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STATUTORY INSTRUMENTS

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**1987 No. 466**

**INCOME TAX**

**The Double Taxation Relief (Taxes  
on Income) (France) Order 1987**

*Made - - - - 18th March 1987*

At the Court at Buckingham Palace, the 18th day of March 1987

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(1), and an Address has been presented to Her Majesty by that House praying that an Order may be made in the terms of that draft:

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

1. This Order may be cited as the Double Taxation Relief (Taxes on Income) (France) Order 1987.
2. It is hereby declared—
  - (a) that the arrangements specified in the Protocol set out in the Schedule to this Order, which vary the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (France) Order 1968(2), as amended by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (France) Order 1971(3) and by the arrangements set out in the Schedule to the Double Taxation Relief (Taxes on Income) (France) Order 1973(4), have been made with the Government of the French 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 France; and
  - (b) that it is expedient that those arrangements should have effect.

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

(2) S.I. 1968/1869

(3) S.I. 1971/718

(4) S.I. 1973/1328

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*G I de Deney*  
Clerk of the Privy Council

## SCHEDULE

### PROTOCOL AMENDING THE CONVENTION BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE FRENCH REPUBLIC FOR THE AVOIDANCE OF DOUBLE TAXATION AND THE PREVENTION OF FISCAL EVASION WITH RESPECT TO TAXES ON INCOME, SIGNED AT LONDON ON 22 MAY 1968, AS AMENDED BY PROTOCOLS SIGNED AT LONDON ON 10 FEBRUARY 1971 AND 14 MAY 1973

The Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic.

Desiring to amend the Convention between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the French Republic for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income, signed at London on 22 May 1968, as amended by Protocols signed at London on 10 February 1971 and 14 May 1973 (hereinafter referred to as “the Convention”),

Have agreed as follows:

#### *ARTICLE 1*

The following new Article shall be inserted immediately after Article 29:

#### *“ARTICLE 29A*

Notwithstanding any other provision of this Convention

(1) An enterprise of a Contracting State which carries on activities offshore in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources in areas which are, in accordance with international law, under the jurisdiction of the other Contracting State shall, subject to paragraphs (2), (4) and (5) of this Article, be deemed, except as regards paragraph (2) of Article 15 of the Convention, to be carrying on in respect of those activities a business in that other Contracting State through a permanent establishment situated therein.

(2) The provisions of paragraph (1) of this Article shall not apply where the activities referred to therein are carried on in the areas specified in that paragraph for a period not exceeding in the aggregate 30 days in any period of 12 months. However, for the purposes of this paragraph:

- (a) where an enterprise carrying on activities referred to in paragraph (1) of this Article in those specified areas is associated with another enterprise carrying on substantially similar activities there the former enterprise shall be deemed that those activities are carried on at the same time as its own activities;
- (b) an enterprise shall be regarded as associated with another enterprise if one is controlled directly or indirectly by the other, or both are controlled directly or indirectly by a third person or persons.

(3) A resident of a Contracting State who carries on activities offshore, in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources in the areas specified in paragraph (1) of this Article, which consist of independent professional activities as defined in Article 14(2) of this Convention shall be deemed to be performing those activities from a fixed base in the other Contracting State. However, this paragraph shall not apply where such activities are carried on in those specified areas for a period not exceeding in the aggregate 30 days in any period of 12 months.

(4) Profits derived by a resident of a Contracting State from the transportation of supplies or personnel to a location where activities in connection with the exploration or exploitation of the sea bed and sub-soil and their natural resources are being carried on in areas which are under the

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jurisdiction of a Contracting State or from the operation of tugboats and similar vessels in connection with such activities, shall be taxable only in the Contracting State of which he is a resident.

(5) The provisions of Article 15 of this Convention, and not paragraph (1) of this Article, shall apply in respect of an employment.

(6) Where a resident of France derives income which in accordance with the provisions of this Article may be taxed in the United Kingdom, France may tax such income but shall allow as a deduction from the French tax on that income an amount equal to the tax paid in the United Kingdom. Such deduction shall however not exceed that part of the French tax, as computed before the deduction is given, which is attributable to the income which may be taxed in the United Kingdom.”

#### ARTICLE 2

Each of the Contracting States shall notify to the other the completion of the procedure required by its law for the bringing into force of this Protocol. This Protocol shall enter into force on the date of the later of these notifications and shall thereupon have effect:

- (a) in the United Kingdom, for any income tax or financial year beginning on or after 1 April in the calendar year next following that in which the Protocol enters into force;
- (b) in France, for any year of assessment, beginning in the calendar year next following that in which the Protocol enters into force.

#### ARTICLE 3

This Protocol shall remain in force as long as the Convention remains in force.

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

Done in duplicate at London this 12th day of June 1986 in the English and French languages, both texts being equally authoritative.

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

*Tim Eggar*

For the Government of the French

*J. Viot*

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### **EXPLANATORY NOTE**

*(This note is not part of the Order)*

The Protocol scheduled to this Order makes certain alterations to the Convention set out in the Schedule to the Double Taxation Relief (Taxes on Income) (France) Order 1968, as amended by two subsequent Protocols.

The Protocol introduces special rules in respect of income and profits from activities connected with offshore oil and gas exploration or exploitation (Article 1). Trading profits from such activities are deemed to arise through a permanent establishment or fixed base and, subject to a de minimis time rule, may be taxed in the country in which the activities are carried on. Profits from the transportation of supplies or personnel, however, are to be taxed only in the country of the taxpayer's residence. The taxation of employees will continue to be governed by the provisions of Article 15 of the Convention.

The Protocol provides for a change in the method by which France is to give double taxation relief to its own residents in receipt of income which may also be taxed in the United Kingdom in accordance with Article 1.

The Protocol is to take effect in the United Kingdom on or after 1st April in the calendar year following that in which it enters into force.