the determination of appeals in relation to, the taxes which are the subject of the Convention.

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

- (a) to carry out administrative measures at variance with the laws or administrative practice of that or 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 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 (*ordre public*).

ARTICLE 27

Diplomatic and consular officials

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.

ARTICLE 28

Entry into force

(1) This Convention shall be ratified. The instruments of ratification shall be exchanged at Warsaw.

(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) 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 Poland from 1 April 1975.

(a) Instruments of ratification were exchanged on 26 January 1978.

ARTICLE 29
Termination

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 Poland after 1 April 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 London this sixteenth day of December 1976 in the English and Polish languages, both texts being equally authoritative.

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

GORONWY-ROBERTS
OF CAERNARVON AND OGWEN.

For the Government of the
Polish People's Republic:

ROMUALD SPASOWSKI.

EXPLANATORY NOTE

(This Note is not part of the Order.)

Under the Convention with Poland scheduled to this Order certain trading profits not arising through a permanent establishment, interest, 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 residence of the taxpayer. International transport profits are to be taxed only in the country of effective management of the enterprise. Government salaries and pensions are normally to be taxed by the paying Government only. The remuneration of visiting teachers and certain payments made to 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 residence of the taxpayer.

The rate of tax on dividends flowing from one country to the other is normally not to exceed 5 per cent where the dividend is paid to a company which controls directly or indirectly at least 10 per cent of the voting power in the paying company and 15 per cent in all other cases. The Convention also makes specific provision for dividends paid by a United Kingdom company to a resident of Poland 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: where a United Kingdom company pays a dividend to a resident of Poland (other than a company which controls directly or indirectly at least 10 per cent 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 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 royalties flowing from one country to the other is, in general, not to exceed 10 per cent.

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 residence of the taxpayer 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 for income tax and capital gains tax for any year of assessment beginning on or after 6 April 1975 and for corporation tax for any financial year beginning on or after 1 April 1975.

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